

**SUBJECT:** 2009 Annual Meeting of the American Bar Association and Meeting of the House of Delegates

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### **REPORT ON THE ABA ANNUAL MEETING**

The 131<sup>st</sup> Annual Meeting of the American Bar Association (the “ABA”) was held August 3-4, 2009, at the Hyatt Regency Chicago Hotel in Chicago, Illinois. Wide varieties of programs were sponsored by committees, sections, divisions, and affiliated organizations. The House of Delegates met for a day and a half session and the proceedings of the ABA House of Delegates were made available via webcast.

The Nominating Committee sponsored a “Meet the Candidates” Forum on Sunday, August 2, 2009. The following candidates seeking nomination at the 2010 Midyear Meeting gave speeches to the Nominating Committee and to the members of the Association present: Lucian T. Pera of Tennessee, candidate for Treasurer; Hon. Cara Lee Neville of Minnesota, candidate for Secretary; Linda A. Klein of Georgia, candidate for Chair of the House of Delegates; and Wm. T. Robinson III of Kentucky, candidate for President-Elect.

### **THE HOUSE OF DELEGATES**

The House of Delegates of the American Bar Association (the “House”) met on Monday, August 3, and Tuesday, August 4, 2009. William C. Hubbard of South Carolina presided as Chair of the House.

On August 3, the Chicago Police Department presented the colors. The invocation for the House was delivered by Allan Tanenbaum of Georgia. The Chair of the House Committee on Credentials and Admissions, C. Elisia Frazier of Georgia, welcomed the new members of the House and moved that the signed roster be approved as the permanent roster for this meeting of the House. The motion was **approved**.

Chair Hubbard recognized all those lawyers who had served in the House of Delegates for more than 25 years. He recognized delegate Benjamin Hill of Florida to pay tribute to William Reece Smith, Jr. Mr. Hill spoke of the nearly 55 years of service to the Bar by William Reece Smith, Jr. He noted he had been a lawyer at the Carlton Fields law firm since 1954 and is chair-emeritus of the firm, an ABA member for 54 years and had missed only one House of Delegates meeting since 1961. He said Mr. Smith had led bar associations at every level of the profession including the local bar, the Florida state bar, the junior conference of the ABA (now YLD), the American Bar Association and was the first American to serve as president of the International Bar Association. Mr. Hill noted that the dominant theme of Mr. Smith’s professional life had been making legal services available to those who cannot afford them in order to ensure access to justice for all Americans. William Reece Smith, Jr. was recognized with a standing ovation. He thanked the House and the Florida delegation for the recognition. Chair Hubbard added his appreciation for the dedication of Mr. Smith to the profession.

Chair Hubbard recognized J. David Andrews of Washington to recognize Joe Gordon of Washington, who turned 100 years of age in March, 2009. Mr. Andrews told the House that Mr. Gordon has four passions – family, law firm, city of Tacoma, American Bar Association. He has attended 101 consecutive House of Delegates meetings, was the eighth Treasurer of the ABA and sixteenth President of the American Bar Endowment. A videotaped message was shown from Joe Gordon who thanked the House and regretted he could not attend. Chair Hubbard asked Mr. Andrews to convey the House's deep affection for Mr. Gordon.

Chair Hubbard recognized Joseph O'Connor of Indiana on a point of personal privilege. Mr. O'Connor paid tribute to the Commission on Law and Aging and its 30<sup>th</sup> anniversary.

Judy Perry Martinez of Louisiana, Chair of the Committee on Rules and Calendar, provided a report on the Final Calendar for the meeting of the House, including recently filed reports as well as Informational Reports from the Board of Governors. She noted the receipt of two additional bar association reports 10A and 10B and four late filed reports, 300, 301, 302 and 303. Ms. Martinez moved to consider the late-filed reports, adopt the Final Calendar and approve the list of individuals who sought privileges of the floor. All three motions were **approved**.

She referred to the consent calendar, noting the deadline for removing an item from the consent calendar or from the list of resolutions to be archived.

She noted the rules for limited debate applicable to certain resolutions. She also moved a special rule for consideration of Resolution 110. The motion was **approved**.

Ms. Martinez noted that the deadline for submission of Reports with Recommendations for the 2010 Midyear Meeting is November 18, 2009, while the deadline for Informational Reports is December 4, 2009. The members of the House were reminded that the Drafting Committee, chaired by Gene Vance of Kentucky, is available to assist anyone in drafting resolutions prior to the filing deadline.

Later in the day, Ms. Martinez moved that additional persons be granted privileges of the floor. That motion was **approved**. Ms. Martinez noted that Report 11-3 was removed from the consent calendar and item #39 was removed from the archival list of Report 400 and retained as active policy. Ms. Martinez moved the items remaining on the consent calendar consisting of Report Nos. 101, 104, 109 and 400. The motion was **approved**. Ms. Martinez also moved the approval of the 2/3 consent calendar which contained constitutional amendment 11-5 requiring a 2/3 vote of the House. The motion was **approved**.

For more details of the House meeting, see the following two-part report of the House session. The first part of the report provides a synopsis of the speeches and reports made to the House. The second part provides a summary of the action on the recommendations presented to the House.

## **I. SPEECHES AND REPORTS MADE TO THE HOUSE OF DELEGATES**

## **Statement by the Chair of the House**

William C. Hubbard of South Carolina, Chair of the House, reviewed procedural matters. He recognized the Committee on Rules and Calendar and the staff members who support the committee. Chair Hubbard introduced the Tellers Committee and reviewed procedures for speaking. He recognized and thanked all the members who serve on House committees.

He discussed the obligations and responsibilities of House members to take legislative priorities to lawmakers in Washington, D.C. He asked each delegate to be part of the Grass Roots Action Team and attend ABA Day on April 20-22, 2010, in Washington D.C., under the direction of Laurel Bellows of Illinois. He also asked members to make a difference by talking to the legislators from their communities regarding justice issues.

He highlighted the work of the Legal Opportunity Scholarship fund which was started in 1999. It funds scholarships to minority law students and over the last years has provided over \$3 million in minority scholarships. He urged the delegates to support it financially.

Chair Hubbard addressed the importance and need for the work of the Fund for Justice and Education ("FJE") and urged every House member to support it financially. He reported that 38 states have full participation so far this year. Chair Hubbard urged delegates to make a contribution and ensure 100% participation by the House.

Chair Hubbard noted that by application of § 45.2 of the Rules of Procedure of the House, applicable language in resolutions will include references to all states, territories, tribes, local government, the Commonwealth of Puerto Rico and the District of Columbia, as appropriate.

## **Statement by the Secretary**

Hon. Bernice B. Donald of Tennessee, Secretary of the Association, moved approval of the House of Delegates Summary of Action from the 2009 Midyear Meeting, which was **approved** by the House. On behalf of the Board of Governors, Secretary Donald presented and referred the House to Report Nos. 177 and 177A, the Board's Informational and Transmittal Reports to the House. She moved approval of the list of continuing special committees and commissions identified in Report No. 177A; the motion was **approved**.

Deceased members of the House were named by the Secretary of the Association, Hon. Bernice B. Donald of Tennessee, and were remembered by a moment of silence. Chair Hubbard also asked for recognition of those who had given their lives in Iraq and Afghanistan.

