



## Regarding State Bar Board's Non-Response to Executive Orders

On May 14, the Board of Governors of the State Bar held a special meeting via Zoom.

The special meeting was conducted in closed session with counsel present. It would appear the reason counsel was present was to foster the claim that the discussions at the meeting and the vote that was taken at the meeting would be protected by attorney-client privilege and the decision by the Board of Governors and the basis for the decision concealed from the members of the bar. That, in and of itself, is objectionable and should be strongly condemned by every member of the State Bar. Even if some rationale existed for the involvement of counsel in discussions before the vote, the act of voting did not require advice of counsel.

The proposition before the Board was whether to issue any statement about the recent attacks by the Trump Administration on the rule of law. Those attacks have taken the form of attacks on judges, refusal to obey or comply in any way with orders of courts at multiple levels, and attacks on law firms for the simple act of representing clients.

The proposed statement supporting the rule of law was so moderate that it was barely acceptable to most of the people who had raised the need for an official statement. For reasons which apparently were not explained and which I suggest could not possibly be explained, the Board declined to approve even that statement. To me that means that the official position of the State Bar of Wisconsin as established by the Board of Governors is that the attacks on the rule of law are perfectly appropriate and are indirectly supported by the Bar. For a more thorough recitation and discussion of these events, please see a commentary by former Dane County Judges John Markson and Richard Niess that appeared in the June 12 edition of the *Wisconsin Examiner*.

To anyone who has spent a career believing in, acting within, and supporting the rule of law, this is the most intolerable nonsense that could possibly be imagined. Every State Bar member should demand that every current member of the Board of Governors running for reelection make a public statement as to how that person voted at the May 14 meeting. Anyone who refuses to make that public statement should be assumed to have opposed any public statement supporting the rule of law. Anyone who took such a position should receive no votes from any member under any circumstances. If lawyers do not stand up for the rule of law, who will?

**Terry E. Johnson, U.W. 1975, Milwaukee.**

## Lawyers, and the State Bar, are Duty Bound to Uphold Lawyers' Independence

This letter is a response to Judge John Markson and Judge Richard Niess's post concerning the failure of the State Bar of Wisconsin's Board of Governors to support the American Bar Association's position against President Trump's executive orders intimidating lawyers.

Our founders committed treason against the king (crown) in the Declaration of Independence and went to war to free the U.S. They wrote the Constitution, the greatest legal document ever written. My father fought in World War II for freedom and democracy. I am a product of the Vietnam War, where many of my friends died or were wounded. Vietnam and Iraq established that presidents may mislead its citizens. All citizens are bound by the rule of law and, most fundamentally, the Constitution.

We are lawyers. Our citizens rely on us to know and fight for the law. We took an oath to uphold the Constitution, not an individual. The Constitution is the very foundation of life in the U.S. No lawyer can allow himself or herself to be intimidated by any person or branch of the government. Since the Constitution is the very essence of our Republic, we have a duty, as does the State Bar of Wisconsin, to respond to any attack on lawyers' independence.

As such, every lawyer licensed to practice law in Wisconsin is entitled to be fully informed of what positions *its* State Bar is taking and to have input into it. This is imperative. It is mandated. It takes precedence. Our citizenry relies upon it. Our relatives died for our freedom. We cannot stand silent. We are the last and most equipped resort. We asked for this duty. We need to send a firm letter to the executive branch that the State Bar of Wisconsin cannot and will not be intimidated and will protect the Constitution at all times.

**John A. Kucinski, U.W. 1978, River Falls.**

*[Editor's Note: The views expressed in the letters above are those of the authors.] WL*

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