



**Issue 221 | September 16**

## **Court Victory for the State Bar of Michigan**

### **U.S. District Court Rules in Favor of State Bar of Michigan in First Amendment Case**

Continuing a recent trend, last week, another mandatory bar?in this case, the State Bar of Michigan?prevailed in a First Amendment lawsuit that cited the *Janus* decision. Michigan lawyer Lucille S. Taylor claimed that the required membership and annual dues violated her free speech and association rights. However, Judge Robert J. Jonker ruled that the U.S. Supreme Court decision in *Janus* did not set aside that court's previous rulings in *Lathrop* and *Keller*, and that the U.S. District Court for the Western District of Michigan must follow those precedents. Learn more about this ruling at [Bloomberg Law](#).

### **Will DC Bar Committee Propose New, Looser Rules for Nonlawyer Ownership?**

While most states have adopted ABA Model Rule 5.4 in part or in whole, for decades, Washington, D.C., has had in place a much less restrictive rule regarding lawyers and other professionals working in partnership. Among other conditions, the D.C. rule allows such partnerships if their "sole purpose" is to provide legal services to clients. However, the current rule stops short of allowing corporations or investment banks to acquire parts of law partnerships or law practices. Since May, according to [Bloomberg Law](#), a DC Bar committee has been meeting with a number state and foreign officials and interest groups to learn how other jurisdictions are handling the issue of nonlawyers' role in legal services operations. Will this open the door to nonlawyer ownership?and if so, what could that mean for consumers and for the Big Four accounting firms?

### **Did Online Exam Software Marketing Program Violate FTC Act?**

ExamSoft?a provider of secure online testing software used for bar exams in some states this year?had an "Ambassadors" marketing program in which customers were paid to promote the company by creating content and appearing at conferences. Is that legal? And if so, does it still cross a line? A letter filed last month with the Federal Trade Commission raised possible violations tied to these payments. At [Above the Law](#), Senior Editor Joe Patrice looks at the letter?and at quotes from a podcast explaining how Ambassadors were recruited, guided, and compensated?and sheds light on what he calls a murky situation.

### **State Bar of Texas Board Member Withdraws Motion to Revoke President's Spokesperson Role**

Last Thursday, citing the need to avoid a possible First Amendment claim, a board member of the State Bar of Texas withdrew a motion that could have stripped President Larry McDougal of his role as bar spokesperson. Director Alistair Dawson initially submitted this motion because of several social media posts McDougal made that were critical toward Black Lives Matter. Earlier consideration of this motion, in July, resulted in a tie vote. McDougal has apologized for the remarks and will submit a preliminary plan later this month for how to address the divisions his comments have made within the bar. [Law.com](#) has more information about the withdrawn motion and about two new measures the board passed to help deal with any similar situations in the future.

## ABA Launches Poll Worker, Esq., Encourages Lawyers, Others to Help with November Election

Lawyers, law students, and bar professionals have a critically important roll to play in the general election on November 3: serving as poll workers to help people vote and to ensure a safe and accurate election. To address a predicted shortage of workers for this election, the ABA has launched what President Trish Refo calls a "rally cry": a nonpartisan effort called Poll Worker, Esq., in partnership with the National Association of Secretaries of State and the National Association of State Election Directors. Visit the [Poll Worker, Esq. webpage](#) to learn more, including where to sign up and receive training in your jurisdiction.



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