Chair Hubbard recognized H. Thomas Wells of Alabama to on a point of personal privilege to speak about Karen L. Bryan of Alabama. He spoke of her work in environmental law and her service as state delegate of Alabama. She was the first woman to serve in that role in Alabama. Instead of serving an additional term, she ensured the election of the first African-American as Alabama state delegate. He recognized her quiet, but effective impact.

## **Statement by the ABA President**

ABA President H. Thomas Wells, Jr. of Alabama greeted the House and said to run a business, you have to understand how a business works from the ground up. This came home to him as he called managing partners of firms with a significant number of members to thank them for their support and to ask if there was anything he could do for them. He offered that he was being a salesman for the Association and profession. He said he enjoys that role the best because he loves the Association, loves being a lawyer, and loves the profession. He trusts that was apparent this year. He told the House it had been his honor and privilege to serve the ABA.

In difficult times like these, he stressed that membership and leadership in the bar communities is most important. He detailed what the Association is doing to assist members in these difficult times. He said that lawyers do their best when they make a difference. He recounted the ways in which the Association has made a difference this year in several areas that are part of the Association's core values.

### **Independent Profession**

He cited the value of an independent profession and the value of the national/local collaboration in tackling the issues and challenges to an independent profession. He provided examples and details about several of those issues faced this year. These included issues in Connecticut regarding client security funds, with the FDIC regarding IOLTA funds and with the FTC regarding identify theft rules. He detailed the ABA's efforts through its Financial Markets Regulatory Reform task force to review proposals in Congress that may purposely or inadvertently regulate lawyers so that the ABA will be prepared to act. He reminded the delegates that the ABA can do all these things when attorneys act through the national collective voice of the ABA. He said, when we do so, we make a difference.

### **Independent Judiciary**

He also told the delegates how the ABA makes a difference when we have a well-qualified judiciary. This year, the White House returned the Association's long-standing role of vetting nominees on a pre-nomination basis. He recognized and thanked the ABA's Standing Committee on the Federal Judiciary and Chair Kim Askew for making a difference.

He detailed the Association's work with state courts and described the National Summit on Fair and Impartial courts, chaired by Justice Sandra Day O'Connor. He stressed the importance of the long term effect of a focus on civic education to ensure fair and impartial state courts.

He described the importance of the perception of fair and impartial courts and the issue of vast sums of money in judicial elections. The ABA filed its amicus brief in *Caperton v. Massey Coal* to ensure there is no appearance of bias caused by excessive campaign contributions by a party. He was proud to sign that brief on behalf of the ABA and noted that the Court's opinion was consistent with the ABA's position espoused in the amicus brief. In the area of an independent judiciary, he told the delegates that the

profession has made a difference.

### Access to Justice

He said the ABA has made a difference in this area as well. The ABA's public defender standards are cited repeatedly in criminal cases. The Association has advocated for additional funding for the Legal Services Corporation and a significant increase is coming due to ABA efforts.

He cited the pro bono work done by volunteer lawyers throughout the nation. He noted some of the programs and work he has seen in San Francisco, Oklahoma City, St. Louis, Ohio and the military pro bono project as a few examples of many worthwhile projects. Programs like these remind him that lawyers make a difference in their communities.

### Diversity

He expressed concern over systemic barriers in the profession which are a loss not only for the individual, but a loss for the profession. To combat that, the ABA convened a National Summit on Diversity that was successful in looking at ways to make the profession look more like America. He cited the need to focus on what is working and then plan for the next steps.

President Wells noted he has been on the road for the ABA for 215 days last year and 350 days in the last two years. He said he has been privileged to serve as our salesman telling the story about how we make a difference – selling what we do and who we are. He thanked the delegates for their efforts to make all of us better lawyers and to promote our common core values. He thanked the ABA staff. He thanked his family, his spouse Jan and his two lawyer children. President Wells closed by giving heartfelt thanks to each member for answering the call to leadership.

Chair Hubbard noted how blessed we are to know Tommy Wells.

### ABA Medal Presentation

President Wells introduced the 2009 ABA Medal Honoree William H. Gates and noted it was the ABA's highest honor. The ABA Medal was first awarded 79 years ago and it honors those who have given conspicuous service to the cause of American jurisprudence.

President Wells recounted the professional history of this year's honoree in private practice and years of service at a firm which is now known as KL Gates. He told of Mr. Gates' service to the profession and public as president of Seattle King County Bar Association, the Washington State Bar Association and the National Conference of Bar Presidents. His service to the ABA included 13 years as a member of the House, 12 years on the Committee on Lawyer's Professional Liability including 3 years as its Chair and as Chair of the Commission on Public Understanding of the Law. He has been a leader supporting excellence on the bench. He served on the Committee on Federal Judiciary and the Board of Trustees on the National Center for State Courts.

President Wells explained that Mr. Gates has been a lifelong champion of access to legal services for the underprivileged. He has served on the Board of Trustees of the Seattle Legal Aid Bureau and co-chaired the Washington campaign for Equal Justice seeking to use private money for legal services. He co-chaired the state's long range planning group and identified access to justice as the number one issue facing the state bar. Mr. Gates also led in work to make the profession more inclusive, including efforts to underwrite the minority law student's program at the University of Washington Law School and work to assist young lawyers seeking election to the state bar board of governors.

He told the House that Mr. Gates is a nationally recognized expert on lawyer's professional liability. His early efforts led the ABA to become involved in this issue and his efforts to identify and educate best practices for lawyers in discharging their professional liabilities has been transformative. He has also supported law school education as evidenced by the new building at the University of Washington Law School named in his honor. Mr. Wells told delegates that the William H. Gates Public Service Law program provides full scholarships to five scholars in each class who agree to practice public interest law for five years.

Mr. Gates is co-chair of the Bill and Melinda Gates Foundation, the world's largest private philanthropic institution which funds worthy causes throughout the world. In his recent book "Showing Up for Life," Mr. Gates says the law is about caring and being enthusiastic about having a just society. President Wells told the delegates that Mr. Gates believes in the power of the law to help people and change things for the better. He said Mr. Gates is a shining star of the legal profession and a living testament to the power of public service. President Wells greeted Mr. Gates and the House recognized him with a standing ovation.

Mr. Gates told the House he was humbled by the award of the ABA Medal and it is an especially moving experience. He is in awe of those who have won it before him – intellectual giants like Oliver Wendell Holmes, pioneers who blazed the trail like Thurgood Marshall and Sandra Day O'Connor, and many of this century's most humane legal practitioners like Robert Drinan and Patricia Wald.

He said he takes special pride in the ABA and admiration for the delegates and staff of the Association who work very hard to improve the administration of justice in this country. He paid tribute to the vitality of the bar. He noted that one thing that sets lawyers apart is that they take responsibility for the institution in which they function. Attorneys consider themselves stewards for and responsible for the American judicial system. He told the House that attorneys believe in the system and always try to make it better.

Mr. Gates emphasized that the ABA is not a professional association in the sense that it protects the material interests of attorneys; instead, its aspirations are to defend liberty and pursue justice. He cited Judge Learned Hand who laid out a simple foundation for lawyers and their organizations – "Pursuit of the learned art in the spirit of public service is the primary purpose." Mr. Gates told the House that Judge Hand's thesis is universally accepted by our profession.

He told of his belief that the “north star” of our profession is to serve justice and that the access to justice movement has captured his attention. He reminded the House that the ABA has said access to justice is a first priority and the ABA is a leading advocate to maintain and grow a robust legal services corporation. He noted that pro bono work has become an integral part of our profession because of the ABA’s support and that nearly 75% of lawyers do pro bono work for an annual average of more than 40 hours. He views this as a marvelous thing to say about the profession to which attorneys belong. He discussed the World Justice Project and its work to promote the rule of law throughout the world.

