

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

PUBLIC CITIZEN, INC., et al. \*  
 \* CIVIL ACTION NO. 08-4451, c/w 08-4994  
 \*  
 Plaintiffs, \* *This pleading applies to all cases*  
 \*  
 VERSUS \* SECTION "F"  
 \*  
 LOUISIANA ATTORNEY DISCIPLINARY \* JUDGE FELDMAN  
 BOARD, et al. \*  
 \* MAGISTRATE WILKINSON  
 Defendants. \*  
 \*  
 \* \* \* \* \*

**EX PARTE MOTION FOR EXPEDITED HEARING**

Defendants, the Louisiana Attorney Disciplinary Board, Billy R. Pesnell, and Charles B. Plattsmier (collectively, "Defendants"), through undersigned counsel, hereby move the Court for an expedited hearing on their Motion to Continue Trial and Hearings and to Rescind Scheduling Order and Pre-Trial Notice (hereafter, "Motion to Continue"), respectfully representing as follows:

As this Court is aware, the captioned litigation involves plaintiffs' challenges to the constitutionality of certain of the new attorney advertising provisions set forth in Article XVI, Rule 7 of the Articles of Incorporation of the Louisiana State Bar Association. Currently,

hearings on plaintiffs' motions for summary judgment are set for March 4, 2009, and a two-day trial is scheduled to commence on March 23, 2009.

At the time these dates and other trial preparation deadlines were set by the Court, the rules at issue were scheduled to take effect on April 1, 2009. However, on February 18, 2009, the Louisiana Supreme Court ordered that implementation of the new attorney advertising provisions be deferred until October 1, 2009, in order "to allow the LSBA and the Court to further study certain rules in light of the constitutional challenges that have been raised." *See* News Release, attached as Exhibit A, and Order, attached as Exhibit B. As a result, the challenged rules will not take effect on April 1, and they may be modified before they are finally implemented on October 1.

Accordingly, Defendants assert it would be premature for the Court to hear and decide plaintiffs' motions for summary judgment or to proceed to trial of this matter. The rules at issue are subject to further study and may not be implemented in their current form. The constitutional issues currently before the Court may be mooted or substantially modified once the LSBA and the Louisiana Supreme Court complete their additional period of study. Thus, principles of efficiency and judicial economy would seem to dictate that this Court delay consideration of the constitutional issues before it, to avoid rendering decisions that may be wholly advisory and to avoid premature federal constitutional adjudication. *See Bolline v. City of New Orleans*, 757 F. Supp. 715, 719 (E.D. La. 1991) (citing *Harman v. Forssenius*, 380 U.S. 528 1965)). Plaintiffs will lose no rights and suffer no harm as a result of the requested delay, and the Louisiana Supreme Court's process of studying and implementing rules governing the practice of law will be preserved.

For these reasons and those more fully set forth in the Defendants' Motion to Continue and accompanying Memorandum in Support, there is an immediate need to resolve this issue.

WHEREFORE, the Defendants respectfully request that their Motion to Continue be heard on an expedited basis, as soon as it may reasonably be set.

Dated: February 23, 2009

Respectfully submitted,

/s/ Kathryn M. Knight

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**C E R T I F I C A T E**

I hereby certify that on this 23rd day of February, 2009, a copy of the foregoing Motion for Expedited Hearing has been served upon each counsel of record by notice of electronic filing generated through the CM/ECF system, and/or by United States mail, facsimile, or e-mail for those counsel who are not participants in the CM/ECF system.

*/s/ Kathryn M. Knight*