

STATE OF MICHIGAN
STATE BAR OF MICHIGAN

MEETING of the REPRESENTATIVE
ASSEMBLY of the STATE BAR OF
MICHIGAN

Proceedings had by the Representative Assembly of the
State Bar of Michigan at Lansing Community College,
West Campus, 5708 Cornerstone, Lansing, Michigan, on
Saturday, April 9, 2011, at the hour of 9:30 a.m.

AT HEADTABLE:

VICTORIA A. RADKE, Chairperson

STEPHEN J. GOBBO, Vice-Chairperson

DANA M. WARNEZ, Clerk

JANET WELCH, Executive Director

HON. JOHN CHMURA, Parliamentarian

ANNE SMITH, Staff Member

METROPOLITAN REPORTING, INC.
(517) 886-4068

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CALENDAR ITEMS	PAGE
Call to order	3
Certification of quorum	4
Adoption of proposed calendar	4
Filling of vacancies	4-8
Remarks by Chairperson Victoria A. Radke	8-13
Remarks by President W. Anthony Jenkins	13-20
Remarks by Executive Director Janet K. Welch	20-27
Demographics & Economics of Law Practice Survey Results present by Anne Vrooman	27-40
Public Policy Update by Elizabeth Lyon	40-47
ABA House of Delegates Report by Vanessa Peterson Williams	47-49
Approval of 2011 Award Recipients	49-53
Recommendation to Add a New Representative Assembly Standing Committee - Past Chairperson's Committee	54-59
Consideration of Legislation for the Uniform Collateral Consequences of Conviction Act	59-91
Consideration of Ensuring Equal Access to Court and Administrative Proceedings	91-98
Adjournment	99

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Lansing, Michigan
Saturday, April 9, 2011
9:30 a.m.

R E C O R D

CHAIRPERSON RADKE: The Representative Assembly meeting will now come to order, please.

Briefly, before we start the official business that's on the agenda, I am hoping that everybody noticed this beautiful trophy up here. It is my great pleasure to announce that the Board of Commissioners and the State Bar staff retained the bowling challenge trophy, keeping it away from the Young Lawyers Section for another year. May we have a round of applause for the Board and staff.

(Applause.)

CHAIRPERSON RADKE: Oh, and, by the way, we raised \$350 for Access to Justice.

(Applause.)

CHAIRPERSON RADKE: You are aware of John Chmura, our parliamentarian who will be presiding over the procedures we will use today.

The first thing I want to do today is to thank you all for coming. I want to move this along as quickly as we possibly can. And for those of you who don't know, Dana Warnez to my far left, our clerk;

1 Steve Gobbo, our vice chair; John Chmura, our
2 parliamentarian; and Janet Welch, Executive Director
3 of the State Bar; and of course Anne Smith, our staff
4 person for the Representative Assembly.

5 I would like to know from Ms. Warnez whether
6 or not we have a quorum present.

7 CLERK WARNEZ: Yes, we do.

8 CHAIRPERSON RADKE: Thank you. Having a
9 quorum present, we would now entertain a motion for
10 adoption of the proposed calendar, Mr. Blau.

11 VOICE: So moved.

12 MR. BLAU: Good morning, Madam Chair,
13 Mike Blau, 6th judicial circuit. I would move for the
14 adoption of the proposed calendar.

15 VOICE: Support.

16 CHAIRPERSON RADKE: Thank you. Any
17 discussion? None being heard, all in favor.

18 Any opposed?

19 Thank you, we will move on.

20 Mr. Jeff Nellis, I will entertain a motion
21 for filling the vacancies.

22 MR. NELLIS: Good morning, everyone. Once
23 again I am here to fill our vacancies. We have been
24 really lucky the last few years. Our goal always is
25 to have 100 percent participation in this body. By

1 that I mean all of the circuits have a representative.
2 And we have always felt that by having the entire
3 group, all the circuits filled, that it really adds a
4 degree of legitimacy to our body, and, once again, I
5 am very pleased to announce that we have managed to
6 fill all the vacancies. It can be kind of a time
7 consuming and difficult prospect because we have
8 people move or new jobs or that type of thing, so we
9 get to a point where sometimes we have to make some
10 appointments at the last minute.

11 But, once again, my committee, who I am going
12 to introduce in a minute, has been wonderful in
13 helping and basically combing the regions to find
14 people who are willing to do this. And I just want to
15 say with the new folks that we have coming in today, I
16 really appreciate you being here, and I think you are
17 going to find that your time on the Assembly is very
18 worthwhile, so I wish you the best of luck.

19 Before we get started, I do want to list, and
20 if I could have you stand, the members of the
21 committee. First is Kathleen Allen, 17th circuit.
22 Hold the applause till the end. Eilisia Schwarz from
23 the 28th circuit. Anne McNamara from the 47th
24 circuit. John Mills from the 6th circuit, and
25 Lanita Haith from the 6th circuit also. Give them a

1 round of applause.

2 (Applause.)

3 MR. NELLIS: Also, I personally would like to
4 thank Victoria, Steve, Dana. We had a lot of phone
5 conferences, and they were involved in every single
6 one of them. Anne Smith. Nobody really understands
7 or appreciates how much time and effort Anne puts in
8 to making these meetings come together, so give them a
9 round of applause.

10 (Applause.)

11 MR. NELLIS: At this time, and you should
12 have this in your packet, but at this time I am going
13 to read the new proposed members. From the 6th
14 circuit Dennis Flessland of Farmington Hills. Also
15 the 6th circuit, Alana Glass from Auburn Hills; 6th
16 circuit, Ava Ortner from West Bloomfield; 12th circuit
17 David Mechlin from Houghton. And, David, thank you
18 very much. It is difficult -- for those of you who
19 know Michigan geography, Keweenaw Peninsula, way up
20 there, finding somebody to come to these meetings is a
21 bit of a task. We appreciate all of you, but this is
22 an interesting one to try and get filled.

23 14th circuit, Dave Kortering of Muskegon;
24 17th circuit, Victoria Vuletich of Grand Rapids; 19th
25 circuit Kathryn, or as I know her, Kate Glancy,

1 Manistee; 22nd circuit, Elizabeth Jolliffe from
2 Ann Arbor. I know she is an old member who is coming
3 back. A returning member.

4 29th circuit, Kristen Krol from DeWitt; 30th
5 circuit, Kimberly Breitmeyer of Lansing; 31st circuit,
6 Daniel Damman of Port Huron; 31st circuit, T. Allen
7 Francis of Port Huron; 37th circuit, Alisa Parker,
8 Battle Creek; 38th circuit, James Barlett, Monroe;
9 42nd circuit, Joseph Sepsey, Midland; 46th circuit,
10 Everette Ayers of Grayling; 48th circuit,
11 Matt Antkoviak from Allegan County; 54th judicial
12 circuit, John Bishop from Vassar; 56th judicial
13 circuit, Jessica Fox from Eaton Rapids.

14 You see we had a lot of them to fill this
15 year. What I tell them also is don't forget to run
16 during the elections, because what ends up happening
17 and why we oftentimes have so many circuits to fill is
18 people forget to run.

19 At this time I would entertain a motion to
20 formally appoint the named individuals I have just
21 read to be approved as members of the Representative
22 Assembly for the respective circuits. So I will
23 entertain that motion at this time.

24 VOICE: So move.

25 CHAIRPERSON RADKE: Support?

1 VOICE: Support.

2 CHAIRPERSON RADKE: Any discussion? All in
3 favor.

4 New members, you may now take your seats,
5 your circuits. Thank you.

6 Thank you, Jeff. Thank you, committee. Just
7 a little side note of interest, we had someone who
8 resigned this last week, and that seat was filled. So
9 you know how hard Jeff and his committee worked.

10 Most recently you all received an electronic
11 survey regarding the procedures of the Representative
12 Assembly and about the Representative Assembly
13 calendar. We were looking for input from our members
14 as to what they wanted to see at these meetings.

15 First of all, I want to thank everybody who
16 responded to that survey, and I now want to give you a
17 little overview of the results.

18 The majority have asked and want information
19 from the ABA and the State Bar of Michigan public
20 policy people to present their reports in electronic
21 summaries, and we are going to be working on that to
22 make that happen. They want us to continue the
23 reports and comments from the president, the executive
24 director and the R.A. chair to be made in person.
25 Thank you. And the majority overall like the way

1 things are being done, and so we will continue that,
2 but we are going to tweak it a little bit.

3 We not only looked at your answers to the
4 survey questions, we looked at those substantive
5 comments that you made, and, as a result of that, in
6 the past week you have all received an electronic
7 newsletter from Janet Welch, and I have heard some
8 favorable comments about that. I would like to
9 continue to receive feedback from you about that, if
10 you would like that information flow to continue.

11 Also, we are going to work on providing you
12 with more info electronically based on the comments
13 and, again, please provide us with some feedback.
14 Email me, email Janet Welch, email Anne Smith. Let us
15 know your comments about receiving information in this
16 regard. We think that it will be very helpful to you
17 and provide you with additional information to provide
18 to your circuits and your Bar members.

19 There are changes in law practice that are
20 coming at a faster pace, and so we are going to strive
21 to provide you with some timely information between
22 meetings to help you.

23 As you are now aware, the State Bar of
24 Michigan has in excess of 41,000 members. In case
25 nobody did the math, except me, that means that you

METROPOLITAN REPORTING, INC.
(517) 886-4068

1 each represent about 275 of your colleagues when you
2 come and sit in this Assembly. Now, I know that
3 doesn't work out by circuit, but I am just letting you
4 know that I want you to keep that in mind as you
5 debate and as you cast your votes for the proposals
6 that will be presented today in a little while, as
7 well as in the future.

8 I also want to remind you once again that
9 this is the policy-making board for the State Bar, and
10 what you do has long-term implications for the
11 State Bar and how things are handled down the road.
12 And if you don't think that that's the case, please
13 come and attend a Board of Commissioners meeting,
14 which you are all more than welcome to attend, and you
15 will see that we have debates about whether or not
16 things should come back to this Assembly because the
17 board is looking at maybe going in a different
18 direction and can't because we have set a policy that
19 says they can't go in that other direction.

20 Please fill out your R.A. committee
21 preference sheets. Those are due shortly. I will
22 remind you again that if you do not fill out a
23 preference sheet, you will not be considered for an
24 appointment to a section or a Representative Assembly
25 committee.

1 Something new we started last year was -- I
2 am working with Julie Fershtman. Julie, I would like
3 you to stand up so everybody knows who you are
4 wherever you are. There she is, back there.

5 Julie is the incoming president of the
6 State Bar, and wherever possible we are going to try
7 and appoint an R.A. member to the State Bar Committee.
8 So that means you also have to fill out that
9 electronic selection form you got from Julie Fershtman
10 about two weeks ago. So please do that if you are a
11 Bar junkie like some of us are and you want to
12 continue helping us through committee work.

13 All right. If your tenure as an R.A. member
14 is up or you were duly appointed to fill a vacancy,
15 you have to fill out another petition and turn it in
16 by April 30th, otherwise this may be your one and only
17 meeting or you will be done in September. So please
18 get those petitions in as quickly as you possibly can.

19 You are going to hear from Bar staff today
20 about the Economics of Law Practice Survey, the
21 reports and recommendations of the Judicial Crossroads
22 Task Force. I wanted to remind you we have a few
23 copies of each of those reports on the table outside
24 this room, but they are also available on the
25 State Bar website, and I want to remind you please go

1 to the website. You are going to find a whole lot of
2 information there that will help you do your job as a
3 Representative Assembly member.

4 In addition, I would like to remind you that
5 you should take all this information back to your
6 circuits, tell them that they can find more
7 information on the State Bar website, and while you
8 are there, remind them that we have services and
9 programs that can help them at their desk. And the
10 State Bar has been striving to do this. For example,
11 there is Casemaker. It's free. Your Bar dues at
12 work. Use Casemaker. It will help you locate those
13 cases that you are looking for. It's very easy to
14 use. It's very fast. That's just one of them.

15 There is also the Career Center that just got
16 started, so if you are looking for a change in career
17 or know somebody who is looking for a job, send them
18 there to the website or have them call a staffer at
19 the State Bar to talk to. There is a lot of
20 information, there is a lot of help out there. You
21 need to get that word out to your local Bar
22 associations.

23 I also want to take this opportunity, and I
24 know that we had a complaint about this on the survey,
25 to thank all of the committees that work so hard to

METROPOLITAN REPORTING, INC.
(517) 886-4068

1 put these meetings together for you. Now, I think
2 it's important that we recognize those Representative
3 Assembly committees for all of their hard work. I am
4 not going to take the time to name them all today.
5 You know who they are. There is a list in your book
6 of who those committee chairs are, or on the website.
7 And like Jeff, whose face you see frequently because
8 of what he does on the Nominating and Awards
9 Committee, and Mike Blau, you know who those people
10 are, but there are other committee members that you
11 don't see that I talk to, Steve talks to, Dana talks
12 to on a regular basis who work so hard to put this
13 meeting together and bring it to you. Please take an
14 opportunity to thank them personally. I would like us
15 all to thank them today for all their hard work.