He is proud of his profession and his professional association. He knows the ABA and House members will continue to use their talents and skills in the service of a better society which gives him comfort as to how he has chosen to spend the last 57 years of his life.

### **Statement by the Treasurer**

The Treasurer of the Association, Alice E. Richmond of Massachusetts was introduced. She told the delegates that it had been a challenging year. She recalled that in February, she told the House that the future was a question mark. But now, she announced that the ABA will have a surplus. The ABA will start FY 2010 with a balanced budget of \$107.4 million, or \$7 million less than this year’s budget. She indicated that the best news is that there is no dues increase. She also referred members to her written report.

In the area of financial reporting, she told the House that the ABA is now using an accrual account method as opposed to a modified cash method used before FY 2009. She indicated she was focused on the goal of making the Association’s financial reports accessible and readable by all members. She discussed what this change means.

In the area of results, she told the House that ABA revenue is down, both in the dues and non-dues sources. At the end of July, dues revenue is down \$1.1 million; meeting fees are down \$1.3 million; and most other non-dues revenue categories are flat. The good news is that ABA expenses are \$83.1 million or \$12.3 million under budget which reflects a substantial reduction in expenses. She noted net revenues in June were \$20 million positive but that surplus will shrink by the end of the year with the surplus to be placed in the dues warehouse.

She complimented Sections for their efforts. She noted that their revenues were down \$3.8 million and dues were flat. She noted that the Sections had responsibly reduced expenses by \$1.84 million and gave special recognition to the Sections of Litigation and Business Law for their efforts.

For the FY 2010 budget, the revenue number is projected to be \$107.4 million consisting of three parts which she described in detail. This includes an estimate of \$96.3 million for dues and non-dues revenue. She also informed the House regarding the dues warehouse and the anticipated use. She told the House that balancing the budget required a 10% reduction in expenses in nearly every area.

She also discussed the pension expense. It was originally thought that \$5.3 million of funding per year for four years would fully fund the pension. She detailed the changes in the economy, the process and discussion the Board followed and indicated the Board has recommended a \$6.8 million contribution to be made by September 15, 2009.

Finally, she noted the Association's long term investments dropped \$40.58 million last year or a 22% decline. She noted that the Association has challenges but urged delegates to be proactive and strategic. Chair Hubbard thanked her for her report.

#### Presentation by Vice-President of the American Bar Endowment

Chair Hubbard recognized Vice President of the American Bar Endowment, Lee Cooper of Alabama. Mr. Cooper described the American Bar Endowment, its activities and its unique role in the ABA. Mr. Cooper presented a \$2.9 million check from ABE to Richard Pena, president of the American Bar Foundation National Research Center for the Bar. Mr. Pena thanked the House and detailed what ABF does and the difference it makes.

Mr. Cooper also presented a \$2.1 million check to Alice Richmond, ABA Treasurer and Sheila Hollis, of the District of Columbia, chair of the Council for FJE to support the projects of the FJE. Ms. Hollis, FJE chair, thanked the ABA and gave an overview of FJE funds.

#### Statement by the Executive Director

Executive Director Henry F. White, Jr., was introduced by Chair Hubbard. Mr. White referred the House to written materials previously provided and monthly reports on the Association's website. He announced that the Association's fiscal year should close with a modest financial surplus. He said these results are a testimony to the hard work of leadership and staff working as a team. FY 2010 should be more challenging, but the ABA is preparing and will be ready. He discussed communication and marketing efforts and shared a prototype video to help the Association sharpen its image.

He described the influence of the ABA. He pointed out that President Wells visited with 20 editorial boards and wrote many op-ed pieces. The webcast of the February 2009 House meeting was viewed by 2400 people. The ABA launched a program to interview authors and other newsmakers at ABA headquarters to be webcast. He noted that under President Well's leadership, the staff knows they made a difference.

He also mentioned several other significant accomplishments. There has been a strong movement toward a unified logo system. We have full funding for all diversity programs. The Association looks to produce additional products based on data, rather than anecdote and cited examples of that.

He closed by thanking President Wells and President-elect Lamm and President-elect Nominee Zack for their emotion and passion for this Association and the pursuit of justice. He thanked President Wells for his courtesy and guidance this year.

He said he is optimistic for the future in FY 2010 and that the staff is careful stewards of the revenues with a goal to provide all members with the tools and

opportunities to be better lawyers.

### **Passing of the President's Gavel**

Chair Hubbard introduced H. Thomas Wells of Alabama for the passing of the gavel. Mr. Wells indicated it was a great pleasure to pass the gavel to Carolyn B. Lamm of the District of Columbia. She is an experienced and talented former president of the District of Columbia Bar, former Chair of the ABA Young Lawyers Division, former Chair of the Standing Committee on Federal Judiciary, member of the House of Delegates since 1982, member of the Board of Governors in 2002-2005 and active in the Sections of Business Law, Litigation, and International Law. He stressed their collaboration and cooperation this year and for a number of years. He indicated she was the fifth president from the District of Columbia. He quoted from a DC Bar resolution citing her as one of the 50 most influential women lawyers and one of the 100 most influential lawyers in America. Mr. Wells indicated that this was like passing the baton in a relay race to the next runner and he looked forward to her leadership.

ABA President Wells introduced President-Elect Carolyn B. Lamm of the District of Columbia and the House gave her a standing ovation.

President-Elect Lamm gave special thanks to Mr. Wells for his leadership, wit, wisdom, grace and professional excellence. She noted it was a special pleasure to serve with him. Ms. Lamm also gave recognition to Past President William Neukom for his work on the World Justice Project which took the ABA to new heights. She also noted President-Elect Nominee Steve Zack and the privilege to serve with him. She also thanked the ABA staff, her family, and her law firm partners at White & Case LLP.

President-Elect Lamm quoted words written 65 years ago. She noted they were the last written words of Anne Frank whose whole world was in a dark hiding place. She told us on the same date those words were written, a young man was landing on a beach in Normandy. The young man was her father. She said that history reminds us that the rule of law is more than an abstract concept. She told us that her father says little about the war, but he recently showed her things he saved, including a photograph of a concentration camp they liberated with bodies stacked up like cordwood. He reminded her as a leader of the American legal profession that it was the profession's obligation to ensure that the rule of law remains strong so this never occurs again. She noted that he was talking about the rule of law tied to justice and human dignity.

Nineteen years after her father landed on the beach and the last words of Anne Frank were penned, a young man named Martin Luther King sat in a cell and wrote on toilet paper from the Birmingham jail about the difference between just and unjust law. She recalled how Steve Zack reminded us how he sat in a dark room in Cuba as a young man and wondered whether he would see his family again and whether the door would open. She said the ABA is called to strengthen the rule of just law, not just the rule of law. She noted that we know how the stories of her father, Anne Frank, Martin Luther King and Steve Zack ended, but there are people in hiding and in darkness and we don't know how their stories will end. People wonder whether the light from the rule of law will ever shine on the room where they sit and what will happen if it does.

