

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 Center,
333 East Michigan Avenue, Exhibit Hall B, Lansing, Michigan,
on Thursday, September 19, 2013, at the hour of 9:00 a.m.

AT HEADTABLE:

DANA M. WARNEZ, Chairperson
KATHLEEN ALLEN, Vice-Chairperson
JANET WELCH, Executive Director
HON. JOHN CHMURA, Parliamentarian
ANNE SMITH, Staff Member

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1 just took place a second ago, that the appointment of
2 Vice Chair Kathleen Allen be made on this calendar to
3 serve as clerk today instead of Vanessa Williams, and
4 the second amendment is in paragraph number 4, the
5 presenter of the Unsung Hero Award, Barbara McQuade,
6 unfortunately won't with us today. In her stead,
7 Federal Judge Victoria A. Roberts will serve as the
8 presenter of the award. With these two amendments in
9 mind, I move to adopt the proposed calendar.

10 CHAIRPERSON WARNEZ: Thank you. I hear a
11 motion. Is there a second?

12 VOICE: Second.

13 CHAIRPERSON WARNEZ: Is there any discussion?

14 All in favor of the motion, please signify by
15 saying aye.

16 Any noes?

17 Any abstentions?

18 Motion carries. Thank you.

19 Next item of business is approval of the
20 April 27, 2013 summary of proceedings. Do I have a
21 motion to approve that summary?

22 VOICE: So moved.

23 CHAIRPERSON WARNEZ: I hear a motion. Do I
24 have a second?

25 VOICE: Second.

1 CHAIRPERSON WARNEZ: Is there any discussion?

2 All in favor of approving the summary, please
3 signify by saying aye.

4 Any noes?

5 Any abstentions?

6 That motion carries. Thank you.

7 If I may have Mr. Dan Quick come forward,
8 please. As you recall, he is chair of our Nominating
9 and Awards Committee. He will address the subject of
10 vacancies first.

11 MR. QUICK: Good morning. It's been my great
12 honor this year to chair the Nominating and Awards
13 Committee. In a moment I will move for the admission
14 of five new members of the Representative Assembly.
15 The following agenda item deals with the awards handed
16 out by this body, and let me say in advance of that,
17 it's a tremendous group of individuals who are
18 deserving. It was fantastic to have the opportunity
19 at nominate them.

20 Let me also thank the members of the
21 committee. Elizabeth Jolliffe, Honorable Judge
22 Nellis, Shenique Moss, Jim Bartlett and Anne McNamara
23 for their fine work this year.

24 I move for the admission of five members of
25 the Representative Assembly, and I would ask them to

1 stand, assuming they are within the room this morning.
2 Jim Fisher from the 5th judicial circuit;
3 Carl Collins, III from the 6th judicial circuit;
4 David Eisenberg from the 6th judicial circuit;
5 Thomas Fancher from the 10th judicial circuit; and
6 Adam Tavlik from the 54th judicial circuit. I hereby
7 move for their admission to the Representative
8 Assembly.

9 CHAIRPERSON WARNEZ: You heard the motion
10 from Chair Quick. Do we have a second on the floor?

11 VOICE: Second.

12 CHAIRPERSON WARNEZ: Any discussions?

13 All in favor of the motion, please signify by
14 saying aye.

15 Any noes?

16 Any abstentions?

17 Thank you so much. Welcome to the new
18 members of the Assembly.

19 (Applause.)

20 CHAIRPERSON WARNEZ: I am appreciative of Dan
21 and his -- he has graciously allowed me as Chair to
22 take some privilege and to have the honor to introduce
23 the presenters of the awards today.

24 Our first award that will be given is the
25 Unsung Hero Award. They will be presented by

1 Elizabeth Jolliffe. I would ask Elizabeth to come
2 forward. As she does, I just want to remind you
3 Elizabeth has been a longstanding member of the
4 Representative Assembly. She has served from 2009 to
5 the present. She has had many years of experience as
6 a commercial litigator and owns her own business now
7 Benchmark Coach, and she is very active, and I admire
8 her energy and I welcome her to present the award here
9 today.

10 MS. JOLLIFFE: Thank you, Dana. Good
11 morning, everybody.

12 VOICE: Good morning.

13 MS. JOLLIFFE: The formal description of the
14 Unsung Hero Award reads as follows: This award will
15 be presented to a lawyer who has exhibited the highest
16 standards of practice and commitment for the benefit
17 of others, and personally I think this award could be
18 presented to hundreds, probably thousands of people
19 locally in our profession here in the state of
20 Michigan. But it's called the Unsung Hero Award.

21 What's an unsung hero? I looked it up in the
22 dictionary, because I wanted some trendy new
23 definition, but it turns out an unsung hero is someone
24 who does great deed but with little or no recognition.
25 Kind of reminds me of the lion from the Wizard of Oz,

1 Back where I come from there are people who do nothing
2 but good deeds all day long and they are called good
3 deed doers.