16 (Applause.)

17 CHAIRPERSON RADKE: I think that is all of my
18 remarks. I am going to now turn this over to the next
19 person on the agenda, and that will be our Bar
20 president, Anthony Jenkins. Tony, you are up.

21 (Applause.)

22 PRESIDENT JENKINS: Thank you, Victoria. If
23 any of you are not able to hear me, just raise your
24 hand a little bit and I will try to project. I have
25 got a little frog in my throat this morning for some

1 reason.

2 Well, thank you all for that warm reception,
3 and thank you also for allowing me a few minutes on
4 your busy agenda to greet you and to make a few
5 remarks.

6 To Victoria Radke, the Chair of the Assembly,
7 and to the other officers, to other dignitaries who
8 might be here and to my fellow Bar leaders, I bring
9 you greetings on behalf of the Board of Commissioners
10 and the officers of the State Bar. I would like to
11 just leave a couple thoughts with you this morning.

12 As many of you know, this Assembly was
13 created in 1972 in recognition of the fact that the
14 membership of the State Bar of Michigan increased
15 significantly between 1935 when it was formed and 1972
16 when this Assembly was founded.

17 In 1935 the State Bar had a membership of
18 just over 4,200 members. It was represented by a
19 Board of Commissioners of 21 individuals. By 1972 the
20 membership of the State Bar stood at nearly 12,000
21 with a Board of Commissioners of only 23 people.

22 To improve the proportion of members who may
23 actively participate in policy-making decisions, the
24 Board of Commissioners requested and the Supreme Court
25 created this body to ensure that a reasonable

1 representative body was maintained as membership of
2 the State Bar grew. Since 1972 the Assembly has grown
3 from 127 members to 150.

4 Perhaps more important than the sheer
5 increase in size of the Assembly over the years has
6 been the diversity in its composition and the
7 diversity of opinions, viewpoints, experiences and
8 talents and, of course, geographic representation.
9 This is the type of diversity that makes the Assembly
10 a strong policy-making body. It is one that makes our
11 Bar association stronger.

12 The membership of this body has included
13 young lawyers who bring fresh ideas and energy so
14 vital to the long-term viability of this Assembly, as
15 well as our Bar association. It has included seasoned
16 lawyers who have experience, talent, and know-how to
17 provide sage guidance in the formulation of policy and
18 more recently whose talent we have been able to tap in
19 mentoring our younger lawyers for important community
20 service projects, such as mentor/mentee match programs
21 paired or partnered with legal aid programs.

22 There has been ethnic and gender diversity,
23 and I see a lot more of that here today than of course
24 was the case when this Assembly was founded. And
25 there has been participation by persons with

1 disabilities and I presume by individuals who are
2 members of the LGBT community.

3 Just as the Board of Commissioners sought to
4 create a truly Representative Assembly in 1972, it
5 certainly has become that in the broadest sense of
6 diversity. It is important that we as leaders of the
7 Bar continue to work towards a more diverse and
8 inclusive profession, one that is open rather than
9 closed or reserved for a few or the privileged, one
10 that allows access, opportunity for development and
11 success without regard to color, gender, disability,
12 nationality, sexual preference or any other factor,
13 frankly, that has nothing to do with talent, industry,
14 and character.

15 While we made great strides towards being a
16 more diversely inclusive profession, the latest
17 studies show that we have more work to do. Attorneys
18 of color are underrepresented in our profession. And
19 our profession lags far behind other professions, such
20 as medical doctors, accountants, college professors
21 and the like, in terms of the percentage of members
22 who are racially diverse.

23 Women continue to be underrepresented in
24 leadership positions in large law firms, corporate law
25 departments, judiciary and the like, and in too many

1 work places women continue to face glass ceilings in
2 terms of advancement or compensation.

3 Too many work places still lack culture that
4 are not supportive of individuals with nontraditional
5 sexual or gender preferences or where persons with
6 disabilities are not generally afforded equal
7 opportunities or, in fact, where women are penalized
8 because they elect to raise families during the course
9 of their professional career.

10 As we continue to confront these and similar
11 challenges on the diversity and inclusion front, I
12 want to thank and salute our members across the state
13 who have over the years elected the persons who sit in
14 this Assembly and have done so not only with the view
15 of making sure that the most qualified, deserving
16 persons are here as policy makers, but who have done
17 so in a manner that has yielded the diversity that I
18 have just talked about.

19 If we demand that other professions and
20 sectors of our society be diverse and inclusive in the
21 true tradition of equal justice and equal opportunity,
22 then it is imperative that we demand the same of
23 ourselves. We must walk the walk and not really talk
24 the talk.

25 You can help in that regard. On the State

METROPOLITAN REPORTING, INC.
(517) 886-4068

1 Bar website you will find a pledge in support of
2 diversity and inclusion as adopted by the Board of
3 Commissioners, and you will find commentary that
4 explains the development of this initiative based on
5 work done by the Bar association in the past,
6 particularly in terms of fighting against bias, racial
7 bias and gender bias in our court system.

8 We are asking you to consider becoming a
9 signatory to that pledge, and in doing so not only
10 express your commitment for equal opportunity, equal
11 access and the like, but to become one of the persons
12 who will help us develop assessment tools and in doing
13 so try to position the Bar association to really be a
14 clearinghouse for best practices in diversity and
15 inclusion in our profession. If you are successful in
16 this effort, it will be the first time that we have
17 been able to create that type of facility for the
18 legal profession in Michigan, so I urge your help and
19 support.

20 Finally, I would be remiss if I didn't take a
21 moment to thank you all for the great work that you
22 are doing here in this Assembly. Some of that you, of
23 course, will undertake today and for the rest of the
24 Bar year. I would especially like to express my
25 thanks for your leadership on the attorney

METROPOLITAN REPORTING, INC.
(517) 886-4068

1 solicitation proposal, amending our Court Rules to
2 prohibit attorneys from soliciting clients any sooner
3 than 14 days after the filing of an action to protect
4 the person filing, particularly in cases of domestic
5 violence, and thank you also for your leadership and
6 your fine work on the voluntary pro bono standards,
7 which of course our Supreme Court recently adopted.
8 In my judgment this was monumental, particularly in
9 today's devastating economic environment which has
10 really catapulted the legal needs for low income and
11 poor families and individuals far beyond the resources
12 that are available to them.

13 Nearly 50 percent of Michigan's population
14 that qualify for legal aid assistance are simply not
15 getting it. They are being turned away because there
16 is not the resources to meet their needs, so adopting
17 these new voluntary pro bono standards I think will
18 help address the gap in justice, including handling
19 basic problems, such as people being able to stay in
20 their homes, keep their families intact, and for
21 veterans who might otherwise be denied benefits.

22 Finally, thank you for your leadership work
23 on the equal access to state-issued identification,
24 which is a proposal to support legislation to
25 facilitate access to vital documents and public

1 service for all Michigan residents who are legally
2 present in the United States. Doing so will assist
3 those who need access to our court systems, notary
4 services, and other public services where proof of
5 identity is required.

6 I could go on talking about the remarkable
7 work that you do here in this Assembly, but I respect
8 your schedule. I will simply conclude by saying that
9 our Bar association and our profession owes you a
10 great debt of gratitude and thanks for all that you do
11 and the manner in which you do it. So thank you once
12 again for all of that, and thank you so much for
13 allowing me a few minutes on your agenda.

14 (Applause.)

15 CHAIRPERSON RADKE: It's been my great
16 pleasure to be chair during the year when Tony Jenkins
17 is president of the State Bar because I have the
18 opportunity to tell everyone that our Bar president,
19 both metaphorically and actually, is head and
20 shoulders above every other Bar president.

21 Next we are going to hear from our executive
22 director, Janet Welch. She is going to bring us up to
23 date on what's happening in the State Bar.

24 EXECUTIVE DIRECTOR WELCH: Suddenly I am very
25 self conscious about only be five-six.

1 Good morning. I want to thank you all for
2 the gift of your presence this morning. I know it's
3 not sunny out there yet, but it is April, and it is a
4 Saturday morning, and as our president has just told
5 you, the work that you do is of such great benefit to
6 your fellow lawyers, they owe you a huge debt of
7 gratitude. As a lawyer, I want to extend my thanks to
8 you personally.

9 I did take a look at the survey about your
10 preferences in terms of the agenda, and I am cognizant
11 of the fact that a majority of you want to preserve
12 this segment of the agenda where the executive
13 director speaks to you. Written communication is my
14 favorite form of communication, not just because I can
15 do it in blue jeans and my bare feet, but I feel more
16 capable to perform that than public speaking, but I am
17 happy to do what your capable leadership asks me to
18 do, and I am pleased to be here this morning.

19 But I want to say a few words to the
20 significant minority of you who thinks that this
21 shouldn't be part of the program. I am a member of
22 the House of Delegates of the ABA, and when the
23 executive director of the ABA speaks to the delegates,
24 typically late in the afternoon, that's the point at
25 which I usually check my Blackberry and go get a cup

1 of coffee. So if any of you want to do that, I have
2 no right.

3 I want to talk to you this morning about one
4 very important public policy issue that is going to be
5 coming into prominence between now and the next time
6 that I speak to you in September, and that is the
7 issue of judgeships and the number of judgeships that
8 are appropriate in the state.

9 I think for the first time in the history of
10 Michigan we are facing a net reduction in the number
11 of judgeships in the state, which is obviously a very
12 momentous occasion and a very -- it's going to be a
13 somewhat anguished process, but it's very important
14 that we do it right, and I think that from the work of
15 the State Bar and the work of the judges association
16 that the foundation has been set for that to happen
17 and for it to happen in the right way, and as that
18 happens we all need to be advocating that the savings
19 that comes from right-sizing the judiciary, having
20 right resources in the right place given where the
21 caseload is in the state, that those savings be
22 applied to help make the justice system better and the
23 court system run more efficiently and more effectively
24 for the public that we all serve.

25 So here is what I would like to do. I would

METROPOLITAN REPORTING, INC.
(517) 886-4068

1 like to give you the basics of the arguments that we
2 have been making about how to downsize or right-size
3 the judiciary, because they are not obvious arguments,
4 and, while we are prevailing at the highest policy
5 levels, the chief justice has expressed his strong
6 advocacy for resizing the judiciary by the principle
7 of attrition. The governor is on board for doing it
8 in the fashion that we are advocating and the judges
9 association are advocating.

10 It's not an obvious argument, and I think you
11 will find yourselves in conversation with members of
12 the public who say, if the statistics show that we
13 don't need as many judges as we have in a particular
14 court, we ought to just eliminate those judgeships at
15 the first moment that we are able to do so under the
16 constitution. I want to arm you with the arguments
17 why we need to do it in an orderly fashion by
18 attrition, and by attrition I mean that when the
19 statistics show that the number of judges in a
20 particular jurisdiction is greater than the number
21 that is needed to handle the caseload in that
22 jurisdiction that a judgeship in that jurisdiction
23 will be reduced at the point at which there is a
24 vacancy, not at the end of the first term that arises
25 in the election process.

1 So that the agreement is and the principle of
2 attrition is that you don't eliminate a judgeship in
3 mid career or prematurely for a judge. But you also
4 say that among the judges who are on the bench right
5 now, if a judge, when that judge cannot run again
6 because of age limits, that's the longest that
7 judgeship is going to go.

8 Now, instinctively you think that means that
9 we have to maintain judgeships longer than they are
10 needed and perhaps for years longer than they are
11 needed. So here are the five arguments I want to give
12 you to say.

13 First of all, as is the case with this body,
14 we are all getting older and we are all approaching
15 retirement, and it's particularly true on the bench
16 that we have a graying of the bench, and we are going
17 to have way more retirements happening in the next
18 decade than the number of judgeships that we need to
19 be downsizing, so we don't need to force the -- we do
20 not need to artificially cut off a judicial career
21 because we have so many retirements that are just
22 going to happen, and those vacancies are going to
23 occur naturally in that way.

24 Also, the judges are united on the subject,
25 and they will be supportive of broader changes that

1 will be important to making the court system more
2 efficient and effective if they can be assured of the
3 reductions by attrition and not by fiat at the end of
4 an election cycle.

5 Finally, and this is one of the arguments
6 that is also not obvious but is part of civic
7 education about the judicial branch of government.
8 Judges are State officers. They are not local
9 politicians. They have a characteristic of local
10 politicians, but they are not local politicians. They
11 are State officers. So that if the amount of work
12 that needs to be done in a particular jurisdiction is
13 not enough for all of the judges in that jurisdiction,
14 the constitution allows the excess capacity in that
15 jurisdiction to be used to help the entire court
16 system.

17 That means that we have judges, for example,
18 if we have a judge who is an outstanding leader in
19 terms of drug courts and can help fellow judges, train
20 fellow judges and help disseminate best practices in
21 terms of that, that judge can be assigned anywhere in
22 the state, and we can, therefore, use that excess
23 capacity that happens to be in that particular place
24 more effectively for the whole system.

