



# FOUR IMPORTANT THINGS YOU SHOULD KNOW ABOUT STATE BAR OF TEXAS COMMUNICATIONS: *Boudreaux v. Louisiana State Bar Association*

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## 1. *What do I need to know about Boudreaux?*

On November 13th, 2023, in *Boudreaux v. Louisiana State Bar Association, et al.*, 86 F.4th 620 (5th Cir. 2023), the Fifth Circuit issued an opinion holding that the Louisiana State Bar Association (LSBA), a mandatory bar association, violated its member's First Amendment free speech and free association rights because of communications in the form of social media and internet postings regarding matters not sufficiently connected to improving the quality of legal services or the regulation of lawyers. The matters involved in the communications included things such as general wellness, technology, student loans, holidays, and some charitable events. *Boudreaux* held that, in addition to meeting the previously established requirement in *Keller v. State Bar of California*, 496 U.S. 1 (1990) and *McDonald v. Longley*, 4 F.4th 229 (5th Cir. 2021) that mandatory bar activities be germane to improving the quality of legal services, the regulation of lawyers, or the functioning of the state's courts or legal system, ***Boudreaux* clarifies that germaneness also requires all public communications on behalf of a mandatory bar to be connected to the practice law.**

## 2. *How does this affect State Bar communications?*

For years, the State Bar of Texas has complied with the germaneness requirements of *Keller* and *McDonald*, but after the *Boudreaux* decision, the bar has instituted additional processes for all State Bar public communications to ensure compliance with *Boudreaux*. Therefore, all mass communications (publications, social media communications, etc.) on behalf of the State Bar or its staff, sections, divisions, or committees must go through an official communications review process to ensure germaneness and connection to the practice of law before being published to membership or the public.

## 3. *What is the official communications process?*

All proposed social media or other mass communications should be submitted to the State Bar by email to [commreview@texasbar.com](mailto:commreview@texasbar.com). This includes posts to X (formerly Twitter), Instagram, Facebook, LinkedIn, Google Groups, and other social media (including retweets/shares/etc.); blog posts and website updates; articles and newsletters; and mass email communications. General work-related communications between staff or members of sections, committees, or divisions are not subject to this process since they are not public communications on behalf of the State Bar of Texas. The State Bar Communications Division and Office of Legal Counsel will promptly review and email the person an email approval for publishing or guidance on how to address a circumstance or needed changes if approval cannot be granted. If the person seeking approval previously worked through a State Bar staff liaison(s) to publish social media or other mass communications, then he or she should continue working through the staff liaison(s), who will seek review and approval through the Communications Division and Office of Legal Counsel. The process has been very efficient and approval time has often been the same day or shortly thereafter in busier times.

## 4. *Who can I talk to if I have questions?*

The State Bar's Office of Legal Counsel is here to help and discuss any questions you may have:

Phone: (512) 427-1550 (Chris Ritter or Amanda Engle) Email: [legal@texasbar.com](mailto:legal@texasbar.com)

You may also reach out to Communications via [commreview@texasbar.com](mailto:commreview@texasbar.com).