

## Timeline of McDonald Litigation

- **March 6, 2019** Plaintiffs filed complaint
- **March 25** Plaintiffs filed motion for preliminary injunction and motion for partial summary judgment on liability
- **April 25 – July 22**
  - Amicus briefs filed in support of Plaintiffs: (1) Texas Attorney General Ken Paxton; and (2) Goldwater Institute
  - Amicus briefs filed in support of the State Bar: (1) Texas Legal Ethics Counsel; (2) Former Presidents of the State Bar of Texas, Former Chairs of the Texas Bar College, and Former Chairs of the State Bar of Texas Council of Chairs; (3) Texas Access to Justice Commission; (4) Concerned Lawyers of Color
- **May 13** State Bar filed responsive briefs, cross-motion for summary judgment, and motion to dismiss for lack of subject-matter jurisdiction
- **May 23** Status conference held; Court scheduled summary-judgment merits hearing for August 1. Plaintiffs agreed to pay their 2019-2020 State Bar dues.
- **May 31** Plaintiffs filed responses and replies. Plaintiffs amended the complaint in response to the State Bar's motion to dismiss, and added the Chief Disciplinary Counsel of the State Bar and the members of the State Bar Commission for Lawyer Discipline as defendants to the case
- **June 4** Court dismissed without prejudice the State Bar's motion to dismiss
- **June 18** State Bar filed reply in support of cross-motion for summary judgment
- **July 15** Plaintiffs and Defendants filed a joint stipulation regarding the defendants in the action
- **August 1** Summary-judgment merits hearing held; motion for preliminary injunction dismissed
- **August 30 & September 4** State Bar filed notice of supplemental authority informing the Court of the Eighth Circuit's favorable decision in *Fleck v. Wetch*, and Plaintiffs filed response

- **January 15 & 21, 2020** State Bar filed notice of supplemental authority informing the Court of the E.D. Louisiana's favorable decision in *Boudreaux v. La. State Bar Ass'n* and the Seventh Circuit's favorable decision in *Jarchow v. State Bar of Wis.*, and Plaintiffs filed response
- **March 9** State Bar filed notice of supplemental authority informing the Court of the Supreme Court's denial of certiorari in *Fleck v. Wetch*
- **May 29** The Court denied Plaintiffs' motion for partial summary judgment, granted the State Bar's cross-motion for summary judgment, and entered final judgment for the State Bar
- **June 2** Plaintiffs filed an appeal in the Fifth Circuit
- **June 5 & 11** Plaintiffs filed, and the Fifth Circuit granted, Plaintiffs' unopposed motion to expedite
- **June 30** Plaintiffs filed their opening brief
- **July 30** State Bar filed its responding brief
- **August 5 & 13** The Fifth Circuit oral argument panel requested, and the parties filed, supplemental briefs regarding the applicability of the Tax Injunction Act. Both parties argued the TIA is inapplicable to Plaintiffs' claims.
- **August 11** The oral argument panel postponed oral argument until "the court is able to return to normal operations." The oral argument panel is comprised of Judges Jerry Smith, Don Willett, and Kyle Duncan.
- **August 14** Plaintiffs filed their reply brief
- **September 11** State Bar filed a notice of supplemental authority informing the Fifth Circuit of the W.D. Michigan's favorable decision in *Taylor v. Barnes*
- **February 26 & 27, 2021** Plaintiffs and the State Bar filed notices of supplemental authority informing the Fifth Circuit of the Ninth Circuit's decision in *Crowe v. Oregon State Bar*
- **March 4** Fifth Circuit held oral argument in *McDonald* and *Boudreaux*
- **May 28** Plaintiffs filed a letter informing the Fifth Circuit they would pay their 2021 Bar dues

- **July 1** The Bar filed a notice of supplemental authority informing the Fifth Circuit of the Tenth Circuit's decision in *Schell* against the Oklahoma Bar
- **July 2** The Fifth Circuit rendered its decision granting partial summary judgment to the plaintiffs on all three counts. The panel remanded to the district court to determine the full scope of relief, and entered a preliminary injunction preventing the Bar from requiring the plaintiffs to join or pay fees pending completion of the remedies phase.
- **July 7 & 8** The Bar filed a motion to extend the deadline to file a petition for panel rehearing and/or rehearing en banc, and the Fifth Circuit extended the deadline to July 23
- **July 19 & 26** The Bar notified the Fifth Circuit that it did not intend to file a petition for panel rehearing and/or rehearing en banc, and the Fifth Circuit mandate issued
- **August 30** District court held a status conference regarding remedies phase of the case
- **September 30** Bar filed a summary of action taken at State Bar of Texas Board of Directors meeting on September 24, regarding rule and policy changes in response to Fifth Circuit's decision
- **November 24 & 30** Plaintiffs filed a petition for writ of certiorari in the U.S. Supreme Court; petition docketed as Case Number 21-800
- **December 2** The parties jointly submitted to the district court a proposed final judgment to be entered in the case, and the Court entered a slightly modified version of the final judgment
- **December 2** Bar filed a waiver of right to respond to the Plaintiffs' cert. petition
- **December 8** Plaintiffs' cert. petition was distributed for consideration at the Supreme Court's January 7, 2022 Conference
- **December 20** Supreme Court requested that the Bar defendants file a response to Plaintiffs' cert. petition by January 19, 2022
- **December 30 & January 6, 2022** Bar defendants filed conditional cross-petition for cert. on government-speech issue; conditional cross-petition docketed as Case Number 21-974

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[2022 Land Use eConference](#)

First appeared as part of the conference materials for the  
26<sup>th</sup> Annual Land Use Conference session

"State Bar President's Presentation: Recent Actions by the Board and the S. Ct. Regarding  
Lawyer Regulation"