25 So when you get into a discussion with a

1 member of the public or a relative who says, you know,
2 why are we paying for this unneeded capacity, it isn't
3 unneeded at this moment. We need to be remaking the
4 court system more effectively, and we will use all of
5 those resources.

6 The fourth argument really is an elaboration
7 on the point that judges are State officers, they are
8 not local officials. Judgeships are not political
9 offices. They are a different path than are taken by
10 other public officials. If you take a judgeship, you
11 have to give up a legal career, you have to cut off
12 your clients, you have to cut off the path of your
13 business career in a way that no other elected
14 official has to do. So it is -- so it's not
15 inappropriate to say that we are going to respect the
16 career path that judges are on and let them finish out
17 their careers and not cut them off arbitrarily at the
18 end of a judicial term.

19 And, finally, and I think perhaps this is the
20 most important argument and it's one that lawyers
21 understand and the public doesn't, and I want to
22 encourage you to use this argument as a way to educate
23 the public. And that is that if we did not have the
24 attrition principle at work in how we go about
25 right-sizing the judiciary, there is going to be in

1 the legislature hand-to-hand combat over each
2 judgeship, and it will not be based on principle, it
3 will be based on politics, and that will for the first
4 time politicize the judiciary in a way, and the public
5 perception of the judiciary, in a way that has never
6 existed in Michigan before.

7 I think all those arguments together have
8 been why at a high level the leadership has said this
9 is the way to go about the change that we are about to
10 undergo, and I wanted you to be armed with those
11 thoughts going into the next six months because there
12 is going to be, I think, a really active public
13 conversation about that change.

14 And that is really all I wanted to leave you
15 with this morning. Again, I want to thank you for
16 allowing me to speak to you and I give you my best
17 wishes for a successful morning.

18 (Applause.)

19 CHAIRPERSON RADKE: Thank you, Janet, and for
20 those of you news junkies out there, Janet's remarks
21 are even more pertinent in light of the fact that two
22 Court of Appeals seats are going to remain empty, and
23 you can see where and how that's trending.

24 Now, I would like to introduce Anne Vrooman.
25 Anne is going to talk to you about the Demographics

1 and Economics of Law Practice Survey results, as well
2 as a few other things, and I am happy to turn this
3 over to Anne. She has got some very valuable
4 information for you.

5 MS. VROOMAN: Thank you, Victoria. Good
6 morning, and thank you for letting me be part of the
7 agenda today.

8 The topic says that we are going to talk
9 about Demographics and Economics of Law Practice
10 Survey. In the interest of time, what I would like to
11 do is just give you a couple of real basic top line
12 things about the demographics, but then move to the
13 economics of the law practice survey results.

14 You might recall for those of you that were
15 here last year, we were planning the survey at that
16 time, and we got a little bit deeper into what the
17 demographics are of the Bar overall, and now I am
18 happy to be able to come back with that survey
19 completed and share with you what the results have
20 been that we are continuing to work on.

21 Overall the demographics of the Bar, as you
22 have heard Tony say, we have more than 41,000 members
23 total, and that includes a pie that sort of keeps
24 growing. The way that our membership really is
25 tracked, and you stay in the membership track forever

1 and sort of move into different segments.

2 In terms of active Michigan residents, we
3 have about 36,000 plus of that number, and of that
4 number about 50 percent are in private practice and
5 the remaining 50 percent are something else. That
6 really helped us when we thought about how to design
7 the survey. And backing up, let me just give you a
8 little bit of background about the Economics of Law
9 Practice Survey itself.

10 The Economics of Law Practice Survey has been
11 conducted by the State Bar for more than 30 years
12 every three years. The time before this time we
13 actually tried a different format, which was using an
14 online sort of always moving, result-oriented,
15 interactive format. It was somewhat successful, but
16 because of the challenges that we found with lawyers
17 wanting information and not being able to get what
18 they were looking for, it turned out to be somewhat of
19 a frustrating experiencing.

20 We started gathering practitioners and people
21 throughout the profession to tell us how that
22 information is used and so that we could design a
23 survey and an information gathering and result process
24 that was most helpful.

25 Also during that time the Michigan

METROPOLITAN REPORTING, INC.
(517) 886-4068

1 Supreme Court in their Smith V. Khouri decision
2 referenced the Economics of Law Practice Survey as a
3 key resource that's used by courts, attorneys and then
4 considered by courts and attorneys asking for attorney
5 fees. We then created a special, really to help us
6 think through what is it the court says and how we
7 could get closer to serving the needs of both the
8 courts and the attorneys. So with all of that
9 information we totally revamped the survey for 2010.

10 A couple major things, what we decided to do
11 was split the survey and actually conduct two separate
12 surveys, so one survey was conducted for private
13 practitioners and another separate survey for
14 nonprivate practitioners. That gave us the
15 opportunity really to dig in and dig deeper into the
16 field of practice area that Smith V. Khouri talked
17 about.

18 Another real key change that we heard, we
19 know that a lot of attorneys practice in several
20 circuits. In previous surveys the way that the
21 information was analyzed was really by office
22 location. We collected information about office
23 location and lined people with what they reported that
24 way.

25 What we did this time was say, you know,

METROPOLITAN REPORTING, INC.
(517) 886-4068

1 asked on the survey which circuits that attorneys do
2 at least 30 percent of their work in. So, for
3 example, if someone has cases in both Wayne and Macomb
4 County, the information that we gathered from that
5 attorney would fill both of those buckets, and that
6 gives us a lot more detailed information and sorted
7 that information so that you have available for all of
8 those circuits.

9 The other thing that was a real difficult
10 piece of that, we know that in order to get the depth
11 of information it really requires a lot of
12 participation, so we really used all of our
13 communication vehicles to try to encourage people to
14 take the Economics of Law Practice Survey.

15 I recall last time speaking to this body and
16 encouraging you all to do your part as a leader in the
17 Bar communities where you are to encourage people to
18 take the survey knowing the importance. We were much
19 more successful than we have ever been in the past
20 and, in fact, about three times the number of
21 participants participated in the 2010 Economics of Law
22 Practice Survey than in the previous survey, so that's
23 really a success.

24 With all of that, then let's take a look at
25 what some of the results are. You have the handout

METROPOLITAN REPORTING, INC.
(517) 886-4068

1 that accompanies this, and we will breeze through a
2 lot of this, but what I would urge you to do is to
3 spend some time looking at both the live presentation
4 here. We also have available outside some copies of
5 what the preliminary report or the first report was
6 from the survey outside this room. If they are not
7 there, it is also available online on the Bar's
8 website, so feel free to do that. And if you are
9 attending something and you want actual printed
10 copies, feel free to contact me, and I will make sure
11 that you get them.

12 So, again, to that sort of demographic piece,
13 what you are looking at on the first slide there is
14 the fact that you can see that the Bar overall has
15 that sort of 50/50 split or nearly 50/50 split of
16 private versus nonprivate. When you look at the
17 survey responses, what this shows is in terms of
18 overall taking the two surveys, a significant number
19 of private practitioners took it. When we lay that
20 against what people report, the actual participation
21 rate then by private sector was up 15.3 percent, which
22 is really a great response. We are pleased about
23 that.

24 Next slide is a comparison just overall of
25 income for private and nonprivate practitioners. And

METROPOLITAN REPORTING, INC.
(517) 886-4068

1 what that slide really sort of points out is for
2 nonprivate practitioners income is higher sort of
3 going through really to about the 75th percentile, so
4 you can see that the median income is actually a
5 little bit higher for nonprivate practitioners than
6 for private practitioners, but then it slips at about
7 the 75th percentile where you have private
8 practitioners with greater income.

9 Some of that, you know, I think if you stop
10 and think about it, just makes sense in that in the
11 nonprivate you have stable income or salaried type
12 positions that occur sort of all the way through, so
13 you have got a lot of the government jobs, including
14 government judges, federal judgeships, state
15 judgeships that are there all the way through, and
16 that's part of what it is, so the range is narrower
17 than for nonprivate as to private.

18 In the next slide it shows the distribution
19 according to the type of practitioner. As you can
20 see, there are very wide ranges in that, and then the
21 next one shows the median income for private
22 practitioners by the type, so it's just sort of
23 stacking.

24 The next slide is the distribution of
25 nonprivate practitioners with the percentiles showing

1 the ranges, and, again, you can see the impact of
2 fixed salary positions and how that affects the
3 percentiles there. And then this is the median income
4 for various categories of nonprivate practitioner.
5 Again, you see sort of the distribution in that.

6 The next is about billing rates, and this
7 tracks the billing rate for private practitioners,
8 again by the type of practitioner that they are, and
9 then the next slide is the hourly billing rates for
10 private practitioners, again by the type of
11 practitioner that they are.

12 In terms of just, again, back to the
13 demographics, as I am sure many of you know, solo and
14 small firm are the largest categories of practitioners
15 that we have in terms of type. When you take, again,
16 that 50 percent being in private practice, of that 50
17 percent about 38 percent are in private practice, so
18 that's a pretty significant number. And we use that
19 information really in thinking about the Bar services,
20 who are the members, what are their access points to
21 resources that they have to manage their practices,
22 and all of that helps us align those numbers with the
23 services that we try to develop.

24 The next slide, this is the hourly billing
25 rate and income for private practitioners by years in

1 practice, and as I am sure it's not surprising, there
2 is a correlation between years in practice and the
3 income and billing rates. You will see that both of
4 those track in an upward motion, and billing rates
5 really stay the same throughout. At about 30 years in
6 the income level you see that start to decline, and
7 probably what that means is someone is starting to
8 take less work and wind down their practices a bit.

9 This is median hourly billing rates for
10 private practitioners, again, by years in practice,
11 and then correlation by firm size. Another
12 correlation is that it appears that there are higher
13 billing rates the larger the firm size.

14 This is median hourly billing rates for
15 private practitioners by firm size where we just again
16 charted out so that you can see the visual picture of
17 that.

18 And then this is median hourly billing rates
19 and income for private practitioners. You can see
20 that this was the trend, the difference between the
21 last survey and this survey, and what's interesting
22 and probably not surprising given the economic
23 situation is that billing rates have continued to
24 increase from the last survey to this survey but
25 actual income has declined, and, you know, that could

1 be because there is less work, so attorneys are
2 getting paid for less work perhaps, less work
3 available, but that's a trend certainly that we are
4 paying close attention to.

5 There are other things that we asked in the
6 survey, and we are still compiling results, and I
7 wanted to give you some of those results. The first
8 thing is the median number of hours in an average work
9 week, and again this is by nonprivate practitioner and
10 private practitioner. Pretty close, but you can see
11 that there is a little bit of a difference there in
12 those numbers. Forty-five for nonprivate and 49 for
13 private practitioners.

14 Next is private practitioners and their
15 satisfaction with practicing law, and, as you can see,
16 74 percent said that they either get a great deal of
17 satisfaction or enough satisfaction from practicing.

18 In terms of private practitioners and their
19 view of the current economic conditions, I am sure
20 that it's no surprise that 53 percent reported that
21 economic conditions are worse than compared to prior
22 years. Some of the comments that we picked up in the
23 survey, just open ended comment, lots of them about
24 people really struggling and that, you know, that this
25 period is the worst that they have seen it for many in

1 their career.

2 Perception of current workload, comparing
3 perceptions of private and nonprivate practitioners,
4 39 percent of practitioners feel that their workload
5 is insufficient compared to eight percent of the
6 nonprivate practitioners.

7 And, finally, law school debt continues to be
8 of great concern and expressed both in this survey and
9 what we learned in the member survey. The median law
10 school debt is \$75,000 for private practitioners and
11 \$80,000 for nonprivate practitioners with monthly debt
12 payment in the 400 and \$465 a month range.

13 So that's a look at some of the things that
14 we are learning. The full report that would include
15 all of this information, as well as the information
16 that we gathered about the law practice or law office
17 management pieces, we are completing now. I expect
18 that it will be complete within the next couple weeks.
19 We will announce when it is finished, and it will be
20 available on our website, so I would urge you to pay
21 attention and go there.

22 We are using this information already. Like
23 I talked about in terms of, you know, recognizing sort
24 of where the challenges are. We are also conducting
25 right now the member survey, and you should have all

METROPOLITAN REPORTING, INC.
(517) 886-4068

1 gotten an email a little more than a week ago asking
2 for your participation in that survey. If you have
3 not completed it, I would urge you to please complete
4 it. It takes about 15 to 20 minutes, but we have not
5 done one in about ten years, so if you could help us
6 with that, and for all of the places that you connect
7 in your communities, if you could encourage
8 participation in that, that really helps us with all
9 of this information get a better picture of sort of
10 what's going on on the ground and how the Bar can
11 build services to help.

