

From: [Amy Starnes](#)
To: [BoardofDirectors](#)
Subject: FW: Public Comment: President Elect, Larry McDougal
Date: Thursday, August 27, 2020 6:01:36 PM

From: [redacted] [[mailto:\[redacted\]](mailto:[redacted])]
Sent: Thursday, August 27, 2020 5:52 PM
To: Webmaster <Webmaster@Texasbar.com>
Subject: Public Comment: President Elect, Larry McDougal

*** State Bar of Texas External Message * - Use Caution Before Responding or Opening Links/Attachments**

Contact

First Name	Gerald
Last Name	Morgan
Email	[redacted]
Member	Yes
Barcard	14438700

Feedback

Category	General Comments/Feedback
Subject	President Elect, Larry McDougal
Department	Executive

Comments

I would like to encourage Mr. McDougal to resign. For the good of the State Bar of Texas, please resign. We have many members who are more than capable of serving as our President. It is critical that the President represent and lead all our members. It appears that you have forfeited your right and ability to so lead. I do not judge you or think ill of you, but I do believe that it is in the best interest of the Bar that you not serve. Thank you for your consideration of my comment.

From: [Amy Starnes](#)
To: [BoardofDirectors](#)
Subject: FW: Public Comment: President McDougal
Date: Monday, August 31, 2020 9:19:05 AM

From: [REDACTED]
Sent: Sunday, August 30, 2020 6:29 PM
To: Webmaster <Webmaster@Texasbar.com>
Subject: Public Comment: President McDougal

*** State Bar of Texas External Message * - Use Caution Before Responding or Opening Links/Attachments**

Contact

First Name	Michael
Last Name	Bierman
Email	[REDACTED]
Member	Yes
Barcard	02302500

Feedback

Category	General Comments/Feedback
Subject	President McDougal
Department	Not Applicable

Comments

President McDougal should immediately resign for his insensitive and thoughtless comments. He is an embarrassment to all members of the Texas Bar. Michael T. Bierman

From: [Amy Starnes](#)
To: [BoardofDirectors](#)
Subject: FW: Public Comment: State Bar failing Texas lawyers
Date: Monday, August 31, 2020 9:17:57 AM

From: [REDACTED] [[mailto:\[REDACTED\]](#)]
Sent: Saturday, August 29, 2020 9:28 AM
To: Webmaster <Webmaster@Texasbar.com>
Subject: Public Comment: State Bar failing Texas lawyers

*** State Bar of Texas External Message * - Use Caution Before Responding or Opening Links/Attachments**

Contact

First Name	Susan
Last Name	Spencer
Email	[REDACTED]
Member	Yes
Barcard	00795663

Feedback

Category	General Comments/Feedback
Subject	State Bar failing Texas lawyers
Department	Texas Bar Journal

Comments

I'm sure/hope I am one of thousands writing to express my anger at how the State Bar has failed to take action against Larry McDougal, thus sending a message that his behavior is tolerated and ultimately failing Texas attorneys. I find it unfathomable that there are no provisions for removal for his actions, and more incredible that an organization whose profession is to fight cases and find the case law to win their cases is unable to find what is the only appropriate remedy to the situation, Larry's removal. This is a profession that operates on research, argument and never giving up, yet you convene a special board meeting 17 days after the sparking, offending incident and make a final determination. Were this a case you defended or prosecuted in court you would be banging your fists for more time and an actual, earnest review. Has Texas legal education deteriorated so poorly that you do not have the capacity to do a thorough review or fight appropriately in order to find an acceptable remedy? I find it ironic that a panel lawyers were unable to perform like lawyers in this case. Would an effective attorney throw his hands up after ten days on a case and claim there is nothing that could be done? Mr. Apffel, your note that, in lieu of meaningful action, Larry has "pledged to advance diversity and inclusion initiatives" is ridiculous and transparent. We cannot accept that the perpetrator of the offending behavior will now spearhead diversity and inclusion. Did he suddenly learn what that means in ten days? Does a disbarred attorney get to teach ethics a month later? In what reality should a victimizer lead the victims? Both the magazine address and the board's decision are condescending and frankly disgusting in this day and age. Either you are completely inept, or you don't care and privately support his behavior. I fear that your take away is that such comments can now only be said behind closed doors, rather that they should not be said or thought at all. The reality is, the Bar does not see his behavior as actionable and as such sends

the message to all Texas lawyers, and their clients, that diversity and equity is not valued and barely deserves lip service. It should also be said that were this another person, with a different background, the outcome would undoubtedly be different. Those in support of Larry will not admit that publicly, but privately know it to be true as they desperately cling to decades and centuries old values. Stop feeling threatened by diversity and inclusion, but instead grasp its richness and ability to make you more effective in your profession.

From: [Amy Starnes](#)
To: [BoardofDirectors](#)
Subject: FW: Public Comment: State Bar President Larry McDougal
Date: Monday, August 31, 2020 9:18:39 AM

From: [redacted] [[mailto:\[redacted\]](mailto:[redacted])]

Sent: Sunday, August 30, 2020 3:05 PM

To: Webmaster <Webmaster@Texasbar.com>

Subject: Public Comment: State Bar President Larry McDougal

*** State Bar of Texas External Message *** - Use Caution Before Responding or Opening Links/Attachments

Contact

First Name	Ralph
Last Name	Santos
Email	[redacted]
Member	Yes
Barcard	17646400

Feedback

Category	General Comments/Feedback
Subject	State Bar President Larry McDougal
Department	Executive

Comments

Based on Larry McDougal's history of public comments about black Americans and related social issues, I believe he is unfit to serve as President of the State Bar of Texas. To allow him to continue in office will create the appearance that his behavior is condoned by the State Bar. In this volatile period of our history where racial divisions are again front and center, it is imperative that the State Bar be clear that it supports all members of the Bar, irrespective of race or religious beliefs. This can only be accomplished by demanding McDougal's resignation.

From: [Kay Hill](#)
To: [BoardofDirectors](#)
Subject: Fwd: Steve Fischer and Larry McDougal
Date: Tuesday, September 1, 2020 9:32:24 PM
Attachments: [Screen Shot 2020-09-01 at 6.47.37 PM.png](#)
[Screen Shot 2020-09-01 at 6.48.22 PM.png](#)
[623a5bd9-211b-4e7c-a2eb-c50e21278659.png](#)
[1be5d432-8330-45af-8470-3d5e95bf3e01.png](#)
[Screen Shot 2020-09-01 at 6.56.07 PM.png](#)
[Screen Shot 2020-09-01 at 6.46.23 PM.png](#)
[Screen Shot 2020-09-01 at 6.45.15 PM.png](#)
[Screen Shot 2020-09-01 at 6.39.28 PM.png](#)
[Screen Shot 2020-09-01 at 6.43.15 PM.png](#)

*** *State Bar of Texas* External Message * - Use Caution Before Responding or Opening Links/Attachments**

I wrote prior to the previous board meeting about my dislike for how Larry McDougall was representing the bar. I believe I also mentioned my disgust with some comments made by Mr. Fischer. Since that meeting, both men have shown that they have learned nothing. Mr. Fischer's behavior online has been just as egregious as ever, I have attached screenshots. He is constantly dismissive of attorneys, especially female attorneys or anyone not white. His comments to Ms. Carter are atrocious. And these are just a selection that I found quickly.

That he's taken the problem even more public by attempting to publish editorials in local papers is even more of a disgrace for the bar and the attorneys it represents. He is making public that the bar is stuck with a racist president and a racist director? How is that in the best interests of the attorneys the bar represents?

Further, Mr. Fischer constantly refers to the executive session when the board met with bar attorneys. Either he is purposefully trying to breach attorney-client privilege or he is too out-of-control to realize he's risking doing so. Either way, an attorney representing other attorneys should know better.

Mr. McDougal's so-called "apology" sent out today was again, not an apology. He has not apologized for anything he did wrong, so it appears he has yet to realize that he has done anything wrong. While I sympathize with his cancer fight, that it is being used as an excuse to not deal with his inability to truly represent the ENTIRE board is a mockery to the process.

I do not know whether Mr. McDougall plans to use legal action to retaliate if he is in any way constrained or removed or censured by the board, but Mr. Fischer constantly threatening online to sue the bar is not in the best interests of the bar. It's a breach of his fiduciary duty. If he is planning litigation against the bar while attempting to breach attorney-client privilege by constantly talking about the executive sessions with bar counsel, there's too much of a conflict for him to remain on the board.

These two men are not representative of the diverse attorneys that are mandated to join the bar if they want to practice in Texas. They are merely representative of a small segment of hateful racists and misogynists that resent their profession being invaded by those they find to be lesser than. They need to be removed. Whatever the cost may be. I'd far rather my dues go towards fighting a good fight to get rid of these two with their threatened litigation than be represented by them and by a board too scared to do the right thing by removing them.

Kay S. Hill

--

Kay S. Hill



from one of its Directors? Are you trying to get the bar dismantled? You should tend to your fiduciary duties instead of trying to shroud your shenanigans in the First Amendment.

1h Like Reply



Steve Fischer

Your publications on this are limited to Facebook so its easy for you - along with your usual trolling- so of course you will say if 5-6 (at least newspapers publish something its rubbish -because you say so. As Orwell said "Freedom of Speech is allowing statements you don't want to hear. " Legal commentary is beyond your capability so keep grandstanding - if you use "racist" you will get a few more "likes".

36m Like Reply



Chelo Carter

Steve Fischer Laughable.

Write a comment...





that that would stop you.

17m Like Reply



Lisa War

"Ad hominem attack" defined here
^

The opinion piece is not news.

12m Like Reply



Steve Fischer

Lisa War illiteracy is a bad thing. Reading is important- you should change "no schools to show" on your profile to "obtaining GED eventually" - Did I ever say it was NEWS? Does the clipping service only present NEWS? I was hoping for a legal conversation with lawyers.

9m Like Reply



Lisa War

Are you seriously a bar director?

3m Like Reply

Write a comment...





Steve Fischer

Ric Give the Bar credit where credit is due- did you not notice that they did include one of those columns in the Bar News Digest just now? The Bar is doing good stuff with CLE and I hope to help in Grievance Reform. Yes they need to lay off Larry or the legal and financial consequences could be dire.

Like · Reply · 1d

**Steve Fischer**

Chelo Carter You're always ignorant, dishonest and wrong. Had you been up on the case law and understood the findings, you would see that had the Bar did not have the power to remove Larry and that censure would invoke a huge liability . Hint there's a fed case from April 2020 that demonstrates just that (fat chance you will find it - or understand its holding). There my battle to get the Bar off of Larry will save time and money. I want the bar to concentrate on helping lawyers. We have programs ready to go but our subcommittee has not even met. The Bar will have had three meetings on diversity by the end of September and yet is promoting two white candidates for Bar President. There was an exceptionally qualified Black candidate who we hoped would get the nomination. Ric may be totally against the Bar and that is his right. Just like citizens who do not like Trump do not want to kill the country, we just want to improve it and set it on the right track.



Steve Fischer

Chelo Carter I would certainly call you whatever to your face. Once again -ignorance - at the open meeting - Directors are not allowed to have discussions with public speakers. You really didn't know this? Its true for school boards, city councils, state commissions and everything else. This demonstrates your involvement in government is confined to FB. We have much bigger issues to address than your comments.

Like · Reply · 2h



Steve Fischer

So what have I missed in the past day? What am I trying to accomplish? The comments are by the same people each time and predictable although Pablo Almaguer and Ric Rob did have an interesting exchange. The reason I wrote these - is that before its too late, I hope the Bar changes course (vs Larry and censorship)and works on our programs to help attorneys. Many are too busy posting to have read McDonald v the Bar or understand Keller. We are to remain absolutely neutral when it comes to politics. Many on here at the outset demanded the Bar remove Larry, and the monetary and legal costs would have been outrageous. The cost for the Bar to defend a lawsuit is astronomical- I was told at Exec Session so can't reveal the numbers. My columns are not official Bar action but at the next two meetings - the bar could put itself at peril Larry is not going anywhere unless he dies of cancer and as of last night - he was out of the hospital and resting - although full of staples. Yes the stress may damage his recovery but he's hanging in there. Most importantly I want the Bar to switch focus and work on programs to help attorneys. Bar CLE has been doing a great job and Scott Rothernberg, myself and others have ideas to make even more low cost CLE available. See the Group Free CLE for Texas Lawyers.- perhaps the fastest growing FB atty group ever. We do need grievance reform and so much more. During this melee Tolchin was removed as Chair of the Badges- the Chair of Grievance Reform Task Force is open- I could get appointed but do I really want to devote this much time to lawyers, when I have other projects?

Like · Reply · 1d

Like · Reply · 2d · Edited



Steve Fischer

Don't expect Chris Bennett make any legal arguments. This is his chance to grandstand as white males are not popular this week.

Like · Reply · 2d



1



Steve Fischer

Your publications on this are limited to Facebook so its easy for you - along with your usual trolling- so of course you will say if 5-6 (at least newspapers publish something its rubbish - because you say so. As Orwell said "Freedom of Speech is allowing statements you don't want to hear. " Legal commentary is beyond your capability so keep grandstanding - if you use "racist" you will get a few more "likes".

Like · Reply · 2d



Steve Fischer ► **State Bar of Texas**

29m • 🌐

We pay dues to the State Bar of Texas and by law it is supposed to be politically neutral. Some of those dues go to the PR Department to provide a clipping service ostensibly offering all news pertaining to the SBOT and lawyers in Texas. This opinion piece ran last week in 5-6 Texas newspapers, but the State Bar censored it each time. The Bar will then argue that it is politically neutr... [See More](#)



MRT.COM

OPINION: State Bar of Texas wrestles with BLM-free speech matter

From: [Amy Starnes](#)
To: [BoardofDirectors](#)
Subject: FW: September 10 Board Meeting - Comments to Circulate to Board
Date: Wednesday, September 2, 2020 11:12:51 AM

From: deirdre brown [REDACTED] >
Date: Wednesday, September 2, 2020 at 11:08 AM
To: Amy Starnes <Amy.Starnes@TEXASBAR.COM>
Subject: September 10 Board Meeting - Comments to Circulate to Board

*** State Bar of Texas External Message *** - Use Caution Before Responding or Opening Links/Attachments

Dear Board Members –

I reiterate the call to action for the Board to implement whatever reasonable remedies are available to deal with the gross disregard for the State Bar's mission to promote diversity shown by Mr. Larry McDougal and Mr. Steve Fischer.

A motion can be crafted within the Bar's governing documents and applicable law to prevent the continued disregard for the State Bar's express mission to promote diversity. This is not a free speech issue as some claim, but an issue of adhering to and upholding the mission of the State Bar, as well as promoting professionalism and candor.

In order to comply with open meeting laws and to allow for a full discussion with State Bar members, I respectfully request that the Agenda include an item to discuss and/or take action regarding any governance or administrative policies which relate to the roles and duties of Board members, including but not limited to discussion and/or action related to Mr. McDougal's and Mr. Steve Fischer's actions and comments regarding the law or lawyers. In other words, it should be duly noticed on the Agenda that discussion of Mr. Fischer's behavior is appropriate.

Just this week, Mr. Fischer attacked a lawyer online suggesting she was ignorant among other insults. She invited him to discuss his attacks on her during the upcoming meeting. He suggested discussion at the meeting would be inappropriate under the law and continued to attack her as ignorant. Under State law, any comments related to an action item should be appropriate and the Board should be able to discuss issues related to action items with any member of the public. The Chair would be the party to have discretion over such if the Board follows Robert's Rules. Discussion with members should only be strictly prohibited if the issue raised by the member is not related to an Agenda item.

While I recognize the Board may have its own meeting rules (which I have not located) in addition to State law, the Board can vote to suspend those rules at a meeting. From watching prior Board meetings, there appears to be an effort to follow Robert's Rules, but not strict compliance. There is more than 72 hours available to post an Agenda or Amended Agenda for a September 10, 2020 Special Meeting. The Agenda should not allow Mr. Fischer to try to use open meeting rules as a

shield to a complete discussion of his actions which relate to Mr. McDougal given his prior efforts to speak for and support Mr. McDougal when concerns were raised. There is an irony with Mr. Fischer claiming the issues before the Bar dealing with Mr. McDougal are rooted in free speech while also suggesting an attorney member is ignorant as to how the Board can prevent discussion and speech at a meeting.

The statement from Mr. McDougal was an insufficient response and suggests a lack of appreciation for the concerns expressed by members of the Bar. Mr. Fischer continues to insult, degrade and malign other attorneys even on the SBOT Facebook page. Neither have shown a dedication to promoting the mission of the State Bar to promote diversity by word or deed.

Thank you for considering my comments and working to advance the State Bar's mission to promote diversity in the practice of law.

Best regards -

Deirdre Carey Brown

[REDACTED]

<https://dcbfirm.com>

PO Box 58013 | Houston, Texas 77258

From: [William David Torok](#)
To: [BoardofDirectors](#)
Subject: CLE - implicit bias training
Date: Wednesday, September 2, 2020 9:27:39 AM

*** *State Bar of Texas* External Message *** - Use Caution Before Responding or Opening Links/Attachments

Good morning-

A big NO to requiring Texas attorneys to take implicit bias training. Yes, it should be offered, but not required.

David Torok, Esq.
The Torok Law Firm, P.C.

[REDACTED]

[REDACTED]

Friendswood, TX 77546

T - [REDACTED]

F - 832-481-9078

Subject: FW: Strategic Planning and Upcoming Board Meetings
Date: Wednesday, September 2, 2020 at 2:04:44 PM Central Daylight Time
From: Amy Starnes
To: BoardofDirectors

From: Michael Skadden [REDACTED]
Sent: Wednesday, September 02, 2020 1:40 PM
To: Webmaster <Webmaster@Texasbar.com>
Subject: Re: Strategic Planning and Upcoming Board Meetings

*** State Bar of Texas External Message * - Use Caution Before Responding or Opening Links/Attachments**

The SBOT President needs to resign. God knows this state has an awful legacy of racism: we do not need to continue it in the Bar. Regards, Michael Skadden, SBOT 18451600

On Wednesday, September 2, 2020, 01:23:30 PM CDT, State Bar of Texas <webmaster@texasbar.com> wrote:



Dear District 4 Attorneys,

On August 18 and 19, 2020, the Board of Directors attended the statutorily mandated State Bar of Texas Virtual Strategic Planning Sessions. The State Bar Act §81.0215 requires the State Bar to develop a strategic plan to set measurable goals and a system of performance measures by which to track their successes. These goals are in line with the State Bar Purposes (State Bar Act §81.012) for the benefit of attorneys, the public, and to aid the courts.