She asserted that members of the profession are called not just to bear witness to history, but to have a bearing on history. She said we do this individually and collectively and that is why this organization exists. As a member of the ABA, we don't agree with every position the ABA takes. Members believe in access to justice and opportunity, independence of judiciary, strengthening the rule of law and a strong national voice speaking out on issues on behalf of the profession. She reminded the delegates it is important, but not enough, to pass resolutions and attend meetings. She said we must continue to build a dynamic and relentless organization dedicated to protecting the rule of law and securing access to justice. She referred to the words below the ABA's logo – defending and pursuing – and said they are not inactive verbs and we are not an inactive organization. She called the Association to constantly review and upgrade its programs, processes and relationships with members.

To do this, she announced five initiatives.

1. The ABA needs to help lawyers weather a tough economy. A new commission will work on programs to assist members and to address the additional legal needs of the public during this crisis.

2. The ABA needs to review its system of legal governance and ethical regulation as a result of technology and globalization. A new commission, Ethics 2020, will look at these issues.

3. The ABA needs to increase its advocacy for the profession and the public in Washington, D.C. and the various states and to be credible, prominent advocates on important issues.

4. The ABA needs to boost diversity and to make the profession better reflect the diversity of our country. A new project will follow up on the national symposium on diversity, prioritizing what needs to be done.

5. Finally, the ABA needs to draw more lawyers into the ABA to be a more effective voice. She announced that twelve task forces had been created to deal with different segments of the legal community in terms of service, relevance and value for members.

She closed her moving remarks by telling the delegates she did not know what the year may hold, but two things she does know – she is her father's daughter and she has the same determination her father had to drive across the beach at Normandy. She reminded the House that attorneys must have that same determination to preserve the rule of law and preserve access to justice for all. The second thing she knows is that when her father got off the boat at D-Day, there were people on his left and right and he was not alone. She reported seeing the same thing in the House – people with the same mission. She told the House that we will succeed. The House gave her a standing ovation. Chair Hubbard added his congratulations to President-Elect Lamm.

### **Welcome by Mayor of Chicago**

Robert Clifford of Illinois was recognized to introduce The Honorable Richard M.

Daley, Mayor of the City of Chicago. Mr. Clifford told us that Mayor Daley has served for 20 years and is a mayor like no other who believes in the heart, soul and spirit of the citizens of Chicago. Mayor Daley thanked the delegates for being in Chicago and thanked the ABA for having its headquarters in Chicago. He recounted that he is proud to be a lawyer and proud to be a public servant. He told us as mayor he deals with the legal profession on a daily basis as they serve the City of Chicago. He also stressed the importance of the quality of education in Chicago and described the progress made and the commitment of taxpayers and Chicago to give good quality public education for all. He thanked the House for coming to Chicago. Chair Hubbard thanked the Mayor for his remarks.

### **Remarks regarding “Our Courts”**

Chair Hubbard introduced Professor Meryl J. Chertoff, Director of the Sandra Day O’Connor Project on the State of the Judiciary and Professor at Georgetown University School of Law. She spoke to the House on Our Courts – 21<sup>st</sup> Century Civics, a project inspired and supported by Justice Sandra Day O’Connor. She demonstrated an interactive online civics project that grew out of a conference on Fair and Independent Courts. She said that the first recommendation from that conference was to do a better job of educating young people about civics. She used a PowerPoint to demonstrate the need for and importance of civics education. She noted that 21 states no longer require civics or government classes. There is also a need to make this education process more fun and interactive and start with middle schools. She told us her group found that digital learning was ideal for this because civics and gaming are about process. She demonstrated the new website and the gaming process. The first game online is “Supreme Decision” about free speech in the classroom using interactive scenarios and animation. She detailed what students learn about the legal process and the substantive rights involved in the case. She detailed other games to come online soon.

She sought the help of volunteer lawyers who will meet with education officials in their states to urge the use of these materials.

### **Election of Officers and Members of the Board of Governors**

On behalf of the Nominating Committee, James R. Silkenat of New York, Chair of the Steering Committee of the Nominating Committee, reported on the nominations for officer of the Association and members of the Board of Governors. Mr. Silkenat noted there were no petitions filed for other nominations to any office. He moved the election of those persons nominated. The House of Delegates elected the following persons for the terms noted:

#### **Officer of the Association**

##### **President-Elect (2009-2010)**

Stephen N. Zack of Florida

#### **Members of the Board of Governors (2009-2012)**

District Members

District 3: Amelia H. Boss of Pennsylvania  
District 5: Charles E. English, Sr. of Kentucky  
District 9: Frederick E. Finch of Minnesota  
District 14: Mark I. Schickman of California  
District 15: Steven C. Krane of New York  
District 16: G. Nicholas Casey, Jr. of West Virginia  
District 17: C. Timothy Hopkins of Idaho

Section Members-at-Large

Criminal Justice Section

Neal R. Sonnett of Florida

Section of Environment, Energy and Resources

R. Kinnan Golemon of Texas

Judicial Member-at-Large

Hon. Leslie Miller of Arizona

Minority Member-at-Large

Mary L. Smith of Illinois

Young Lawyer Member-at-Large

Kendyl T. Hanks of New York

Law Student Member-at-Large (2009-2010)

Brandon David Sher of New York

It was noted that the Association's Constitution provides that the President-Elect automatically becomes the President at the conclusion of the Annual Meeting and Carolyn B. Lamm of the District of Columbia will assume that office at the conclusion of this meeting.

**Remarks by President-Elect Nominee**

Chair Hubbard introduced Stephen N. Zack of Florida who the House elected as President-elect effective at the conclusion of this meeting.

Mr. Zack thanked Chair Hubbard. He told the House that the well of the House has always been a safe place for him. He said when he immigrated to this country, he learned about the importance of a safe place.

President-Elect Zack told us he owes a special debt of gratitude to his parents and his children, his family members and especially his spouse Marguerite. He also recognized and thanked his law firm, Boies, Schiller & Flexner, LLP and David Boies.

He talked about two critical areas in the profession – civic education and the high cost of legal education. He expressed his concern regarding the lack of knowledge of civics by high school students. He noted that he keeps the Cuban constitution on his desk and it is the same as the Constitution of the United States, but he noted it is just words unless the next generation reads it and recognizes that with every right comes obligations. He said they must understand those rights. He reiterated his goal to make civics education a part of every student's curriculum in America.

He also described the high cost of legal education and its effects. He pointed out that such costs posed a danger that the law will become an elitist profession, not reflecting the community. He asked how can law students incur debt and graduate from law school if the average salary for every lawyer is \$71,000.

Finally, he said that 1 out of every 6 Americans need legal services, that 1 of every 2 people who call legal services cannot get help and that 80% of our poorest citizens have no access to justice. He noted that while we fight for the rule of law around the world, he said we must ensure access to justice at home. He wants to make sure legal education is affordable for all Americans so they can meet the unmet legal needs of all Americans.

Mr. Zack proposed a new program he called the American Bar Academy which will occur over President's weekend and teach an ABA designed curriculum on the law to students. Every high school will designate 30 students to attend (15 of whom will be minorities) and attorneys will be the teachers. At the conclusion of the three day academy, graduates will work one day in law firms to understand what lawyers do and the importance of the rule of law. At the end of the day, students will receive a PDA of the Constitution, Bill of Rights, and Declaration of Independence.

He told the House that we cannot ask why our government and others are not doing enough in this area of civic education. We have to do something now. He challenged the House to change the course of this country. The House gave him a standing ovation. Chair Hubbard thanked him and looked forward to his leadership.

