

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

LUCILLE S. TAYLOR,

Case No.: 1:19-cv-00670

Plaintiff,

v

HON. ROBERT J. JONKER

STATE BAR OF MICHIGAN, a public Corporation; DENNIS M. BARNES, President of the State Bar of Michigan Board of Commissioners; ROBERT J. BUCHANAN, President-Elect of the State Bar of Michigan Board of Commissioners; DANA M. WARNEZ, Vice President of the State Bar of Michigan Board of Commissioners; JAMES W. HEATH, Secretary of the State Bar of Michigan Board of Commissioners; DANIEL D. QUICK, Treasurer of the State Bar of Michigan Board of Commissioners,

Defendants.

Derk A. Wilcox (P66177)
Patrick J. Wright (P54052)
MACKINAC CENTER LEGAL
FOUNDATION
140 West Main Street
Midland, Michigan 48640
(989) 631-0900
wilcox@mackinac.org
Attorneys for Plaintiff

Andrea J. Bernard (P49209)
Charles R. Quigg (P82624)
WARNER NORCROSS + JUDD LLP
1500 Warner Building
150 Ottawa Avenue NW
Grand Rapids, Michigan 49503
(616) 752-2199
abernard@wnj.com
cquigg@wnj.com
Attorneys for Defendants

John J. Bursch (P57679)
BURSCH LAW PLLC
9339 Cherry Valley Avenue SE, #78
Caledonia, Michigan 49316
(616) 450-4235
jbursch@burschlaw.com
Co-Counsel for Defendants

**THE PARTIES' JOINT MOTION / STIPULATION
TO STAY**

The Parties jointly request that this Court stay this case pending the U.S. Supreme Court's resolution of two pending petitions of certiorari presenting similar questions regarding the constitutionality of integrated bars. "[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants." *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936). The Parties expect that the Supreme Court will resolve whether to grant the petitions by late April, if not sooner. Because the Supreme Court's decision to grant or deny the petitions will inform the Parties' briefing on summary judgment and this Court's resolution of this case, the Parties respectfully submit that a short stay would promote judicial economy and conserve the Parties' limited resources.

The Parties stipulated to a briefing schedule in their Joint Status Report filed November 6, 2019 [Docket No. 8]. Following a Rule 16 Scheduling Conference [the minutes of which are Docket No. 9], this Court issued the aforementioned First Case Management Order [Docket No. 11]. The First Case Management Order set briefing dates for cross-motions for summary judgment according to the following calendar: Plaintiff's Initial Brief, February 28, 2020; Defendant's Initial Brief, March 27, 2020; Plaintiff's Reply Brief, April 24, 2020; and Defendant's Reply Brief, May 8, 2020.

Cases presenting the questions regarding the constitutionality of integrated bars similar to those in this case are currently before the Supreme Court. Specifically, *Fleck v. Wetch*, No. 19-670, is before the Supreme Court on a petition for writ of certiorari. It has been distributed for the conference of March 6, 2020.¹

¹ The Supreme Court docket for *Fleck* matter can be accessed here: <https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/19-670.html>

A second related matter, *Jarchow v. State Bar of Wisconsin*, No. 19-831, is also before the Supreme Court on a petition for writ of certiorari. The response to the petition for certiorari is due on March 4, 2020, and, based on the Supreme Court's published case distribution schedule, the Parties expect that the petition will be scheduled for consideration at conference in late March or early April.²

The Parties therefore believe that there is a strong likelihood that the Supreme Court will decide by the end of April 2020, if not sooner, whether it will hear and decide either *Fleck* or *Jarchow*. In the event that the Supreme Court grants certiorari in either or both of these cases, the Parties anticipate requesting that this Court stay this case pending a decision on the merits from the Supreme Court. Conversely, if the Supreme Court declines to grant certiorari in *Fleck* and *Jarchow*, the Supreme Court's orders may nonetheless provide important guidance to the Parties and this Court.

Because the Supreme Court's resolution of the petitions could affect the matter before this Court, the Parties respectfully submit that a temporary stay of this case until the Supreme Court resolves the pending petitions for certiorari would promote judicial economy and conserve the Parties' resources. The Parties propose to proceed as follows:

- In the event that the Supreme Court grants certiorari in either or both cases, the Parties shall file a joint status report within 14 days after the order granting the petition regarding whether the Court should further stay this case pending a decision from the Supreme Court on the merits.

² The Supreme Court docket for *Jarchow* can be accessed here: <https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/19-831.html>

- In the event that the Supreme Court denies certiorari in both cases, the Parties propose that the due dates for the Parties’ cross-motions for summary judgment be set as follows:

Description	Due Date
Plaintiff’s Initial Brief	14 days after the last denial of certiorari
Defendants’ Initial Brief and Response to Plaintiff’s Motion	28 days after the due date for Plaintiff’s Initial Brief
Plaintiff’s Reply Brief and Response to Defendants’ Motion	28 days after the due date for Defendants’ Initial Brief and Response to Plaintiff’s Motion
Defendants’ Reply Brief	14 days after the due date for Plaintiff’s Reply Brief and Response to Defendants’ Motion

Dated: February 25, 2020

Dated: February 25, 2020

/s/ Derk A. Wilcox

/s/ Andrea J. Bernard

Derk A. Wilcox (P66177)
 Patrick J. Wright (P54052)
 MACKINAC CENTER LEGAL
 FOUNDATION
 140 West Main Street
 Midland, Michigan 48640
 (989) 631-0900
wilcox@mackinac.org
Attorneys for Plaintiff

Andrea J. Bernard (P49209)
 Charles R. Quigg (P82624)
 WARNER NORCROSS + JUDD LLP
 1500 Warner Building
 150 Ottawa Avenue NW
 Grand Rapids, Michigan 49503
 (616) 752-2199
abernard@wnj.com
cquigg@wnj.com
Attorneys for Defendants

John J. Bursch (P57679)
 BURSCH LAW PLLC
 9339 Cherry Valley Avenue SE, #78
 Caledonia, Michigan 49316
 (616) 450-4235
jbursch@burschlaw.com
Co-Counsel for Defendants