The Strategic Planning requirement's description follows (Tex. Gov't Code §81.0215):

(a) The state bar shall develop a comprehensive, long-range strategic plan for its operations. Each even-numbered year, the state bar shall issue a plan covering five fiscal years beginning with the next odd-numbered fiscal year.

(b) The strategic plan must include measurable goals and a system of performance

measures that:

- (1) relates directly to the identified goals; and
- (2) focuses on the results and outcomes of state bar operations and services.

(c) Each year, the state bar shall report the performance measures included in the strategic plan under this section to the Supreme Court and the editor of the *Texas Bar Journal* for publication.

You will see the report when the State Bar reports to the Texas Supreme Court and it is published in the *Texas Bar Journal*. We would appreciate any comments or questions you may have after reviewing the report. Please feel free to reach out.

The agenda for the strategic planning sessions covered many topics that are pertinent to support you and your daily practice concerns, including: supporting members with resources, services, and to serve clients; promoting the highest standards of professionalism and ethics; serving the public through education, community, and legal services; access to justice; and working toward equitable access to the profession and the justice system by diverse groups (such as through diversity, equity, and inclusion initiatives).

We want to thank executive assistants Chelsey Barber and Jennifer Reames, who exemplify the work ethic of State Bar employees. They work diligently behind the scenes for attorneys, the courts, and the public to make seamless for us, what takes hours on their end to accomplish.



Upcoming Board Meetings

The board's next scheduled meetings are as follows:

- **September 10:** Special-called meeting to follow up on the July 27 special board meeting. Please submit your letters or sign up to speak on any agenda item by following the instructions included [here](#).
- **September 25:** Regular quarterly board meeting. Public comments will also be welcomed at this meeting and we encourage everyone's participation.

The agendas and related materials will be posted prior to each meeting at texasbar.com/bodmaterials.



State Bar Purposes

These are the State Bar's purposes under the State Bar Act (Tex. Gov't Code §81.012):

In order that the public responsibilities of the legal profession may be more effectively discharged, the state bar has the following purposes:

- (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).

Sincerely,

Your District 4 (Harris County) Directors, At-Large Director, Public Members, and Immediate Past President

Diane St. Yves, Place 1
Benny Agosto Jr., Place 2
Alistair B. Dawson, Place 3
Lucy Forbes, Place 4
Carmen M. Roe, Place 5
Andrew Tolchin, Place 6
David N. Calvillo, At-Large Director (Houston)
Jeffrey W. Allison, Public Member (Houston)
Michael Dokupil, Public Member (Houston)
Randall O. Sorrels, Immediate Past President (Houston)

State Bar of Texas

1414 Colorado

Austin, Texas 78701

[Unsubscribe](#)



Subject: ABA Model Rule 8.4(g) to the DCAAP committee for study and recommendation
Date: Wednesday, September 2, 2020 at 4:36:28 PM Central Daylight Time
From: Randal Mowery
To: BoardofDirectors

*** State Bar of Texas External Message * - Use Caution Before Responding or Opening Links/Attachments**

Dear Board Members,

Please reject ABA Model Rule 8.4(g) which accepts the political theories of Social Marxism, critical race theory, and "Social Justice" as fact and based upon actual civil rights. This is an attack on the rule of law and the fundamental civil rights of those in our profession as well as our clients who will be impacted.

This is an attack on basic civil rights, including but not limited to the First Amendment and basic property rights. This makes each of us unwilling pawns in a dangerous political movement that is now being played out on the streets of major cities, resulting in death and destruction. This is an end run around the U. S. Constitution. Many false assumptions must be accepted as true to even consider such a rule which will have far-ranging impacts to the detriment of our profession. This violates our oaths as lawyers.

Respectfully,

The Law Offices Of Randal A. Mowery

[REDACTED]
San Antonio, Texas 78230

[REDACTED] | **210.699.6421 fax**
[REDACTED]

Nothing in this e-mail is intended to constitute a waiver of the attorney-client communication privilege, the work product privilege, or the confidentiality of the information and data contained herein and attached hereto. Any review, retransmission, dissemination or other use, or taking of any action in reliance upon this information by persons or entities other than the intended recipient is prohibited. If you received this e-mail transmission in error, please notify the sender via return e-mail or otherwise and delete this e-mail and all attached material from any computer.

Subject: September 10, 2020 Special Board Meeting

Date: Wednesday, September 2, 2020 at 4:36:13 PM Central Daylight Time

From: Jeremy Walter

To: BoardofDirectors

*** State Bar of Texas External Message * - Use Caution Before Responding or Opening Links/Attachments**

Directors,

I am writing to reiterate my previous comments and concerns that Larry McDougal and Steve Fischer are not fit to serve the State Bar of Texas or the thousands of attorneys across the great State of Texas they should be representing.

I will not be able to attend the special meeting this time around, but that does not mean I am any less passionate about the current state of our Bar and the threats it faces. At the July 27, 2020 special meeting, Mr. McDougal wholly failed when given the opportunity to begin mending the wounds of his behavior. When he finally attempted to "apologize" after public comments, he yelled at the attendees and responded in a very defensive manner. At one point he appeared to blame our Black colleagues for failing to tell him how he should educate and improve himself. Mr. Fischer, on the other hand, used his time to chastise Mr. Ginn about procedure, incoherently ramble about his past comments, and further attack the very people he has hurt. Frankly, Mr. Fischer did not appear to be in his right mind--and I do not say that lightly.

Neither man showed any inkling of remorse or regret for their actions, much less a desire to learn or improve.

Mr. McDougal continues to show an inability or unwillingness to understand the weight of his office and comments. In an email to the Bar dated September 1, 2020, Mr. McDougal again refused to issue a sincere apology or take responsibility for his behavior. In this email, he told members of the Bar that he had listened to their concerns and pain, but did not apologize for his role in causing that pain. Instead, he said "we should all spend more time" on these issues and cautioned against failure if "we have closed minds and refuse to listen." In his repeated use of "our" and "we," Mr. McDougal is once again attempting to put the onus for his own improvement on the very people he has hurt (and should be representing). He went on to say he wanted to improve "our ability to truly listen and grow" without any apparent understanding that his ability to listen and grow is the one in question.

Mr. Fischer, on the other hand, has become completely unhinged. Not only was his behavior in the July 27, 2020 meeting completely unacceptable, but he has engaged in an ongoing campaign of dishonesty and aggression since that time. I know many of the Directors are already aware of Mr. Fischer's lies, but for a small sampling, they include publicly (i) claiming Mr. McDougal did not write his video apology; (ii) claiming Mr. McDougal was forced to give his video apology; (iii) claiming Mr. Fischer was working on or had reached a behind-the-scenes deal to address Mr. McDougal's controversies; (iv) misrepresenting the motions raised at the July 27, 2020 meeting; and (v) misrepresenting various policies and procedures within the Bar, including its committees. All of this occurred in addition to Mr. Fischer's continued bullying, belittling, and attacking of his fellow attorneys--particularly female attorneys. I know at least some of the Directors have seen this behavior because they have attempted to correct Mr. Fischer's lies publicly.

At this time, it is inconceivable to me that the Bar has no ability to curb or address the completely inappropriate behavior of these two men. That a President can act so callously to his constituents without redress or apology is unacceptable. That a Director can lie so frequently, including about the Bar itself, and attack his colleagues without consequence defies logic. I urge the Board to take a serious look at their options and, if the Board fears a lawsuit, I suggest doing the right thing in this situation might be worth the exposure. Indeed, the Bar or its members may have legal redress of their own and I hope staff counsel are considering whether Mr. McDougal and Mr. Fischer have breached any fiduciary duty or otherwise incurred liability through their behavior.

I further implore the Board to do something--anything--to address this situation before it worsens to the point that

trust in the Bar is irreparably damaged. It may be too late already.

Thank you,

Jeremy Walter
SBN: 24098572



Virus-free. www.avg.com

Subject: RE: Larry McDougal & Texas Bar deunification

Date: Tuesday, July 14, 2020 at 5:44:09 PM Central Daylight Time

From: Rich Robins

To: BoardofDirectors

CC: Amy Starnes

* State Bar of Texas External Message * - Use Caution Before Responding or Opening Links/Attachments

Hello Amy:

Thank you for confirming receipt and such. By the way, in the version below, I have corrected a typo that I just discovered. What used to say "the" now says "they":

"Texas Bar board member or (most recently) the president counterproductively remain more relevant than the need to be,"

now says

"Texas Bar board member or (most recently) the president counterproductively remain more relevant than they need to be,"

Wishing you well,
Rich

-----Original Message-----

From: BoardofDirectors <BoardofDirectors@TEXASBAR.COM>

Sent: Tuesday, July 14, 2020 5:33 PM

To: [REDACTED]

Subject: RE: Larry McDougal & Texas Bar deunification

Hi Rich,

Thank you for your comments. They will be shared with the Board of Directors.

Amy Starnes
Public Information Director
State Bar of Texas
Office: 512-427-1706
Cell: [REDACTED]
Web: Texasbar.com

Please visit the State Bar of Texas' coronavirus information page at texasbar.com/coronavirus for timely resources and updates on bar-related events.

-----Original Message-----

From: Rich Robins [REDACTED]

Sent: Tuesday, July 14, 2020 4:45 PM

To: BoardofDirectors <BoardofDirectors@TEXASBAR.COM>

Subject: Larry McDougal & Texas Bar deunification

* State Bar of Texas External Message * - Use Caution Before Responding or Opening Links/Attachments

To the Board of Directors of the Texas Bar:
In re: Larry McDougal

The State Bar of Texas never sought permission directly from the (compulsory) membership to oppose the plaintiffs in the McDonald v. Sorrels bar-deunification litigation. The Texas Bar nevertheless opposed them, continues to do so and consequently remains far more spread out into diverse political & other controversial activities than do attorney licensing entities in states where most other U.S.-licensed attorneys practice (such as CA, NY, VA and WA [etc.]). As a result, public disagreement about the views of any particular Texas Bar board member or (most recently) the president counterproductively remain more relevant than they need to be, and still potentially hold the entire legal profession in Texas hostage. The resulting politically charged climate involving the Texas Bar is consequently particularly vulnerable to being unduly influenced by (varying) segments of the internet's rage mob. The situation is unfairly oppressive to board members and especially to the president, as we have recently observed. You all deserve to have the right to have your opinions about public (and private) matters, and to voice them when you see fit. Transparency is wonderful and Larry McDougal displayed it, only to get mud splattered on him as a result...

Why not finally stop opposing the plaintiffs in McDonald v. Sorrels so that the resulting attorney licensing entity in Texas can finally shed other activities that hold it back and tarnish its public acceptance prospects in our politically volatile climate? De-unification of attorney licensing and oversight tasks from trade association ones is long overdue. Why not withdraw opposition to it and instead focus your energies on reforming the perceived flaws of the Texas Bar's disciplinary system pursuant to reform proposals such as these?

<https://nam12.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.texasbarsunset.com%2Frefor%26amp%3Bdata=02%7C01%7CBoardofDirectors%40TEXASBAR.COM%7C6b9db09258194083534d08d828477762%7Cce4a672274e48cfa4575e83671cbe8d%7C1%7C0%7C637303635159730349&data=PDvKNBHBzWFIK6KCx32ULqAEjst7REF%2Bq%2F5a2KLk9k%3D&reserved=0>

Is attacking Larry McDougal not a thinly veiled attempt, by some, to thwart such long-overdue reforms? Admittedly, it is understandable that you might perceive that you lack the support from the (still compulsory) membership to do something particularly substantive, considering how relatively few members actually voted for you:

<https://nam12.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.texasbarsunset.com%2Fvoter-abstention&data=02%7C01%7CBoardofDirectors%40TEXASBAR.COM%7C6b9db09258194083534d08d828477762%7Cce4a672274e48cfa4575e83671cbe8d%7C1%7C0%7C637303635159730349&data=XMRL301enxjfuWQy%2FJh1fnLoSCIUHC9qFY4iTFbADA%3D&reserved=0>

Does such learned helplessness among the (repeatedly betrayed) members not

show that it's time to finally withdraw opposition against the McDonald v. Sorrels plaintiffs, then?

Thanks to anyone who took the time to read this. Thanks even more to those of you who gave it serious thought even as you already have very busy schedules. Might there be any questions that I can try to answer?

Respectfully submitted,
Rich

(***Rich Robins is a Texas-based, bilingual litigator of contract disputes, statewide. Although he has never been publicly or privately sanctioned by any bar authority in any state or country, Rich finds the current Texas attorney disciplinary system to be counterproductively potentially hazardous for well-meaning attorneys, and also unnecessarily cost-increasing for honest clients. All of Rich's Sunset-related and Texas Bar-policing work is proudly done strictly as an unpaid volunteer.)

Rich Robins, Esq.

Editor, <https://nam12.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.texasbarsunset.com%2F&data=02%7C01%7CBoardofDirectors%40TEXASBAR.COM%7C6b9db09258194083534d08d828477762%7Cece4a672274e48cfa4575e83671cbe8d%7C1%7C0%7C637303635159730349&sd=WWk19fZ7Tk%2BdpPvHi42kTfLzpmNOyfQ%2Bob2ipuOBhNA%3D&reserved=0>

Houston, TX 77006-2380

Tel. [REDACTED]

Subject: FW: Larry McDougal & Texas Bar deunification
Date: Thursday, September 3, 2020 at 9:08:12 AM Central Daylight Time
From: Amy Starnes
To: BoardofDirectors
Attachments: board submission regarding Larry McDougal.pdf

Please see the attached letter from Rich Robins.

Amy Starnes
Public Information Director
State Bar of Texas
Office: 512-427-1706
[REDACTED]
Web: Texasbar.com

Please visit the State Bar of Texas' coronavirus information page at

<<https://nam12.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.texasbar.com%2FAM%2FTemplate.cfm%3FSection%3Darticles%26ContentID%3D49236%26&data=02%7C01%7CBoardofDirectors%40TEXASBAR.COM%7C342fcae1d1fa454473e208d85012cb74%7Cece4a672274e48cfa4575e83671cbe8d%7C1%7C0%7C637347389642557251&sd=ws%2BC0aymbot%2FPHW3rA8Bak1yMaiZb%2BdMryrsgY%2BX5s%3D&reserved=0>
Template=/CM/HTMLDisplay.cfm>texasbar.com/coronavirus
<https://nam12.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.texasbar.com%2FContent%2FNavigationMenu%2FCoronavirus_COVID_19%2Fdefau&data=02%7C01%7CBoardofDirectors%40TEXASBAR.COM%7C342fcae1d1fa454473e208d85012cb74%7Cece4a672274e48cfa4575e83671cbe8d%7C1%7C0%7C637347389642557251&sd=52K%2ByWtA4qEmZkAFkpmLvJzfB2fCBp3mK0TCn30zhxA%3D&reserved=0
p3mK0TCn30zhxA%3D&reserved=0

lt.htm> for timely resources and updates on bar-related events.

On 9/3/20, 8:15 AM, "Rich Robins" <[REDACTED]> wrote:

* State Bar of Texas External Message * - Use Caution Before Responding
or Opening Links/Attachments

Hello Amy:

Greetings from Houston. To save you time & spleen, how about if we use the attached submission r/e Larry McDougal. You created it, and I refrained from modifying it to avoid problems like what you mentioned otherwise having with my submission back in July. I'm not aware of a rule prohibiting a resubmission, but if there is please let me know.

Regards from the hurricane coast,
Rich

-----Original Message-----

From: Amy Starnes <Amy.Starnes@TEXASBAR.COM>

Sent: Tuesday, July 21, 2020 4:35 PM

Subject: Re: Larry McDougal & Texas Bar deunification

Hi Rich,

I turned it into a PDF for you. How does this look - attached?
I want to make sure it looks like everything you wanted is there.

Amy Starnes
Public Information Director
State Bar of Texas
Office: 512-427-1706
[REDACTED]
Web: Texasbar.com

Please visit the State Bar of Texas¹ coronavirus information page at
<<https://nam12.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.texasbar.com%2FAM%2FTemplate.cfm%3FSection%3Darticles%26ContentID%3D49236%26&data=02%7C01%7CAmy.Starnes%40TEXASBAR.COM%7Cd52ecd601edc4c23562108d8500b87c5%7Cece4a672274e48cfa4575e83671cbe8d%7C1%7C0%7C637347358309303982&data=Ki6zjPxxeDQATW5GCt7tOGLze6lp4CGV2Qoh8wnwLvl%3D&reserved=0Template=/CM/HTMLDisplay.cfm>texasbar.com/coronavirus>>
<https://nam12.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.texasbar.com%2FContent%2FNavigationMenu%2FCoronavirus_COVID_19%2Fdefau&data=02%7C01%7CAmy.Starnes%40TEXASBAR.COM%7Cd52ecd601edc4c23562108d8500b87c5%7Cece4a672274e48cfa4575e83671cbe8d%7C1%7C0%7C637347358309303982&data=73OJ%2FLWsMHNeUZyhwHDAMZx0PKpVvL49y0bjWC2%2F2tY%3D&reserved=0lt.htm> for timely resources and updates on bar-related events.

To the Board of Directors of the Texas Bar:
In re: Larry McDougal

The State Bar of Texas never sought permission directly from the (compulsory) membership to oppose the plaintiffs in the McDonald v. Sorrels bar-deunification litigation. The Texas Bar nevertheless opposed them, continues to do so and consequently remains far more spread out into diverse political & other controversial activities than do attorney licensing entities in states where most other U.S.-licensed attorneys practice (such as CA, NY, VA and WA [etc.]). As a result, public disagreement about the views of any particular Texas Bar board member or (most recently) the president counterproductively remain more relevant than they need to be, and still potentially hold the entire legal profession in Texas hostage. The resulting politically charged climate involving the Texas Bar is consequently particularly vulnerable to being unduly influenced by (varying) segments of the internet's rage mob. The situation is unfairly oppressive to board members and especially to the president, as we have recently observed. You all deserve to have the right to have your opinions about public (and private) matters, and to voice them when you see fit. Transparency is wonderful and Larry McDougal displayed it, only to get mud splattered on him as a result...

Why not finally stop opposing the plaintiffs in McDonald v. Sorrels so that the resulting attorney licensing entity in Texas can finally shed other activities that hold it back and tarnish its public acceptance prospects in our politically volatile climate? De-unification of attorney licensing and oversight tasks from trade association ones is long overdue. Why not withdraw opposition to it and instead focus your energies on reforming the perceived flaws of the Texas Bar's disciplinary system pursuant to reform proposals such as these?

<http://www.TexasBarSunset.com/reforms>

Is attacking Larry McDougal not a thinly veiled attempt, by some, to thwart such long-overdue reforms? Admittedly, it is understandable that you might perceive that you lack the support from the (still compulsory) membership to do something particularly substantive, considering how relatively few members actually voted for you:

<http://www.TexasBarSunset.com/voter-abstention>

Does such learned helplessness among the (repeatedly betrayed) members not show that it's time to finally withdraw opposition against the McDonald v. Sorrels plaintiffs, then?