### **Remarks by the U.S. Attorney General**

The Honorable Eric H. Holder, Jr., Attorney General of the United States was recognized by a standing ovation and addressed the House. Attorney General Holder thanked the House for the opportunity to speak and noted it was a special honor to be in the presence of friends and colleagues.

He noted it was clear to him that the ABA and its members are committed to the notion that the pursuit of justice requires more than a single-minded pursuit of victory. As officers of the court, he said the ABA members have been mindful of the obligation to seek justice while also seeking to advance the interests of their clients. As citizens, he said we share a common conviction that liberty depends on the equitable and impartial enforcement of the law and as lawyers we share a duty to make that conviction a reality. He told the House that this has been the foundation of our profession and a truth

recognized by the ABA for a century.

He said that these issues are critically important in the system of criminal justice. Too often, the public debates on law enforcement policy are focused on rhetoric and recrimination instead of reform and identification of innovative solutions to common problems. As lawyers, he noted we must be tough on crime, but we must also commit ourselves to be smart on crime. These approaches complement each other. He said it was time to move past politics and ideology and to move forward to a criminal justice system that is predicated on the fact that we need the system to be fair and effective. He highlighted the need to adopt what works without worrying about labels and the need to use science and data to shape policy. He advocated thinking about crime in context, not just reacting to the criminal act, but developing the government's ability to enhance public safety before the crime is committed and after the former offender is returned to society.

He said that being smart on crime now is important because much has changed some of the governing assumptions about criminal law enforcement. He detailed a number of these. The number of inmates in American prisons has grown sevenfold since 1970. One out of 100 adults are incarcerated, an incarceration rate that is the highest in the world. By 2007, the nation's violent crime rate had declined by 40% since the 1991 peak. He advised that the increased number of incarcerations is part of the answer to this drop in crime, but not the whole answer. He said we will continue to put people who threaten our communities where they belong – behind bars. But imprisonment alone is not a complete strategy for enforcing our nation's criminal law. He noted the Department of Justice will not focus exclusively on incarceration as the most effective means of protecting public safety.

Attorney General Holder suggested new strategies and new tools to add to existing efforts to fight crime. One such strategy is to consider what happens after people leave prison and reenter society. He offered examples of such programs including the federal Bureau of Prison's residential drug abuse treatment programs, inmates who work in prison industries, programs that address educational deficiencies and inmates who are released through halfway houses. He cited statistics showing such offenders who participate in these programs are less likely to commit crimes again. He indicated this is important because we know most crimes in America are committed by people who have committed crimes before. Nearly 67% of state prisoners and 40% of federal prisoners are re-arrested within three years of their release.

He informed the House that reducing the rate of recidivism directly reduces the crime rate and prevents crime, protects victims and saves millions in taxpayer dollars. Being smart on crime means developing policies rooted in data to address what happens after incarceration that will prevent the next crime. Under his watch, he told the House the Department of Justice will use modern evidenced based methods to drive the policy making process as well as enforcement efforts to protect citizens. He said smart risk assessment can identify offenders who can safely reside in a community and which cannot and need continued detention.

The Attorney General identified non-violent drug offenders as an area where improvement can be made. He noted one promising solution is the implementation of more drug treatment courts. He described how they work and emphasized the strict nature

of the programs and for those who succeed, the very real prospect of a productive future.

He also advocated being more than just reactive and suggested using data and evidenced based methods to prevent crime before it happens. He cited models that have been used to map where crime is likely to occur and deploy police there to disrupt such activity. He discussed using data to identify the children most at risk of committing crimes in the future. For example, research suggests children who are exposed to domestic violence at home are at far greater risk than children who are not. Once they are identified, intervention with targeted programs can occur. One of his priorities is to focus on children who have been exposed to violence.

He said there is much work to be done, but the underlying premise is to understand crime in context to prevent it and to develop new approaches to persistent and intractable problems. He said the Department of Justice has begun a data driven approach to crime. It is conducting a comprehensive evidenced based review of federal sentencing and correction problems. The Department of Justice is also reviewing alternative strategies to incarceration and strategies to reduce recidivism. These findings will be used to recommend new legislation that will reform the structure of federal sentencing.

Attorney General Holder asserted that the Department of Justice will also focus on the crisis of indigent defense. He said that resources for public defender programs lack far behind other justice system programs. This growing crisis is troubling not just because of the government's constitutional duty to provide right to counsel, but because when they do not receive competent legal representation, their cases are vulnerable to costly and time-consuming mistakes. He has committed to a number of steps to improve the indigent defense system including a national symposium to develop best practices and practical solutions.

He said the Department of Justice will also use available data to improve the handling of forensic science. The goal is to ensure that forensic science is practiced at the highest level possible and always in the pursuit of truth. He also believes that defendants need access to DNA evidence in a range of circumstances. He told the House that federal law already guarantees access to DNA evidence held by the federal government under certain conditions. He hopes all states will follow the federal government's lead on this issue.

He noted that the challenges have evolved but so have the opportunities available. He told the House that we can compare the cost and suitability of different criminal strategies and we no longer must choose between more prisoners or more crime. He said we can reduce our dependence on incarceration and can reduce crime rates; we can increase the integrity of our criminal justice system; we can harness science and data to tackle problems and preserve our foundational principles.

He asked the House to approach these challenges with an open mind and determined action. He concluded by saying there is no question that a smarter, better and fairer criminal system is within our grasp and consistent with the documents that define our nation. Chair Hubbard thanked Attorney General Holder for addressing the House.

### **Scope Nominating Committee**

Paula J. Frederick of Georgia, Chair of the Committee on Scope and Correlation of Work, nominated Sharon Stern Gerstman of New York to fill the vacancy that will occur at the conclusion of the 2009 Annual Meeting. No other nominations were made. It was moved that nominations be closed. That motion was **approved**.

Later in the day, Chair Hubbard moved the election of Ms. Gerstman as member of the Committee on Scope and Correlation of Work. The motion was **approved**.

### **Delegate-at-Large Election Results**

Hon. Bernice B. Donald, Secretary of the Association, announced the election of the following members to three-year terms as Delegates-at-Large: Tom Bolt of the Virgin Islands; Pamela A. Bresnahan of Maryland; C. Elisia Frazier of Georgia; Llewelyn G. Pritchard of Washington; Seth Rosner of New York; and Saul A. Wolfe of New Jersey.

In addition, Kenneth E. Young of North Carolina and Judge Fred Rodgers of Colorado were elected to one-year terms to fill two Delegate-at-Large vacancies.

### **Resolution and Impact Review Committee Presentation**

Chair Hubbard noted that the resolutions passed in the House begin the ABA's effort to educate constituents and adopt policy, the impact of which goes far beyond these walls. He recognized Chair Ross of New Hampshire to present the report of the Committee.

Chair Jon Ross indicated the Committee has reviewed all resolutions passed by the House in 2007 and will post those on the webpage with details on their impact. Chair Ross introduced Pamela Roberts of South Carolina and Timothy Walker of Colorado to inform the House about two resolutions that made a significant difference in the lives of the American public and the profession. An entity profile of the Standing Committee on Legal Aid and Indigent Defendants will be posted on the website.

Mr. Walker reviewed the new Model Code of Judicial Conduct which was adopted by the House in February 2007. Since that time, 35 states have created study committees to consider adopting the model code, 9 states have already adopted new codes of judicial conduct and 7 states have proposals pending. The U.S. Supreme Court in the Caperton case referred to the ABA Model Code of Judicial Conduct. He told the House that this resolution has made and is making a difference.