4 My former partner, Jim Brenner, at Clark Hill
5 is the quintessential unsung hero. He has been an
6 excellent corporate defense lawyer and appellate
7 lawyer for more than 40 years. He has been
8 representing his clients successfully, steadily and
9 quietly for that time since he graduated from
10 University of Michigan Law School in 1972. Because I
11 worked with him and with so many people who worked
12 with Jim, I know the way that he practiced and his
13 professionalism, and the results he obtained quietly
14 for his clients. That's not why I nominated
15 Jim Brenner for the Unsung Hero Award. It's because I
16 think his greatest accomplishment is what he has been
17 doing since 1989.

18 He has been representing criminal defendants
19 on death row in the final processes of their appeals,
20 and he has been doing this pro bono, and Jim hasn't
21 been one of those pro bono lawyers that's always on
22 the pro bono soap box and saying do pro bono work, do
23 more of it, you can get more clients, it's great for
24 your career. Jim has been doing that quietly and
25 steadily because he believes that these defendants

1 deserve the effective assistance of counsel, in fact
2 they were denied, and that's what he argues in these
3 cases, the effective assistance of counsel in their
4 trials, and they were ultimately sentenced with the
5 death penalty.

6 Jim since 1989 has actually only handled
7 three of these cases, but he has been successful in
8 all three of those. The first one was out of
9 Tennessee, and it took 17 years and he reversed the
10 death penalty. Unfortunately, I believe, and Jim can
11 correct me if I am wrong, his client died before they
12 were able to get a result on the overturning on the
13 underlying conviction.

14 His second case from Texas he was also
15 successful in overturning the death penalty. And in
16 his third case, which he received in, I think, 2007 he
17 was also successful in reversing the death penalty,
18 and right now they are working on overturning the
19 underlying conviction, and in that case, and Jim may
20 talk a little bit more about this, they are fighting
21 the prosecutors, somebody hid or suppressed a
22 videotape that would have been very compelling, and
23 for 16 years I think it is in that case.

24 Jim has been doing this work very quietly.
25 The firm, and I know this personally, was not the kind

1 of firm that trumpeted Jim's success in these cases.
2 He didn't get tons of press. The firm didn't try to
3 get a lot of press out of Jim's work. We didn't
4 always say to new summer associates, people we were
5 recruiting, Go see Jim Brenner, he is an excellent
6 example of the kind of pro bono work we do here at the
7 firm.

8 Jim has just been doing it steadily and
9 quietly with the assistance of a few other people in
10 the firm all these years because he believes in it.
11 He is an excellent lawyer. He believes in the
12 pro bono work. He believes in these cases. He has
13 also been the chair of the Wayne County Neighborhood
14 Legal Services for more than ten years. He continues
15 to be that chair. He does that quietly as well. I
16 know he is very proud of that work and that that work
17 is very significant to him, and I know that makes a
18 difference for a lot of us in the Wayne County area.

19 A hero as we think in the movies or on TV,
20 there is a lot of fanfare, there is a lot of glory,
21 oh, he is our hero, but an unsung hero, we don't know
22 that that hero is here amongst our midsts. I am just
23 so proud to be able to have nominated him and for him
24 to receive this award and to ask him to come up and
25 receive this award, Jim Brenner.

1 (Applause.)

2 CHAIRPERSON WARNEZ: Representative Assembly
3 presents the Unsung Hero Award to you, and we
4 congratulate you and celebrate you. Thank you for
5 being with us today. Thank you very much.

6 (Applause.)

7 MR. BRENNER: Let me begin by thanking you
8 for the kindness and generosity you have shown in
9 giving me this award. I accept it, I deeply
10 appreciate it, and will hold it in a high spot in my
11 heart the rest of my life.

12 Let me quickly add, however, echoing what
13 Elizabeth said, that I understand that I really accept
14 it in a representative capacity, because in this room,
15 in the corridors of this building at this moment, in
16 the streets of Lansing, in the courthouses and the law
17 firms and the offices throughout the state there are
18 many lawyers in this state who are more deserving than
19 I am of this award. So, again, I accept it in a
20 representative capacity.

21 Let me next note that death penalty defense
22 work is something around which we can all rally, even
23 if we are opposed to the abolition of the death
24 penalty. Whether you are for or against the death
25 penalty, I think we can come together and agree that

1 an individual facing that ultimate penalty is entitled
2 to good legal representation, and that is what is
3 lacking in this country, unfortunately.

4 Pro bono death penalty defense lawyers come
5 in at the stage of post-conviction relief, after the
6 trial, after direct appeals have been exhausted, and
7 that is because in all the states I am aware of,
8 including Tennessee and Texas where I have had cases,
9 there is no provision for appointed counsel in the
10 post-conviction phase. So either the defendant has to
11 find resources at retain and pay counsel or pro bono
12 volunteers have to step forward to provide that
13 representation.

14 As Elizabeth indicated, the American Bar
15 Association runs a project called the Death Penalty
16 Representation Project, and in that project it looks
17 for pro bono counsel to come in, and that's how I got
18 involved in this work in the first place.