Thanks to anyone who took the time to read this. Thanks even more to those of you who gave it serious thought even as you already have very busy schedules. Might there be any questions that I can try to answer?

Respectfully submitted,
Rich

(***Rich Robins is a Texas-based, bilingual litigator of contract disputes, statewide. Although he has never been publicly or privately sanctioned by any bar authority in any state or country, Rich finds the current Texas attorney disciplinary system to be counterproductively potentially hazardous for well-

meaning attorneys, and also unnecessarily cost-increasing for honest clients. All of Rich's Sunset-related and Texas Bar-policing work is proudly done strictly as an unpaid volunteer.)

Rich Robins, Esq.

Editor, <http://www.TexasBarSunset.com>

[REDACTED]

Houston, TX 77006-2380

[REDACTED]

Subject: September 10th Board Meeting comments

Date: Thursday, September 3, 2020 at 12:36:02 PM Central Daylight Time

From: Joanne Cassidy

To: BoardofDirectors

*** State Bar of Texas External Message * - Use Caution Before Responding or Opening Links/Attachments**

Re: consideration of spokesperson duties of the President

I urge you to limit the official/public/spokesperson duties of Mr. McDougal as much as possible under the State Bar governing documents. By his actions, Mr. McDougal has shown himself to be a racist, lacking even a semblance of good judgment. We are all judged by the company we keep and the leaders we support. Right now, the reputations of the State Bar, its leaders and its members are in shreds. You have an opportunity to step up, to take action, however minimal it may be, to show that the Bar is no harbor for hate, racism and intolerance. I encourage you to take it.

--

Joanne M Cassidy
Attorney at Law

Subject: September 10 Special Inquisition
Date: Wednesday, September 2, 2020 at 5:02:47 PM Central Daylight Time
From: Michael Geller
To: BoardofDirectors
Attachments: SBOT McDougal 090220.pdf

*** State Bar of Texas External Message * - Use Caution Before Responding or Opening Links/Attachments**

Please distribute the attached to members of the Board. Thank you.

Michael L. Geller
Attorney at Law

[REDACTED]
DALLAS TX 75225

[REDACTED]
Fax (972) 503-7077
[REDACTED]

NOTICES

This message is intended only for the addressee and may contain information that is privileged, confidential and/or attorney work product. If you are not the intended recipient, do not read, copy, retain or disseminate this message or any attachment. If you have received this message in error, please call the sender at (214) 802-9332 and delete all copies of the message and any attachment. Neither the transmission of this message or any attachment, nor any error in transmission or misdelivery shall constitute waiver of any applicable legal privilege.

MICHAEL L. GELLER
ATTORNEY AT LAW

[REDACTED]
DALLAS, TEXAS 75225

[REDACTED]
FAX (972) 503-7077

[REDACTED]
September 2, 2020

State Bar of Texas boardofdirectors@texasbar.com
Attention: Board of Directors
1414 Colorado Street
Austin, Texas 78701

To The Board of Directors:

Since the Board's July 27, 2020 inquisition, the depravity of those acting, if not as directed by then often in the name of, Black Lives Matter, has been plain to see. That Black Lives Matter has not distanced itself from the mayhem means that it condones anarchy, which conduct is diametrically opposed to the mission of the State Bar of Texas.

I am disappointed that the Board even deigned to conduct this inquiry.

The litany of actions proposed in the July 28, 2020 email indicates that Mr. McDougal is clearly not the "right" guy and there is a move to limit the powers of the State Bar President until, I suppose, the correct guy, or lady, gets elected. To be sure that the correct man or woman is elected, additional vetting will occur to make sure that the wrong man or lady does not slip through. I assure the Board that the Board is not fooling anyone. I trust that whatever actions are taken will be subject to a referendum by the entire membership.

Even better would be to submit to the membership a proposal to dissolve the Bar, put licensing matters under the purview of the Supreme Court and Court of Criminal Appeals, and leave the trade association related aspects to a voluntary organization whereby those impressed by these antics can voluntarily pay for them.

Thank you for your attention.

Very truly yours,



Michael L. Geller
SBOT 07794740

Subject: FW: Board of Directors Meeting Public Comment

Date: Sunday, August 30, 2020 at 8:12:53 PM Central Daylight Time

From: Bob Bennett

To: boardofdirectors@texabar.com, BoardofDirectors, Bob Bennett

CC: Steve Fischer [REDACTED], Larry McDougal, Carmen Roe, Lucy Forbes,
[REDACTED], Andrew Tolchin [REDACTED], [REDACTED]

*** State Bar of Texas External Message * - Use Caution Before Responding or Opening Links/Attachments**

Texas Board of Directors

[State Bar of Texas](#)

1414 Colorado St.

Austin, TX 78701

Boardofdirectors@texabar.com

Re: 6. Report from the Chair of the Board Charlie Ginn (Materials) A.

Action: Consider approval of minutes of the July 27, 2020, Special Called Board Meeting B. General Report: Update regarding board counsel's analysis of director Alistair Dawson's July 27, 2020, tabled motion regarding the spokesperson duties of the State Bar President and a revised motion sent to board Agenda – Board of Directors Meeting Thursday, September 10, 2020 Page | 2 SBOT MISSION The mission of the State Bar of Texas is to support the administration of the legal system, assure all citizens equal access to justice, foster high standards of ethical conduct for lawyers, enable its members to better serve their clients and the public, educate the public about the rule of law and promote diversity in the administration of justice and the practice of law. counsel by Dawson; continued discussion regarding options available to the board; and Keller analysis of action items requested of the State Bar President by the African American Lawyers Section (AALS) on July 13, 2020

Directors your name is Hypocrisy.

Dear Directors:

I am writing to you regarding the Tabled Motion originally presented by Director Dawson at the July 27, 2020, Special Meeting. You are aware that the Motion is based on some postings that State Bar of Texas President Larry McDougal made over 12 years ago. Other postings were more recent. But the SBOT Nominations Committee that secretly nominated E. Leon Carter and Laura Gibson did not do a one year or 20-year background check on these new nominees. Why not? Was any social media investigation done at all? The Committee chaired by Randy Sorrels and Jerry Alexander did not do any background check independent of what the nominees provided. Now the Directors are straining to undermine the progressive changes President McDougal ran on (and the majority of the members voted for) by eliminating him as the spokesperson for the Bar. This is a political position and violates Bar Rules and procedures.

The McDougal Postings were unnecessary but an apology was offered and should be accepted. Some of the SBOT members like to promote their spiritual views but any forgiveness does not embrace what they believe Larry did. The Righteous want more than an apology – they want to see blood in the water. They want to do away with the majority election. They will not allow President McDougal to go forward with his proposals to improve the grievance system, expedite and enhance advertising, make elections democratic, and other progressive proposals that President McDougal ran on and was elected to implement.

We also see that Director Steve Fischer from El Paso is encountering vitriol due to his writings that support President McDougal's right to speak on a subject. Freedom of speech has no significance to those critical of Director Fischer. His published opinion piece was not published by the Bar nor any response made. Under normal circumstances, this would be unthinkable. Fischer's warning that Directors might face liability for trying to silence McDougal was probably supported by Bar Counsel but has been ignored by the Directors. The dues we pay are supposed to be used to maintain the Bar as politically neutral. Our PR Department provides a clipping service for the membership that offers relevant news to members. The exception is when Fischer writes an objective opinion piece. The Bar did not "clip" it and did

not provide it to the membership. If you don't like it, write a response, but not politically neutral just to ignore it. Pretty deceptive.

What should happen is that the Big Law Dawson Motion should not be recalled but remained "tabled". President McDougal's proposals should be considered and his Task Force recommendations should be allowed. This is what the Bar voted on and wanted – not an ill-conceived censure. If this happens, why not indemnify the Officers and Directors if a lawsuit is brought. No big deal if your position is correct.

To the Houston Directors, when you ran, some of you sought out Larry's help and support. You then practically beg him to make you a chairperson of one of the Taskforces. Not much has changed but the unforgiving righteous have made their views known. Steve's article has been censored and I hope you will support Larry when you vote on the 10th. I also hope a lot of attorneys will be watching what you do. I will.

Best wishes,

Bob Bennett, Attorney and Counselor at Law

<https://www.youtube.com/watch?v=39QD1-gyph8>

Robert S. "Bob" Bennett

B.A. M. A. & J.D.

Adjunct Professor, Lone Star College – North Harris.

Business Law and Ethics

Licensing Services for Professionals

Compliance Programs

Houston, Texas 77002

www.bennettlawfirm.com

LinkedIn: <https://www.linkedin.com/in/bennettlicensing/>

Protecting the Professional's License since 1974

www.ocdc-revealed.com

Twitter: @BarristerBob

Pinterest: Robert Bennett

YouTube: BobBennett: (<https://www.youtube.com/channel/UCudIJd-6LnbzjEFsezPfP4w>)

CONFIDENTIALITY NOTICE: This electronic mail transmission is confidential, may be privileged and should be read or retained only by the intended recipient. If you have received this transmission in error, please immediately notify the sender and delete it from your system.

--

Subject: FW: State Bar matter
Date: Thursday, September 3, 2020 at 2:43:13 PM Central Daylight Time
From: David Calvillo
To: BoardofDirectors
Attachments: image001.jpg

This is an email I received from a McAllen lawyer.

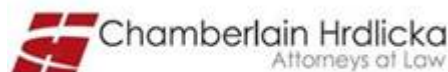
David N. Calvillo
Director- At Large
Board of Directors
State Bar of Texas



[Bio](#)

From: Calvillo, David [REDACTED]
Sent: Thursday, September 3, 2020 2:30 PM
To: David Calvillo [REDACTED]
Subject: FW: State Bar matter

*** State Bar of Texas External Message * - Use Caution Before Responding or Opening Links/Attachments**



David N. Calvillo
Shareholder
Attorney-CPA-CVA
Board Certified- Civil Trial Law
Texas Board of Legal Specialization
[REDACTED] Fax: 713.658.2553
[Bio](#) [vCard](#)

From: Greg Turley [REDACTED]
Sent: Thursday, September 3, 2020 2:09 PM
To: Calvillo, David [REDACTED]
Subject: State Bar matter

****EXTERNAL EMAIL****

Hello David,

I was reading the State Bar Journal and was interested in news related to State Bar President Larry McDougal.

As your constituent, I hope that you make a strong statement that such reckless actions are not tolerated by our State Bar.

I think it is important to consider the greater good. Thanks for your service and as our friend Alonzo Cantu might say, "Do what is good for the Valley."

Gregory E. Turley
Attorney at Law, P.C.

McAllen, TX 78504

Subject: State Bar of Texas Board of Directors Special Called Meeting 9.10.2020 - Comments on ABA Model Rule 8.4 (g)

Date: Thursday, September 3, 2020 at 3:26:54 PM Central Daylight Time

From: David Butler

To: BoardofDirectors

*** State Bar of Texas External Message * - Use Caution Before Responding or Opening Links/Attachments**

Dear State Bar of Texas Board of Directors,

I strongly urge the Board of Directors to decline to send ABA Model Rule 8.4(g) to the DCAAP committee for study and recommendation. No matter how well intentioned this effort is to remedy racism in our profession, this rule is a speech code with the State Bar of Texas determining what is and what is not appropriate speech for a Texas licensed attorney. The model rule goes far beyond dealing with the issue of racism that our country is endeavoring to address by a rule which will clearly infringes upon the rights of attorneys to express their Constitutionally protected views including in particular on matters regarding deeply held religious convictions. Without a doubt, if adopted, the rule will be used offensively as another tool in our cancel culture to silence those are not in agreement with the popular culture and as a result will have a pronounced chilling effect on Texas lawyers' First Amendment rights.

Additionally, the model rule is fraught with many other problems including, for example, making it unprofessional conduct to discriminate or engage in harassment based upon socioeconomic status. This newly created protected class is, to the best of my knowledge, no where to be found in any other rule of law in United States jurisprudence save and except in the provision of emergency medical services. The implications of applying the protections for this newly protected class to the practice of law and the operation of a law firm is mind boggling.

Again, I urge the Board to not go down this road which will weaponize the Rules of Professional Conduct and as a result silence many lawyers who do not want to jeopardize their law license and their livelihood. And for the courageous lawyers who will not be silenced by this speech code, a line will have be drawn in the sand, further dividing our profession and our country.

Respectfully,

David L. Butler
Texas Bar No. 03515100

Subject: Proposed ethics rule amendment Rule 8.4(g)
Date: Thursday, September 3, 2020 at 3:27:30 PM Central Daylight Time
From: Ray Leach
To: [REDACTED], [REDACTED] BoardofDirectors
Attachments: tbls1-civiltriallaw.jpg

*** State Bar of Texas External Message * - Use Caution Before Responding or Opening Links/Attachments**

To the Hon. Board of Directors:

I respectfully oppose the proposed rule change to Rule 8.4. While a policy of nondiscrimination is laudable, I strongly believe the language in this proposed rule is too vague and overbroad and will open the gates to baseless grievances for any action by a lawyer "related to the practice of law."

We have many laws in place, both State, Federal and Municipal that prohibit discrimination under various circumstances. Even if you believe an ethical rule is necessary to provide relief against discriminatory practices or harrassing behavior as a means of policing attorney conduct, this rule fails to define or limit any conduct that may be construed as "related to the practice of law."

I urge you to return to the drawing board and draft a rule that provides more notice as to what actions are considered to be harassing or discriminatory other than what a lawyer "knows" or "should know." I also believe that the phrase "conduct related to the practice of law" requires more definition.

I urge you to reject the proposed Rule.

Thank you.

-- Ray Leach



Law Offices of Ray Leach

[REDACTED]
San Antonio, Texas 78212

[REDACTED]
Telecopier: 210-930-9353

[REDACTED]
Website: www.rayleachlaw.com


Subject: Board of Directors Meeting Public Comment
Date: Thursday, September 3, 2020 at 3:37:17 PM Central Daylight Time
From: Dan Knoernschild
To: BoardofDirectors
Attachments: Larry McDougal BLM.pdf

*** State Bar of Texas External Message * - Use Caution Before Responding or Opening Links/Attachments**

Dear Sir/Madam,

Please find attached hereto my comment submission into the public record regarding the Larry McDougal social media controversy.

Best Regards,

Dan Knoernschild
Attorney
Daniel M. Knoernschild, P.C.


Daniel M. Knoernschild

A PROFESSIONAL CORPORATION

Daniel M. Knoernschild†

P.O. Box 362
Argyle, Texas 76226
Tel. (405) 615-9360

†Admitted in Oklahoma and Texas

September 3, 2020

State Bar of Texas
Attn: Board of Directors
1414 Colorado Street
Austin, Texas. 78701

Re: State Bar President Larry McDougal

Dear Board Members,

I do not know Larry McDougal, but I have been following the controversy surrounding his social media posts since learning of them after the July 27 meeting. I am submitting this public comment in support of his Bar presidency and against several of the ‘actions’ this Board commenced in its ‘emergency meeting’ this past July.

We, as attorneys admitted to practice in this State and elsewhere, have the responsibility to gather all the facts, as best as possible, in order to evaluate a controversy before us before we act. We do not go blindly into a matter making decisions on-the-fly, or at least a good attorney does not. In that regard, I am specifically addressing my comments to the president’s post regarding ‘Black Lives Matter’ being a ‘terrorist group’ in 2015. The facts are readily available and easily researched.

In 2015, a law enforcement officer was executed while pumping gas into his patrol vehicle in Harris County, Texas, by a person claiming to support ‘Black Lives Matter’. Following the attack, it was reported in news outlets, such as the Washington Times, Inquisitor and the Washington Examiner to name a few, that ‘Black Lives Matter’ (hereinafter “BLM”) was a terrorist group/organization or suggested the same. Additionally, BLM name was mentioned in a September story that ran in the Houston Chronicle possibly linking BLM to the officer shooting. In 2016, the White House received a valid petition requesting that BLM be labeled a ‘terrorist group’. Due to U.S. statute, the United States does not label domestic groups as ‘terrorist groups’ or ‘terrorist organizations’; only international organizations are allowed that dubious distinction.

BLM was founded in 2013 by three women, Patrisse Cullors, Alicia Garza and Opal Tometi. On July 21, 2020, PolitiFact reported that a video recently surfaced from 2015 where Patrisse Cullors admitted that she, along with co-founder, Alicia Garza, were trained Marxists. Moreover, it was reported in several news outlets that one, or all three,

received inspiration for BLM from Joanne Chesimard (a.k.a. Assata Shakur). Joanne Chesimard was last known to be residing in exile in Cuba. She was once known as a member of the Black Liberation Army (“BLA”). Today, she is sought by the U.S. government as an escaped *domestic terrorist*.

It gets better, the fundraising group for Black Lives Matter is Thousand Currents that has a known convicted terrorist (whose sentence was commuted by former President, Bill Clinton), Susan Rosenberg, sitting on its Board of Directors. Not even Snopes can refute the link. Because of the recent protesting and rioting resulting from the death of George Floyd, Thousand Currents took down its Board of Directors webpage listing Rosenberg, but it can still be found preserved on other news websites.

Most, if not all, of the 105,000 Texas attorneys can see the ongoing civil unrest occurring across the country on their evening news, livestreamed on their mobile device or described in their favorite news podcast as a result of the death of George Floyd. However, it is quite telling and, subsequently damning, when the president of Greater New York Black Lives Matter stated on national television, June 24, 2020:

If this country doesn't give us what we want, then we will burn down this system and replace it. All right? And I could be speaking figuratively. I could be speaking literally. It's a matter of interpretation.

Immediately preceding and subsequent to that proclamation, the following cities have burned: Minneapolis, Boston, Denver, Los Angeles, New York City, Portland, Seattle and Washington D.C. Lastly, the democrat mayor of Olympia, Washington, Cheryl Selby, stated on June 18, 2020, after her own house was vandalized by BLM ‘protestors’:

It's like domestic terrorism. It's unfair. It hurts when you're giving so much to your community.

I believe that’s a fair assessment, yet the Olympia city council hasn’t called an ‘emergency session’ to ‘cancel’ the mayor, to my knowledge. All of the information provided above is readily available from a variety of online sources. Some of the aforementioned information was certainly published prior to the Board’s declared ‘emergency meeting’ and some after. Frankly, it’s pretty clear that the information was out there, in 2015, where a reasonable person could certainly state on a private Facebook page that one thought “Black Lives Matter is a terrorist group”.