12 Like I said, we are already using this
13 information. Coming Monday is the Justice Initiatives
14 Summit. The focus of that summit will be attracting
15 the next generation of leaders. So, you know, the
16 challenges that we recognize that people are feeling
17 in the financial pressures, the time pressures, those
18 things are all things that the Bar really needs to
19 think about being really a very -- relying on a very
20 heavy volunteer load in terms of working like many of
21 you are in terms of giving up Saturdays but
22 understanding what the challenges are to that.

23 I am happy to take questions, but I am also
24 sensitive here to the time. Are there any questions?

25 MR. ULRICH: Anne, is there anything else

1 that's a component of the higher billing rate but the
2 reduced income? Technology, size of firm, number of
3 offices, that sort of thing? Overhead, in other
4 words.

5 MS. VROOMAN: The overhead in term of -- you
6 are talking about just the income that was reported?

7 MR. ULRICH: The one that shows the billing
8 rate is up but the income is down.

9 MS. VROOMAN: And that's from the last survey
10 to this survey. Most of the information that we got
11 in terms of firms, I mean, there has been sort of a
12 regular increase just in billing rate, and then sort
13 of typically what happens is there is a response, sort
14 of solo practitioners like to keep pace somewhat with
15 that, but in terms then of this economy, when you look
16 at in Michigan that we know that there were probably
17 350,000 jobs lost, population decreased, so our
18 population is older, poorer, and fewer. Those
19 pressures really have also compressed the availability
20 of legal work.

21 Looking nationally, Michigan probably has
22 been in as challenging a situation as anybody has, but
23 globalization, I mean, certainly absence of some of
24 that work and some of the efforts when we look at what
25 the number of self-represented litigants are in cases,

METROPOLITAN REPORTING, INC.
(517) 886-4068

1 I mean, we know that more and more people are trying
2 to go it alone, perhaps in part because of cost
3 pressures and not being able to afford it, and, as
4 Tony mentioned in his remarks, that now, just in terms
5 of people who qualify for legal services, that number
6 is increasing.

7 So all of that, to say all of those
8 pressures, and at the same time firms that, the larger
9 firms that are able to have a more stable base of
10 clients for regular work, increasing their billing
11 rates is probably part of what you are seeing there.

12 Thank you for letting me spend time with you
13 this morning. I am always available for questions.
14 You have my phone number and email address. I look
15 forward to sharing the next news, and, again, if you
16 haven't taken a member survey, we would really
17 appreciate that. Thanks very much.

18 (Applause.)

19 CHAIRPERSON RADKE: Thank you, Anne. I just
20 want to reiterate something that Anne said, and that
21 was that her work really helps the State Bar to
22 determine how best to assist you at your job, so it's
23 very important to get feedback from you.

24 Now we are going to hear from Elizabeth Lyon,
25 the director of governmental relations, giving us a

1 public policy update.

2 MS. LYON: Good morning. All staff is
3 responding to the input you provided on the member
4 survey, so I look forward to perhaps providing these
5 reports to you in the future in a written format, but
6 certainly also want to hear from you as I prepare
7 those comments about what would be helpful to you in
8 your deliberations. We also saw very clearly that you
9 would like input and report on circumstances or
10 environment in which you are making these public
11 policy decisions on action items. So if there are
12 questions that occur to you during your consideration
13 of those items where I might be helpful, I encourage
14 you to contact me ahead of time.

15 And sort of also in the vein of being
16 responsive to your surveyed responses, I am going to
17 limit my comments this morning to public policy
18 actions that we are working on as a result of
19 Representative Assembly positions, but I do want to
20 let you know that we have a really pretty vast public
21 policy program. There is a number of issues that we
22 are working on through all three branches of
23 government that are both proactive and reactive. We
24 have a lot of online resources and an online
25 newsletter that's published every week, so if you want

METROPOLITAN REPORTING, INC.
(517) 886-4068

1 to hear more about all of the really great thing that
2 I feel we are doing, please use those online resources
3 or just ask me about them.

4 I feel that we always talk about public
5 defense reform during the public policy reports
6 because this body adopted the principles of an
7 effective public defense system really months after
8 the American Bar Association did that and was the
9 first state bar to do so. When we last spoke in
10 September, we considered an incremental approach to
11 implementation, and we are continuing on that path
12 still.

13 We had what I considered to be very positive
14 developments in the fall that saw the District Judges
15 Association, the Circuit Judges Association, the
16 Probate and the State Bar coming to a consensus
17 agreement about how to move reform forward and really
18 put the support of all those associations behind it.
19 That staff would be a time-limited commission that
20 would have appointments from various stakeholders that
21 would be tasked with coming up with recommendations
22 and doing data collection for the legislature to make
23 ultimately their recommendations for wholesale
24 systemic reform which we as a state bar firmly believe
25 is needed in this state.

METROPOLITAN REPORTING, INC.
(517) 886-4068

1 We pursued that effort in lame duck. We got
2 something through the Senate that looked different
3 from what the agreement had been between the judges
4 and the State Bar. The State Bar ultimately opposed
5 its own action in the senate because the commission,
6 as it was recommended in bill form, would have had
7 more prosecutors seated on a defense commission than
8 defense attorneys, and we felt that it needed to be
9 better balanced.

10 So we are looking at, again, pursuing that,
11 again, time-limited commission approach this session.
12 We are very pleased to have vocal support and
13 leadership in both caucuses in the legislature for
14 this effort. We expect a bill to be introduced in the
15 House to accomplish this by Representative
16 Tom McMillin, who is a republican from Oakland County.
17 We had heard from the chairs of both Senate judiciary,
18 Senator Rick Jones, and House judiciary,
19 Representative John Walsh that as soon as the bill is
20 prepared, they will quickly address it and move it
21 through the committee. So that's very positive news.
22 We are sort of ahead of the Legislature Service Bureau
23 in terms of drafting and getting this done.

24 We are also looking to pursue, because we
25 want to make sure that this is happening as quickly as

1 possible, because we know reform is needed now, and
2 through the leadership of Representative Tom McMillin
3 to accomplish that will be pursuing a bipartisan,
4 bicameral committee that will be appointed by the
5 Speaker of the House and the Senate Majority Leader
6 that will be tasked with doing public defense reform
7 review.

8 This committee is seen to work sort of in
9 partnership with the commission that will be appointed
10 so that the commission can in a sense be reporting to
11 the committee making sure the data collection efforts
12 and the deliberations taking place at that level is
13 something that the legislature is engaged with and
14 reacting to positively so that when the commission
15 completes its work, the legislature will be able to
16 quickly enact those recommendations and perhaps even
17 get something rolling still in this two-year
18 legislative session. So that's, in my opinion, very
19 positive news on that front for something that will be
20 a very large reform effort.

21 The other bill I want to talk quickly about
22 has to do with custodial interrogation recording, the
23 audiovisual recording. This body adopted a resolution
24 several years ago that called for the creation of a
25 task force to review procedures and policies and then

1 to implement either legislation or court rules to
2 enact those policy recommendations.

3 We again tried to accomplish this in lame
4 duck session, so back in late November/early December
5 of last year, were not able to get it out of the
6 Senate, but I am very pleased to say that this session
7 it has been taken up by Senator Tonya Schuitmaker, who
8 is a republican from the Lawton/PawPaw area, is in
9 leadership in the Senate, sits on the Senate Judiciary
10 Committee. She has introduced a bill this session.
11 It's been successfully passed out of the Senate
12 Judiciary Committee, it's on third reading on the
13 Senate floor. We anticipate when the legislature
14 reconvenes it will be quickly taken up and then
15 considered by the House shortly thereafter. We have
16 support for that in the House as well.

17 So that will be a great victory that several
18 years later after a lot of long processes of review we
19 believe that we will have that legislation on the
20 books, and I have to say to great credit to both
21 Nancy Diehl and Valerie Newman who were appointed to
22 co-chair the effort. It has support from the chief of
23 police, the prosecutors, defense attorneys, the State
24 Police is neutral, and really to have all of that
25 support garnered on an issue is really a tribute to

1 their very hard work.

2 With that, I think we have perhaps a few
3 minutes for a few questions. Otherwise, I will be
4 available throughout the day.

5 CHAIRPERSON RADKE: I would like you to
6 comment on tax on legal services, just bring them up
7 to date on that.

8 MS. LYON: Oh, sure. I had that on my list,
9 but I am happy to do that.

10 We have also previously talked about the
11 potential for a sales tax on service plan that would
12 include legal services. The legislation to propose
13 that has been introduced again this session by
14 Representative Mark Meadows, who had the bill last
15 session as well.

16 It is our understanding that while the
17 governor has not ruled out a service tax plan, it is
18 not something that we anticipate seeing in this
19 two-year legislative session. The governor has been
20 pretty vocal on pursuing first his business tax
21 reforms, the pension reforms and those efforts first
22 and then perhaps once that's accomplished they will go
23 back and look at a service tax plan.

24 In all of the meetings that the State Bar has
25 had on this issue, and we have been talking with a lot

1 of elected members, there really just is no interest
2 in pursuing this at this time. So I don't expect it
3 to come up in the short-term but will continue to
4 monitor for any long-term.

5 (Applause.)

6 CHAIRPERSON RADKE: Thank you, Elizabeth. We
7 appreciate knowing what's happening with all of our
8 hard work.

9 We are now going to heard from Vanessa
10 Williams, our American Bar Association House of
11 Delegates member, and she is going to give us a report
12 on what's happening in the ABA.

13 MS. PETERSON: Good morning. I will keep it
14 short. I want to highlight, although we talked about
15 a number of different reports at the February 14th
16 meeting, there are four that I will bring to your
17 attention, in addition to the Model Rule that was
18 adopted.

19 The first one was report 10B, which would
20 just urge the congress to enact legislation to amend
21 the Tax Code so that states could retrieve from
22 recipients any type of money that's due, so if you owe
23 some type of restitution or some type of fee to the
24 State that the State would be able to intercept your
25 federal tax refund to cover that amount.

1 Report 10C was to urge the United States
2 House of Representatives to restore the rights of DC
3 citizens to have Eleanor Norton Holmes to have a vote
4 within the legislature.

5 10E, which was one that got a lot of
6 attention in the House, and that was to oppose any
7 types of cuts to funding for legal aid and legal
8 services. That was being proposed, and the cuts were
9 very severe, and so the house did adopt a resolution
10 to go and lobby against any types of cuts to legal aid
11 and legal services.

12 The last one I will bring to your attention
13 is report 100C regarding the requirement to have
14 practice restrictions on inhouse counsel or judicial
15 law clerks when they apply for admission to a state
16 for temporary rights to practice law. So if you go
17 and make a motion, generally they look at what
18 jurisdictions you practice in, and that would be
19 waived in those situations.

20 The model Transaction Tax Overpayment Act was
21 the model hold type provision that was adopted, and
22 that is just to allow, if you are a purchaser and you
23 pay some type of tax, that if there is an overpayment,
24 this gives you some type of opportunity to go in and
25 seek a refund from either the seller or from the

1 taxing entity.

2 And so that's just a highlight of the
3 different reports that were addressed and the model
4 code that was adopted. From now on the report will be
5 worked out as an electronic report to you, but you can
6 always reach out for additional information to any of
7 the State Bar members to the House of Delegates.

8 Are there any questions? Thank you.

9 (Applause.)

10 CHAIRPERSON RADKE: Moving along, trying to
11 keep this on track. We will now hear from
12 Jeff Nellis, the chair of the Assembly Nominating and
13 Awards Committee regarding the 2011 award recipients.
14 Jeff.

15 MR. NELLIS: Thank you, Victoria. I said
16 this in the past, this is the part of the committee
17 work I really like, which is getting involved in
18 selecting our nominees. It really gives those of us
19 on the committee an opportunity to see what folks are
20 doing all around the state, things that we don't
21 normally hear about, and it never ceases to amaze me
22 some of the incredible things that attorneys in the
23 state of Michigan are doing that we are not even, a
24 lot of us are not even aware of.

25 So by having these awards, it gives us the

METROPOLITAN REPORTING, INC.
(517) 886-4068

1 opportunity to kind of spread the word about these
2 folks throughout the state of Michigan, because I
3 think it's important for us as attorneys to know the
4 outstanding work that people are doing. It's also
5 important for us as a profession to put out the word
6 for those nonlawyers, and we don't always have the
7 best reputation as attorneys, you know, lawyer jokes
8 and that type of thing, and it's really great to be
9 able to showcase these folks to the rest of the world
10 as really great examples of people in our profession.

11 So first off, the Michael Franck Award, the
12 person that we came up with in our committee was
13 Dr. Clark Johnson. He was -- you probably noticed in
14 the materials he was actually nominated as an Unsung
15 Hero, but we felt that he actually was better suited
16 to the Michael Franck Award. Of course the criteria
17 for that is a lawyer who has made an outstanding
18 contribution to the improvement of the profession.

19 Dr. Johnson is an educator, and he has
20 actually taught, it sounds like, for about 37 years,
21 both at DCL and then when it turned into MSU College
22 of Law. But he has literally, you know, impacted the
23 lives of hundreds, if not thousands, of law students,
24 and those of you who went to that institution know
25 what I am talking about.