19 I won't go into the details of the cases, but
20 obviously, since the three cases have had the death
21 penalty reversed, there was something seriously wrong
22 in the representation of those cases at the trial and
23 the direct appeal level, and if volunteer lawyers do
24 not step forward and undertake this work, then there
25 are going to be individuals on death row who may go to

1 their death because they didn't get representation
2 that at least would overturn the death penalty, if not
3 the conviction itself.

4 So this is important work that we can all
5 share in and it's work that I think we can all support
6 whether we are for or against the death penalty
7 because we are all, as lawyers, for proper
8 representation of anyone accused of a crime, and
9 that's what this is all about.

10 So I thank you again for your conferring on
11 me this high honor, which again I accept in a
12 representational capacity, and I wish you all a good
13 day. Thank you.

14 (Applause.)

15 CHAIRPERSON WARNEZ: You Awards Committee
16 also has prepared and allowed us to give a second
17 Unsung Hero Award, so to introduce the presenter, at
18 this time I would ask Judge Victoria A. Roberts to
19 come forward. And as she does so, I will tell you a
20 little bit about her. She was born, native person
21 born in Detroit, undergraduate of the University of
22 Michigan. She received her jurist doctorate from
23 Northeastern University. She has had a wealth of
24 experience both in private practice as a research
25 attorney and she was appointed by Bill Clinton to the

1 federal bench in 1997 and confirmed unanimously in
2 1998. She was our 62nd president of the State Bar of
3 Michigan, the first African American woman to receive
4 that honor. She has been honored from Michigan
5 Lawyers Weekly as a Lawyer of the Year. She has
6 received the highest awards from the State Bar of
7 Michigan, the Roberts P. Hudson Award and the Champion
8 of Justice Award.

9 She is committed to service every day,
10 whether it's with the local neighborhood club needs
11 understanding of our judicial system or at ceremonial
12 high functions like this. So we are honored and
13 privileged to have you here today. Thank you for
14 being here.

15 (Applause.)

16 JUDGE ROBERTS: Good morning everyone. I am
17 so pleased that Barbara McQuade couldn't be here. I
18 really am.

19 So if you read definitions of hero, they
20 often include the word man. I was really startled by
21 this. One such definition is a man admired or
22 idealized for courage or for noble qualities or for
23 brave deeds. Such definitions are a known throwback
24 to the days of mythological or legendary figures or
25 warrior chieftains with tremendous strength or

1 abilities, since the first usage of hero dates back to
2 the 14th Century.

3 The definition has certainly expanded since
4 then to capture women who have distinguished
5 themselves by exceptional courage and fortitude.
6 Still, we sometimes limit our view of a hero to
7 someone who rushes in to fiery buildings to make
8 heroic rescues or someone who will swim against the
9 tide to rescue a child who is drowning. We think that
10 these are the only moments of glory that can survive
11 into the memories of our descendents. That is why the
12 decision of the State Bar of Michigan to honor unsung
13 heros is such a service to the Bar and to our
14 community.

15 We need not look as far back as battlefields
16 and raging fires to see the heros in our midsts.
17 Anyone who acts courageously, sometimes in the face of
18 danger, but not always, to accomplish good can be a
19 hero. And their good works and their good deeds are
20 worthy of a place in history.

21 Elizabeth Stafford is such a person. She is
22 a woman of courage, of strength, not just in her line
23 of duty as an Assistant United States Attorney, but
24 beyond.

25 I have had the privilege of knowing Elizabeth

1 since she was in law school in the early '90s. She
2 was hired by my law firm Goodman, Eden, Millender &
3 Bedrosian to be an intern, and we didn't hire many
4 interns. It was a very small boutique firm, and we
5 were very selective in the people that we hired, but
6 Elizabeth was one of them. And she distinguished
7 herself there and became one of our associate
8 attorneys. Again, we didn't make that many hires, but
9 an offer was extended to Elizabeth, and she accepted
10 it.

11 I was so impressed by Elizabeth's work as an
12 associate that I hired her to be one of my first law
13 clerks when I became a federal judge in 1998. It was
14 sort of the blind leading the blind, so to speak,
15 because I had never been a judge, and I can remember
16 we had a trial maybe within a week of when I went on
17 the bench and did not know what to do as a judge. But
18 Elizabeth and I sort of faked the punt. We sat with
19 those lawyers and pretended like we knew what we were
20 going to do, and when they left at 5:00, we looked at
21 each other just totally bewildered. Being on the
22 other side of the bench was just a little different.

23 But I came to depend heavily on Elizabeth, on
24 her intellect, on her drive, on her organization
25 skills and dedication to excellence and to service.

1 She was an integral part of the rapid development of
2 an effective and efficient docket in my chambers, and
3 it was my loss when she decided to join the United
4 States Attorney's Office in 2003, where she again has
5 provided outstanding service and dedication to the
6 United States.

7 I can attest to that superior service.
8 Ironically in the ten years that Elizabeth has been at
9 the U.S. Attorney's Office she has tried more cases in
10 front of me than she has in front of any other judge
11 in the bench and no single lawyer has tried as many
12 cases before me as Elizabeth has. So it seems like we
13 are just sort of bound at the hip forever.