It’s actually quite embarrassing as a “rank and file member” of the Texas Bar that this Board convened an ‘emergency session’, in the middle of a global pandemic, announcing the meeting with just a one-week notice, over a Facebook post from 2015, and, afterward, touts that “*The Board heard from 61 speakers and accepted hundreds of letters from attorneys and members of the public before approving the following actions...*”. If one does the math, and I’m being generous here, this Board heard from less than 1% of the licensed attorneys in Texas (1,000/105,000) before authorizing numerous edicts, task forces, working groups, studies, directives and further special

meetings. I am asking the members of this Board, you had...a year(?) before 'President-Elect' Larry McDougal assumed his post, and no one on the Nominations and Election Subcommittee, nor the Board, thought to do a social media keyword search of the then 'President-Elect' Larry McDougal? Was it by mere happenstance or 'something else' that this 'offensive comment', which is turning out to be true, came to light within a couple weeks or so of President McDougal assuming his post? You do realize how contrived this whole messy ordeal appears...*over a Facebook post 5 years old?*

There were nine 'actions' taken at the 'emergency meeting'. Four, taken in order, should be very concerning to ALL free-thinking members of this Bar:

- 1) That the State Bar MCLE committee consider making 'implicit bias' (defined as bias you may not know you have, but 'we' will tell you that you have it) training an MCLE requirement for Texas attorneys.

For this Board, it's not enough that the legal profession is one of the most educated and increasingly diverse in the nation. It's mind-boggling that, after attaining a doctorate degree, passing a rigorous examination process and some attorneys working for several years, perhaps decades, this Board believes that, because of one arguably factual (perhaps 'truthful' resonates better with members of this Board since 'facts' no longer matter) Facebook post, 105,000 attorneys will now be subjected to one, two or perhaps three hours of mandatory 're-education'. Why? ...because less than 1% of the 'rank and file' failed to do basic research on BLM, or more likely, has a 'progressive' agenda in store for the other members of this Bar who are scared to death the angry lawyer mob will show up at their law offices and, one-by-one, 'cancel' them? I guess if it can happen to the incoming Bar president, the angry agenda-driven lawyer mob can line up their objection letters for anyone of us. I object to this consideration and find it offensive on its face.

- 2) Directing the board's Policy Manual Committee and Nominations and Election Subcommittee to propose revisions to board policy to provide increased vetting of president-elect candidates....

Apparently what the Board is proposing is a 'check-the-box' system to decide who it will 'anoint' worthy to be a potential Bar president over the 'rank and file'. It seems the 'rank and file' should determine the Bar Presidency by majority vote, but perhaps that is a future larger By-Law question for the Texas Supreme Court. I object to this consideration.

- 3) To study whether Texas should adopt ABA Model Rule 8.4(g) as part of the Texas Rules of Professional Conduct.

This is perhaps the most dangerous of all the 'actions' this Board approved. How would the adoption of this Rule have changed the 'offensive comment'

of Larry McDougal? He was commenting on his private Facebook page; he was not engaged in the practice of law. Is this Board now entertaining the idea that licensed Texas attorneys no longer enjoy the First Amendment right guaranteed to all Americans? Is there to be a 'social media czar' appointed by the Board, whereby all 105,000 attorneys submit login credentials for each social media platform, to which an attorney subscribes, so the Bar can 'progressively police' its members' personal public comments? Is this 'action' a veiled attempt by the Board to 'weaponize' the ethics rules to pursue those members it does not deem as 'progressive' enough? It surely appears that way. Attorneys are the guardians of the Bill of Rights; we should be the freest to speak our minds on any topic. I've found that educated people have a pretty good idea what is acceptable and what is not in a public forum; if an 'offensive' comment is made, most adults know how to approach the offending speaker to correct the problem. It does not require a Section mob of supposedly well-educated adults lining up to 'cancel' a person because they feel another may have, or worse, should have had his or her feelings hurt-especially when there are reasonable facts to back up a statement. Up to this point, my comments have focused on the 'social justice warrior' and 'virtue signaling' actions and comments the Board has received or instituted. However, we've finally arrived at the one and only legal argument included in this contrived ordeal. Is the Board aware there is pending litigation over ABA Model Rule 8.4(g)? Perhaps the Board's review of the case will illuminate the dangerous path the Board is entertaining. *Greenberg v. Haggerty*, No. 2:20-cv-03822 (E.D. Pa., 2020 *pending*)

I strongly object to this action.

- 4) To call a special meeting prior to the September quarterly board meeting on a date when President McDougal is available for the board to consider a motion restricting the duties of the State Bar president.

Is this a motion to restrict ALL future State Bar presidents, or just the current one because a 'woke' mob of lawyers do not like something factual he said 5 years ago? Surely the Board realizes that, at the time, whether BLM was a terrorist organization or not was the topic being discussed across a wide spectrum of news media. If so, then an ex post facto pardon should be granted to this president, therefore I object to the consideration of restricting only this president's duties.

I've read through several of the letters that were submitted to this Board from the July 27 hearing, both for and against, over the possible actions to be taken against Larry McDougal. Honestly, I've lost confidence in this Body to execute a fair and impartial evaluation of the entire matter due to the 'eleventh-hour' manner in which it was handled, the tone and content of the opposition comments, the perceived political leanings of the opposing Sections that stacked up against this new president, the appearance of a contrived complaint against him and the outright comment that some members want to push a 'progressive' agenda through this Board over this matter. Hence, I am submitting

a copy of this letter to the Texas Supreme Court, my local State Representative and Senator, and the chairperson of the Texas Sunset Commission for continued monitoring of this situation and to seek customary or emergency oversight intervention in this matter, if available; I might even send it to a nationally syndicated television or radio show. Frankly, none of this passes 'the smell test'...all over two Facebook posts and a misinterpretation of one election law case. It seems the Bar's mission is to uphold both the United States Constitution and the Texas State Constitution. In light of the prior and more recent comments of BLM, I cannot see how a Marxist organization does not contradict the Bar's mission. A Marxist ideology does not assure all citizens equal access to justice, foster high standards of ethical conduct for lawyers, enable Texas lawyers to better serve their clients and the public and, most of all, educate the public about the rule of law-because, if we've learned anything over the past several weeks and months about a Marxist ideology, there is no rule of law.

Sincerely,

A handwritten signature in cursive script that reads "Daniel Knoernschild". The signature is written in dark ink and is positioned above the printed name.

Daniel Knoernschild
U.S. Marine Combat Veteran
Attorney

CC:

The Honorable Nathan Hecht
The Honorable Greg Abbott
Sunset Commission Chair
The Honorable Jane Nelson
The Honorable Tan Parker

Subject: Written comments with respect to September 10, 2020, Board of Directors Special Meeting.
Date: Thursday, September 3, 2020 at 4:07:46 PM Central Daylight Time
From: Roy J Leatherberry
To: BoardofDirectors
CC: StateBar President
Attachments: Comments for SBOT Board Meeting.pdf

*** State Bar of Texas External Message * - Use Caution Before Responding or Opening Links/Attachments**

Good afternoon. Attached are my comments with respect to the upcoming Board of Directors Special Meeting.

Thank you for your consideration.

Roy Leatherberry

To: The Board of the State Bar of Texas
From: Roy Leatherberry
Date: September 3, 2020
Re: September 10, 2020, Board of Directors Special Meeting.

Please consider these written comments for the September 10, 2020, Board of Directors Special Meeting. In order to meet the September 3, 2020, deadline, these are provided with only the agenda and without the benefit of the written materials, which had not been published with the agenda as of the date and time of this submission.

The ultimate issue before the Board today involves the appropriate and legal role of the State Bar of Texas (SBOT). Under this umbrella are the sub-issues of the role of the President as spokesman, the consideration of the adoption of a new rule of ethics, and the potential legal limitations with respect to the demands of the African Americans Lawyers Section (AALS) in its July 13, 2020, press release.

In addressing these, I feel that we are in the midst of a Hegelian dialectic but with the uncertainty of which stage we find ourselves. My fear is that many believe that we are in synthesis when, in fact, we are in thesis. As a result, we are utterly unprepared for the antithesis. That is, the issues we address today are part and parcel of a very dangerous world historical gamble.¹

In the introduction to his *Philosophy of History*,² Hegel discussed the effects of unintended consequences on History. He provided the example of a man who, perhaps justly, revenged himself on another by setting fire to the other's house. The fire, of course, raged out of control "so that a wide conflagration ensues, which destroys the goods and chattels of many other persons besides his against whom the act of revenge was first directed; perhaps even costs not a few men their lives."³ He remarked:

By this example I wish only to impress on you the consideration, that in a simple act, something further may be implicated than lies in the intention and consciousness of the agent. The example before us involves, however, this additional consideration, that the substance of the act, consequently we may say the act itself, recoils upon the perpetrator – reacts upon him with destructive tendency. This union of the two extremes – the embodiment of a general idea in the form of direct reality, and the elevation of a speciality into connection with universal truth – is brought to pass, at first sight, under the conditions of an utter diversity of nature between the two, and an indifference of the one extreme towards the other. The aims which the agents set before them are limited and special; but it must be remarked that the agents themselves are intelligent thinking beings. The purport of their desires is interwoven with *general, essential* considerations of justice, good,

¹ See Laina Farhat-Holzman, *Lee Harris, Civilizations and Its Enemies: The Next Stage of History*, 53 *Comparative Civilizations R.* 119, 121 (2005).

² Georg Wilhelm Friedrich Hegel, *The Philosophy of History* (J. Sibree trans. revised edition 1899).

³ *Id.* at 28.

duty, etc.; for mere desire – volition in its rough and savage forms – falls not within the scene and sphere of Universal History.⁴

In this instance, I do not believe it to be overstating the case that the issues before the SBOT will put us on an inescapable collision course that will perpetuate a constitutional crisis that the SBOT will not, indeed, cannot survive. As Hegel further remarked:

In this sphere are presented those momentous collisions between existing, acknowledged duties, laws, and rights, and those contingencies which are adverse to this fixed system; which assail and even destroy its foundations and existence; whose tenor may nevertheless seem good on the large scale advantageous — yes, even indispensable and necessary. These contingencies realize themselves in History: they involve a general principle of a different order from that on which depends the permanence of a people or a State. This principle is an essential phase in the development of the creating Idea, of Truth striving and urging towards [consciousness of] itself. Historical men – *World-Historical Individuals* — are those in whose aims such a general principle lies.⁵

How governments are structured, it has been argued, will always “illuminate the ideologies and thought worlds of those who produced them.”⁶ If this be true, then a fundamental ideology and thought of the framers of the nine Constitutions of Texas⁷ was that the branches be clearly demarcated from one another. This is often referred to as a “separation of powers.” This particular structure, however, is not inherent in the constitution of governments.⁸

Montesquieu conceived of the idea to separate the powers of government and to pit the various departments against each other as a guarantee against the government from abridging the rights of the people. The idea flows from Lockean notions regarding the sovereignty of the individual and the belief that rights are from God and not the government. That hypostasis leads to such concepts, for example, that the fruits of labor belong to the laborer who then has individual rights in the property acquired.

⁴ *Id.*

⁵ *Id.* (emphasis in original).

⁶ William J. Chris, *Six Constitutions Over Texas: Law and Political Identity in Texas, 1845-1861*, 4 J. Texas Supreme Court Historical Society, no. 3 (2015), 18.

⁷ I am not including the Constitution of the United States of America in this count. However, in addition to the six Constitutions of the State of Texas, I include the Federal Constitution of the United Mexican States (1824), *Constitución Política del Estado Libre de Coahuila y Tejas* (1827), and Constitution or Form of Government of the State of Texas (1833). The founding document, of course, is the *Acta Constitutiva de la Federación Mexicana*, so we could bring the number to ten. One might even include an eleventh, *Las Siete Leyes* (1835), but I would assert that events on the ground provide that it was never a Texas constitution. And, then, of course, there was the rejected post-Civil War Constitution. Finally, it has been observed that there was no single 1876. Constitution. Jason Boatright, *No One Knows What the Texas Constitution Is*, 18 TEX. REV. L. & POL. J. 1 (Fall 2013). Rather, six different original versions were approved by the constitutional convention of 1875. *Id.* at 1. Boatright notes that an argument could be made that there is actually no current Texas Constitution at all. *Id.* I shall conveniently ignore that argument.

⁸ See Interpretive Commentary (2007), Vernon’s Ann. Texas Const. Art. 2, § 1 (asserting that the originator of the doctrine was Montesquieu in his 1748 book, “Spirit of the Laws” in 1748).

But, the system is not natural – it is not foreordained. If it were, one might wonder why examples of it took so long to appear in the evolutionary record of civilizations. It was almost accidentally unleashed on the world. It is, in fact, a denial of human nature and, as such, it is fragile and vulnerable to human nature reasserting itself.

The interesting question, then, is not why authoritarian governments exist. These are the default – “the factory preset of this mortal coil.”⁹ The interesting questions are, instead, how the forces of authoritarianism were overcome and, more importantly, how reversion be thwarted.

The history of Texas is interesting for a variety of reasons but, relevant to this discussion, it presents an example of both the overcoming of authoritarianism and the thwarting of reversion.

Texas was, of course, not of the original colonies that formed the United States of America. It was not even one of the original states that ratified the Constitution of the United States of America. It was, rather, at the time of its admission into the United States of America, a separate country that had derived its independence from the United Mexican States.¹⁰

So, our story must begin with the grievances mentioned in the Texas Declaration of Independence of 1836, which justified separation from Mexico. I shall assume, as we must if we are to hold any notion that law is something more than a power play with sociopathic actors, that these grievances were held in good faith and were not simply a pretextual power-grab. Otherwise we devolve into nihilistic anarchy with no hypostasis other than “might makes right.”

In declaring independence from Mexico, particular focus was upon the assertion that “forms themselves of the constitution [were] discontinued” with the result that there was no separation of powers but, rather, “consolidated central military despotism.”¹¹

But, what were those “forms themselves of the constitution” that were “discontinued”?

Unlike the original colonies that became the United States of America, Texas was never under the control of England and has no “common law” history. This fact has affected various aspects of its jurisprudence.¹² As such, it is prudent to examine the constitutions that preceded the

⁹ To steal a phrase used by Jonah Goldberg used to describe poverty in his essay, *The Spoiled Children of Capitalism*. <https://www.nationalreview.com/2008/08/spoiled-children-capitalism-jonah-goldberg/>

¹⁰ The United Mexican States was a “Federation” of several states, including the State of Coahuila and Texas, which was itself a single political entity. As such, reference to it as the Mexican Federation will serve to distinguish it from the “United States of America.”

¹¹ The Declaration of Independence made by the Delegates of the People of Texas in General Convention at Washington, On March 2nd, 1836, *reprinted in* 1 H.P.N. Gammel, *The Laws of Texas 1822-1897*, at 1063 (Austin, Gammel Book Co. 1898). (“When the Federal Republican Constitution of their country, which they have sworn to support, no longer has a substantial existence, and the whole nature of their government has been forcibly changed, without their consent, from a restricted federative republic, composed of sovereign states, to a consolidated central military despotism, in which every interest is disregarded but that of the army and the priesthood, both the eternal enemies of civil liberty, the ever ready minions of power, and the usual instruments of tyrants.”)

¹² For example, as a result of the fact that Texas was first under Spanish Civil Law, courts in Texas have jurisdiction over *both* legal issues *and* equitable issues. *Franzetti v. Franzetti*, 120 S.W.2d 123 (Tex. Civ. App. – Austin 1938, no writ).

creation of the Republic of Texas as opposed assuming that our analysis should begin with – or indeed, even include, of – the Constitution of the United States of America.

The Mexican Federation, after an eleven year war of independence against Spain, a country that itself was under a variety of juntas and dictators and external control at the time, was created as a federal republic. However, this was a decision following much turmoil and several political changes.

The underlying political theory evident in the *Acta Constitutiva* was *Hispanic* in nature¹³ and it is quite fascinating to compare it to the near contemporaneous *English*-influenced US Constitution.¹⁴ For example, the underlying premise of the US Constitution is that sovereignty resides in the *people*; however, the premise of the Mexican Federation in 1824 was that sovereignty resides in the *nation* (shared between the Federation and the individual States).

Thus, one might suggest that the founders of the Mexican Federation rejected Montesquieu and Locke.

That would not be entirely correct because the founding documents of the Mexican Federation, like the US Constitution, include the assertion that governments have three powers (legislative, executive, and judicial) and that all three powers ought to be separated into different sub-entities.

Thus, the January 1824 Constitutive Acts of the Mexican Federation¹⁵ provided in Article 9: “The Supreme Power of the Federation is divided into the legislative, executive, and judicial, and two or more of these powers can never be united in one person or corporation, nor can the legislative power be entrusted to a single individual.”¹⁶

In interpreting various constitutional provisions, deviations from source material are important; so this provision should be compared to the Constitution of Cádiz (Spanish Constitution of 1812), which defined the functions of government in Articles 13 to 17, because *it*, and not the US Constitution, was the source document from which much of the *Acta Constitutiva* and the 1824 Constitution derived.¹⁷ Although representing something completely new in its separation of the

¹³ “[T]he real basis of the Mexican constitution was the Spanish constitution of 1812 and the departures from the latter were due largely to the adoption of the form of a federal republic, which compelled, to some extent, the imitation of the American model. But even in so imitating, the framers of the constitution endeavored to mould the unfamiliar institution of the North to the familiar institutions of Spain.” James Q. Dealey, *The Spanish Source of the Mexican Constitution of 1824*, Texas State Historical Association, THE QUARTERLY, III, 161-169

¹⁴ See Marion John Atwood, The Sources of the Mexican *Acta Constitutiva*, The Southwestern Historical Quarterly vol 3 issue 3 (1900), 27. Of course, the underlying foundational document, the Spanish Constitution of 1812 “reflects the leaven of the French political thought of the time.” *Id.* at 21. That said, unlike the debates of the Columbian constitution of 1821, the debates of the constituent assembly “reveal surprisingly few references to French political changes or to French political philosophy.” *Id.* at 25. Thus, “it appears reasonable to conclude that such French influences as entered into the formation of the *Acta Constitutiva* came indirectly through the influence of France in the formation of the Spanish constitution of 1812.

¹⁵ *Acta Constitutiva de la Federación Mexicana* (hereinafter *Acta Constitutiva*).

¹⁶ Constitutive Acts of the Mexican Federation (January 1824), reprinted in 1 H.P.N. Gammel, *The Laws of Texas 1822-1897*, at 61, 62 (Austin, Gammel Book Co. 1898).

¹⁷ Atwood, note 14, at 23.

functions, Article 15 of that constitution vested the power to make the laws in *both* the king (*Rey*) and the legislature (*Córtes*).¹⁸

Because the circumstances leading to the creation of the United States of America¹⁹ were very different than those leading to the creation of the Mexican Federation, it is not too great of a leap to conclude that the explicit prohibition against overlap of the powers in the latter's Constitution was intentional.