1 And so we felt that in a way this is almost
2 like a lifetime achievement award for this individual,
3 and he has impacted so many people and has had such
4 profound impact on really improving our profession
5 through his teaching efforts that we felt he was the
6 perfect person to receive this award.

7 Now, moving to the Unsung Hero Award, and the
8 criteria for that is a lawyer who has exhibited the
9 highest standards of the practice and commitment for
10 the benefit of others. Whether it be in this meeting
11 today or the news, obviously all we hear about budget
12 cuts. We don't have the money to fund everything from
13 education to whatever, but the two people that we
14 selected this year are the type of people who, quite
15 frankly, we are going to really have to rely on and
16 are going to be so important to the way our profession
17 works, and that is folks who deal with the
18 underprivileged, folks who need additional protection,
19 attorneys who necessarily aren't in it for the money
20 but regardless of that situation are incredible at
21 what they do in protecting their clientele.

22 The first one is Karen Gullberg Cook of
23 Beverly Hills, Michigan. She was nominated by
24 Bob Gardella, who of course is a former chair of this
25 body. As I understand it, she literally is considered

1 a statewide leader in the area of child protective law
2 as an attorney. In Oakland County, where I believe
3 she primarily practices, she is kind of considered the
4 expert amongst attorneys. I know a lot of people go
5 to her for advise and expertise, and I think even
6 judges from time to time consult with her. She has
7 devoted her career toward protecting children, toward
8 preserving families, and, again, any of you who do
9 this type of work know that it's not a particularly
10 lucrative area of the law, but it's incredibly
11 important, and so she was our first pick.

12 Or second pick was Mayra Lorenzana-Miles.
13 She is an attorney who practices in southeast
14 Michigan. She has put in literally countless hours of
15 pro bono legal work and volunteer work working
16 particularly with the Hispanic community in
17 southeastern Michigan, but both in her career and
18 outside of her business endeavors she has literally
19 devoted her life toward helping those who are less
20 fortunate and, again, in that region of the state
21 where she practices she again is widely known, widely
22 respected, and, again, she also perfectly fits our
23 criteria for this Unsung Hero Award.

24 So those are our three nominees. At this
25 time I would like to entertain a motion that we first

1 appoint Dr. Clark C. Johnson for the Michael Franck
2 Award, and then for the Unsung Hero Award
3 Karen Gullberg Cook and Mayra Lorenzana-Miles

4 VOICE: So moved.

5 VOICE: Support.

6 CHAIRPERSON RADKE: We will vote on these one
7 at a time. All in favor of Dr. Clark Johnson for the
8 Michael Franck Award, please say aye.

9 Any opposed.

10 Thank you. That one passes.

11 For the Unsung Hero Award, Karen Cook and
12 Mayra Lorenzana-Miles. All in favor say aye.

13 Opposed.

14 Thank you. That passes as well.

15 Jeff, thank you very much, and thanks again
16 to your committee for their hard work.

17 Just a little side note. Clark Johnson was
18 one of my professors at DCL, now Michigan State
19 University College of Law, and everything they said
20 about him in the book is true.

21 Let's move this forward. Actually right now
22 we are supposed to take a break. If there is no
23 opposition to that I will give everybody a break.
24 Please be back here at precisely 11:00 so we can get
25 on to substantive matters and some voting. Thank you.

1 (Break was taken at 10:47 a.m.)

2 CHAIRPERSON RADKE: Thank you. We will now
3 hear from Michael Blau, the chair of the Rules and
4 Calendar Committee, regarding the Past Chairperson
5 Committee.

6 MR. BLAU: In our last Representative
7 Assembly meeting in September of 2010 we authorized
8 the concept of creating a past chairperson's
9 committee. We thought it was a very good way of
10 accessing the experience, the institutional knowledge
11 and memory and intelligence of past chairpersons of
12 this body.

13 The matter was referred back to Rules and
14 Calendar for recommendation on the duties of the
15 committee. When we met as a committee, we agreed this
16 was a good idea, came up with the proposed Rule 7.8
17 that you have in your material, and the creation of a
18 Past Chairpersons Committee, and that would consist of
19 all the past chairs of the Representative Assembly,
20 and they would have the duty of providing counsel and
21 recommendation on all matters concerning the State Bar
22 at the request of the Representative Assembly.

23 So we are back before you this morning
24 basically seeking approval for this proposed Rule 7.8
25 and also a technical matter changing the current Rule

1 7.8, which is other committees, to 7.9. And that is
2 it. We will be looking for your support.

3 CHAIRPERSON RADKE: Because a motion was made
4 and seconded at the September meeting and is still on
5 the floor, we will now open this up for debate.

6 MR. COURTADE: Madam Chair, Bruce Courtade
7 from the 17th circuit. I rise to speak in opposition
8 to this motion for several reasons. I will start out
9 with the fact there is no need.

10 When you look at the current composition of
11 the State Bar Board of Commissioners, on that
12 commission are officers -- Bruce Courtade, Julie
13 Fershtman, and Tom Rombach -- all of whom are
14 ex-chairs of this body. Also on the Board,
15 Ed Haroutunian, a former chair of this body;
16 Lori Buitewig, a former chair of this body. That's
17 not an anomaly. As long as I have been involved in
18 the State Bar, there have always been representatives,
19 ex-officers of this body on the Board of
20 Commissioners. Kim Cahill, Kurt Schnelz,
21 Scott Brinkmeyer, Greg Ulrich, to name a few.

22 Second reason, there is no need. The
23 Representative Assembly membership, right here in this
24 room we have past chairs of this body. Anybody who is
25 a past chair of this body, please raise your hand. So

1 we have got a ton of past institutional memory right
2 here.

3 The third reason, there is no need. The
4 chair of the Assembly can always appoint an ad hoc
5 committee if the need arises to address any issue that
6 they want to bring to the attention of the State Bar.

7 The fourth reason is there is no need. If
8 you want to talk to past chairs of the Assembly, we
9 have this thing called a telephone. You can call them
10 up and ask. I have never had a past chair of the
11 Assembly turn me down when I have wanted some
12 information.

13 The fifth reason -- well, I won't say there
14 is no need. I would say there is no legitimate
15 compelling need. There is a Past Presidents Committee
16 of the State Bar. They say it is the most useless
17 committee they have ever been on. They convene once a
18 year. Staff has to scramble to come up with
19 meaningful agenda items for them. They don't do
20 anything. And they say they feel obligated to show up
21 because they are a member of the committee, but they
22 don't do anything.

23 The sixth, there is a cost to this. First
24 off, any time you have a State Bar meeting, they are
25 providing coffee, pop, water, cookies, whatever. They

1 are reimbursing mileage in some instances. I don't
2 know that would apply here, but the other cost is the
3 woman who is sitting right up at the table right
4 there. When you appoint a committee, the State Bar
5 has to staff the committee. That means somebody,
6 Anne Smith in this case, is going to have to
7 coordinate that meeting. She is going to have to be
8 spending time contacting all of these past chairs,
9 getting them into the room, coming up with something
10 for them to do, preparing reports and sending them off
11 to somebody who may or may not consider them.

12 For all these reasons, as past chair of the
13 Assembly, as a current officer of the State Bar, I
14 encourage you, let's not make things that we don't
15 have to make. Thank you.

16 CHAIRPERSON RADKE: Thank you, Bruce. Are
17 there other comments? Hearing none, we will take this
18 to vote, unless Mr. Blau would like to address
19 Bruce Courtade's comments.

20 MR. BLAU: The only thing I can say in
21 response, Bruce, I think it's not that this is going
22 to be an ongoing or regular meeting. It would be
23 called upon, very limited circumstances, and it's an
24 opportunity basically to have the individuals who have
25 experience with the Assembly, particularly

1 congregating in one place at one time to deal with
2 issues as opposed to it being in forums where we see
3 there are a lot of people before the commissioners
4 meeting or some other type of forum. Focus on very
5 defined issues that would be referred to the past
6 chairs and be able to utilize that great experience.

7 CHAIRPERSON RADKE: Thank you, Mike, and I
8 don't know if this was anticipated to be an in-person
9 or a telephone conference call, so that would address
10 some of your concerns, so we will go to a vote.

11 All in favor of the establishment of the Past
12 Chairpersons Committee, please signify by saying aye.

13 All opposed.

14 I think they did too. Do we want to do a
15 count? It sounded to me as if there is a majority of
16 no votes, and so this petition or this motion will go
17 down as defeated this morning unless somebody wants to
18 ask for a vote, but it sounded significant to me that
19 the noes have it. Thank you.

20 MR. BLAU: Thank you.

21 CHAIRPERSON RADKE: I have privilege of the
22 chair here. As I understand, that our presenter on
23 the jury reform project is not here yet. I would like
24 permission to move item 14 up ahead, because
25 Ms. Aukerman is also going to be addressing the

1 Uniform Collateral Consequences of Conviction Act, and
2 so I would like to move item 14 up if there is no
3 objection.

4 MS. AUKERMAN: I am here.

5 CHAIRPERSON RADKE: Oh, you are here. They
6 told me you weren't here, so we are then ready to go.
7 We are going to go to item 13, consideration of
8 legislation for the Uniform Collateral Consequences of
9 Conviction Act. The Presenter is Krista Licata
10 Haroutunian, the chair of the Special Issues
11 Committee; Martin Krohner, Committee on Justice
12 Initiatives; and Miriam Jane Aukerman, also on the
13 Committee on Justice Initiatives, Criminal Issues
14 Initiatives. So those parties will approach the
15 podium, please.

16 MS. HAROUTUNIAN: Hi, I am Krista Licata
17 Haroutunian, chair of the Special Issues Committee,
18 6th circuit. At the last meeting this was brought
19 before us for further review, and we met. My
20 committee did meet. Most of the members are here
21 today, and the officers were also on the phone calls,
22 as well as Anne Smith, so that went very well. And I
23 just wanted to briefly -- you have materials in front
24 of you. There was also a handout, I believe, in
25 support.

1 The Special Issues Committee's position is
2 found on the prior action by the R.A. paragraph, and
3 we as a committee unanimously support the concept of a
4 collateral consequences compilation for defendants.
5 We, however, did not necessarily support the uniform
6 act. We did not want to say we support that in total.
7 We just wanted to say that we do support the concept
8 and that we would use the sample language in the
9 uniform act as a kind of a jumping off point, you
10 know, a beginning point, and so the question is should
11 we support and advocate for state legislation that
12 implements a collateral consequences of conviction
13 act.

14 So that is the report of the Special Issues
15 Committee, and I thank my committee members for all
16 their help in this process.

17 MR. KROHNER: Good morning. I am
18 Martin Krohner, 6th circuit. I think when we met last
19 in September in Grand Rapids there was some confusion
20 about the fact that this Uniform Collateral
21 Consequences of Conviction Act was part of the
22 materials that was presented to you and it was kind of
23 a feeling I got that people thought that this was the
24 definitive proposal and that you needed to vote on
25 what was contained in that particular document that

1 was in the materials. What we are looking for really
2 through the initiative is, A, getting the concept for
3 a uniform collateral consequences of convictions act,
4 which mostly is going to be defined by the criminal
5 side. It's an opportunity now based on the recent
6 Padilla decision by the U.S. Supreme Court so that
7 people within the state who are representing criminal
8 defendants will at least have an opportunity to be
9 aware of all the entirety of the collateral
10 consequences. I don't believe everybody in this room
11 could name more than three or four.

12 We have been working on this a number of
13 years, passing out materials initially at the
14 State Bar annual meeting in Grand Rapids six years
15 ago, defined what collateral consequences are and
16 provided the wiki website that Miriam had, and that's
17 still up.

18 We believe the opportunity, the time is here.
19 The U.S. Supreme Court has stated it. I believe what
20 Krista has said, it's a jumping off point, it's a
21 place to start the discussion. We don't have to
22 necessarily have everything that's in that document.
23 You may want some, you may want none. We need to have
24 something as a uniform collateral consequences of
25 conviction act to get the legislature moving, and at

1 this point we would ask from the Criminal Issues
2 Initiative, and Miriam will also talk, but we would
3 prefer and ask that you support this concept so that
4 we can get the ball rolling, because it's become a
5 matter of urgency, especially in light of the economic
6 situation that we have today and the number of people
7 that are on the lower end of the socioeconomic scale
8 who end up in the criminal justice system don't have a
9 clue about some of the collateral consequences they
10 will be facing if they come in and plead guilty or are
11 found guilty and don't have the opportunity to have
12 their records cleared or expunged or take the
13 opportunity to avail themselves of the Holmes Youthful
14 Trainee Act or some of the other deferments that are
15 currently contained within your criminal statutes.