14 In her letter nominating Elizabeth for the
15 award United States Attorney Barbara McQuade mentions
16 that Elizabeth was in trial when she broke her
17 shoulder on the way to court one morning. That trial
18 happened to be in front of me. And in pain Elizabeth
19 insisted that we go forward. It was the last day of
20 trial. There were witnesses who needed to be
21 cross-examined. She was delivering a closing
22 argument, and she stayed. She continued that trial.

23 Dedication, commitment, excellence,
24 perseverance, those are all qualities that Elizabeth
25 possesses.

1 Elizabeth has not been content to work 9 to 5
2 and to go home to her family. She has managed to
3 raise two lovely, accomplished and impressive
4 children, and in so doing she has given them a bird's
5 eye view of what it means to be a selfless hero.

6 Elizabeth has worked passionately on behalf
7 of young people who are not her own and fighting for
8 the rights of those who have been discriminated
9 against, and yet you might say that Elizabeth has made
10 it, but she understands completely that until all of
11 us are free from the burden of discrimination none of
12 us is completely free.

13 She has worked passionately on issues of
14 diversity through the auspices of the Federal Bar
15 Association. She has participated in programs through
16 the National Association of Federal Judges of Color
17 Just the Beginnings Foundation to educate high school
18 students about the law and to open up to them the
19 possibilities of becoming lawyers and maybe even
20 judges. She has now spearheaded a pipeline effort to
21 open the legal profession to persons of color at all
22 levels.

23 She is a mentor, she has approved mentors,
24 she is a teacher, she is an exceptional lawyer and an
25 exceptional person. She develops and provides

1 opportunities for others.

2 Elizabeth has certainly done great deeds for
3 little recognition. I believe that that will change.
4 The door needs to open to allow in more than the cast
5 of usual suspects for the awards that honor principled
6 leadership and unselfish and extraordinary service
7 performed in a spirit of self-sacrifice.

8 Elizabeth will walk through that door wearing
9 her badges of service, integrity and adherence to the
10 highest principles and traditions of the legal
11 profession. I have no doubt that in the not too
12 distant future the State Bar will honor her with its
13 highest awards, the Champion of Justice and the
14 Roberts P. Hudson, never more to be an unsung hero.
15 Congratulations, Elizabeth.

16 (Applause.)

17 CHAIRPERSON WARNEZ: It's my privilege to
18 give you this. Thank you so much. Welcome,
19 congratulations.

20 MS. STAFFORD: Thank you.

21 I want to begin by thanking the
22 Representative Assembly. I really appreciate this
23 award. It was not something that I was expecting, but
24 it does mean a great deal to me. I want to also
25 introduce and thank my unsung heroes. Many people came

1 today to witness this honor. Of course, starting with
2 my mother, Shirley McIntyre, who holds a master's in
3 social work and was not only a loving and outstanding
4 mother, but in the 1980s, at the height of the scare,
5 AIDs scare, my mother moved in to assist people who
6 suffered from HIV and AIDs infection.

7 My sister, Linda Givens, is a nurse for
8 Blue Cross. That is because she is a nurturing
9 person. You might have heard of her, some of you in
10 the Eastern District of Michigan. There was a
11 commercial that was on the radio and a customer for
12 Blue Cross described Linda as her angel. She is an
13 angel for all of us in the family.

14 My sister, Donna Williams, is here with her
15 husband, Walter Williams. They have raised four
16 wonderful, outstanding children. Today is Donna's
17 birthday, so please everybody say happy birthday.

18 Donna taught me the spirit of giving when I
19 was a little girl when she took my toys and gave them
20 to the family across the street, and when I confronted
21 her about it, she explained to me that they were
22 really poor and they really were needy. And years
23 later she said, Well, I never explained to you why I
24 didn't give my toys away.

25 But Donna has been a leader in the nonprofit

1 community building area for many years, and she is now
2 president of the Youth Development Commission -- I
3 hope I am saying it correctly.

4 My husband, Carl Stafford, with whom we have
5 raised two wonderful children, is here. I met him in
6 August of '91, and I will explain later why 1991
7 really did change my life. After I graduated from law
8 school in 1993, my beloved grandmother,
9 Mother Cheaber, said, for reasons that none of us
10 really understood, Thank God for Carl, thank God for
11 Carl. And we are all like, Why is she saying it like
12 this? But in truth, my grandmother knew what she was
13 talking about. Thank God for Carl Stafford. He has
14 truly been my best friend, the love of my life, and
15 just the most outstanding husband, father, and family
16 member to my other family members.

17 I so appreciate Stephanie Davis, the
18 Executive Assistant U.S. Attorney who is in the back
19 there who came to support me. I gave her a title, but
20 in truth she is one of my dearest friends. She is
21 someone who I turn to when I need to check my
22 conscience, to see whether what I am doing is the
23 right thing to do. She is highly intelligent, but
24 even more so just a very, very good person and a dear
25 friend to me.