It is, of course, a maxim that remedial legislation is to be liberally construed to effectuate the purposes for which it was enacted. A Revolutionary Constitution is the epitome, the essence, the very Platonic form of remedial legislation. Thus, the differences as expressed are crucial.

The experience of the framers of the *Acta Constitutiva* resulted in the creation of a weak and undefined executive. Article 15 provided: "The supreme executive power will be confided to such individual, or individuals as the constitution may designate, who must be residents and native born citizens of some one of the states or territories of the Federation"²⁰ The executive powers, unlike those of the President of the United States of America, were "restricted by a careful definition of power."²¹

The skeleton of the *Acta Constitutiva* was provided flesh several months later with the adoption of the 1824 Federal Constitution of the United Mexican States.

The October 1824 Federal Constitution of the United Mexican States provided, in Title II, Article 6, "The Supreme power of the Federation as to its exercise, is divided into the legislative, executive and judicial powers."²² Under this Constitution the office of the President of the United Mexican States was created but the office was subordinate to the legislature.

As noted, sovereignty under the 1824 Constitution was shared between the States and the Federation and each state adopted its own Constitution.

Article 29 of the Preamble to the 1827 Constitution of the State of Coahuila and Texas, provided "The supreme powers of the state shall be divided for its exercise into legislative, executive and judicial, and neither these three powers, or any two of the same, shall ever be united in one corporation or person, nor shall the legislative be deposited in one individual alone."²³

However, the system established under the 1824 Constitution lasted only until October of 1835 when Mexico was reorganized (over the objection of many) into a more central system with

¹⁸ ("La potestad de hacer las leyes reside en las Córtes con el Rey.")

¹⁹ The American Revolution was against a colonizing power with a long history of Lockean liberalism, including individual liberty, and was characterized, simply, as the reassertion of the liberty of the citizens of the home country.

²⁰ Constitutive Acts of the Mexican Federation (January 1824), reprinted in 1 H.P.N. Gammel, *The Laws of Texas 1822-1897*, at 63 (Austin, Gammel Book Co. 1898).

²¹ Atwood, note 14, at 23, citing *Acta Constitutiva*, Art. 16.

²² Federal Constitution of the United Mexican States (October 1824), reprinted in 1 H.P.N. Gammel, *The Laws of Texas 1822-1897*, at 72, 73 (Austin, Gammel Book Co. 1898).

²³ Constitution of the State of Coahuila and Texas (1827) reprinted in 1 H.P.N. Gammel, *The Laws of Texas 1822-1897*, at 423, 426 (Austin, Gammel Book Co. 1898).

the abolishment of Free States.²⁴ The result was that former states, including Texas and Yucatán, declared their independence. The 1824 Constitution was replaced by *Las Siete Leyes* or “Seven Constitutional Laws.”²⁵

Key among these was the Second Law. That provision significantly elevated the executive over the legislative and judicial bodies and permitted the executive to close the Congress of Deputies and Senators and to suppress the *Suprema Corte de Justicia de la Nación* (Supreme Court of Justice of the Nation).

It was this repeal of the 1824 Constitution and adoption of the Seven Laws that was explicitly mentioned in the Texas Declaration of Independence of 1836 as one of the grievances justifying independence discussed, *supra*.

Interestingly, however, the underlying assumption in the 1824 Constitution of the Mexican Federation that sovereign power rest in the *nation* as opposed to the people was rejected and the Texas Declaration of Independence concluded with the assertion that “*people* of Texas do now constitute a free, Sovereign, and independent republic, and are fully invested with all the rights and attributes which properly belong to independent *nations*.”²⁶

In 1836, following independence, the Constitutional Convention of the Republic of Texas ratified a Constitution and returned to the notion that separation of the powers of government was to be preserved: “The powers of this Government shall be divided into three departments, viz: Legislative, Executive and Judicial, which shall remain forever separate and distinct.”²⁷

It was not quite “forever” because less than a decade later the Republic of Texas was annexed by the United States of America and became the State of Texas.²⁸ Upon joining the US in 1845, the State of Texas adopted a new Constitution, with the “Division of the Powers of Government” being contained in what is now Article II:

The powers of the government of the State of Texas shall be divided into three distinct departments, and each of them be confided to a separate body of magistracy, to wit: those which are legislative, to one; those which are executive, to another; and those which are judicial, to another; and no person, or collection of persons, being of one of those departments, shall exercise any power properly attached to either of the others, except in the instances herein expressly permitted.²⁹

²⁴ See T.R. Fehrenbach, *Fire & Blood: A History of Mexico*, at 365-385 (1995); Enrique Krauze, *Mexico: Biography of Power – A History of Modern Mexico, 1810-1997*, at 119-151 (1997)

²⁵ *Bases y Leyes Constitucionales de la Republica Mexicana, Decretadas Por El Congreso General de la Nacion En el año de 1836* (1837)

²⁶ Cf., Tex. Const. 1876, Art. 1, § 2: “All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit. The faith of the people of Texas stands pledged to the preservation of a republican form of government, and, subject to this limitation only, they have at all times the inalienable right to alter, reform or abolish their government in such manner as they may think expedient.”

²⁷ Repub. Tex. Const. of 1836, art. 1, § 1, *reprinted in* 1 H.P.N. Gammel, *The Laws of Texas 1822-1897*, at 1069, 1069 (Austin, Gammel Book Co. 1898).

²⁸ This ultimately led to the Mexican-American War and, ironically, the reinstitution of the 1824 Constitution following Mexico’s loss to the United States of America.

²⁹ Tex. Const. of 1845, art. II, § 1.

Similar language was retained, except for certain punctuation changes, in the 1861, 1866, 1869, and 1876 Constitutions.³⁰ The Constitution adopted in 1876 is the current version and labels this, “The Powers of Government.” It has been described as a “single, tersely phrased paragraph.”³¹

This clearly worded Article has been interpreted to mean that a power which has been granted to one department of government may be exercised only by that branch to the exclusion of the others. And any attempt by one department of government to interfere with the powers of another is null and void. This is a well established maxim of constitutional law.³²

However, unlike the Constitutions of the United Mexican States, the State of Coahuila and Texas, or the Republic of Texas, since its inception, the Constitution of the State of Texas has made provision for the exercise of the powers of one department by another department to the extent that the instance is “herein expressly permitted.”³³

This separation of the powers, according to the Texas Supreme Court, “is not merely theoretical.”³⁴ Rather, the separation is “practical and imperative.”³⁵ Otherwise, “the words employed are powerless, and the will of the people of the great sovereignty of Texas, expressed in their written constitution, is but an empty and meaningless fulmination.”³⁶

But, while each department is generally “prohibited from diminishing, changing, or altering” the powers reserved for the others, it may do so, if the department is “specifically authorized so to do by the constitution itself.”³⁷ That is, while the separation of powers is unconditional, the exercise of the powers belonging to one department of government by another in the State of Texas may be modified by the Constitution itself.

As observed in *Ex parte Giles*, “any statute which in any wise abridges or infringes upon the power granted to [one department by the Constitution] would be unconstitutional, unless sustainable under some other constitutional provision.”³⁸

Thus we now turn to a relevant example of such permissive provision, which is found in Article V, regarding the “Judicial Department.”

³⁰ See *Langever v. Miller*, 76 S.W.2d 1025, 1035 (Tex. 1934) (“So important is this division of governmental power that it was provided for in the first section of the first article of the Constitution of the Republic of Texas, and alone it constituted article 2 of each succeeding Constitution.”)

³¹ *Meshell v. State*, 739 S.W.2d 246, 252 (Tex.Crim.App.1987).

³² *Ex parte Giles*, 502 S.W.2d 774, 780 (Tex.Crim.App.1973), citing *Snodgrass v. State*, 67 Tex.Cr.R. 615, 150 S.W. 162 (1912) and *Ex parte Rice*, 72 Tex.Cr.R. 587, 162 S.W. 891 (1914).

³³ “The declaration is that the executive, legislative, and judicial departments shall exist, -- this is the fiat of the people, -- and neither one nor all of the departments so created can enlarge, restrict, or destroy the powers of any one of these, except as the power to do so may be expressly given by the constitution.” *Lytle v. Halff*, 12 S.W. 610, 611 (Tex. 1889).

³⁴ *Ginnochio v. State*, 18 S.W. 82, 84 (Tex. 1891).

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.* at 84-85.

³⁸ *Ex parte Giles*, 502 S.W.2d at 783, citing *Ex parte Redwine*, 236 S.W. 96 (Tex.Crim.App. 1922)

In Section 31 of that Article, which was added in 1985³⁹, the Supreme Court was vested with the responsibility to “promulgate rules of administration not inconsistent with the laws of the state as may be necessary for the efficient and uniform administration of justice in the various courts.”⁴⁰ The promulgation of rules is inherently a *legislative* function.⁴¹ However, the Constitution not only “expressly permit[s]” but *requires* that the Supreme Court of Texas to “promulgate rules of civil procedure for all courts.”⁴² Additionally the Constitution further expressly permits the *legislature* to “delegate to the Supreme Court or Court of Criminal Appeals the power to promulgate such other rules as may be prescribed by law or this Constitution.”⁴³

Similarly, in 2017 the Constitution was amended to permit to the Legislature the ability to require a court to notify the attorney general of a suit declaring a statute unconstitutional and to further preclude a court from declaring a statute unconstitutional during a period up to 45 days after such notice.⁴⁴ This amendment expressly provided this authority “[n]otwithstanding Section 1, Article II, of this constitution.”⁴⁵

When the Joint Resolution proposing the amendment was passed by the Legislature, the express purpose⁴⁶ was to overturn *Ex parte Lo*,⁴⁷ which had declared certain portions of Section 402.010 of the Texas Government Code (regarding “Legal Challenges to Constitutionality of State Statutes”) to be unconstitutional as violating separation of powers by requiring the judicial branch to do something that was not a judicial function. The Court therein explained that the separation of powers provision can be violated in one of two ways:

- (1) when one branch of government assumes or is delegated a power “more properly attached” to another branch, or
- (2) when one branch unduly interferes with another branch so that the other branch cannot effectively exercise its constitutionally assigned powers.⁴⁸

³⁹ For a discussion of the history of this amendment, *See* Joe R. Greenhill, The Constitutional Amendment Giving Criminal Jurisdiction to the Texas Courts of Civil Appeals and Recognizing the Inherent Power of the Texas Supreme Court, 33 Tex. Tech L. Rev. 377, 391-92 (2002) (*noting*, “The early Texas constitutions had been interpreted to mean that the supreme court’s jurisdiction and power was appellate only. In other words, it had only the specific powers delegated to it, and there are decisions to that effect.”).

⁴⁰ Tex. Const. art. V, § 31(a).

⁴¹ *See e.g.*, Levin AL, Amsterdam AG. Legislative Control Over Judicial Rule-Making: A Problem in Constitutional Revision. University of Pennsylvania Law Review. 1958 Nov 1;107(1):1-42, 4 *citing* Rules of Court Case, 236 N.W. 717 (Wis. 1931).

⁴² Tex. Const. art. V, § 31 (b).

⁴³ Tex. Const. art. V, § 31 (c).

⁴⁴ Tex. Const. art. V, § 32.

⁴⁵ *Id.*

⁴⁶ Enrolled Bill Analysis, S.J.R. No. 6, Section 2, 85th Legislature, Regular Session, 2017 (“Section 402.010, Government Code, as added by Chapter 808 (H.B. 2425), Acts of the 82nd Legislature, Regular Session, 2011, and amended by Chapter 1162 (S.B. 392) and Chapter 1276 (H.B. 1435), Acts of the 83rd Legislature, Regular Session, 2013, is validated and effective on approval of the constitutional amendment.”)

⁴⁷ *Ex Parte Lo*, 424 S.W.3d 10 (Tex. Cr.App. 2013)

⁴⁸ *Id.* at 28, *citing Ex parte Gill*, 413 S.W.3d 425, 431-32 (Tex.Crim.App.2013) and *Armadillo Bail Bonds v. State*, 802 S.W.2d 237, 239.

By requiring the court to *do* something that *was not* a judicial function,⁴⁹ and by requiring the court to *not do* something that *was* a judicial function,⁵⁰ the question presented in *Ex parte Lo* was one “of undue interference” by the Legislative Department into the affairs of the Judicial Department.⁵¹ The court observed: “‘There are ‘spheres of activity so fundamental and so necessary to a court, so inherent in its very nature as a court, that to divest it of its absolute command within these spheres is to make meaningless the very phrase judicial power.’”⁵²

And, this is what we usually see: that is, a *legislative* or *executive* attempt to assume or delegate the assigned power of another department. It has been observed:

The effect of this separation of powers as a limitation on governmental action is felt more forcibly by the legislative body than by the other branches, because it is the policy-forming agency of the government and has been assigned the duty of allocating the functions of government undistributed by the Constitution.⁵³

But the SBOT is an administrative agency under the *judicial* department. And (as just mentioned) *policy formulation* and *rulemaking* is a *legislative* function. The latter of which is permissible by the judicial department and the SBOT *only* because of the express permission of the Constitution. But *policy formulation* is not only not a core judicial function, it is not for the judiciary at all.⁵⁴

Generally, when the executive or the legislative departments violate constitutional norms and the powers of other departments, it is to the judicial department that citizens turn. If, however, it is the judicial department, through its administrative agency, that is guilty of such, citizens will have no choice but to turn to the executive and legislative departments.

This should be avoided because it will always perpetuate a constitutional crisis.

However, in its July 13, 2020, press release the AALS (as section *within* the administrative agency of the judicial department) begins with the statement:

It is apparent from our conversation and President’s McDougal’ personal comments that he does not understand either the human rights meaning or the social justice intent of “Black Lives Matter.” ... Therefore, in its continuing effort to *promote* positive change,

⁴⁹ That is, requiring the Court of Criminal Appeals to notify the Attorney General that a constitutional challenge was being asserted.

⁵⁰ That is, precluding the Court of Criminal Appeals from issuing judgment.

⁵¹ *Ex parte Lo*, 424 S.W.3d at 28

⁵² *Id.* at 29, *citing* *Armadillo Bail Bonds*, 802 S.W.2d at 241 (*quoting* Levin AL, Amsterdam AG. Legislative Control Over Judicial Rule-Making: A Problem in Constitutional Revision. University of Pennsylvania Law Review. 1958 Nov 1;107(1):1-42 at 29-30.

⁵³ Joe M.Ray, *Delegation of Power to State Administrative Agencies in Texas*, 16 Tex. L. Rev. 20, 21 (1937).

⁵⁴ See *Town of Flower Mound v. Stafford Estates Ltd. P’ship*, 135 S.W.3d 620, 628 (Tex.2004) (“Generally, ‘the State’s public policy is reflected in its statutes.’”) (*quoting* *Tex. Commerce Bank, N.A. v. Grizzle*, 96 S.W.3d 240, 250 (Tex.2002)); *FM Props. Operating Co. v. City of Austin*, 22 S.W.3d 868, 873 (Tex.2000). Where the statutes do not reflect public policy, courts (in Texas, at least) recognized that it is not for them to *make* policy, only to “determine” it as it already exists. *Fairfield Ins. Co. v. Stephens Martin Paving, LP*, 246 S.W.3d 653, 663 (Tex. 2008).

social justice, and racial equality, AALS is issuing this Call to Action to attorneys throughout the profession *to demand systemic changes* in the State Bar.⁵⁵

Among its demands (with the threat that if they are not carried out, the Section will call out the elected leadership of the SBOT by “formally stat[ing] its lack of confidence”), this Section of the administrative agency insisted that President McDougal:

- Publicly acknowledging the importance of the *Black Lives Matter movement* and WHY it is important;
- Attend, and most importantly, participate in an undoing *racism* course to understand the ramifications of his comment and the *systemic racism and implicit biases* that exists in his life and the lives of others;
- Make it his Presidential Project to use the Bar’s significant resources to review and change policies and procedures within the Bar that perpetuate *systemic racism* and lack of inclusion;
- Champion the cause and make it a requirement that 2 hours of *Implicit Bias* training becomes part of the 15 hours of required CLE by Lawyers in Texas.⁵⁶

We can debate, in public or in private, the merits of these demands. What seems certain, however, is that this is not a debate that belongs in the context of rulemaking by an administrative agency under the judicial department.

Such administrative overreach is of exactly the type that is currently forcing the courts to deal with questions as to the “legal, sociological, and moral illegitimacy” of the administrative state itself⁵⁷ with warnings against “an avowedly politicized administrative agent seeking to pursue whatever policy whim may rule the day.”⁵⁸

⁵⁵ (Emphasis added).

⁵⁶ (Emphasis added). The massing of these terms and their context would suggest that the emphasized words and phrases (“social justice,” “racism,” “systemic racism,” and “implicit bias”) are being used in the manner recently entering into the vernacular with the very technical meanings as used in Critical Race Theory (CRT). Harper, S. R., Patton, L. D., & Wooden, O. S. (2009). Access and equity for African American students in higher education: A critical race historical analysis of policy efforts. *Journal of Higher Education*, 80(4), 389-414. *See also*, Richard Delgado and Jean Stefancic, *Critical Race Theory: An Introduction*, at 6-9 (2001); Jennifer S. Hunt, “Implicit Bias and Hate Crimes: A Psychological Framework and Critical Race Theory Analysis” in Richard L. Wiener *et al.*, *Social Consciousness in Legal Decision Making*, at 247-265 (2007).

⁵⁷ *See, e.g.*, *City of Dallas v. Stewart*, 361 S.W.3d 562, 577 n.23 (Tex. 2012) (*citing* Richard H. Fallon, Jr., *Legitimacy and the Constitution*, 118 Harv. L.Rev. 1787, 1844 (2005) (“noting that the sociological legitimacy deficit of administrative agencies is ‘serious, even alarming’”). *See, also*, *Mosley v. Texas Health and Human Services Commission*, 593 S.W.3d 250, 269 (Tex. 2019) (Blacklock, J., concurring) (“[F]or better or worse, ‘the law of the land’ is the elaborate minefield of modern administrative procedure.”).

⁵⁸ *Gutierrez-Brizuela v. Lynch*, 834 F.3d 1142, 1153 (10th Cir. 2016) (Gorsuch, J., concurring).

Recently, in quoting Tocqueville’s “darkly eloquent prophecy,”⁵⁹ as applied to the modern administrative state, Justice Blacklock observed that the “dystopic vision was undeniably prescient.”⁶⁰

The SBOT has historically recognized its limitations as an administrative agency and not a policy making arm of the state. Indeed, as early as June of this year, it reiterated such. That is, as recognized by the SBOT in its own June 9, 2020 press release:

As the administrative arm of the Supreme Court of Texas, the State Bar of Texas is prohibited from taking a stance on specific political or ideological issues outside of the regulation of the legal profession or improvements to the quality of legal services.