16 At this time I am turning it over to Miriam
17 for her few words.

18 MS. AUKERMAN: Thank you very much for having
19 me. I have spent much of the last decade working on
20 collateral consequences in Michigan. I want to talk
21 about why this is so important. The estimate is one
22 in three adults has some kind of criminal history on
23 file, that would include arrests. There are about one
24 in four adults have a criminal record of some sort.
25 Twenty-nine percent of the adult population has a

1 felony record. That's about 19.8 million people in
2 the United States, and people of color are
3 particularly affected. By some estimates, one in
4 three African American men has a criminal record.

5 At the same time you have this huge number of
6 people with records you have an increasing number in
7 severity of civil consequences to criminal
8 convictions. Those include things like legal barriers
9 to housing, to employment, to education, to public
10 benefits, immigration consequences, licensing
11 consequences. So there are consequences all over the
12 criminal code.

13 Part of the reason that there has been this
14 explosion in civil consequences to criminal
15 convictions is that criminal record information is
16 much easier to obtain now than it used to be as a
17 result of the internet and the easy availability of
18 criminal record checks.

19 For lower level offenders in particular the
20 collateral consequences are often much more
21 significant than the actual criminal consequence. If
22 you are facing deportation, the loss of your housing,
23 loss of employment, the ability to work in your
24 profession, that can be a much more significant
25 consequence to you than the actual criminal penalty,

1 which might be probation or a short jail sentence or
2 something like that.

3 There is also, I think, a real concern about
4 fairness. Criminal sentences are tailored to the
5 individual. They are based on sentencing guidelines,
6 based on the person's prior conduct, the severity of
7 the crime they committed. Collateral sanctions are
8 not like that. They are generally imposed across the
9 board without any individualized assessment about
10 whether they are appropriate for the particular
11 individual. That raises real questions about how
12 appropriate they are in many cases. I think most of
13 us would agree it's unfair for people to make
14 important decisions in the context of the criminal
15 case without knowing what some of the most severe
16 consequences are that they face.

17 Finally, the reason that this is becoming
18 increasingly important is that we are facing a
19 changing legal framework. In 2010 the U.S. Supreme
20 Court decided a very important case called Padilla V
21 Kentucky in which it held ineffective assistance of
22 counsel if that person would be deported as a result
23 of their conviction.

24 And I think that decision recognized that
25 defendants deserved to know the collateral

1 consequences that can be very, very significant, like
2 deportation, because that fundamentally affects their
3 decision, their decision making. And across the
4 country courts have now been applying the Padilla
5 decision to other types of collateral consequences.

6 The Michigan Court of Appeals recently on a
7 case called Fonville invalidated a plea because the
8 defendant had not been advised that it would result in
9 sex offender registration. Other courts are looking
10 at collateral consequences on pensions and things like
11 that saying defendants need to be informed of that and
12 are invalidating pleas on that basis.

13 I think that recognizes the importance of
14 fairness and notice. I think the criminal Bar is
15 concerned about this from the prosecutorial
16 perspective. It raises concerns about finality of
17 pleas. Concerns from the prosecutorial side, from the
18 defense side. There are a lot of consequences out
19 there. How do you actually inform your clients about
20 all of these consequences given how many there are and
21 the fact that they are all over federal and state law
22 and they are not compiled in one place.

23 So the national response to this issue of the
24 increase of collateral consequences and the importance
25 of notice has been to develop the uniform -- well, the

1 Uniform Law Commission has developed a model law, the
2 Uniform Collateral Consequences of Conviction Act.
3 The Drafting Committee, representing a wide variety of
4 views, brought that together. It's largely a
5 procedural document. It creates a mechanism to have
6 compilation of collateral consequences so they are all
7 available in one place and easy to find, and it
8 creates mechanisms for notice, which these are things
9 that I think are going to be a great relief to defense
10 attorneys, because they will -- we are running out of
11 time?

12 CHAIRPERSON RADKE: You are fine.

13 MS. AUKERMAN: Defense attorneys will be able
14 to have this information in one place to find and to
15 know notice is provided. I think it's fair to
16 defendants to know what they are getting themselves
17 into when they are making decisions in criminal cases.

18 The UCCCA also creates procedural mechanisms
19 for relief of collateral consequences which are severe
20 or inappropriate. Someone may well deserve a criminal
21 consequence in a particular case, but it may not
22 necessarily mean that it's appropriate for them to
23 automatically lose their license, and it's going to
24 give judges discretion among issues like that.

25 There are six states that have seen bills

1 introduced -- Colorado, Minnesota, Nevada, New Mexico
2 Vermont, West Virginia, North Carolina, and -- I am
3 sorry, North Carolina has issued recommendations and
4 the other states have introduced bills.

5 The question today is whether the
6 Representative Assembly should support or advocate for
7 comprehensive state legislation on collateral
8 consequences, and I want to echo what the two prior
9 speakers said in that I want to be clear we are not
10 asking the Representative Assembly to endorse the
11 UCCCA, per se, as that particular document. What the
12 creation by the Uniform Law Commission of the UCCCA
13 does is it highlights the need for states to develop
14 comprehensive legislation to address collateral
15 consequences.

16 Today Michigan's law doesn't address this
17 issue. It's all over the criminal code with scattered
18 provisions, many of which are conflicting. We need
19 legislation that looks systematically at the following
20 collateral consequences and addresses it in a
21 comprehensive fashion.

22 The UCCCA is complex legislation developed
23 during an extensive drafting process. Undoubtedly if
24 Michigan develops its own version of collateral
25 consequences legislation it is going to be critical

1 for stakeholders from the legal community to be
2 present and part of that drafting process and involved
3 in working out the details, which do obviously matter.
4 But what we are asking today from the larger legal
5 community as represented by all of you here today is a
6 recognition that collateral consequences are
7 important, that Michigan needs comprehensive
8 legislation on that issue.

9 As you can see, this is comparable to saying
10 the electronic revolution has changed financial
11 transactions, so we need to rework our financial
12 transactions law. That doesn't necessarily mean
13 everyone is going to agree on the exact details, but
14 what we are deciding on is you need to comprehensively
15 address this very critical issue through comprehensive
16 legislation.

17 The question is should defendants be notified
18 about collateral consequences, should the information
19 be collected so it's easily available, should there be
20 mechanisms for relief of collateral consequences when
21 they are inappropriate? My position, I guess, is that
22 this position from Criminal Issues Initiative is that
23 such comprehensive collateral consequences legislation
24 is very important. It's important for ensuring that
25 defendants are informed about collateral consequences,

1 important for ensuring that the defense bar has the
2 tools it needs to provide the required information to
3 defendants, it's important for ensuring the finality
4 of pleas, and it's, you know, particularly important
5 for reducing the unnecessary barriers to employment,
6 to housing, to education, to lots of areas that are
7 faced by a large number of people with records.

8 I am hoping that today the Representative
9 Assembly will recognize the importance of this issue
10 and will allow the State Bar staff, in consultation
11 with stakeholders, to move, which is all of you in the
12 various agencies of the Bar that want to weigh in on
13 this, but allow the State Bar to move forward and try
14 to introduce collateral consequences legislation that
15 is tailored to the specific needs here in Michigan.

16 CHAIRPERSON RADKE: Thank you. Krista, for
17 clarification, would you restate the motion, please.

18 MS. HAROUTUNIAN: The question before the
19 Representative Assembly is should the State Bar of
20 Michigan support and advocate for state legislation
21 that would implement a collateral consequences of
22 conviction act? And I make that motion.

23 CHAIRPERSON RADKE: Is there support?

24 VOICE: Support.

25 CHAIRPERSON RADKE: Thank you. Discussion,

1 please.

2 MR. POULSON: Barry Poulson, 1st circuit. I
3 am a public defender. I rise in support of this
4 motion and would note that my impression is that the
5 collateral consequences have now grown in the sum of
6 their complexity to exceed the complexity of the
7 criminal law itself. I find it puzzling. I will note
8 just an anecdote, that my client's arrest was
9 announced on the 8:00 news and between then and her
10 1:00 arraignment she was notified by public housing
11 she needed to find a new place because she was going
12 to be evicted based on the radio. It is a pervasive,
13 devastating, and major issue.

14 Some of these I grind out and understand as
15 best I can, SORA, things like that, well within my
16 purview. As to Padilla, Supreme Court says a simple
17 reading of the Immigration Code would tell everybody
18 what it means. I read it. I didn't understand it.
19 It doesn't come up a lot. I think that we have to do
20 something on this.

21 Now, the question does come, and this is,
22 Whose responsibility is it? As a defense attorney I
23 have no way to determine, for example Padilla, if
24 somebody is a U.S. resident or not. I have no way.
25 They don't have a national card. Judges can make that

1 finding, so I think that's a factor.

2 And is it the judge's responsibility to put
3 on the record or us collectively on the record that
4 the notification has occurred? Comprehension has to
5 be part of that notification, and so the defense
6 attorney certainly has had a role explaining that, but
7 I think the judges have a role too.

8 I am very much in favor of it. At the very
9 beginning just having the documentation is going to be
10 hell, but having the support of the whole community on
11 these consequences, I very much favor this. Thank
12 you.

13 CHAIRPERSON RADKE: Thank you, Mr. Poulson.
14 Other comments?

15 MR. REISER: John Reiser, 22nd circuit. I
16 have some concerns about this. I am glad to see that
17 it's not the UCCCA necessarily, but something akin to
18 that, but the devil is in the details.

19 I am all in favor of compiling a list.
20 Whether it should be the function of government to do
21 that or whether that's something the State Bar should
22 do or the defense bar or those practitioners in that
23 field, I just don't know who would have to do this,
24 and there is also something there about, I think it
25 said current federally-financed funds or something

1 like that. Will that continue, and if that doesn't
2 continue, what happens to the list? Does it dwindle?
3 Will it be maintained? So I think a list is a really
4 good idea. So that's one of my concerns.

5 The notification, we are notifying defendants
6 at every important procedure. There is an
7 arraignment, there is presumably a pre-trial or a plea
8 takes place. If set for a jury, then you have to give
9 it to him again, or her again, at a plea or where a
10 trial is set, then it is sentencing and then every
11 time someone gets out of incarceration.

12 I am telling you a lot of, I can't say
13 chicken, the other word, but a lot of petty
14 misdemeanors via burlesque result in guys getting
15 arrested a bunch of times, and there are significant
16 administrative sanctions. Collateral consequences of
17 driving while license suspended. We know there are
18 points, driver responsibility fees. There are
19 additional things like suspension, so there is a lot
20 of stuff.

21 What happens if that person doesn't know
22 English? So do we have to give it to them in Spanish,
23 or, you know, I come from Ann Arbor where there is
24 multiple cultures there. And one of the concerns that
25 I have is does it give, a cause of action isn't the

1 right word, but a basis for relief?

2 Sometimes plea agreements are taken knowing
3 that there is going to be I don't want this guy
4 teaching again based on what he did to that little
5 girl. I don't want this guy driving again based on
6 its his fourth drunk driving but for some reason we
7 had to plead it down to a second or something like
8 that.

9 So prosecution and defense attorneys often
10 know them, good ones do, and we take that into account
11 when we resolve a plea agreement. Do I now need to
12 say you can plead guilty to added counts two and three
13 upon dismissal of one provided you not seek any relief
14 under the Collateral Consequences Act?

15 And I guess one of my concerns is that we are
16 trying to do through the judiciary what might better
17 be done through the legislature. If there is a
18 sanction that's imposed, an administrative sanction
19 that the legislature has passed a law on, then we are
20 allowing a judge to say, notwithstanding what the
21 legislature has passed, I hereby declare that you can
22 do this.

23 You know, a repeat drunk driver has some
24 significant administrative sanction with respect to
25 the ability to drive, so can a judge undue that? And

1 I know the reason is that minorities really get hit by
2 this, but I fear with respect to drunk driving that
3 it's the guy who can afford the fancy lawyer who is
4 going to be filing the petition for relief.

5 CHAIRPERSON RADKE: Mr. Reiser, I have to
6 interrupt. You are past your time

7 MR. REISER: Thank you very much.

8 CHAIRPERSON RADKE: Ms. Aukerman has a
9 question.

10 MS. AUKERMAN: I wanted to answer the
11 question regarding funding on this. The initial
12 compilation under the Federal Court Security
13 Improvement Act, the federal government has contracted
14 out to compiling collateral consequences for every
15 state in the country as a basis for this. There is a
16 question of keeping that current. That's something
17 that could go to SCAO, Legislative Services Bureau.
18 There are a couple options for that, but that original
19 compilation that would form the basis then would be
20 updated, that basis would be there.

21 CHAIRPERSON RADKE: Mr. Mills, my back was to
22 you. Are you the next speaker?

23 MR. MILLS: I think I am, yes.

24 CHAIRPERSON RADKE: The chair will recognize
25 John Mills.

1 MR. MILLS: John Mills from 6th circuit. I
2 remember this coming up in Grand Rapids, and the
3 problem I had with it then really is the same problem
4 I have with it now. I think the proponents are
5 putting a lot of faith in the legislature that I just
6 don't have, and the way I read the proposal here that
7 you are starting with the Uniform Act, but you don't
8 advocate all of the provisions of the Uniform Act, so
9 you are going to leave it to the legislature to pick
10 and choose among the various provisions and figure out
11 what they think is the best for the particular need.