Ms. Roberts highlighted Resolution 302 passed in August 2007. That resolution urged Congress to amend Title VII to ensure the statute of limitations in a discrimination case involving claims of pay would run from each paycheck reflecting an improper disparity. This was in response to the Ledbetter v. Goodyear Tire case decided by the USSC in 2007. After passage of Resolution 302, the ABA was able to work in support of bills in Congress that amended Title VII. A bill, incorporating these ABA advocated changes, was signed into law in January 2009. Ms. Roberts noted that the ABA shared its

differences, debated the issue, used its voice and made a difference.

Vice-Chair Kathy Burke of Ohio recognized and thanked the Committee and staff for their work in preparing these materials. She also thanked the House and the members of the various entities who worked on the resolutions and noted the difference the work of the House makes.

## **II. RECOMMENDATIONS VOTED ON BY THE HOUSE**

A brief summary of the action taken on recommendations brought before the House follows. The recommendations are categorized by topic areas and the number of the recommendation is noted in brackets.

### **ABA CONSTITUTION, BYLAWS AND HOUSE RULES OF PROCEDURE**

**[11-1]** Edward Haskins Jacobs of the Virgin Islands moved Report 11-1 amending §1.2 of the Constitution to include the following language as one of the purposes of the Association: “to defend the right to life of all innocent human beings, including all those conceived but not yet born.” C. Timothy Hopkins of Idaho, Chair of the Standing Committee on Constitution and Bylaws reported that the standing committee had reviewed Report 11-1 and voted to recommend it as out of order and that it not be approved. W. Scott Welch III of Mississippi moved to postpone indefinitely Report 11-1. The House approved the motion to **postpone indefinitely**.

**[11-2]** Jay Foonberg of California moved Report 11-2 amending Article 6 of the Constitution to provide for a delegate in the House of Delegates from American Samoa. C. Timothy Hopkins of Idaho, Chair of the Standing Committee on Constitution and Bylaws, reported that the Committee had reviewed Report 11-2 and approved it as to form, but took no position on substance. C. Elisia Frazier of Georgia moved to refer the proposal to the Committee on Credentials and Admissions. Tom Bolt of the Virgin Islands, Laura Farber of California and Sara Austin of Pennsylvania spoke in support of the motion to refer. Michael Weaver of Illinois, Jay Foonberg of California and Estelle Rogers of the District of Columbia spoke in opposition to the motion to refer. Estelle Rogers of the District of Columbia raised a question as to when the Committee will report back to the House. Elisia Frazier responded by saying she hopes to report by the 2010 Annual Meeting. Bob Weeks of California moved the previous question. The motion to call the previous question was approved. The House proceeded to a vote on the motion to refer. The House **approved the motion to refer** the constitutional amendment to the Credentials and Admissions Committee.

**[11-3]** James Dimos of Indiana moved Report 11-3 amending §6.3(c) to provide the Board of Elections with the option of using paper ballots, electronic ballots or a combination of paper and electronic ballots in conducting State Delegate elections. Robert Clifford of Illinois moved to postpone indefinitely consideration of 11-3. Allan Tanenbaum of Georgia and Jimmy Goodman of Oklahoma spoke in favor of the motion to postpone. James Silkenat of New York, Reginald Turner, Jr., of Michigan, Larry McDevitt of North Carolina

and Richard Pena of Texas spoke in opposition to the motion to postpone. The motion to postpone indefinitely was defeated. The constitutional amendment was **approved**.

**[11-4]** Barbara Mendel Mayden of Tennessee moved Report 11-4 amending §30.5 of the Bylaws to provide that non-U.S. lawyer associates may serve on the Council of the Section of Business Law. C. Timothy Hopkins of Idaho, Chair of the Standing Committee on Constitution and Bylaws reported that the Committee had reviewed Report 11-4 and recommended that it be approved as currently revised. The bylaws amendment was **approved**.

**[11-5]** The House **approved by consent** Report 11-5 proposing several housekeeping amendments to the Association's Constitution, Bylaws and House Rules of Procedure.

### **ARCHIVING**

**[400]** The House **approved by consent** Recommendation 400 as revised recommending that certain Association policies that pertain to public issues and are 10 years old or older be archived. Item #39 regarding attorney-client privilege was removed from the archival list and retained as active policy.

### **BUSINESS LAW**

**[106]** On behalf of the Section of Business Law, Amelia Boss of Pennsylvania moved Recommendation 106 urging the Secretary of State and the Assistant Secretary of Commerce/Administrator of the National Telecommunications and Information Administration to support a renewal of the mandate of the Internet Governance Forum of the United Nations to operate substantially in accordance with its current mandate. Bonnie Fought of California spoke in favor of the recommendation. The recommendation was **approved**.

**[301]** On behalf of the Task Force on Financial Markets Regulatory Reform, Allan Joseph of California moved Recommendation 301 urging the United States Government to reform the nation's financial regulatory system in a manner that will promote economic growth, stability, and competitive and innovative financial markets, and that will better protect consumers, investors, employees and businesses and the nation as a whole. Giovanni Prezioso of the District of Columbia, Barbara Mendel Mayden of Tennessee and Randolph May of Maryland spoke in favor of the recommendation. The recommendation was **approved**.

### **CRIMINAL JUSTICE**

**[111A]** On behalf of the Criminal Justice Section, Neal Sonnett of Florida **withdrew** Report 111A urging courts to distinguish between attorney misconduct and attorney error and urging courts to refrain from declaring in any order, opinion, or other public statement that an attorney engaged in misconduct unless the courts finds that the attorney's act or omission was purposeful, knowing or intentional or otherwise violated an applicable disciplinary rule or law.

**[111B]** On behalf of the Criminal Justice Section, Stephen Saltzburg of the District of Columbia moved Recommendation 111B supporting the enactment of legislation such as S. 714 (111<sup>th</sup> Congress) which would provide for a national study of the state of criminal justice in the United States to consider ways to reduce crime, lower incarceration rates, save taxpayer money, enhance the fairness and accuracy of criminal justice outcomes and increase public confidence in the administration of the criminal justice system. The recommendation was **approved**.

### **DISPUTE RESOLUTION**

**[300]** On behalf of the Section of Dispute Resolution, James Alfini of Texas moved Recommendation 300 supporting legislation, regulations or court rules that utilize mediation to assist in resolving disputes that could lead to foreclosure of mortgages on residential real property. The recommendation was **approved**.

### **ELECTION LAW**

**[116]** On behalf of the Standing Committee on Election Law, John Kenney of the District of Columbia moved Recommendation 116 amending the ABA Election Administration Guidelines and Commentary, and the Model Statutory Language on Provisional Balloting and Commentary, dated August 2009, to provide greater detail concerning the administration of provisional ballots on Election Day. Benjamin Griffith of Mississippi spoke in favor of the recommendation. The recommendation was **approved**.

### **ENVIROMNMENT, ENERGY AND RESOURCES**

**[117]** On behalf of the Section of Environment, Energy and Resources, R. Kinnan Goleman of Texas **withdrew** Report 117 adopting the Model Sustainability Policy and Implementation Guidelines for Law Organizations and urging law firms and other law organizations to adopt the Model.

