

**UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF LOUISIANA**

RANDY J. BOUDREAUX
Plaintiff,

v.

LOUISIANA STATE BAR ASSOCIATION, a
Louisiana Nonprofit Corporation;
LOUISIANA SUPREME COURT;
BERNETTE J. JOHNSON, Chief Justice of the
Louisiana Supreme Court;
JOHN DOE, successor to the Honorable Greg
Guidry as Associate Justice of the Louisiana
Supreme Court for the First District;
SCOTT J. CRICHTON, Associate Justice of the
Louisiana Supreme Court for the Second District;
JAMES T. GENOVESE, Associate Justice of the
Louisiana Supreme Court for the Third District;
MARCUS R. CLARK, Associate Justice of the
Louisiana Supreme Court for the Fourth District;
JEFFERSON D. HUGHES, III, Associate Justice
of the Louisiana Supreme Court for the
Fifth District;
JOHN L. WEIMER, Associate Justice of the
Louisiana Supreme Court for the Sixth District,
Defendants.

CIVIL ACTION

Case No. 19-cv-11962

SECTION "I" (1)

Judge Lance M. Africk

Mag. Judge van Meerveld

**DEFENDANTS' MOTION FOR LEAVE
TO FILE SECOND NOTICE OF SUPPLEMENTAL
AUTHORITY IN SUPPORT OF THEIR RULE 12(b)(6) MOTION TO DISMISS**

The Defendants respectfully seek leave of Court to file a Second Notice of Supplemental Authority to update a statement in their prior briefing in support of their Motion to Dismiss Pursuant to Rule 12(b)(6).¹ The Defendants' reply memorandum observed that the "only other district court to rule" on whether the *Janus* standard replaced *Keller* determined that it "should

¹ Doc. 12.

decline to apply *Janus* and must apply *Keller* to the cases at bar.’’² After the reply brief was filed, an additional district court ruled on this issue and reached the same conclusion. See *Jarchow v. State Bar of Wisconsin*, No. 2019 WL 6728258, at *2 (W.D. Wisc. Dec. 11, 2019) (dismissing plaintiffs’ claims as barred by *Keller*). This supplemental authority was the subject of Defendants’ Motion for Leave to File their first Notice of Supplemental Authority on December 20, 2019.

On December 23, 2019, the United States Court of Appeals for the Seventh Circuit issued a summary affirmance of the district court’s decision in *Jarchow*. See *Jarchow v. State Bar of Wisconsin*, No.19-3444 (7th Cir. Dec. 23, 2019). Accordingly, the attached Second Notice of Supplemental Authority provides an updated statement relative to the other courts that have addressed this issue.

Respectfully submitted,

/s/ Kathryn W. Munson

Richard C. Stanley, 8487

Eva J. Dossier, 35753

Kathryn W. Munson, 35933

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² Doc. 28, p. 7 n.11 (quoting *Gruber v. Oregon State Bar*, No. 3:18-1591, 2019 WL 2251826, at *9 (D. Or. Apr. 1, 2019), report and recommendation adopted, No. 18-1591, 2019 WL 2251282 (D. Or. May 24, 2019)).

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CIVIL ACTION

Case No. 19-cv-11962

SECTION "I" (1)

Judge Lance M. Africk

Mag. Judge van Meerveld

**DEFENDANTS' SECOND NOTICE OF SUPPLEMENTAL AUTHORITY
IN SUPPORT OF MOTION TO DISMISS PURSUANT TO RULE 12(b)(6)**

The Defendants respectfully submit the attached supplemental authority to update a statement in their prior briefing in support of their Motion to Dismiss Pursuant to Rule 12(b)(6).¹ The Defendants' reply memorandum observed that the "only other district court to rule" on whether the *Janus* standard replaced *Keller* determined that it "should decline to apply *Janus* and must apply *Keller* to the cases at bar."² After the reply brief was filed, an additional district court ruled on this issue and reached the same conclusion. *See Jarchow v. State Bar of Wisconsin*, No. 2019 WL 6728258, at *2 (W.D. Wisc. Dec. 11, 2019) (dismissing plaintiffs' claims as barred by *Keller*). This supplemental authority was the subject of Defendants' first Motion for Leave to File Notice of Supplemental Authority filed on December 20, 2019.