1 I feel so blessed to work in an office where
2 the U.S. Attorney values my work so much that she
3 thought of me to nominate for this award, and I think
4 that not only receiving the award, but the people who
5 nominated me for this award mean so much to me. Such
6 high caliber people. Barb was, I think, officially
7 the nominator, but I know that Judge Roberts was also
8 supporting it, and I have at tell you, as I said, 1991
9 was quite a year. I walked into a job interview with
10 an attorney named Victoria Roberts, because I needed a
11 job. I had an apartment, I had a car, I had to figure
12 out how I was going at pay for that, and little did I
13 know that, as Ms. Roberts said, we would be basically
14 joined at the hip for the rest of my career, and it
15 just has, that one interview just changed my life
16 forever. I have learned so much from her, both as a
17 person, as a lawyer, as an activist, and as someone
18 who I want to live the image of.

19 It was so funny that trial that we had. We
20 were sitting there and court was supposed to start,
21 and I was just sitting, you know, and Judge Roberts
22 said, I think you are supposed to say, All rise. And
23 I hadn't been on that side before. I was waiting for
24 someone else to do that. We really were Keystone
25 Cops, but it really did work out.

1 The older I get, the more I do realize how
2 much I am a product of my family. The sound track of
3 my youth is voices talking over one another, usually
4 at raised volume, debating and dissecting every issue
5 under the sun. I have a snapshot in my head of
6 holiday dinners with my grandmother, my mother, my
7 aunts and uncles, sisters and cousins. Everyone is
8 animated, everyone is fighting to make his or her
9 point. And as a result of growing up in this type of
10 family where debate was always lively, all of my
11 sisters and cousins and I share a rich foundation and
12 language in debate. It was fed to us at the kitchen
13 table, or the dinner table. Unfortunately, too many
14 children do not grow up with that type of foundation,
15 and that's one of the barriers that prevents children
16 of color from becoming lawyers.

17 Nationally, although the country is about 63
18 percent Caucasian if you exclude the Hispanic whites,
19 the legal profession remains 90 percent Caucasian.
20 It's worse than other professions, including doctors,
21 engineers, and Michigan is no better.
22 African-Americans in Michigan comprise about 14
23 percent of the state's population, but only about five
24 percent of the lawyers in the Eastern District of
25 Michigan and about three percent in the Western

1 District of Michigan. The situation is even worse for
2 Hispanics. Hispanics comprise about five percent of
3 the state's residents but only one percent of the
4 attorneys in both the Eastern District of Michigan and
5 Western District of Michigan.

6 The projections are that trend will continue
7 or even worsen, although the country is becoming more
8 and more diverse, and that is a problem. I will quote
9 from the 2010 ABA Commission on Diversity report,
10 which states, Without a diverse bench and bar, the
11 rule of law is weakened as the people see and come to
12 distrust their exclusion from the mechanisms of
13 justice.

14 The steering committee members of the newly
15 formed Metropolitan Detroit Pipeline Coordinating
16 Council hope to reduce the language and analytical
17 skills deficits of children of color within the
18 Detroit metropolitan area with programs focusing on
19 skill building, mentoring and guidance. I encourage
20 each of you to do your part to help strengthen the
21 diversity of the mechanisms of justice.

22 I also want to acknowledge three people here
23 today who I worked with very closely and have been
24 dedicated to bringing diversity to the bar. One is
25 Dan Quick, who was the co-chair of the Diversity

1 Committee with me for three years, the Federal Bar
2 Association Diversity Committee. Marcy Rosen, who is
3 currently a co-chair with me and has been for the last
4 three years I believe, and Greg Conyers, who you all
5 probably know as the Director of Diversity and, of
6 course, that's what he is, but I also think of him as
7 my friend from the 8th grade and high school and
8 college as well. We have blackmail stories.

9 We lost Mother Cheaber in 2006. In honor of
10 what would have been her 101st birthday, I posted a
11 photo and tribute of her on my Facebook page on
12 Tuesday, and a friend wrote the following. She said,
13 I just love the way you honor the wonderful women in
14 your family, especially by the way you live. You are
15 doing her life and memory great justice. I am sorry.
16 I cannot receive a greater compliment. Thank you all.

17 (Applause.)

18 CHAIRPERSON WARNEZ: We are now moving on to
19 the Michael Franck Award. I'd ask presenters
20 Stephen Gobbo and Valerie Newman to come forward, and
21 as they do I would like to just feature a little bit
22 about our presenters. Stephen Gobbo is, as you know,
23 our past chair of the Representative Assembly. He has
24 been very active with the State Bar in the Prison and
25 Correction Section and the Criminal Law Section.

1 Through his leadership, as you know, he has
2 successfully guided the proposal to defining the
3 unauthorized practice of law and he is currently
4 serving on our Board of Commissioners. Steve, please
5 come forward.

6 Ms. Newman, for those of you who don't know,
7 Valerie, worked at the State Appellate Defenders
8 Office. She is a long-time friend of mine. I met her
9 first as a very young lawyer through the Woman Lawyers
10 Association of Michigan. Val was honored last evening
11 with the Champion Of Justice Award for her work in
12 advocacy, especially her representation in the Lafler
13 case at the Supreme Court in which the New York Times
14 reported that the decision that Valerie successfully
15 advocated for was the most important criminal justice
16 decision since Gideon versus Wainwright. We are very,
17 very privileged to have both presenters here to
18 present the Michael Franck Award.