12 I agree the need is there. I would feel more
13 comfortable voting for this if, in fact, we had
14 something we could look at. I am reminded of
15 Speaker Pelosi's comment about passing the health care
16 legislation, let's pass it and then read it, and I
17 don't want to do that.

18 CHAIRPERSON RADKE: I am just going to
19 comment about that, if I may. John, this is just to
20 authorize Elizabeth Lyon and her staff to start work
21 on a collateral consequences act. If we are going to
22 talk about language and effect policy from the start,
23 I think we are going to see that back again.

24 MR. COLBECK: J.R. Colbeck of the 15th
25 circuit. I have been a member of this board for quite

1 a while. I have never spoken publicly before. I have
2 been an attorney for 43 years on both sides of the
3 bench, both prosecutor and defense.

4 There are a lot of collateral consequences.
5 They probably should be listed, but that isn't what
6 this proposal does. You are asking us here to
7 advocate, not to support but to advocate, something
8 that we know nothing of. If it was only to suggest
9 that these be compiled and be presented, wonderful,
10 but it goes well beyond that. It creates certain
11 requirements that are nonsense. It sets provisions,
12 but then it says it's clear that they don't have any
13 effect. It makes clear that neither the provisions of
14 the Act, nor noncompliance with them, is a basis for
15 invalidating a plea or conviction. So what's the
16 sense of having them with no consequences.

17 If the true issue here is not in compiling
18 these but in the consequences themselves or how they
19 affect, why don't we more seriously then address our
20 expungement statutes or make them more available. Why
21 don't we then address removal of those consequences.
22 This ticket to ride that says if you are a good guy
23 after so many years, a certificate of restoration is
24 nothing because it has no effect. Why don't we get
25 serious and get meaningful and address the true

1 issues. If expungement is appropriate, a court should
2 be able to determine and we should have a statute that
3 allows for it.

4 Perhaps we should list all these
5 consequences, but if we list them and give them to
6 somebody, all we are going to do is steer people from
7 taking pleas. They are going to say they will go to
8 trial and they still have the same consequences
9 imposed. It doesn't do anybody any good. We need
10 some meaningful consequences. We don't need to
11 advocate something we know nothing of.

12 MR. KROHNER: On the expungement issue, when
13 I was appointed to the deputy directorship of the
14 Wayne County Department of Community Justice, I was
15 approached by him and his staff to work with
16 Representative Waters in changing the expungement law
17 here in Michigan. That was back in '03. As we used
18 to say back in the last century, ought three. The
19 situation was bills were present in the legislature a
20 number of times. In fact, there is a current new bill
21 up there now, but it doesn't address collateral
22 consequences. Only addresses your convictions and
23 what and how many you can have and what you can
24 eliminate and what you can't eliminate. This is,
25 again, the UCCCA that was provided in the materials is

1 an opportunity for a pointed discussion.

2 You are talking about specific language, and
3 that language, we are not looking at that language.
4 We are looking at it as the starting point as for
5 discussion. Whatever language comes, as the chair has
6 indicated, would have to come back. So what we need
7 to start talking about, if we are going to do
8 something, if you don't tell your client what the
9 consequences are and then they come back to you and
10 start filing grievances with the Bar, that's not going
11 to help us either. How is that going to deal with our
12 malpractice insurance rates. We are supposed to know
13 all this stuff, and that's what the client expects
14 from us, to tell them all the effects of their pleas

15 MR. SMITH: Joshua Smith, 30th circuit. I
16 want to speak very briefly strongly in support of this
17 proposal. I think it's vital to get the ball rolling
18 on this. I want to give you a few examples.

19 One of the things I do is I prosecute
20 professional licenses, and time after time what will
21 happen is people have a case where a person says while
22 they were young they committed some crime. Years
23 after the fact they get their life in order, they go
24 to college, they apply to become a teacher only to
25 find after doing all of that work, rehabilitating

1 themselves, lo and behold, they can't become a
2 teacher. Why can't they become a teacher? Because
3 they had this conviction from when they were 15, 16,
4 maybe 18 or 19 years after the fact.

5 We also have the situation just as commonly
6 where the person, for whatever reason, slipped through
7 the cracks. They commit a crime, they become a
8 professional of some type, the state is doing a
9 search, it comes up on a database, boom, this person
10 has been a licensed professional for maybe a decade,
11 they have got a family, all the sudden the state is
12 now saying you can't practice your profession anymore.
13 You can't be a teacher because you did this X number
14 of years ago. We are sorry we missed it the first
15 time, but you are sort of out of luck now.

16 I think it's vital that we get the process
17 rolling so that we inform people of these collateral
18 consequences. As the speaker said, they are very
19 real. They are increasing, and without people knowing
20 them, they cannot make, I don't see how they can make
21 a knowing, intelligent, and voluntary plea without
22 knowing all the consequences of it. Thank you.

23 MS. STANGL: Terri Stangl from the 10th
24 circuit. I have been working with these collateral
25 consequences issues for about ten years with nonprofit

1 organizations and low income clients, and, as you
2 heard today, we have a problem. We have had it for
3 thousands and thousands of people. We have had it for
4 defense attorneys who are potentially committing
5 malpractice and for prosecutors. The problem is real.

6 What we are actually proposing today is to
7 take the unique expertise of people like all of us in
8 the room and people who do this work and the convening
9 role of the Bar to sit down and figure out how can we
10 solve the problem. This is what this motion does. It
11 actually brings together people with different ideas
12 and experiences to get real about what is a problem
13 and how can it be solved. It may not all be solved in
14 the legislature, it may not all be solved in the
15 courts, but you have to start the discussion, and this
16 motion would authorize the State Bar staff to use its
17 resources to convene that discussion.

18 This issue plays into two really critical
19 principles that the Bar has had for many years. One
20 is educating the public and its members about the law.
21 That idea of compilation and education is really
22 critical to our role. The other piece that's a part
23 of it is that balance between judicial discretion and
24 the legislature. That's a recurring issue. We come
25 at it every time, and who better than the Bar to be

1 sitting down and sorting that out.

2 So I would strongly urge all of us to say it
3 is a problem. We are the ones who need to be moving
4 on this. Let's authorize our staff and our volunteer
5 leadership and those with expertise to address it.

6 MS. WASHINGTON: Erane Washington, 21st
7 circuit, and I stand to support this. I happen to be
8 one of the firms in Washtenaw County that got what's
9 called the second public defender's contract, and what
10 that means is that we deal with any conflicted out
11 case that comes through Washtenaw County Public
12 Defender's Office. We get a lot of cases, obviously.

13 During that process it is for me very, very
14 painful to watch people come through the process who
15 committed crimes because they can't survive. They
16 can't support themselves because of these collateral
17 consequences. It is to me one of the most important
18 things we can do as a body is to actually start taking
19 a look at this issue and figuring out a way, like
20 people have said before me, to figure out how to give
21 people an opportunity for a second chance so that they
22 can survive, because if you don't give them the
23 chance, you are going to keep getting what we get,
24 which is repeat offenders.

25 Now, you are not going to cut down on

1 everybody, because everybody is not in that particular
2 position, but there are a number of people that we can
3 help by coming up with a means to give them that
4 second opportunity, and I don't think what we're
5 saying here is this is the document we are going to
6 use. It gives us the opportunity to say let's look at
7 it, let's figure out what we can do to at least begin
8 to give these people a second chance, and I strongly
9 support this and I would urge you to as well. Thank
10 you.

11 MR. HAUGABOOK: Terrence Haugabook, 3rd
12 circuit. Some of the questions and concerns that I
13 have is how this might eventually conflict with the
14 whole expungement procedure, because let's say you are
15 convicted of a felony for which you can't get an
16 expungement, does that mean you can go and get this
17 certificate? I think certain convictions are barred
18 from the expungement provisions for a particular
19 reason.

20 The next thing is, one of the things that you
21 might look at is, you know, you compile the list and
22 you give it to somebody and then they think that, wow,
23 I got all this, so, therefore, I go to trial, and we
24 are already talking about downsizing the judiciary.
25 So if you are going to have the downsizing the

1 judiciary, then you are going to run into the problem,
2 you know, more trials with limited resources.

3 Then how does this affect the repeat
4 offender. Somebody who is in Jackson, they are in
5 Jackson now with two or three convictions and they get
6 out a year from now. How does that affect that person
7 with regard to now they start -- let's say this act is
8 active within a year at the time they get out. How
9 does it impact them? Will it have any meaning for
10 that person in those situations.

11 CHAIRPERSON RADKE: Excuse me. I am going to
12 call a privilege of the chair here. I think that your
13 comments are beyond the scope of this motion, and
14 those are things that I think that need to be
15 addressed once we start the process of getting into a
16 collateral consequences act and those should be
17 considered, but I don't believe they directly address
18 the question that's before the Assembly.

19 MR. HAUGABOOK: I was going to sum it up.
20 Maybe if I sum it up that would explain it better. If
21 we are talking about using this UCCCA, you take say
22 this off and stay with this document here, take this
23 document and carve it up, legislature, and start
24 trying to address certain problems, these are the
25 things that I am saying. Thank you.

1 CHAIRPERSON RADKE: Thank you.

2 MS. VANHOUTEN: Margaret VanHouten, 3rd
3 circuit. Couple of points. I don't believe any of us
4 in this room object to the first part of the act about
5 compiling the collection, authorization, making sure
6 that defendants know what the consequences are. I
7 think where a lot of questions arise are in the second
8 part of the act or the Uniform Act where it talks
9 about the relief from these collateral consequences.
10 I believe that all of us would probably support an act
11 that just calls for the collection of that list and
12 making sure they are informed.

13 The other question I have is as matter of
14 procedure. There is discussion of it going right to
15 the legislature and have the legislature carve it out,
16 or is there a committee of this committee that is
17 going to look at this, draft some sort of proposed
18 legislation and bring it back to us to then address,
19 carve up, and do whatever it is we are going to do?

20 CHAIRPERSON RADKE: I am going to answer that
21 question. The question and the motion on the floor is
22 should the State Bar of Michigan support and advocate
23 for state legislation that would implement a
24 collateral consequences of conviction act? We are not
25 voting on any specific language right now. What we

1 are asking this body to do is to put its support, the
2 support of the State Bar, behind advocating for
3 legislation to implement a collateral consequences of
4 conviction act. And a lot of you have addressed
5 ramifications and things like that, but that's not
6 before this body today. Do you want the
7 Representative Assembly to support and ask the
8 State Bar to advocate for legislation that would
9 develop a collateral consequences of conviction act.
10 That's what we are talking about today.

11 MS. VANHOUTEN: We are talking about
12 referring to the legislature then, not to a committee
13 here to come up with proposed legislation?

14 CHAIRPERSON RADKE: If we authorize the
15 State Bar of Michigan to support and advocate for this
16 legislation, then our governmental unit with
17 Elizabeth Lyon is going to go to work on that, okay,
18 and develop something, and if the language is
19 something that would violate a policy that we have
20 already adopted, it's going to have to come back here.
21 We are going to have an opportunity to look at it,
22 okay. All we want to know today from this body is
23 should we advocate and support legislation for a
24 collateral consequences act in Michigan.

25 MS. VANHOUTEN: So that proposed legislation

1 would come back at some point?

2 CHAIRPERSON RADKE: It might. I can't
3 promise it will. It depends on how it develops. What
4 we want to do, as Ms. Stangl said, is start the
5 process.

6 MR. KRIEGER: Nick Krieger, 3rd circuit. I
7 wanted to note that constitutionally a lot of this
8 stuff will have to be done through the court rules
9 rather than in the legislature, and I don't think
10 anyone has considered that. That's all I want to say.

11 MR. BARTON: Bruce Barton, 4th circuit. I
12 have been a prosecutor for 16 years and a defense
13 attorney for 34. And I don't know all of the
14 consequences of a criminal conviction. Further, is
15 there anybody here who knows the consequences of a
16 felony conviction in Michigan if the client moves to
17 Indiana? I doubt it.

18 In a way you could call this the self-defense
19 for defense lawyers act, but given all of that, I
20 think there have been a lot of considerations here
21 that probably were not considered by the committee,
22 and beyond that I agree with the previous speaker.
23 Maybe this is a court rule matter as opposed to
24 legislation. The matter as presented here talks about
25 legislation. There may be other ways to go about it.

1 For those reasons, I move to recommit this matter to
2 the committee for a more comprehensive review of the
3 problems involved.

4 VOICE: Support.

5 CHAIRPERSON RADKE: We are going to discuss
6 the motion that's been brought before the committee.
7 Is there discussion on Mr. Barton's motion? Mr. Abel.