### **ETHICS AND PROFESSIONAL RESPONSIBILITY**

**[109]** The House **approved by consent** Recommendation 109 as submitted by the Standing Committee on Ethics and Professional Responsibility proposing a housekeeping amendment to amend Model Rule of Professional Conduct 1.10 (“Imputation of Conflicts” General Rule”) to explicitly state that the screening procedures permitted under the Rule apply only when a lawyer has moved laterally from one practice situation to another.

### **FAMILY LAW**

**[103]** On behalf of the Section of Litigation, Lawrence J. Fox of Pennsylvania **withdrew** Report 103 adopting the ABA Model Act Governing the Representation of Children in Abuse, Neglect and Dependency Proceedings, dated August 2009, which includes a mandate which requires that a lawyer be appointed for each child who is the subject of a petition in an abuse, neglect, dependency, termination of parental rights or post termination of parental rights proceedings.

### **GENERAL PRACTICE**

**[10B]** On behalf of the Connecticut Bar Association, Francis Brady of Connecticut moved Recommendation 10B that opposes provisions in legislation that impose restrictions upon the bankruptcy-related legal advice lawyers can provide to individual clients. Dwight Smith of Oklahoma spoke in favor of the recommendation. The recommendation was **approved**.

### **HEALTH LAW**

**[10A]** On behalf of the Ohio State Bar Association, Gregory Pemberton of Indiana moved Recommendation 10A that supports federal legislation that would ensure every American access to quality health care regardless of the person's income. The recommendation was **approved**.

**[120]** On behalf of the Section of Health Law, Anthony Patterson of Texas moved Recommendation 120 as revised urging Congress to enact legislation and to direct the appropriate federal department(s) to issue regulations that establish uniform guidance on addressing conflicts of interest in all human clinical trials. The recommendation was **approved as revised**.

### **HUMAN RIGHTS**

**[110]** On behalf of the Center for Human Rights, Jerome Shestack of Pennsylvania moved Recommendation 110 endorsing the Responsibility to Protect doctrine set forth in the 2005 United Nations World Summit Outcome Document, under which states have a responsibility to protect their own and other populations from genocide, war crimes, ethnic cleansing, and crimes against humanity and also endorsing the report, Preventing Genocide: A Blueprint for U.S. Policymakers, by the joint Genocide Prevention Task Force of the United States Holocaust Memorial Museum, et. al. The recommendation was **approved**.

### **IMMIGRATION**

**[113]** On behalf of the Commission on Immigration, Robert Juceam of New York moved Recommendation 113 supporting legislation, policies and practices that preserve the categorical approach used to determine the immigration consequences of past criminal convictions, under which the adjudicator relies on the criminal statute and the record of conviction rather than conducting a new factual inquiry into the basis for the conviction. The recommendation was **approved**.

## INDIVIDUAL RIGHTS AND RESPONSIBILITIES

**[112]** On behalf of the Section of Individual Rights and Responsibilities, Walter White of London, England moved Recommendation 112 urging Congress to repeal 1 U.S.C. § 7, which denies federal marital benefits and protections to lawfully married same-sex spouses. Estelle Rogers of District of the Columbia spoke in favor of the recommendation. The recommendation was **approved**.

## INTELLECTUAL PROPERTY LAW

**[107A]** On behalf of the Section of Intellectual Property Law, Donald Dunner of the District of Columbia moved Recommendation 107A as revised opposing the elimination of the defense of unenforceability of a patent based upon inequitable conduct arising from proceedings in the United States Patent and Trademark Office. Todd Dickinson of Virginia, and Randolph May of Maryland spoke in favor of the recommendation. The recommendation was **approved as revised**.

**[107B]** On behalf of the Section of Intellectual Property Law, Donald Dunner of the District of Columbia moved Recommendation 107B as revised urging that the defense of unenforceability of a patent based upon inequitable conduct arising from proceedings in the United States Patent and Trademark Office be predicated on principles of common law fraud and that any judgment of such unenforceability be entered only upon proof by clear and convincing evidence. Todd Dickinson of Virginia, Susan Montgomery of Massachusetts and Scott Partridge of Texas spoke in favor of the recommendation. Leslie Jacobs of Ohio spoke in opposition to the recommendation. The recommendation was **approved as revised**.

**[107C]** On behalf of the Section of Intellectual Property Law, Donald Dunner of the District of Columbia moved Recommendation 107C urging that, in considering whether to hold a United States patent unenforceable based upon an applicant's alleged inequitable conduct arising from proceedings in the United States Patent and Trademark Office, information not be found to be material if it would not have been material under statutory and regulatory standards applicable during the prosecution of the application for the patent or its reexamination. Randolph May of Maryland spoke in favor of the recommendation. The recommendation was **approved**.

**[107D]** On behalf of the Section of Intellectual Property Law, Donald Dunner of the District of Columbia moved Recommendation 107D urging that the defense of unenforceability of a patent based on inequitable conduct arising from proceedings in the United States Patent and Trademark Office ("PTO") can be established only by proof by clear and convincing evidence of a specific intent to deceive the PTO by knowingly and willfully misrepresenting a material fact or material information to the PTO. The recommendation was **approved**.

**[302]** On behalf of the Section on Intellectual Property Law, ABA Secretary Bernice Donald of Tennessee moved, and Don Martens presented Recommendation 302 urging courts to provide guidance for the determination of the scope of subject matter that is eligible to be considered for patenting. The recommendation was **approved**.

## INTERNATIONAL LAW

[114] On behalf of the Section of International Law, A. Joshua Markus of Florida moved Recommendation 114 supporting the use of commercial arbitration to resolve disputes involving international business transactions and supporting federal or state legislation or regulations that recognize and aid in the enforcement of international commercial arbitration agreements and awards. Steven Younger of Illinois spoke in favor of the recommendation. The recommendation was **approved**.

## LAWYER ASSISTANCE PROGRAMS

[108] On behalf of the Commission on Lawyer Assistance Programs, Robert Childers of Tennessee moved Recommendation 108 amending the Model Rule on Conditional Admission to Practice Law, including the commentary, dated August 2009, which addresses the standard for conditional admission, notification of violations and terms of art within the language of the Model Rule. The recommendation was **approved**.

## LEGAL AID AND INDIGENT DEFENDANTS

[119] On behalf of the Standing Committee on Legal Aid and Indigent Defendants, Lora Livingston of Texas moved Recommendation 119 as revised, adopting the Eight Guidelines of Public Defense Related to Excessive Workloads, dated August 2009, which contain essential steps to be taken by those organizations and lawyers who provide criminal defense services for persons in the United States who cannot afford to hire an attorney. Anthony Vittal of California moved to postpone indefinitely consideration of Recommendation 119. Terry Ruckriegle of Colorado and Herbert Dixon, Jr. of the District of Columbia spoke in favor of the motion to postpone. Norman Lefstein of Indiana, Robert Weeks of California, and Neal Sonnett of Florida spoke in opposition to the motion to postpone. Jimmy Goodman of Oklahoma moved the previous question. The motion to call the previous question was approved. The House proceeded to a vote on the motion to postpone. The motion to postpone was defeated. Robert Weinberg of the District of Columbia moved to amend the recommendation. The motion to amend was approved. The recommendation was **approved as revised and amended**.

## LEGAL EDUCATION

[100] On behalf of the Section of Legal Education and Admissions to the Bar, Sidney Eagles, Jr., of North Carolina moved Recommendation 100 concurring in the action of the Council of the Section of Legal Education and Admissions to the Bar in deleting from the Standards for Approval of Law Schools, Standard 104, Seek to Exceed Requirements, and Interpretation 104-1. The recommendation was **approved**.