19 (Applause.)

20 MR. GOBBO: Good morning to you all. It's a
21 pleasure coming back to the Representative Assembly
22 for this particular award presentation. You have
23 materials in front of you, so I am not going to go
24 back and reread what's there, but I would like to
25 begin by telling you all about what the award, Michael

1 Franck Award, stands for.

2 Michael Franck is a past executive director
3 of the State Bar of Michigan, but, like Marty,
4 Martin P. Krohner, who is being honored today, he was
5 much more than that in terms of a person. He and I
6 probably share something in common, and that is the
7 New York City roots.

8 Michael Frank was essentially a chief
9 litigator for the New York City Bar Association's
10 Grievance Committee before he left his mark with the
11 ABA, as well as the State Bar of Michigan.

12 Upon Michael Frank's, actually prior to
13 Michael Frank's death in 1994, the ABA bestowed upon
14 him an award for professionalism and ethics, and
15 that's an award that the ABA still presents to this
16 day. In naming that award, they described the award
17 as someone who practiced law as a higher calling of
18 justice as a defensible right, and public service as a
19 beacon of a life's work.

20 Marty certainly exhibited that. Associate
21 Supreme Court Justice Oliver Wendall Holmes in a 1913
22 speech to the Harvard Alumni Association, Class of
23 1961 said, Life is painting a picture, not doing the
24 sum. And you will find in the reading material that
25 supports the award that Marty certainly did not just

1 add up what he did throughout his life. It's others
2 that are kind of doing the accounting, but Marty was
3 actually painting the picture for going forward, and
4 some of the projects that he had worked on through the
5 State Bar of Michigan will continue to go forward,
6 including the Indigent Defense Project.

7 I would like to take this opportunity to have
8 Val Newman come up, because she and others had worked
9 with Marty very closely.

10 MS. NEWMAN: Thank you, Steve, and thank you,
11 Dana, and I neglected to thank Dana last night for
12 nominating me for the Champion of Justice Award, so I
13 take a point of privilege and thank her now. Very,
14 very great honor.

15 Marty's wife, Linda, is sitting in the back,
16 and we were chatting a little bit before we came up
17 here.

18 How many knew Marty? He was in the
19 Representative Assembly for a long time. Just by a
20 sort of show of hands. Not that many.

21 So Marty really had a very, very rich and
22 interesting history, both as a person and with the
23 State Bar, and one thing Linda said to me when we were
24 chatting was, when Marty and I first met each other,
25 we weren't sure what to make of each other, and Marty

1 felt the same way and I felt the same way, because he
2 was a lifelong prosecutor, had worked for the
3 sheriff's department after he left the prosecutor's
4 office, had been very active with Mother's Against
5 Drunk Driving, and I was a lifetime defender, and we
6 sort of had maybe a little bit divergent views on the
7 criminal justice system.

8 And we spent many, many car rides together.
9 Marty loved to drive, and so I was very fortunate,
10 because we lived near each other, and he became my
11 chauffer for many, many years at the State Bar
12 activities and meetings that we drove up together, and
13 we really formed an incredible friendship. I loved
14 Marty and miss him. I knew I would do this. Sorry.

15 He was always so proud of everything that I
16 accomplished, and I learned so much from him. He had
17 an incredible perspective on the justice system. He
18 was a prosecutor's prosecutor. He understood the
19 importance of fairness and justice in the criminal
20 justice system. He knew that prosecutors, and
21 understood and believed to his soul, that prosecutors
22 had a special duty to ensure justice in the criminal
23 justice system, and he was just, he was integrity
24 through and through, every morsel of his body, and
25 committed to making the criminal justice system a much

1 better place.

2 He worked hard. We co-chaired the Criminal
3 Issues Initiative. He sat with me on Defender Systems
4 and Services. We were on criminal issues initiatives
5 together. We championed the custodial interrogations
6 bill together, which the governor signed into law last
7 year which mandates recording of custodial
8 interrogations in serious felony cases. It was a
9 huge, huge, I say victory for the system, because it's
10 transparency and fairness to the system.

11 And Marty made the transition. Some people
12 say, Well, you know, prosecutors and defense
13 attorneys, not always the smoothest of transitions.
14 Marty made that transition like he had been a defense
15 attorney his entire life. We would talk cases all the
16 way up to Lansing and all the way back home. He would
17 run through my brain everything he was working on
18 looking for ideas, looking for suggestions, how he
19 could do things better.

20 You know, most defense attorneys might visit
21 a client once or twice if they are in jail. Marty
22 would go repeatedly. He had clients, he just cared so
23 deeply about everybody he represented and did his very
24 best and would get so mad at the system now that he
25 was on the other side of it. You know, how can they,

1 how can these things happen? Just didn't understand
2 it. I said, Suck it up, Marty. I have been living it
3 for 20 years.