8 MR. ABEL: Matthew Abel, 3rd circuit. I
9 believe that this is overdue and that we should not
10 send this to committee. Ten years ago I served as an
11 expert witness in a case where a defense lawyer was
12 being sued by a man who was incarcerated in Texas
13 after a plea in a felony case in Detroit. And the
14 question was whether this defense lawyer should have
15 understood the standard at that time. And they
16 brought me in, of course, to say nobody understood the
17 standard, at least back then there really wasn't a
18 standard, but there is no reason not to inform a
19 defendant.

20 We should go ahead and encourage the
21 legislature to pass this legislation, and then
22 typically what happens is a court rule gets adopted
23 and the court rule supersedes the legislation, but
24 without the legislature doing this, the court is
25 unlikely to move. We should pass this now. Thank

1 you.

2 CHAIRPERSON RADKE: Is there any other
3 discussion on Mr. Barton's motion to send this back to
4 committee? Seeing none, I will accept a vote.

5 All in favor of sending this back to
6 committee say aye.

7 All opposed.

8 MR. COLBECK: Division of the house.

9 CHAIRPERSON RADKE: I think we are going to
10 have to take a standing vote. All in favor of sending
11 this back to committee please rise, and will those
12 appointed counters please come up and count for us

13 Thank you. All opposed to sending this back
14 to committee, please rise.

15 Mr. Barton, your motion is defeated. We will
16 go back to the main discussion on the motion regarding
17 whether or not this body should authorize the
18 State Bar of Michigan to support a collateral
19 consequences of convictions act. We are over here.

20 MR. BOONSTRA: Mark Boonstra from the 22nd
21 circuit. I share the concern that was expressed that
22 what we are being asked to do is to support and to
23 advocate for legislation that would implement an act
24 that we know nothing about. It may be something that
25 I could support. It may turn out to be something that

1 I wouldn't support, but I think it's premature to ask
2 this body or ask the State Bar to support and advocate
3 for legislation that will implement something when we
4 don't know what's in it.

5 So I would suggest that if what we want to do
6 is to authorize the State Bar to study the issue and
7 perhaps to assess the merits of the issue and to come
8 forth with draft language for us to consider that
9 that's what we should ask them to do rather than
10 asking us to authorize the State Bar to support and
11 advocate for legislation that would implement
12 something.

13 MS. HAROUTUNIAN: I just want to quickly
14 address that point. I want to make sure it's clear,
15 the Special Issues Committee unanimously voted to
16 support the compilation of civil collateral
17 consequences to criminal convictions in Michigan but
18 does not support all of the proposed draft language of
19 the Uniform Act as proposed by the National Commission
20 on Uniform State Law.

21 This is not a vote on legislation. We would
22 be here for a year and a half arguing about each
23 individual word of the act. This is not about
24 supporting an act. This is about should the State Bar
25 support and advocate for state legislation that would

1 implement a collateral consequences of conviction act?
2 It is not defined as to what that means. Michigan
3 would define it, the legislature would define it,
4 stakeholders would define it. Not what this body is.
5 This body is merely going to vote up or down on an
6 issue as to do we support the concept of a collateral
7 consequences of conviction act.

8 MR. CHADWICK: Tom Chadwick from the 8th
9 circuit. I move the previous question. I believe
10 this requires a two-thirds vote and is not debatable

11 VOICE: Second.

12 CHAIRPERSON RADKE: Then we will call the
13 question. All in favor of the motion.

14 VOICE: You have to vote on calling the
15 question.

16 CHAIRPERSON RADKE: To end debate. Thank
17 you, John.

18 All in favor of ending debate at this time,
19 say aye.

20 All opposed.

21 Well, the ayes have it, and the question has
22 been called. We will now take a vote on whether the
23 State Bar of Michigan should support and advocate for
24 legislation that would implement a collateral
25 consequences of conviction act.

1 All in favor of the motion on the floor,
2 please say aye.

3 All opposed no.

4 The ayes have it. It passes. Thank you very
5 much.

6 We are now going to move on to consideration
7 of ensuring equal access to court and administrative
8 proceedings. I will ask William Ard and Michael Blau
9 and Thomas Thornburg to approach the podium, please.
10 Josh Ard will address first. Josh, go ahead.

11 MR. ARD: Hi. We know we are the last thing
12 between you and lunch.

13 VOICE: A boxed lunch.

14 MR. ARD: So we will try to be brief.

15 My name is Josh Ard. I am from the 30th
16 circuit, and you may wonder, well, why is a drafting
17 committee up here for a proposal. We are not. We are
18 not proposing anything. We are presenting something.
19 It's our job to take issues that are very complicated
20 and try to whip them into shape so that you can know
21 exactly what it is that you are being called upon to
22 vote on, and this is a complicated one.

23 I would like to thank the members of my
24 committee who investigated this, tried to figure it
25 out, offered suggestions, and I would like to thank

1 the proponents who worked with us and maybe agreed
2 with us on some things, made some changes on others,
3 and also the leaders of the Assembly, where we think
4 we have got something that now you can understand, and
5 our job, as I said, is to clarify the language on
6 difficult issues so that you can spend your time
7 considering the merits of the proposal and not spend
8 your time worrying about the way that they were
9 written. And I guess we will find out in a few
10 minutes whether we succeeded or not.

11 So the proposal is up here before you, and
12 here is what it says. Should the State Bar of
13 Michigan adopt a position in favor of the
14 implementation of procedures or administrative rules
15 designed to ensure that, upon application and payment
16 or waiver of any applicable fee, an official state
17 personal identification card is issued to any Michigan
18 resident who is legally present in the United States,
19 as that term is defined in MCL 28.291, and who
20 otherwise qualifies for the card. And I will now
21 leave it to the proponents for them to explain why
22 they want you to adopt that proposal.

23 MR. BLAU: I am going to call up
24 Tom Thornburg to basically explain the position and
25 basically maybe add some insight and give him the

1 podium at this time.

2 MR. THORNBURG: Thanks. Yes, I am
3 Tom Thornburg, and I represent two nonprofit
4 organizations today, as well as -- those are the
5 Farmworker Legal Services and Michigan Human Rights
6 Center, which are two statewide legal service programs
7 with ten attorneys operating out of Kalamazoo,
8 Michigan. I also represent the Justice Policy
9 Initiative, which had a subcommittee, the I.D.
10 Subcommittee, that started in 2008 studying this need
11 for photo identification to access justice in
12 Michigan.

13 This all began following a 2006 report by the
14 Brennan Center at NYU finding that millions of
15 Americans do not have government-issued photo
16 identification, especially the poor, elderly, and
17 minorities.

18 So the J.P.I. subcommittee reviewed the
19 effect in Michigan on immigrant litigants not being
20 able to obtain a Michigan state I.D. card. For
21 example, we queried the Administrative Law Section of
22 the State Bar that confirmed it is state policy to
23 require that persons entering state office buildings
24 produce photo I.D., including facilities in which
25 administrative hearings are held.

1 So the J.P.I. adopted the position and
2 proposed it to this Assembly last September calling
3 specifically at that time for the Secretary of State
4 to promulgate an administrative rule reflecting the
5 legislature's 2008 amendment to the Motor Vehicle Code
6 and the state I.D. Card Act to accommodate the
7 definition of, quote, legal presence, so that all
8 eligible Michigan residents could obtain a
9 state-issued photo I.D.

10 At that point, as Mr. Ard explained, it was
11 referred to the Drafting Committee, and following
12 several very, very valuable suggestions by members of
13 that committee and this body, this proposal came out
14 today that essentially reframes that question as
15 endorsing the principle of ensuring equal access to
16 state I.D.'s, including all legal proceedings and
17 processes, while allowing some flexibility in the
18 manner, the mechanism in which that principle is
19 accomplished.

20 Of note, that the Bar has previously taken a
21 position of enabling paroled prisoners to obtain
22 drivers license and official state I.D. through
23 legislation that this body and the State Bar endorsed
24 back in 2009. This proposal then is within the
25 purview of this body, if you wish to endorse this

1 principle, because it improves both the functioning of
2 the courts and increases the availability of the legal
3 services. I suspect there will be some questions. I
4 will take a breath and let there be questions.

5 MR. BLAU: The motion, Resolved, that the
6 State Bar of Michigan shall adopt a position in favor
7 of the implementation of procedures or administrative
8 rules designed to ensure that, upon the application
9 and payment or waiver of any applicable fee, an
10 official state personal identification card is issued
11 to any Michigan resident who is legally present in the
12 United States, as that term is defined in MCR 28.291,
13 and who otherwise qualifies for the card.

14 VOICE: Support

15 CHAIRPERSON RADKE: Did I hear support?
16 Thank you. Is there any discussion? Mr. Krieger.

17 MR. KRIEGER: I just have a question.
18 Nick Krieger, 3rd circuit. I think I am missing
19 something. So there is already a statute, and the
20 issue is that the Secretary of State's office is
21 saying that documents that these immigrants are
22 providing are not sufficiently reliable documents, and
23 if that's the case, all it seems to say on the statute
24 is documents. It doesn't really say like official
25 documents or certified documents or anything, so, I

1 mean, I totally support this, but I don't really
2 understand the problem. I thought maybe you could
3 just -- maybe I missed something.

4 MR. THORNBURG: Good question. I think the
5 gentleman states part of the problem, but actually
6 this is a problem of federal and state laws not always
7 meshing, and what we are looking for is the support
8 for a procedure, and that could be an administrative
9 rule, we are very flexible, that would on an ongoing
10 basis make sure that those federal and state laws
11 regarding what is an acceptable document to prove
12 legal presence mesh. That's essentially it. It could
13 be an administrative rule, as we pointed out the
14 previous time we were before you.

15 At that time we solely considered that it
16 should be an administrative rule, but we are actually
17 looking for support for the principle and are willing
18 to work out the mechanism that would ensure that
19 people who are legally present Michigan residents
20 indeed do get an official personal state I.D.

21 CHAIRPERSON RADKE: Is there any further
22 discussion, comments, or question? Mr. Courtade.

23 MR. COURTADE: Point of information. I guess
24 it involves our executive director, or I don't know if
25 our legal counsel is here. What's our ability to be

1 able to lobby on behalf of this? Is there something
2 we need in order to lobby on this?

3 CHAIRPERSON RADKE: Elizabeth.

4 MS. LYON: I think Janet.

5 CHAIRPERSON RADKE: I will take anybody.

6 EXECUTIVE DIRECTOR WELCH: I have to change
7 hats a little. I am trying to log what's going on.
8 Now I am part of the story.

9 I would say one of the things that the
10 Representative Assembly helps us do in adopting
11 positions like this or failing to adopt is to help us
12 deploy our limited resources. It gives us direction
13 as to where we should put our efforts, and resolutions
14 like this clarify how we might do that.

15 MR. COURTADE: Thank you. And then I have a
16 friendly amendment. There is no question mark at the
17 end of the resolution. It should be a period.

18 CHAIRPERSON RADKE: Well, since it's a
19 resolution. You are saying there is a question mark
20 and we don't need it?

21 MR. COURTADE: Right.

22 CHAIRPERSON RADKE: Mr. Blau, will the
23 committee accept that as a friendly amendment?

24 MR. BLAU: Yes.

25 CHAIRPERSON RADKE: It's accepted. Thank

1 you, Mr. Courtade.

2 If there is no further comment or question --

3 MR. KROHNER: In the book it's a period.

4 CHAIRPERSON RADKE: Thank you for pointing
5 that out.

6 I am going to call for a vote. All those in
7 favor of the resolution please signify by saying aye.

8 All opposed.

9 I believe that the ayes have it and the
10 matter is passed.

11 Don't everybody jump up and run out the door,
12 except for Ms. Smith, who I believe is going to get
13 your attendance sheets that have to be filled out. It
14 is important for you so that we know, A, you were here
15 and, B, if you want your mileage, you have to have one
16 filled out.

17 I have been reminded to remind you again,
18 please get in your nominating petitions and, as well,
19 please fill out the assignment request for both the
20 R.A. and for Ms. Fershtman and for your State Bar
21 committees. Thank you all for attending. Thank you
22 for your attention.

23 Our clerk, Dana Warnez, reminds me that you
24 can donate your mileage to Access to Justice by
25 putting that on your form, on your mileage form, that

1 you are going to donate that to Access to Justice, and
2 the State Bar, instead of sending you a check for your
3 mileage, we will send it to Access to Justice.

4 With that, I ask that you please drive safely
5 going home, and I am looking for a motion to adjourn.

6 VOICE: So moved

7 VOICE: Support.

8 CHAIRPERSON RADKE: Thank you. Not
9 debatable. We are adjourned. Thank you.

10 (Proceedings concluded at 12:08 p.m.)

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 STATE OF MICHIGAN)
2 COUNTY OF CLINTON)

3 I certify that this transcript, consisting
4 of 99 pages, is a complete, true, and correct transcript
5 of the proceedings had by the Representative Assembly on
6 Saturday, April 9, 2011.

7
8 April 29, 2011

9 Connie S. Coon, CSR-2709
831 North Washington Avenue
Lansing, Michigan 48906

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25