[101] The House **approved by consent** Recommendation 101 as submitted by the Standing Committee on Paralegals granting approval, reapproval and extension of the term of approval to several paralegal education programs, and withdrawing approval of two programs at the requests of the institutions.

## **PRO BONO AND PUBLIC SERVICE**

**[102A]** On behalf of the Standing Committee on Pro Bono and Public Service, Kathleen Hopkins of Washington moved Recommendation 102A urging corporate counsel to work with the corporation and outside counsel to waive certain limited positional conflicts in areas related to mortgage, bankruptcy and consumer finance in order to reduce the number of pro bono matters declined by outside counsel due to conflicts, so long as the waivers are not inconsistent with applicable rules of professional conduct. Elizabeth Stong of New York spoke in favor of the recommendation. The recommendation was **approved**.

**[102B]** On behalf of the Standing Committee on Pro Bono and Public Service, Robert Hirshon of Oregon moved Recommendation 102B urging federal, state and local governments to address the unmet legal needs of low-income residents of communities affected by major disasters by action which includes providing additional emergency funding for not-for-profit legal services providers, bar associations and pro bono programs. Frank Neuner of Louisiana spoke in favor of the recommendation. The recommendation was **approved**.

## **PUBLIC EDUCATION**

**[122]** On behalf of the Standing Committee on Public Education, Dwight Smith of Oklahoma moved Recommendation 122 urging policymakers to establish a Coordinating Office of Civic Education in the U.S. Department of Education to enhance students' civic learning by offering competitive grant programs at the local, state and national levels and urging that the National Assessment of Educational Progress for civics and U.S. history be conducted every four years and that the results be reported at both the national and state levels. Russell Hiliard of New Hampshire moved to amend the recommendation. Pauline Weaver of California and Ann Lesk of New York spoke in favor of the motion to amend. Allan Tanenbaum of Georgia, Michael Greco of Massachusetts and Howard Vogel of Tennessee spoke in opposition to the motion to amend. Robert Weeks of California moved the previous question. The motion to call the previous question was approved. The House proceeded to a vote on the motion to amend. The motion to amend was defeated. The recommendation was **approved**.

## **SENIOR LAWYERS**

**[121]** On behalf of the Senior Lawyers Division, Richard Thies of Illinois **withdrew** Report 121 changing the name of the Senior Lawyers Division to the Elder Law and Experienced Lawyers Division.

## **SPECIALIZATION**

**[104]** The House **approved by consent** Recommendation 104 as submitted by the Standing Committee on Specialization granting reaccreditation to the Family Law Trial

Advocacy, Civil Law Trial Advocacy and Criminal Law Trial Advocacy programs of the National Board of Legal Specialty Certification, DUI Defense Law program of the National College for DUI Defense, Inc., Estate Planning Law program of the Estate Law Specialist Board and Business Bankruptcy, Consumer Bankruptcy, Creditors' Rights programs of the American Board of Certification.

### **STATE AND LOCAL GOVERNMENT LAW**

**[105]** On behalf of the Section of State and Local Government Law, Benjamin Griffith of Mississippi moved Recommendation 105 as revised, urging Congress to enact and the President to sign legislation authorizing the annual appropriation of federal distributive funding to the several states of the United States of America and their respective local governments and political subdivisions in 2011, and thereafter, in order to ensure continuity of funding of essential state and local government programs, projects and services following appropriations from the American Recovery and Reinvestment Act of 2009. Kenneth Bond of New York, Daniel Van Horn of Tennessee, Ellen Rosenblum of Oregon, and Patricia Salkin of New York spoke in favor of the recommendation. Jay Ray of Texas spoke in opposition to the recommendation. The recommendation was **approved as revised**.

### **TORT TRIAL AND INSURANCE PRACTICE**

**[115]** On behalf of the Tort Trial and Insurance Practice Section, James Carr of Colorado **withdrew** Report 115 adopting the Model Act Governing "Emergency Holding Periods for Disaster Animals", dated August 2009, which can be used to establish guidelines for providing a safe harbor for shelters and greater certainty for owners concerning the time periods available to them to seek, find and recover their companion animals, and recommending adoption of the Model Act by state legislative bodies.

**[303]** On behalf of the Tort Trial and Insurance Practice Section, Hervey Levin of Texas moved Recommendation 303 urging Congress to enact legislation to establish a non-regulatory insurance information office within the Treasury Department and opposing the enactment of legislation that includes the business of insurance within the jurisdiction of a Consumer Financial Protection Agency or similar entity. Allan Joseph of California moved to divide the recommendation into two questions. The motion to divide was **approved**. Hervey Levin of Texas spoke in favor of the recommendation as to the first resolved clause. The recommendation as to the first resolved clause was **approved**.

Allan Joseph of California moved to postpone indefinitely the recommendation as to the second resolved clause. Barbara Mendel Mayden of Tennessee spoke in favor of the motion to postpone. Hervey Levin of Texas and Scott Welch of Mississippi spoke in opposition to the motion to postpone. Jimmy Goodman of Oklahoma moved the previous question. The motion to call the previous question was approved. The House proceeded to a vote on the motion to postpone indefinitely the recommendation as to the second resolved clause. The motion to postpone indefinitely was defeated. Anthony Vittal of California and Alan Van Etten of Hawaii spoke in favor of the recommendation as to the

second resolved clause. Paul Sax of California and Giovanni Prezioso of the District of Columbia spoke in opposition to the recommendation as to the second resolved clause. Nathaniel Cade of Wisconsin moved the previous question. The motion to call the previous question was approved. The House proceeded to a vote on the recommendation as to the second resolved clause. The recommendation as to the second resolved clause **failed**.

### **YOUTH AT RISK**

**[118A]** On behalf of the Commission on Youth at Risk, Laura Farber of California moved Recommendation 118A encouraging the federal government, states and school districts to pass laws and implement policies that will secure the right of every child to a high-quality education and encouraging attorneys and bar associations to help secure that right through improvements in state and federal law, representation of students, parents and organizations and community legal education. The recommendation was **approved**.

**[118B]** On behalf of the Commission on Youth at Risk, Laura Farber of California moved Recommendation 118B urging federal and state legislatures to pass laws and national, state and local education, child welfare and juvenile justice agencies to implement and enforce policies that will help advance the right to remain in school, promote a safe and supportive school environment for all children and enable them to complete school. The recommendation was **approved**.

**[118C]** On behalf of the Commission on Youth at Risk, Laura Farber of California moved Recommendation 118C urging the enactment and implementation of statutes and policies that support the right of youth who have left school to return to school to complete their education in high-quality, age appropriate programs. The recommendation was **approved**.

### **CLOSING BUSINESS**

At the conclusion of the meeting of the House on Tuesday, August 4, Chair Hubbard recognized and thanked a number of staff who worked "in the shadows." He also thanked the chairs and members of the House Committees for their dedication to the work of the House.

Suzanne Gilbert of Florida and the Florida delegation were recognized to make a presentation regarding the 2010 Orlando Midyear Meeting.

Mark Schickman of California moved a resolution in appreciation of the Illinois lawyers and judges for their work in hosting the meeting. The motion was **approved**.

Chair Hubbard recognized Judy Perry Martinez of Louisiana, Chair of the Rules and Calendar Committee, who then moved that the House adjourn *sine die*. The motion was **approved**.