4 We just had to work to make things better.
5 It required working together to make things better and
6 make an impact. This is a very high honor, and I want
7 at thank the Representative Assembly, and I know
8 Linda, I think Linda wants to say a few words, so you
9 can come up any time. Because, you know, he really
10 deserves this honor. I wish he was here to receive
11 this honor in person. He was really a great man and a
12 great friend. So thank you. Linda will come up.

13 (Applause.)

14 MRS. KROHNER: Well, how do I follow that? I
15 am in a roomful of lawyers, and I am not nearly as
16 articulate and well spoken as any of you, but I can
17 tell you that Marty was so proud to be an attorney.
18 He was so proud of the profession and, as Valerie
19 said, when he started defending indigent people, I
20 would question him and say, Mart, you know, they are
21 paying you for two jail visits, and you can imagine
22 what they were paying him, and he said, It's not about
23 that. Everybody deserves a good defense. He said, I
24 treat people the way I want to be treated.

25 And I remember one Thanksgiving he had a

1 client who was in jail, and he was going on his fourth
2 or fifth visit, and he said, I wouldn't like to be
3 sitting in jail without my attorney coming to see me
4 during the holidays.

5 Marty loved all of you. And I know that he
6 is watching, that he is really proud and he is really
7 delighted. We all miss him every day.

8 Every now and then he would give me the
9 privilege of -- I was an English major -- editing some
10 of his briefs, and I would say, Well, why are you
11 saying this again and again? He would say, I am
12 trying to make a point to the judge.

13 So of course I was so proud of him, and I am
14 so proud of this award, and I am so proud that all of
15 you gave this to him, and I just hope that he knows,
16 because he would be beyond thrilled. Marty was the
17 kind of man if you offered him millions of dollars or
18 being honored by his peers he would have taken the
19 award. Thank you all very much.

20 (Applause.)

21 CHAIRPERSON WARNEZ: It's time for a break.
22 I think it's appropriate that we take -- I know we are
23 running a little bit behind, but I do think we deserve
24 probably a ten-minute break, so I expect everyone back
25 at 10 after 10. Thank you.

1 (Break taken from 10:03 a.m. to 10:19 a.m.)
2 CHAIRPERSON WARNEZ: I will call the meeting
3 back to order.

4 On your agenda, this is my opportunity to
5 make some remarks, and while I don't believe I need
6 ten minutes, I do really want to take a chance to say
7 a few things, make sure nothing goes unsaid from my
8 heart to you and to the people who made this year so
9 special for me.

10 First of all, I want to just once again just
11 point out the fact I was so moved by the awards today.
12 Wasn't that wonderful this morning? Everyone give
13 them a round of applause, and maybe give them a
14 standing ovation at this point in time, which they
15 deserve. So let's stand up and thank all the award
16 recipients.

17 (Standing applause.)

18 CHAIRPERSON WARNEZ: Thank you. Those award
19 recipients today certainly reminded me about what the
20 opportunities each of us have by virtue of our
21 training and profession to make a difference in the
22 world, a difference to our clients, whether they are
23 popular or unpopular, a difference to those in need
24 who truly need someone to have a voice for them, a
25 difference to each other, if you think about the

1 mentorship that is available in providing a service,
2 that's a key, key part of why we are here, and a
3 difference collectively, this body collectively makes
4 a difference. So I hope that you feel the same way,
5 and I just want to tell you that's certainly how I
6 feel after watching the awards ceremony.

7 I encourage you when you go home a month from
8 now and get back to the grind and you may find
9 yourself in one of those bad days, frustrated and
10 tired and just what the heck am I practicing law for,
11 which I am sure we all have a few of those, just think
12 about James Brenner or Elizabeth Stafford or
13 Marty Krohner. Our days are limited, and we should
14 make the most of them, and even on those bad days, you
15 make a difference. Just sitting in those seats today,
16 by participating, you really do make a huge
17 difference.

18 I am grateful to have been your Chair this
19 year. I want to thank some people. I promise it
20 won't be like an Academy Award speech, but I just want
21 to be sure to put out some thank yous in the world.

22 To all the R.A. leaders, past and present,
23 who currently serve, have served, who are in the room,
24 who are not in the room but in our hearts, I am so
25 grateful to have watched this, people leave this

1 Assembly. It's helped me as I faced each and every
2 phone call, meeting, challenge, fear, so I am grateful
3 for every person who stood here before me. We stand
4 on each other's shoulders as we do this work.

5 I also want to look back to those people who
6 are in office with me. You are going to be in
7 excellent hands when Kathleen Allen is sworn in today
8 and takes over the chairship. She has been by my side
9 for everything, and a most ardent supporter, and I am
10 so appreciative of everything she has done throughout
11 the year.

12 Vanessa Williams, unfortunately with her work
13 obligations couldn't be here, but likewise she will
14 also do an excellent job on your behalf.

15 I want at thank the staff of the State Bar of
16 Michigan. You are tremendous people. Caring,
17 diligent, professional people who are ready to serve
18 and help at the asking. All any of you have to do if
19 there is a question or concern, pick up the phone,
20 call Anne Smith. You will have assistance at the
21 ready in a moment's time.

