



FOR IMMEDIATE RELEASE

MEDIA CONTACT: Byron Schlomach
(405) 646-3272
bschlomach@1889institute.org

**1889 INSTITUTE BRINGS ATTENTION TO OKLAHOMA SUPREME COURT'S
UNCONSTITUTIONAL ACTIONS**

Attorney licensing in Oklahoma violates separation of powers and free speech

OKLAHOMA CITY, OK (February 6, 2019) – The 1889 Institute, an Oklahoma state policy think tank, has published “The Oklahoma Supreme Court’s Unchecked Abuse of Power in Attorney Regulation.” It indicts all three branches of government in Oklahoma, but especially the state’s Supreme Court, for violating basic principles of American liberty and governance. This is due to the Oklahoma Supreme Court commandeering legislative and executive powers when, in 1939, it unilaterally declared for itself the sole power to authorize and administer the regulation of attorneys in the state.

This is now especially worthy of attention given Governor Stitt’s highly appropriate criticism of conflicts of interests in the memberships of boards and commissions in his State of the State address.

With the stroke of a pen, the Oklahoma Supreme Court usurped from the legislative and executive branches the power to regulate attorneys and the practice of law. In response to this invasion into their reserved constitutional spheres, the other two branches did nothing.

In addition to this usurpation of power, the Oklahoma Supreme Court delegated its self-declared authority to license attorneys to a private organization, the Oklahoma Bar Association. This has created a cloistered, autocratic attorney licensing system answerable only to itself and not to the people of Oklahoma through their duly and constitutionally elected representatives.

“As a licensed attorney in Oklahoma, it was surprising to discover that the system under which I practice is not authorized by the state constitution,” said the report’s author, Benjamin M. Lepak, Legal Fellow at the 1889 Institute. “It is particularly disappointing to consider that this system was originally conceived—and is currently administered—by judges and attorneys. Lawyers are supposed to be dedicated to preserving the Rule of Law, not undermining it,” said Lepak.

The 1889 Institute report briefly reviews the history of how Oklahoma’s current attorney licensing system came to be. It points out that attorney licensing is, for all intents and purposes, administered by a private trade association, the Oklahoma Bar Association, illegitimately granted monopoly rights by the Supreme Court.

“Not only is my profession regulated under a system not properly authorized by law, but my freedom of speech is violated by being forced to join the Bar Association,” said Lepak. “The Bar

takes political and policy positions on issues with which I and other Oklahoma attorneys disagree, but we are forced to pay dues to advance those positions in order to continue practicing law," he said. "Attorneys in 18 other states are not subjected to such First Amendment violations, as bar membership is not required in those states," Lepak added.

According to the report, the simplest solution to restore the Rule of Law in Oklahoma would be for the Oklahoma Supreme Court to reverse its 80-year-old decision that usurped power over attorney licensing. The legislature should enact a law deregulating the practice of law, establishing a system similar to that of Great Britain's. The Oklahoma Supreme Court would retain its common law right to administer the courts, including determining qualifications for those who practice before them. The practice of law outside the courts would be privately regulated through certifications.

The legislature should consider proposing a constitutional amendment that would return the power to regulate the practice law in the state to the people through their directly elected representatives.

###

About the 1889 Institute

The 1889 Institute is an Oklahoma think tank committed to independent, principled state policy fostering limited and responsible government, free enterprise and a robust civil society. The publication, "The Oklahoma Supreme Court's Unchecked Abuse of Power in Attorney Regulation" can be found on the nonprofit's website at <http://www.1889institute.org/licensing>.