This is why Section 5.01.03(B)(8) of the Board of Director’s Policy Manual exists. That is, when any group petitions to become a Section of the SBOT, the group is required to include a “statement that the section shall not act as a political or social advocacy group.”

It is difficult, however, to construe the AALS’s “Call to Action” as anything other than an action of a political or, at least, social advocacy group.

And, the proper response of the Board of Directors should have been to privately remind the AALS of its proper role as a Section within an administrative agency of the state, caution it against taking public actions that may jeopardize not only its own charter but also may put the SBOT itself in peril, and to encourage the Section members to advocate for such changes in a *private* capacity and not under the color of law.

Instead, the special called meeting is explicitly being held to determine the extent to which the AALS’s Call to Action can be implemented consistent with *Keller v. State Bar of California*.

That is, as I hope that I have demonstrated, entirely the wrong approach. Leaving aside the questions of its continuing validity, the issue in *Keller* did not address the proper role of a State Bar under the separation of powers provision in the Texas Constitution. The inquiry here, instead, should be whether the Call to Action exceeds agency authority and, as such, should be focused on self-preservation.

The SBOT has made itself vulnerable in the past and barely survived the 1979 legislative session.

⁵⁹ *Aleman v. Texas Medical Board*, 573 S.W.3d 796, 811 (Tex. 2019) (Blacklock, J., concurring) (“After having thus taken each individual one by one into its powerful hands, and having molded him as it pleases, the sovereign power extends its arms over the entire society; it covers the surface of society with a network of small, complicated, minute, and uniform rules, which the most original minds and the most vigorous souls cannot break through to go beyond the crowd; it does not break wills, but it softens them, bends them and directs them; it rarely forces action, but it constantly opposes your acting; it does not destroy, it prevents birth; it does not tyrannize, it hinders, it represses, it enervates, it extinguishes, it stupefies, and finally it reduces each nation to being nothing more than a flock of timid and industrious animals, of which the government is the shepherd.” Alexis de Tocqueville, *Democracy in America: Historical-Critical Edition* 1252 (Eduardo Nolla ed., James T. Schleifer trans., Liberty Fund 2010).)

⁶⁰ *Id.*

The current controversies mirror those in the late 1970s as discussed, principally, in the October 1978,⁶¹ November 1978,⁶² December 1978,⁶³ and September 1979⁶⁴ issues of the Texas Bar Journal.

To recapitulate: in 1978, the recommendation by the Sunset Commission was to sunset the SBOT and to separate the regulatory functions performed by the SBOT from the professional services provided to the members of the SBOT. It stated:

Other services such as opposition or support of legislation can best be done on a voluntary basis where the view of the membership can be clearly reflected.

After nearly 30 years of development, it would seem strange that the lawyers of the state would not have developed a sense of purpose that is central to the maintenance of a healthy vigorous voluntary professional association.

The present structure of the organization could be maintained if the association become voluntary as an aid to the Supreme Court in drawing upon the membership for appointments in the area of regulatory functions.⁶⁵

In its reply to the Sunset Commission, the SBOT asserted that “the proper functions of a state bar extend far beyond merely regulating and licensing attorneys.”⁶⁶ However, as a state agency, the SBOT acknowledged that it is limited to performing only “proper state functions.”⁶⁷ The State Bar said:

Democracy has never been advanced as the most *efficient* form of government. It derives its validity from the principles of self rule and common good. One of the real dangers of increasing bureaucracy is the loss of rights and control by the public generally to strong centralized agencies.⁶⁸

Following a great deal of negotiation, an armistice of sort was reached between the legislative and judicial departments in 1979. But, in the September 1979 issue of the Texas Bar Journal, President J. Chrys Dougherty stated: “We survived. But that survival was at great cost and it carries with it a great challenge.”⁶⁹ He concluded: “to continue to survive, it requires constant care and support.”

⁶¹ Sunset Legislation, 41 Tex. B.J. 807-872 (1978).

⁶² Sunset Staff Report: Pro & Con, 41 Tex. B.J. 923-942 (1978).

⁶³ Sunset Legislation, 41 Tex. B.J. 1031-1062 (1978).

⁶⁴ President’s Page, 42 Tex. B.J. 693 (1979)

⁶⁵ Conclusions Reached by Sunset Commission Staff about the State Bar, 41 Tex. B.J. at 811 (1978).

⁶⁶ Conclusions of State Bar Reply to Staff Report, 41 Tex. B.J. at 1057 (1978).

⁶⁷ *Id.*

⁶⁸ *Id.* (emphasis in original).

⁶⁹ President’s Page, 42 Tex. B.J. at 693 (1979).

Later the aforementioned constitutional amendments regarding judicial rulemaking were added but these still focus only on rules of administration. They do not permit public policy making and such rules must be entirely consistent with the laws of Texas.

But, ironically (in light of the SBOT's previously noted justification for its continued existence), the AALS makes public policy demands, backed by threats, which circumvent public control and appeals to the bureaucracy of the agency itself.

This brings me, finally, to the exploration of the adoption of the ABA Model Rule 8.4(g) as part of the Texas Rules of Professional Conduct and an amendment to the State Bar Board Policy Manual regarding the spokesperson duties of the State Bar President.

As to the latter, frankly, it is not clear to me why the State Bar President should have *any* spokesperson duties. There is nothing in the enabling legislation that permits such and the legitimate "policies of the State Bar as promulgated by the board"⁷⁰ should be self- "enunciate[d]" through proper rulemaking. That is, all statements of general applicability by an administrative agency that prescribes "policy," as noted in the Administrative Procedures Act are, *by definition*, a rule.⁷¹ As such, no spokesperson is needed.

As to consideration of ABA Model Rule 8.4(g), the American Bar Association itself recognizes its questionable constitutionality under recent U.S. Supreme Court cases.⁷² Further, even before these cases were issued, the Texas Attorney General had already opined on the question.⁷³

This is not a fight that the SBOT is prepared to engage in. Leaving aside all constitutional questions, short of a shocking result in the upcoming election, does anyone believe that the Texas Legislature will not exercise its considerable policy making power to significantly curtail what it perceives to be excesses by the SBOT?

The SBOT barely survived 1979. Is it prepared to risk its continuing existence in 2021?

These are waters into which it is perfectly appropriate for attorneys in their private capacity to wade. An administrative agency, or a Section thereof, should not.

⁷⁰ Tex. State Bar R. art II, § 13.

⁷¹ Tex. Gov't Code § 2001.003(6) (Texas Administrative Procedures Act (APA)). *See also Teladoc, Inc. v. Texas Medical Board*, 453 S.W.3d 606, 616 (Tex. App. - Austin 2014, pet. denied); *Texas State Board of Pharmacy v. Witcher*, 447 S.W.3d 520, 527, 533–34 (Tex. App.—Austin 2014, pet. denied); *LMV-AL Ventures, LLC v. Texas Dep't of Aging & Disability Servs.*, 520 S.W.3d 113, 121 (Tex. App.—Austin 2017, pet. denied).

⁷² https://www.americanbar.org/groups/construction_industry/publications/under_construction/2019/spring/model-rule-8-4/, citing *Matal v. Tam*, 137 S. Ct. 1744 (2017), and *National Institute of Family and Life Advocates v. Becerra*, 138 S. Ct. 2361 (U.S. June 26, 2018).

⁷³ Tex. Att'y Gen. KP-0123 (2016).

Subject: Black Lives Matter

Date: Thursday, September 3, 2020 at 4:35:02 PM Central Daylight Time

From: Margaret Mitchell

To: BoardofDirectors

*** State Bar of Texas External Message * - Use Caution Before Responding or Opening Links/Attachments**

The State Bar President must be removed. If he and his friends do not understand how heinous his comments were, and what an insult his "apology" was, well there is nothing I can say.

Systematic racism allows behaviors that are intolerable. It normalizes abuse. The Houston Police subjected me to abuse that meets the legal definition of torture even though I was never accused of a crime. I have painful disabling injuries as a result of the vicious cruelty routinely exercised by police. This cruel arrogance is fed and sustained by systemic racism. But for racism I do not believe that I, as an elderly disabled white woman, would have been subjected to torture. I would not now be in daily pain. I would not have permanent disabling injuries.

The Texas State Bar President may have fine qualities, but he is unfit to lead the bar.

Thank you for your attention to this matter.

Margaret Mitchell

TBA # 14217580

Subject: Proposed actions affecting all State Bar members

Date: Thursday, September 3, 2020 at 4:56:13 PM Central Daylight Time

From: William Harger

To: BoardofDirectors

*** State Bar of Texas External Message * - Use Caution Before Responding or Opening Links/Attachments**

To whom it may concern,

I am greatly concerned about information contained in the “State Bar Board Update” on page 534 of the September Bar Journal

It is obvious from this “update” that the State Bar, of which I am forced to be a member, is seriously contemplating coercive measures to make everybody think like, and agree with, liberal political ideology.

You are considering forcing me to get annual “implicit bias training.”

You are establishing a mechanism to give special treatment to “action items” obtained from a section of the State Bar that is devoted exclusively to promoting the interests and agenda of a particular race. I can’t wait to be told I have to agree with the demands of that Marxist organization known as “Black Lives Matter”—as if others don’t.

You are crucifying President McDougal for exercising his First Amendment right to express his reasonable opinions on irrefutable facts.

You are considering the adoption of ABA Model Rule 8.4(g), which violates all kinds of fundamental ethical standards in order to appease a very small group of people. I wish to go on record as opposed to that rule. I will do everything I can to oppose it, so that I can continue to practice law instead of being a puppet in a social engineering project. The idea that I could be subjected to discipline because I choose not to represent someone is beyond belief.

In short, you are trying to set up the forced expulsion—or retreat—from the State Bar of anyone who does not agree with your political, liberal agenda. You folks need to brush up on things like the Soviet Gulag, George Orwell’s books, and the practices of the Chinese Communist Party. Our State Bar needs to be inclusive in the true sense of the word. As hard as it may be for you to accept, that includes people who do not think the way you do. Trying to coerce the way people think has never worked, and has always, invariably, had a bad result. Please stop doing this, and focus on some meaningful improvements to the practice of law in Texas. I can give you a list of projects if you need one.

Respectfully,

/s/ William G. Harger

SBOT 00793898

WGH&A

WILLIAM G. HARGER & ASSOCIATES, PLLC
Attorneys at Law

[REDACTED]
Richmond, Texas 77469

[REDACTED]
(281) 715-4343 fax

[REDACTED]
www.hargeraviationlaw.com

The information transmitted herein is intended only for the person or entity to which it is addressed and may contain proprietary, confidential and/or privileged material. If you are not the intended recipient of this message you are hereby notified that any use, review, retransmission, dissemination, distribution, reproduction or action taken in reliance upon this message is expressly prohibited by the sender. Unauthorized use of any information herein could result in legal action. If you received this in error, please contact the sender and delete the material from any/all computer(s). Any views expressed in this message are those of the individual sender and do not necessarily reflect the views of the firm.

Subject: A Letter on Justice & Open Debate - notes
Date: Thursday, September 3, 2020 at 4:57:12 PM Central Daylight Time
From: Cynthia Owens
To: BoardofDirectors
Attachments: A Letter on Justice & Open Debate - notes.docx

*** State Bar of Texas External Message * - Use Caution Before Responding or Opening Links/Attachments**

The attachment is my letter I want shared with the BOD.

Cynthia Owens

[REDACTED]

Houston, TX 77035

[REDACTED]

(713) 956-6884 (Fax)

Bernice Serna

se Habla Espanol

Mon – Fri 9:30 am to 2:30 pm

This letter is a good read, showing leading intellectuals take on Judging too harshly and too quickly past statements of those that were not now deemed acceptable. Chilling effect of free speech is not always worth it. Larry McDougal I voted for and I want to see him given a chance to live up to his word he has given us. Cynthia Owens, Attorney at law

A Letter on Justice and Open Debate (Harper's Magazine Current Issue) July 7, 2020

The below letter will be appearing in the Letters section of the magazine's October issue. We welcome responses at

Our cultural institutions are facing a moment of trial. Powerful protests for racial and social justice are leading to overdue demands for police reform, along with wider calls for greater equality and inclusion across our society, not least in higher education, journalism, philanthropy, and the arts. But this needed reckoning has also intensified a new set of moral attitudes and political commitments that tend to weaken our norms of open debate and toleration of differences in favor of ideological conformity. As we applaud the first development, we also raise our voices against the second. The forces of illiberalism are gaining strength throughout the world and have a powerful ally in Donald Trump, who represents a real threat to democracy. But resistance must not be allowed to harden into its own brand of dogma or coercion—which right-wing demagogues are already exploiting. The democratic inclusion we want can be achieved only if we speak out against the intolerant climate that has set in on all sides.

The free exchange of information and ideas, the lifeblood of a liberal society, is daily becoming more constricted. While we have come to expect this on the radical right, censoriousness is also spreading more widely in our culture: an intolerance of opposing views, a vogue for public shaming and ostracism, and the tendency to dissolve complex policy issues in a blinding moral certainty. We uphold the value of robust and even caustic counter-speech from all quarters. But it is now all too common to hear calls for swift and severe retribution in response to perceived transgressions of speech and thought. More troubling still, institutional leaders, in a spirit of panicked damage control, are delivering hasty and disproportionate punishments instead of considered reforms. Editors are fired for running controversial pieces; books are withdrawn for alleged inauthenticity; journalists are barred from writing on certain topics; professors are investigated for quoting works of literature in class; a researcher is fired for circulating a peer-reviewed academic study; and the heads of organizations are ousted for what are sometimes just clumsy mistakes. Whatever the arguments around each particular incident, the result has been to steadily narrow the boundaries of what can be said without the threat of reprisal. We are already paying the price in greater risk aversion among writers, artists, and journalists who fear for their livelihoods if they depart from the consensus, or even lack sufficient zeal in agreement.

This stifling atmosphere will ultimately harm the most vital causes of our time. The restriction of debate, whether by a repressive government or an intolerant society, invariably hurts those who lack power and makes everyone less capable of democratic participation. The way to defeat bad ideas is by exposure, argument, and persuasion, not by trying to silence or wish them away. We refuse any false choice between justice and freedom, which cannot exist without each other. As writers we need a culture that leaves us room for experimentation, risk taking, and even is takes. We need to preserve the possibility of good-faith disagreement without dire professional Consequences. If we won't defend the very thing on which our work depends, we shouldn't expect the public or the state to defend it for us.

Elliot Ackerman
Saladin Ambar, Rutgers University
Martin Amis
Anne Applebaum
Marie Arana, author
Margaret Atwood
John Banville
Mia Bay, historian
Louis Begley, writer
Roger Berkowitz, Bard College
Paul Berman, writer
Sheri Berman, Barnard College
Reginald Dwayne Betts, poet
Neil Blair, agent
David W. Blight, Yale University
Jennifer Finney Boylan, author
David Bromwich
David Brooks, columnist
Ian Buruma, Bard College
Lea Carpenter
Noam Chomsky, MIT (emeritus)
Nicholas A. Christakis, Yale University
Roger Cohen, writer
Ambassador Frances D. Cook, ret.
Drucilla Cornell, Founder, uBuntu Project
Kamel Daoud
Meghan Daum, writer
Gerald Early, Washington University-St. Louis
Jeffrey Eugenides, writer
Dexter Filkins
Federico Finchelstein, The New School
Caitlin Flanagan
Richard T. Ford, Stanford Law School
Kmele Foster
David Frum, journalist
Francis Fukuyama, Stanford University
Atul Gawande, Harvard University
Todd Gitlin, Columbia University
Kim Ghattas
Malcolm Gladwell
Michelle Goldberg, columnist
Rebecca Goldstein, writer
Anthony Grafton, Princeton University
David Greenberg, Rutgers University
Linda Greenhouse
Rinne B. Groff, playwright
Sarah Haider, activist
Jonathan Haidt, NYU-Stern
Roya Hakakian, writer

Susan Madrak, writer
Phoebe Maltz Bovy, writer
Greil Marcus
Wynton Marsalis, Jazz at Lincoln Center
Kati Marton, author
Debra Mashek, scholar
Deirdre McCloskey, University of Illinois at Chicago
John McWhorter, Columbia University
Uday Mehta, City University of New York
Andrew Moravcsik, Princeton University
Yascha Mounk, Persuasion
Samuel Moyn, Yale University
Meera Nanda, writer and teacher
Cary Nelson, University of Illinois at Urbana-Champaign
Olivia Nuzzi, New York Magazine
Mark Oppenheimer, Yale University
Dael Orlandersmith, writer/performer
George Packer
Nell Irvin Painter, Princeton University (emerita)
Greg Pardlo, Rutgers University – Camden
Orlando Patterson, Harvard University
Steven Pinker, Harvard University
Letty Cottin Pogrebin
Katha Pollitt, writer
Claire Bond Potter, The New School
Taufiq Rahim
Zia Haider Rahman, writer
Jennifer Ratner-Rosenhagen, University of Wisconsin
Jonathan Rauch, Brookings Institution/The Atlantic
Neil Roberts, political theorist
Melvin Rogers, Brown University
Kat Rosenfield, writer
Loretta J. Ross, Smith College
J.K. Rowling
Salman Rushdie, New York University
Karim Sadjadpour, Carnegie Endowment
Daryl Michael Scott, Howard University
Diana Senechal, teacher and writer
Jennifer Senior, columnist
Judith Shulevitz, writer
Jesse Singal, journalist
Anne-Marie Slaughter
Andrew Solomon, writer
Deborah Solomon, critic and biographer

Shadi Hamid, Brookings Institution
Jeet Heer, The Nation
Katie Herzog, podcast host
Susannah Heschel, Dartmouth College
Adam Hochschild, author
Arlie Russell Hochschild, author
Eva Hoffman, writer
Coleman Hughes, writer/Manhattan Institute
Hussein Ibish, Arab Gulf States Institute
Michael Ignatieff
Zaid Jilani, journalist
Bill T. Jones, New York Live Arts
Wendy Kaminer, writer
Matthew Karp, Princeton University
Garry Kasparov, Renew Democracy Initiative
Daniel Kehlmann, writer
Randall Kennedy
Khaled Khalifa, writer
Parag Khanna, author
Laura Kipnis, Northwestern University
Frances Kissling, Center for Health, Ethics, Social Policy
Enrique Krauze, historian
Anthony Kronman, Yale University
Joy Ladin, Yeshiva University
Nicholas Lemann, Columbia University
Mark Lilla, Columbia University
Susie Linfield, New York University
Damon Linker, writer
Dahlia Lithwick, Slate
Steven Lukes, New York University
John R. MacArthur, publisher, writer

Allison Stanger, Middlebury College
Paul Starr, American Prospect/Princeton University
Wendell Steavenson, writer
Gloria Steinem, writer and activist
Nadine Strossen, New York Law School
Ronald S. Sullivan Jr., Harvard Law School
Kian Tajbakhsh, Columbia University
Zephyr Teachout, Fordham University
Cynthia Tucker, University of South Alabama
Adaner Usmani, Harvard University
Chloe Valdary
Helen Vendler, Harvard University
Judy B. Walzer
Michael Walzer
Eric K. Washington, historian
Caroline Weber, historian
Randi Weingarten, American Federation of Teachers
Bari Weiss
Cornel West
Sean Wilentz, Princeton University
Garry Wills
Thomas Chatterton Williams, writer
Robert F. Worth, journalist and author
Molly Worthen, University of North Carolina at Chapel Hill
Matthew Yglesias
Emily Yoffe, journalist
Cathy Young, journalist
Fareed Zakaria

Institutions are listed for identification purposes only.

