



MICHIGAN COURTS NEWS RELEASE

Contact (517) 373-0129 Twitter @CourtInfo

FOR IMMEDIATE RELEASE

State Bar of Michigan's role is focus of new Supreme Court task force; group to examine First Amendment issues

LANSING, MI, February 13, 2014 – Should the State Bar of Michigan continue as a mandatory bar, which attorneys must join in order to practice law in Michigan? That is among the issues a newly created task force will consider, taking into account attorneys' First Amendment rights and the need to regulate the legal profession.

The Michigan Supreme Court announced the task force's creation today in an order, noting that the State Bar "requested that the Michigan Supreme Court facilitate this important discussion." Under article 6, section 5 of the Michigan Constitution, the Court has the constitutional responsibility for setting legal "practice and procedure" in Michigan courts.

The Supreme Court's announcement comes in the wake of Sen. Arlan Meekhof's (R-West Olive) introduction of [SB 743](#), which would allow attorneys to practice law in Michigan without joining the State Bar.

The Supreme Court's order cites its decision in *Falk v State Bar of Michigan*, 411 Mich 63 (1981) and the U.S. Supreme Court's decision in *Keller v State Bar of California*, 496 US 1 (1990). *Keller* upheld mandatory bar membership in the interests of regulating the practice of law and protecting the public, but added that mandatory bars may not use members' dues to fund ideological activities that fall outside those interests. In *Falk*, a plurality opinion written by then-Justice James L. Ryan stated that, to comply with the First Amendment, the State Bar would have to show that mandatory membership and dues served a "paramount" interest to the state, and that there was no less restrictive means to advance that compelling state interest.

The new task force's assignment: Determine whether the State Bar's duties and functions can "be accomplished by means less intrusive upon the First Amendment rights of objecting individual attorneys," consistent with *Keller* and *Falk*, the Supreme Court's order instructs. "At the same time, the Task Force should keep in mind the importance of protecting the public through regulating the legal profession, and how this goal can be balanced with attorneys' First Amendment rights."

Justice Bridget McCormack will serve as the Court's liaison to the task force and Supreme Court Commissioner Nelson Leavitt will serve as the task force's reporter. Hon. Alfred Butzbaugh, trustee of the Michigan State Bar Foundation, a past president of the State Bar, and

former chief judge of the Berrien County Trial Court, will chair the task force. A report is expected in June 2014.

Other task force members include:

Danielle Brown, member, State Bar Board of Commissioners

Thomas Cranmer, attorney, State Bar past president and member of the State Bar's Judicial Crossroads Task Force

Peter Ellsworth, attorney, Michigan State Bar Foundation Board of Trustees

John McSorley, attorney, past member of the State Bar Board of Commissioners

Colleen Pero, attorney, member of the State Bar Board of Commissioners

Hon. Michael Riordan, judge of the Michigan Court of Appeals and member of the State Bar Board of Commissioners

Thomas Rombach, attorney, State Bar of Michigan president-elect

John Reed, professor emeritus, University of Michigan Law School and former dean of both Wayne State University Law School and University of Colorado Law School

Hon. John Walsh, attorney and state representative (R-Livonia), Speaker Pro Tempore and former chair of the House Judiciary Committee

Janet Welch, attorney, State Bar of Michigan executive director

Vanessa Williams, attorney, vice-chair of State Bar Representative Assembly

-- MSC --