On December 23, 2019, the United States Court of Appeals for the Seventh Circuit issued a summary affirmance of the district court's decision in *Jarchow*. *See Jarchow v. State Bar of Wisconsin*, No.19-3444 (7th Cir. Dec. 23, 2019).³ Thus, the district court's decision that it should decline to apply *Janus* and must apply *Keller* has been affirmed summarily by the Seventh Circuit.

¹ Doc. 12.

² Doc. 28, p. 7 n.11 (quoting *Gruber v. Oregon State Bar*, No. 3:18-1591, 2019 WL 2251826, at *9 (D. Or. Apr. 1, 2019), report and recommendation adopted, No. 18-1591, 2019 WL 2251282 (D. Or. May 24, 2019)).

³ For the Court's convenient reference, a copy of this authority is attached hereto as Exhibit A.

Respectfully submitted,

/s/ Kathryn W. Munson

Richard C. Stanley, 8487

Eva J. Dossier, 35753

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Association, Louisiana Supreme Court, Chief
Justice Johnson, Justice Crichton, Justice
Genovese, Justice Clark, Justice Hughes, and
Justice Weimer*

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

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ORDER

December 23, 2019

Before

JOEL M. FLAUM, *Circuit Judge*
FRANK H. EASTERBROOK, *Circuit Judge*
MICHAEL Y. SCUDDER, *Circuit Judge*

No. 19-3444	ADAM JARCHOW and MICHAEL D. DEAN, Plaintiffs - Appellants v. STATE BAR OF WISCONSIN, et al., Defendants - Appellees
Originating Case Information:	
District Court No: 3:19-cv-00266-bbc Western District of Wisconsin District Judge Barbara B. Crabb	

The following is before the court: **MOTION FOR SUMMARY AFFIRMANCE**, filed on December 16, 2019, by counsel for the appellants.

This court has carefully reviewed the final order of the district court, the record on appeal, and appellants' motion for summary affirmance. Based on this review, the court has determined that further briefing would not be helpful to the court's consideration of the issues. *See Taylor v. City of New Albany*, 979 F.2d 87 (7th Cir. 1992); *Mather v. Village of Mundelein*, 869 F.2d 356, 357 (7th Cir. 1989) (per curiam) (court can decide case on motions papers and record where briefing would not assist the court and no member of the panel desires briefing or argument). "Summary disposition is appropriate 'when the position of one party is so clearly correct as a matter of law that no substantial question regarding the outcome of the appeal exists.'" *Williams v. Chrans*, 42 F.3d 1137, 1139 (7th Cir. 1995), citing *Joshua v. United States*, 17 F.3d 378, 380 (Fed. Cir. 1994). The district court, in its thorough and well-reasoned order, correctly held that the appellants' claims are foreclosed by *Keller v. State Bar of California*, 496 U.S. 1 (1990). Appellants have preserved their position for review by the Supreme Court.

Accordingly, **IT IS ORDERED** that the appellants' motion is **GRANTED**, and the judgment of the district court is summarily **AFFIRMED**.



UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

RANDY BOUDREAUX

CIVIL ACTION

VERSUS

No. 19-11962

LOUISIANA STATE BAR
ASSOCIATION, ET AL.

SECTION I

ORDER

Considering the Defendants' motion¹ for leave to file a second notice of supplemental authority in support of their Motion to Dismiss Pursuant to Rule 12(b)(6),²

IT IS ORDERED that the motion is **GRANTED**.

New Orleans, Louisiana, _____, _____, 20__.

LANCE M. AFRICK
UNITED STATES DISTRICT JUDGE

¹ R. Doc. No. _____.

² R. Doc. No. 12.