Subject: My letter re Larry McDougall

Date: Thursday, September 3, 2020 at 5:08:00 PM Central Daylight Time

From: Attorney Edmund Skip Davis

To: Boardofdirectors@texabar.com, BoardofDirectors

*** State Bar of Texas External Message * - Use Caution Before Responding or Opening Links/Attachments**

My letter to SBOT BOD re Larry McDougall for 10 September meeting.

To the Board of Directors.

State Bar of Texas.

1414 Colorado St.

Austin, TX 78701

Emailed to: Boardofdirectors@texabar.com

Greetings to all who see this correspondence:

I scribe this short missive to detail for the Board of Directors my personal experiences with direct open racism within the institutions of the Texas Judicial branch, the state bar of Texas, and the judges and lawyers licensed in this State. I will be brief and re-count for you

the following four distinct indisputable incidents:

(1) I was called BOY in open court by Travis County Judge Bill Bender who was sitting on the bench presiding over trial at the time when I was sitting as second chair, witnessed by two fine attorneys who are each in good standing: Polk Shelton, and Christopher Morgan who was the lead counsel.

(2) I was told by a jury in Hays County district court that the judge's racism was so palpable and so blatant and obvious that the jurors told me after trial, in which that jury found for my client, that they the jurors had bet on when the judge was going to slip up and call me nigger or another racial epithet. That discussion was witnessed by Hays County Sheriff Bailiff Jim Fowler, now retired. The judge was such a racist that he actually JNOV'd the jury verdict in a CPS case!!! Well, that JNOV was eventually reversed on appeal in a published opinion. **228 S.W.3d 819 (3rd Court of Appeals 2007)** Appellate Case number 03-05-00244-CV. <https://caselaw.findlaw.com/tx-court-of-appeals/1300269.html>

(3) I was physically set upon and cursed at by a prosecutor during a serious felony jury trial and in direct view and earshot of the jury in Travis County district court. This incident made the ABA journal after the incident, which was captured live on TV, was published by the Austin American Statesman. We won that case too. State v Gene P. Vela. [ABA Journal › news › article › assist...Web resultsAssistant DA uses curse word to describe defense ... - ABA Journal](#)

(4) and most recently I was told to “go eat a banana” or “go wave a banana” by Justice Charlie Kelli in court w several lawyer witnesses all in good standing present. After making a strong indisputable record of the incident Justice Kelly and Judge Karen Sage tried to tell me that it “was an inside joke within the Travis County DA office.” And when it was clear that Justice Kelly had no defense for what she said, Justice Kelly shamelessly tried to pull the nuclear option and thereupon alleged the old tried and true racist trope: an Emmett Till-style dog whistle, a complete fabrication and lie on her part, and offered w no facts to back up her outrageous claim. Transcript attached. <https://www.documentcloud.org/documents/4481418-Harrelltranscript.html> To add injury to the insult even though I put it on the record w the witnesses present, and even though we made the complaint to the Judge with the DA present in chambers, neither the judge nor the DA made any effort of an independent investigation, and no complaint was ever forwarded by the Judge to the appropriate State bar or the Commission on Judicial conduct, at least not to my knowledge. And I checked.

Now I don’t know how many more documented examples of black lawyers experiencing racism y’all would need to hear that would finally make you dignified folks on the Board of Directors finally embarrassed enough if not outright appalled to hear of such atrocious examples of racism and race-baiting in these modern times while on your watch. I don’t know what it will finally take to make you dignified directors recognize that we have a significant and deeply rooted problem with racism perpetrated by white judges and white lawyers upon black lawyers right here in the SBOT. These incidents are not one-off incidents, or figments of the black lawyers’ active imaginations. And these incidents I refer you to are not black lawyers “playing the race card” or “playing gotcha” with well-meaning white lawyers who “misspoke.” These are examples of racism. Blatant, ugly, open and notorious, unwrapped and unvarnished in all its debauchery bared to the world to see. These white lawyers had the gall and audacity to launch those hate-filled racist attacks against me and they felt protected enough by “the system” to openly and notoriously express their racism without hesitation or fear of reprisal. Oh sure everybody apologized afterward, except the 3 judges.

So there ya have it. It matters not one whit that Larry McDougal apologized for his wrong-headed failing legal analysis that a black woman poll worker wearing a BLM is electioneering. It matters not one whit that Larry apologized for his insensitive Facebook postings in the past. Just like all those lawyers and judges who were racist to me apologized (or in the case of the judges who did not apologize just take no action although action on their part is mandated by the rules. Clearly the rules don’t apply to them), it doesn’t matter their apology. The point is that we “minority lawyers” are tired of having to endure this kind of nonsense and act as if the SBOT is on board w it’s anti-racist rhetoric when it is not.

So It's time for SBOT to step up and actually walk the zero-tolerance talk in the Lawyers Creed. Put your money where your mouths are. It's finally time for the Directors to actually actively stomp out racism and make a real commitment to ending it. The first step is to fully impeach Larry McDougal. His "free speech" is not representative of the bar. If not impeachment, then heavily censure him and send the message to the world that we don't tolerate that nonsense in Texas Bar.

But yet alas I am not jubilant. The proposal by the AALS I'm afraid that making lawyers take a mandatory cle class about racial sensitivity and implicit bias is not gonna cut it. It's high time to make it a rule that any lawyer who engages in hate speech will be subject to a grievance under the disciplinary rules. I urge the Board of Directors to adopt ABA model rule 8.04 that recommends specific language outlawing hate speech and racism. It's about time. Because the honor system just ain't working.

I want to remind everybody of Texas' embarrassing legacy when it comes to racism:
The last state to emancipate. The last state to integrate law its flagship school. The last state to desegregate.

It's time for all of us to end this stupid racist legacy so that we all can finally be free. Free at last, free at last. Free of racism, free at last.

Yours truly.
/s/

Edmund Skip Davis

Sent from my iPhone

Sent from my iPhone

Subject: Written Comment Regarding Sept. 10 Meeting
Date: Thursday, September 3, 2020 at 5:14:42 PM Central Daylight Time
From: Melissa Thrailkill
To: BoardofDirectors
Attachments: MGT.09-03-2020.SBOT Letter Sept. Meeting.pdf

*** State Bar of Texas External Message * - Use Caution Before Responding or Opening Links/Attachments**

Please see attached letter regarding the September 10 special meeting.

Thank you,
Melissa

Melissa G. Thrailkill

Associate Attorney
[REDACTED]

McAllen, Texas 78501
[REDACTED]

Fax: (956) 331-2230

www.brandyvosslaw.com

September 3, 2020

State Bar of Texas
Board of directors
Via Email: boardofdirectors@texasbar.com

Re: September 10, 2020 Special Meeting

Dear Members of the Board:

“Come mothers and fathers/Throughout the land/And don't criticize/What you can't understand/Your sons and your daughters/Are beyond your command/Your old road is rapidly agin'/Please get out of the new one/If you can't lend your hand/For the times they are a-changin'”
– Bob Dylan

When I read Mr. Larry McDougal's letter in the Texas Bar Journal recently, I could not help but think about one of my favorite American musicians and poets, Bob Dylan. His songs have a way of ringing true today, and “The Times They are A-Changin'” is a fine example of that. It is a song not only still relevant to what is happening in America today, but also to what is happening within the State Bar of Texas. Mr. McDougal's letter felt like something from the old guard; from someone who wants everything to just go back the way it was; who is not ready to face the changes; who is not willing to lend a hand. And, for that reason, I do not believe he can be an effective leader, because I do not believe he is really capable of doing what he is asking all of us to do – listen.

Mr. McDougal thinks we should listen and let him show us who he is by judging his actions, but he fails to see that he has already shown us who he is with his actions. And I believe him. I do not think he is the right person to lead the bar right now, and I also do not believe he can be the one to help the bar tackle the issues of these changing times. I stand by my opinion that Mr. McDougal is racist, and he is unwilling to understand why I say that.

But, even with all that said, I know that the motion before you is one that must be carefully considered. There are policies, procedures, lawsuits, and threats of lawsuits that must be considered. In the end, this board must do what is right for the Bar, as a whole. I understand the politics of that, even as I believe that Mr. McDougal should not speak for the Bar or have any leadership or decision-making roles within the Bar. I believe this board should send a message to Mr. McDougal and members of the bar by approving Mr. Dawson's motion, but I am also prepared for the reality that this will not happen.

These events with Mr. McDougal have brought important issues to the forefront, and this board has an opportunity to address them. In that regard, I encourage the board to refer ABA Model Rule 8.4(g) to the DCAAP committee for consideration. I also encourage the board to separate Mr. McDougal from any role on the diversity task force. He has shown he cannot be a productive and open-minded member of that group. Finally, I encourage the board to evaluate its own code of conduct or any other policies and procedures it has in place that could help it better address these issues in the future. The continuous behavior of board member Mr. Steve Fischer is also reason

for this. He continues to attack any lawyers who disagree with his opinion. If there is no way to deal with such wayward and embarrassing board members now, it is time for this board to evaluate that and make changes.

Those of us speaking out have been accused of desecrating the freedom of speech and free thought, but these are old and tired ways of silencing the opposition. The times they are a-changin', and it is time for the dinosaurs to move aside. Now is the time for refusing to accept that we cannot do better; that we cannot progress; that we cannot face our worst characteristics in order to build a better Bar and legal system in Texas. Mr. McDougal wants it all to go back to the days he could say whatever he wanted to say without worry, but the times they are a-changin, with or without him.

Thank you for your consideration,

Melissa Thrailkill

Melissa G. Thrailkill

SBN: 24056436

Subject: Special Meeting

Date: Thursday, September 3, 2020 at 5:32:11 PM Central Daylight Time

From: P Clark

To: BoardofDirectors

*** State Bar of Texas External Message * - Use Caution Before Responding or Opening Links/Attachments**

I submit the following comments, as solicited in the Texas Bar Journal:

The Board of Directors' consideration of, or adopting, "a motion restricting the duties of the State Bar president" clearly is beyond their authority under the State Bar Act. Surely, the Executive Director, the General Counsel and the Directors must know that; why are they ignoring the rule of law? Their disregard for the rule law is a disgusting example to me as a member of the bar.

The State Bar of Texas (SBOT) was created by legislation (the State Bar Act) and is a public corporation and an administrative agency of the judicial department. The State Bar Act provides the president of SBOT shall be elected by the members of the bar and authorizes the Supreme Court of Texas to promulgate the rules of SBOT. Absent from the State Bar Act and the rules promulgated by the Supreme Court of Texas is any grant of authority to the SBOT Board of Directors to control or regulate the duties of, or to remove, the president.

SBOT maintains an office of General Counsel. The Directors are required to have been trained in their duties as such, which would include the State Bar Act and limitations on their authority.

Yet, in disregard of the law, the directors have called a special meeting prior to the September quarterly meeting "to consider a motion restricting the duties of the State Bar president." Shame on the directors for setting such an example for the public and the bar!

Pat E. Clark

Attorney

State Bar Card No. 04314000

Subject: Steve Fischer
Date: Thursday, September 3, 2020 at 5:42:50 PM Central Daylight Time
From: [REDACTED]
To: [REDACTED]
CC: BoardofDirectors, Jonathan Fox
Attachments: 20200903 Letter to Jason Smith.pdf

*** State Bar of Texas External Message * - Use Caution Before Responding or Opening Links/Attachments**

Good evening Mr. Smith,

Please see the attached letter from Mr. Fox, a solo practitioner in Grapevine, Texas.

Thank you.

Monique Hill, ACP
Advanced Certified Paralegal for Jonathan Fox

The Law Office of Jonathan W. Fox, PLLC

[REDACTED]
Grapevine, TX 76051

[REDACTED]
Fax: (469)466-6204
[REDACTED]



Virus-free. www.avast.com

F

Fox Law Office

Helping good people through difficult situations

September 3, 2020

Via Email Only to [REDACTED]

Mr. Jason C.N. Smith
Director, State Bar of Texas
Law Offices of Jason Smith
[REDACTED]

Fort Worth 76104

Dear Mr. Smith:

My name is Jonathan W. Fox. I am a solo practitioner in Grapevine, Texas, who practices family and child welfare law mainly in the DFW area. I have been licensed since 2005.

I am writing to complain about Steve Fischer, a director of the State Bar of Texas, because for years he has bullied and taunted other lawyers online and in online fiefdoms he has created and continues to do so up to the present day.

Mr. Fischer should not be in any position of leadership over other attorneys, whether in person or online. I am asking for the board of the State Bar of Texas to censure him, if no other action can be taken to rein in his obnoxious behavior. Mr. Fischer has created a toxic climate in many online forums for Texas attorneys, and he is especially rude to female and minority attorneys, creating an atmosphere of division where attorneys from underrepresented communities do not feel welcome.

As a director of the bar, his actions would seem to have a seal of approval by the State Bar of Texas, and it is crucially important that the Bar repudiate his actions to regain its credibility and distance itself from Mr. Fischer's bigotry, sexism, and ugly behavior.

Mr. Fischer styles himself as a reformer and advocate of all attorneys, especially solo and small-firm attorneys, but it has gotten to the point where if Mr. Fischer is for it, I question whether it is really a good idea or a cover for bad attorneys who don't want to be held accountable for their clients.

Office: [REDACTED]

Fax: (469)466-6204

[REDACTED]
Grapevine, TX 76051

[REDACTED]
www.foxlawdfw.com

Case in point: his proposal to require verification of grievances. I think this would lead to attempts to harassment and unfair prosecution of grievance filers for minor errors in their complaints. Non-lawyers are going to make errors because they are not attorneys and should not be subject to prosecution for this. Solos and attorneys in general don't need "reforms" that seem to be geared to protect subpar attorneys.

Because Mr. Fischer has made himself ubiquitous online, it is very difficult to avoid him. He is head admin of the Texas Family Lawyers Facebook page, which has more than 4,600 members. Because many people want to use that group for professional guidance and networking, many attorneys are tolerant of Mr. Fischer's abusive behavior or afraid of being attacked by him.

A rival family law attorneys' group has about 2,400 members, but people who want to avoid Mr. Fischer are cut off from many other attorneys online. For the good of Texas lawyers as a whole, Mr. Fischer should relinquish his admin privileges in these groups. While he had the foresight as an innovator to create these groups, he is the wrong person to lead them at this time. He has the wrong temperament to lead these groups and is casting bar leadership and the profession of law into disrepute by his insistence on leading these groups.

I want to give a few examples of Mr. Fischer's malignant online conduct.

September 2, 2020: When Ms. Chelo Carter, a Dallas attorney who is an intelligent and accomplished real estate attorney in Dallas, criticized Steve Fischer for accepting praise from a person who wants to end the unitary bar, Mr. Fisher called her "ignorant, dishonest and wrong." For a bar official to call a Hispanic female attorney "ignorant" is especially insulting and galling considering the State of Bar of Texas's struggles to promote diversity, and in Ms. Carter's case it is simply untrue as she is an Ivy League graduate.

On or about August 31, 2020: Mr. Fischer called another woman who criticized him online as illiterate. Lisa War is an equity officer at a Texas university, but because she criticized his op-ed that ran in several newspapers, Mr. Fischer leveled an ad hominem attack on her. He said: "Reading is important- you should change "no schools to show" on your profile to "obtaining GED eventually[.]"

August 11, 2020: When attorney Ms. Lisa Dreishmore criticized him for his casual appearance at the last Board of Directors meeting, he upbraided her: "Well looking at your poor Avvo ratings and that you aren't even in Texas compared to mine [sic] perhaps you shouldn't be worrying about how I appear." When Ms. Dreishmire responded, "I am a licensed Texas attorney and pay Bar dues, so you work for me. I prefer to see professionalism in my Directors." He then denied being a public official: "Mine is not a paid position. I work for the district that elected me."

Mr. Fischer styles himself as a reformer of the grievance process, but he abused the grievance process to harass a former tenant, a Texas attorney. He claimed the former tenant left a mess behind, and retaliated against her by attacking her in his lawyer Facebook groups, and filing CPS complaint in Texas and New Mexico, and a grievance against her. The grievance was

immediately dismissed due to its baseless nature, and then dismissed again after Mr. Fischer appealed. The CPS complaints were also dismissed as unfounded.

The lawyer, who wishes to remain anonymous due to abuse by Mr. Fischer, complained in a private Facebook group that Mr. Fischer “made a very public fiasco out of outright lies.... It has taken me 4 months to clear my name. I am ever so grateful that his vendetta against me has been proven false and there will be no lasting repercussions.... But his personal vendetta against me was horrible. What was worse was people believing him in the first place.”

On July 18, 2020, he attacked Juan Johnson, another attorney of Hispanic heritage, online in a manner targeting his ethnicity. “Juan Johnson English – “your” and “you’re” are different. You’re ignorant because your parents never cared enough to teach you English.”

Mr. Fischer also supports racist statements of other Facebook users. When attorney Richard King attacked Ruben Ortiz, asking, “[D]id you get into law school only because of Affirmative Action like most Hispanics? At Texas Southern? Lol.” Mr. Fischer added a “like” to this comment on Facebook, and has never disavowed this action or offered an apology.

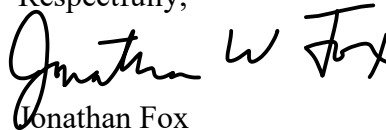
On May 22, 2018, he Tweeted to an attorney named Aaron Schlossberg, “Don’t apologize—kill yourself -you’re an embarrassment to every Jew. Your last news event. “Asshole takes cyanide” Good riddance.”

I have archived screenshots of all these incidents in a private Facebook group called “Stop Participating in Steve Fischer’s Lawyer Facebook Groups.”

There are many other examples, but I wanted to bring these relatively recent incidents to the fore. Mr. Fischer is constantly abusing, bullying, and harassing other attorneys online and it must stop. He should not be in a position of power over other lawyers whether on the State Bar of Texas, the State Judicial Conduct Commission, or in lawyer Facebook groups. Please take strong action to censure him, end his power as a leader if possible, and limit his ability to bully other attorneys.

Thank you for your consideration.

Respectfully,

A handwritten signature in black ink that reads "Jonathan W. Fox". The signature is stylized, with the first name "Jonathan" written in a cursive-like script, followed by "W" and "Fox" in a more straightforward but still handwritten style.

Jonathan Fox

Subject: Special meeting

Date: Thursday, September 3, 2020 at 7:16:58 PM Central Daylight Time

From: P Clark

To: BoardofDirectors

*** State Bar of Texas External Message * - Use Caution Before Responding or Opening Links/Attachments**

The following comment, including a question, is submitted pursuant to the solicitation for comments in the Texas Bar Journal:

The Board of Directors has presented no law or rule that grants them the authority to restrict the duties of a duly elected State Bar president. Has the Board of Directors of SBOT requested (a) an opinion from the Attorney General of Texas as to their legal authority to restrict the duties of the State Bar president or (b) guidance from or rules adopted by the Supreme Court of Texas as to their legal authority to restrict the duties of the State Bar president?

At the special meeting, the Board of Directors of SBOT should present to the public and the members of the bar the answer to this question. If the answer is in the negative, an explanation should be given of why the opinion of the AG was not sought and guidance from the Supreme Court not sought. If the answer is in the affirmative, the opinion or guidance should be presented at the outset of the meeting and made a part of the record.

Pat E. Clark

Attorney

State Bar Card No 04314

Subject: FW: Board of Directors Meeting Public Comment
Date: Friday, September 4, 2020 at 3:07:53 PM Central Daylight Time
From: Amy Starnes
To: BoardofDirectors
Priority: High
Attachments: image002.png, image003.png, Texas-Lawyers-for-Justice-Letter-to-State-Bar-09-03-2020.pdf, Board of Directors Meeting Public Comment.pdf

From: Jerri Ward [REDACTED] >
Date: Friday, September 4, 2020 at 2:41 PM
To: Amy Starnes <Amy.Starnes@TEXASBAR.COM>
Subject: FW: Board of Directors Meeting Public Comment

*** State Bar of Texas External Message * - Use Caution Before Responding or Opening Links/Attachments**

Amy,

??

??

??

The email below (PDF attached) with the ??letter attachment was sent yesterday at 3:34 PM.?? It was sent to the email designated in the Notice of Meeting on the State Bar Blog:??

??

???Written comments to the board may be sent to??boardofdirectors@texabar.com??and must be received by 5 p.m. CDT September 3 for timely distribution to the board members."

??

<https://blog.texasbar.com/2020/08/articles/state-bar/state-bar-board-of-directors-publishes-agenda-for-sept-10-special-meeting/#more-16151>

??

I have been informed by a Board member that the letter did not appear in the packet given the Board and that it was represented to them that it was current up to 7 PM yesterday.

??

Please advise whether or not our letter will be included in the Board packet in light of the fact it was timely sent.

??

??

??

??



Jerri Lynn Ward, J.D.

Garlo Ward, P.C.

[REDACTED]

Lakeway, TX?? 78734

[REDACTED]

(cell)

Fax (512) 302-3256

www.garloward.com

??

??????

??

This e-mail transmission may contain Confidential Attorney/Client information or attorney work product which is legally privileged. The information is intended only for the use of the named recipient. If you have received this e-mail in error, please notify the sender IMMEDIATELY at [REDACTED] or [REDACTED] to arrange for return of the communicated information to this office, and you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance upon the contents of this e-mail is illegal and strictly prohibited.

??

??

??

From: Jerri Ward [REDACTED]

Sent: Thursday, September 3, 2020 3:54 PM

To: 'boardofdirectors@texabar.com' <boardofdirectors@texabar.com>

Subject: Board of Directors Meeting Public Comment

Importance: High

??

Please find the attached letter from Texas Lawyers for Justice which serves as our written comment for the 9-10-20 Board Meeting.

??

??

??



Jerri Lynn Ward, J.D.

Garlo Ward, P.C.

[REDACTED]
Lakeway, TX?? 78734

[REDACTED] (cell)

Fax (512) 302-3256

www.garloward.com

??

??????

??

This e-mail transmission may contain Confidential Attorney/Client information or attorney work product which is legally privileged. The information is intended only for the use of the named recipient. If you have received this e-mail in error, please notify the sender IMMEDIATELY at [REDACTED] or [REDACTED] to arrange for return of the communicated information to this office, and you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance upon the contents of this e-mail is illegal and strictly prohibited.

??

??

??

From: [Jerri Ward](#)
To: ["boardofdirectors@texabar.com"](mailto:boardofdirectors@texabar.com)
Subject: Board of Directors Meeting Public Comment
Date: Thursday, September 3, 2020 3:53:00 PM
Attachments: [Texas-Lawyers-for-Justice-Letter-to-State-Bar-09-03-2020.pdf](#)
[image002.png](#)
Importance: High

Please find the attached letter from Texas Lawyers for Justice which serves as our written comment for the 9-10-20 Board Meeting.



Jerri Lynn Ward, J.D.

Garlo Ward, P.C.

[REDACTED]

Lakeway, TX 78734

[REDACTED]

[REDACTED] (cell)

Fax (512) 302-3256

[REDACTED]

www.garloward.com

This e-mail transmission may contain Confidential Attorney/Client information or attorney work product which is legally privileged. The information is intended only for the use of the named recipient. If you have received this e-mail in error, please notify the sender IMMEDIATELY at [REDACTED] or [REDACTED] to arrange for return of the communicated information to this office, and you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance upon the contents of this e-mail is illegal and strictly prohibited.

TEXAS LAWYERS FOR JUSTICE

MESSAGE TO THE BOARD OF DIRECTORS OF THE STATE BAR OF TEXAS FROM CONCERNED MEMBERS REGARDING THE SEPTEMBER 10, 2020 BOARD MEETING

We are writing to express our concerns and opposition to any attempt by the Board of Directors of the State Bar of Texas (the "Board") to deprive, or in any way limit, the authority and duties of Larry McDougal, our duly elected President of the State Bar of Texas. The governance of the Bar is representative in nature, and the membership spoke when it elected him to serve as President, enabling him to assume every authority and duty laid out in statute or rule for such position. The Board cannot now take that authority from him, rendering his role ineffective, simply because some members of the Bar do not agree with things he has said, especially when the vast majority of the "objectionable" statements were made prior to his election. The time to raise their objections to him making those statements was during the election, and the proper means to do so is through voting.

We understand and deeply appreciate that our nation faces many problems, including those having to do with our economy, issues of race, immigration, and international relations, among others. As a nation, we have shown ourselves to be a people who are deeply caring and concerned for others. Whenever there is a natural disaster, an occurrence over which none of us have any control, we see people coming together time and again to assist each other. They do so without regard to race, nationality, religion, or economic status. An excellent example of this is the way people responded to the horrific damage caused by hurricane Harvey and the resulting flooding.

None of us are perfect, but all of us are entitled to express our beliefs. No one should be crucified because they are not perfect, have made mistakes, or have said things with which others disagree. This whole mess began with a Facebook post by President McDougal, providing his opinion on whether someone working at a polling location could wear a Black Lives Matter shirt. Because his opinion was that the shirt expressed a political statement and should not be worn at a polling location, especially by someone working at the location, he was immediately branded a racist. People immediately began digging through his social media to see what else they could find objectionable about him. Because he was now deemed a racist, many Bar members were hellbent on removing him from office and destroying his career. But, his statement had nothing to do with race. It had everything to do with politics and his interpretation of the law, which, as we all know, interpretations of the law can vary. If they didn't, we wouldn't need our court system to interpret the law.

Many have stated that he had no right to express his opinion publicly because he is a representative of the State Bar of Texas and because their interpretation of the law was that he was wrong in his interpretation. However, if we apply the principle that all

representatives of the State Bar of Texas leadership are not able to express their opinions publicly, then every single letter and Facebook post of the State Bar of Texas on its official Facebook page regarding eliminating racism, the sections, TYLA's, and others' demands that the Bar recognize and support Black Lives Matters, violate this principle. Granted, President McDougal isn't perfect and perhaps he was wrong in his interpretation. But, that does not make him a racist, and it does not justify the actions taken against him.

We object to the travesty that the Board has created by allowing this anarchic mob mentality wielded against President McDougal and any other Bar member who has stood up for him and expressed his or her support for him and for the election results that you wish to overturn. Since the last Board meeting, we have personally spoken to lawyers who have been made the subject of harassment, doxing, and intimidation to silence them as a result of what you have done. The September issue of the Texas Bar Journal is just one example of the Bar's attempt to intimidate and silence opposition. The comments on page 527 reprints a letter from alumni of Leadership SBOT titled in all capped, bold letters "THE STATE BAR PRESIDENT MUST RESIGN." No opposing viewpoint is presented in the comments, and by printing a letter from an official Bar organization, it creates the appearance that the Bar supports this opinion. Turn the page, and there is a letter from Trey Apffel, the Executive Director of the Bar, praising the speakers and letter writers for their heartfelt and heard expressions of facing systemic racism or sexism in their professions. Mr. Apffel did not praise the other speakers for speaking in favor of President McDougal. In fact, he went further and mentioned that "for people expecting immediate results – namely, the president's removal – I'm sure the meeting was disappointing." He never acknowledged in his letter that there were Bar members supporting President McDougal, nor did he acknowledge their comments about freedom of speech, diversity of opinion, or the harassment they have received as a result of their support of President McDougal.

You have employed the fallacy of *argumentum ad baculum* – appeal to force, which is antithetical to everything for which the judicial system and its officers of the court should stand. The one thing standing between an *argumentum ad baculum* and the people is the judicial system. The one institution in society that must reject all "*ad baculum*" appeals is the judicial system, which must reject it for itself as well as for the people. Once the judicial system fails to rein in any efforts to force a particular opinion or behavior *ad baculum*, it becomes an agency accelerating the collapse of society into a world of *ad baculum* arguments – making both liberty and peace impossible and justice inaccessible.

The Board has attempted to coerce and intimidate President McDougal to resign and, when that failed, argued for and supported the idea of removing his authority to conduct the role he was elected to hold. The Directors and numerous Bar sections have attempted to bind his conscience by coercion and intimidation. There is no means by which the Board has the authority to remove the President's authority or to reduce his role set forth in the bylaws. We oppose any action of the Board attempting to do so.

Just as you have attempted to silence President McDougal, you are also taking measures to bind the conscience of every member of the Bar if they disagree with you on the tactics of Black Lives Matter (for which the statement is often conflated for the sentiment, but it has been made very clear here that the Board and the bar Sections mean the political organization) . In doing so, you are resorting to the same coercive tactics used by the Soviet Union in its re-education camps. By forcing Bar members to be re-educated through mandatory CLE on implicit bias based on your exalted view of your own righteousness, you malign and insult those members who have different views from yours.

To be clear, we are not condoning racism, sexism, or any other kind of -ism. However, it is not the Bar's role to force a member to think the same as the Directors or other members. If a client does not agree with their attorney or feels that attorney has an implicit bias, they can terminate the relationship or not hire the attorney in the first place. Thus, we oppose the adoption of any such CLE requirement or the adoption of ABA Model Rule 8.4(g) which would punish a Bar member for having opinions or making statements another person deems offensive regardless of the Bar member's intent.

We oppose the creation of a Task Force on Diversity and Inclusion issues, funded by our dues. The creation of such a Task Force will further politicize the Bar and will force the members to fund a political action committee designed to quash freedoms and force preferred opinions and behavior on the members through coercion and intimidation. Diversity training and inclusion often results in the very thing it is trying to prevent. The Harvard Business Review published the results of their study regarding diversity and inclusion training in July 2019 and found that such training has no effect on changing behavior. But such a Task Force will have negative effects, as it will quash speech since members will not speak out against those loudest about how to achieve diversity for fear of backlash. Already, we know of many members who wanted to sign this letter but did not do so for fear of the repercussions to their legal career.

If this Board is as concerned about Black Lives and justice as it is purporting, we urge you to reevaluate the process for disciplining prosecutors who withhold exculpatory evidence from the defense, who frequently offer better plea deals to Whites than they do for Blacks, and who use alleged experts to posit previously debunked forensic techniques. When complaints are filed against these prosecutors with clear-cut evidence against them for this horrendous behavior, they often receive a slap on the hand, if anything. The Board also needs to review the process for choosing members of local disciplinary committees as there is very little, if any, representation on such committees by criminal defense attorneys, solo practitioners, and small firm attorneys. African Americans and other minorities are wrongfully convicted in greater percentages than Whites, they receive harsher sentences than Whites, and unfortunately, are less likely to be able to afford legal counsel forcing them to be represented by overworked and underfunded public defenders and court-appointed counsel.

Instead of trying to manufacture and manipulate the personal opinions of Texas Lawyers through mandatory CLE on implicit bias and forcing others to support Black Lives Matters or at least refrain from any criticism whatsoever of the organization lest the person be branded a racist, please consider ethics CLE for prosecutors regarding their duty to “do justice.” Make a facet of that training address the recent debunking of the faulty science behind many areas of forensic techniques and supposed science. This will enhance justice in the criminal justice system, a system that has often wrongly ensnared minorities and others in decades-long nightmares.

The Bar’s role is not to tell its members what or how to think or to prevent them from expressing their opinions and thoughts. It’s role is to “support the administration of the legal system, assure all citizens equal access to justice, foster high standards of ethical conduct for lawyers, enable its members to better serve their client and the public, educate the public about the rule of law, and promote diversity in the administration of justice and the practice of law.” While the Board is interpreting the last phrase of this mission to mean diversity of race, it is forgetting there is also diversity of thought and it is actively trying to quash it.

Respectfully,

Texas Lawyers for Justice

Sheila O-Connor Allen
Chad Allman
Zackery D. Artim
Heather Bachman
Melanie K. Carstarphen
Kurt B. Chacon

Elizabeth Duff Drozd
Lynn Foster
Lonnie Foster
Tom Glass
Grant Goens
Kerri Graham
Kathy J. Johnson
James Kincade
Lee Keller King
Amy D. Long
Richard A. Lybarger

Kalen Malone
Tracy Osina
David Rogers
Melissa Sorbel
Sarah Springer
Corinna Steele
Sheila Stewart
Kellye Curmp Sorelle
Jean Summers
Sean Simmons
Terry L. Traveland
Lu Ann Trevino
Georgia C. Trudeau
Frank Vendt Jr.
Misty L. Walker
Terri Walter
Jerri Lynn Ward

cc. Justices of the Supreme Court of Texas.

Statement from Legal Services to the Poor in Civil Matters Committee

Regarding Comments by State Bar of Texas President Larry McDougal

In July, inaccurate, misinformed, and unequivocally divisive statements made by State Bar of Texas President Larry McDougal came to light. In response to these statements, the African American Lawyers Section (AALS) of the State Bar of Texas issued a “Call to Action in Response to State Bar of Texas President Larry McDougal’s Comments Concerning Black Lives Matter” (Call to Action). Shortly thereafter, numerous State Bar of Texas Sections and Committees issued statements, standing in solidarity and condemning President McDougal’s comments, including the Asian Pacific Interest Section, Diversity in the Profession Committee, Hispanic Issues Section, LGBT Law Section, Native American Law Section, Texas Minority Counsel Program Steering Committee, Women & the Law Section, Women in the Profession Committee, and the Poverty Law Section. In addition to condemning the comments made by President McDougal, these Sections and Committees adopted the Call to Action issued by the AALS. The Texas Access to Justice Foundation (TAJF) issued its own statement applauding the State Bar of Texas, along with the many sections and bar entities, for their statements denouncing racism, and supporting the creation of the State Bar of Texas Proposed Task Force on Diversity, Equity and Inclusion. The Legal Services to the Poor in Civil Matters Committee (LSP Civil) now joins these Sections, Committees, and the TAJF.

LSP Civil’s purpose is to concern itself with creation and means of implementation of programs, such as legal aid or pro bono efforts, to assure delivery of legal services to persons who are unable to afford counsel to represent them in civil matters—in short, the Committee works to ensure equitable access to justice. Accordingly, we join the TAJF in reminding our leadership and membership that those who are most disenfranchised from our justice system are disproportionately people of color. We support TAJF’s statement that the legal system and its leaders should ensure that everyone who enters the legal system is treated equitably and fairly. We join TAJF in calling on the State Bar of Texas to protect the promise of equal justice under the law, a promise that cannot be kept when there is racism in our legal system. We join our peers in denouncing racism in all forms. LSP Civil does not believe justice “usually happens before the trial,” as written at the bottom of a post shared by President McDougal. Instead, like the TAJF, LSP Civil remains committed to ensuring that every Texan in need is provided access to justice through legal representation, fair and equitable proceedings, and that each of these individuals is treated with dignity and respect.

In solidarity with the other Sections and Committees, we affirm the following statements to be true and undeniable:

- Black Lives Matter.
- Police brutality is wrong in all instances, it is not justice.
- President McDougal’s opinion of a female attorney’s looks has no place in public discourse, and appearances do not measure any person’s merit.

- The SBOT should, as its mission statement states, “support the administration of the legal system, assure all citizens equal access to justice, foster high standards of ethical conduct for lawyers, enable its members to better serve their clients and the public, educate the public about the rule of law, and promote diversity in the administration of justice and practice of law.” Mr. McDougal’s comments are directly at odds with these fundamental ideals.

We join these Sections and Committees in requesting that the State Bar of Texas Board of Directors act on the proposals made by the AALS, including the requirement that implicit bias training or related education become part of the hours required for annual CLE by lawyers in Texas. We join the Section and Committees in calling upon those who serve as General Counsel, on Diversity and Inclusion Committees in law firms of all sizes, in corporate legal departments, and in education through our law school to stand in solidarity with these Sections and Committee. Further, we ask that in addition to recommitting to education on implicit bias and the avoidance of micro-aggressions, that we honor the Texas Lawyer’s Creed, including wherein Texas lawyers hold themselves responsible to assure that all persons have access to competent representation regardless of wealth or position in life, and commit to an adequate and effective pro bono program. Recognizing these commitments come at a cost, we remind our peers that these costs are only a fraction of what those in need of access to justice endure.

Signed by Majority,

Legal Services to the Poor in Civil Matters Standing Committee, 2020-2021

Please note, the opinions expressed herein are those of the LSP Civil and are not the position of the State Bar of Texas.