22 I specifically thank Anne Smith for all your
23 hard work, not just this year, but for the past 11
24 years in serving the Assembly. Without Anne we would
25 be lost, and I just want to thank her for everything

1 she does.

2 I want at thank Dawn Evans for her hard work
3 on the Inventory Rule last year and this year and,
4 despite this body not adopting the rule as proposed, I
5 think the end results made all of us aware of the
6 issues and concerns that we might not have been
7 otherwise aware of. I do think the need for those
8 issues to be addressed will continue in the future. I
9 don't know when, but I am certain they will raise
10 their heads again in some shape or form.

11 I want to thank Anne Vrooman and
12 Gregory Conyers for helping the Assembly as they
13 constructed the Diversity Inclusion Survey to help us
14 to include questions to you as members of the Assembly
15 so we can have feedback about how to keep this
16 experience meaningful.

17 Of course there are other people in the
18 State Bar as well that are always at the ready, our
19 Executive Director Janet Welch, Candace Crowley,
20 Marge Bossenberry. They provided additional guidance
21 and support that I am very grateful for.

22 I am sorry. This has been a tremendous,
23 tremendous experience. I recommend it to everybody
24 who cares about what they do and cares about the
25 State Bar. You will exponentially increase your

1 understanding and knowledge and passion for law should
2 you choose at come up and serve in a leadership
3 position.

4 I extend my personal thanks out to my family
5 and to my partner, Mary Vogel, who have made this year
6 possible for me while I am here and away each of those
7 people. Florence Schoenherr-Warnez has worked very
8 hard, harder than she should have to keep professional
9 life going, and Mary has kept me sane. So all I can
10 do is just tell you my honest and heartfelt thank you.
11 It's been an honor and a privilege.

12 Going forward, there is a housekeeping matter
13 I have been reminded of. If you haven't registered at
14 the registration desk, you should. When you do, you
15 will receive your passport with the vendors. If you
16 visit the vendors, they can stamp your passport, and
17 by the way, I will tell you, the Macomb County Bar
18 Association last year, of which I was president last
19 year, 16th circuit, I don't know how this happened or
20 how it came about, but we did a passport at our county
21 bar last year, so if you made it to our events you
22 could get your passport stamped. So I do feel perhaps
23 I forged another part of your life today in some way,
24 shape, or form. Get your registration, get your
25 passport, please visit the vendors. You may be

1 qualified for prizes and things.

2 I believe that's all for housekeeping. I
3 just want to double check with Anne. Is there
4 anything else you need me to make anyone aware of?
5 Nope. Okay.

6 With that being said, I just want to welcome
7 our next speaker and welcome the outgoing president,
8 Bruce Courtade, to the podium to make his remarks.

9 (Applause.)

10 PRESIDENT COURTADE: Good morning, everyone,
11 and Janet has learned to fear this moment, because
12 this is when I go off script. I want to follow up on
13 something Dana just said, and that was the awards
14 ceremony, the recipients who were here, and I do this
15 out of love and out of respect, so please take it that
16 way.

17 I don't know how many of you have read To
18 Kill a Mockingbird. One of the most poignant scenes
19 in To Kill a Mockingbird was after the trial was over,
20 and you know how the verdict came down, and
21 Atticus Finch is putting together his briefcase and his
22 daughter is up in the gallery with all the
23 African-American citizens who could not be on the main
24 floor, and she remained seated and everybody else
25 stood as Atticus walked out. And the pastor who was

1 next at her said, Stand up, Ms. Jean Louise, your
2 father is passing. He imparted on her that she had to
3 show the respect that her father deserved.

4 And when I was sitting in the back hearing
5 about the amazing things that these award recipients
6 had done, knowing two of them, I was a little
7 disappointed in the Assembly, because when these
8 people who you chose to honor and you said they had
9 done such amazing things that they deserved to be
10 recognized, when they were recognized, nobody stood.
11 If these people are worthy of your honor, they are
12 worthy of standing up when they are honored, so please
13 keep that in mind.

14 That was just something that -- you know, I
15 know we belatedly stood, but they are not here to
16 receive the respect, so please keep that in mind.

17 Now on to something lighter. I do want to
18 thank you for the honor of serving as your State Bar
19 President for the last year. It has been an amazing
20 experience, one that until you walk in these shoes you
21 cannot understand. I know Dana just mentioned how
22 much you learn about the Bar and how much you feel you
23 are more involved, and I can tell you that my respect
24 for lawyers and the legal profession was heightened
25 ten fold the last 12 months.

1 I encourage you all. You are already
2 involved with the Assembly. Become more involved,
3 become more engaged. If possible, consider going for
4 the Board of Commissioners and then maybe some day
5 getting into the chairs, because I can promise you
6 there is nothing more enjoyable that you will do
7 involving your profession. It's a way of giving back
8 and a way of learning so much more about not
9 necessarily what's going on in your practice but our
10 profession. I want to thank you for your hard work on
11 the Assembly this year and in years past. I want to
12 thank you for your service to our profession in
13 general.

14 It has been a crazy year. I have traveled
15 extensively, talking to lawyers and judges from around
16 the state. When the year started, one of the first
17 things that hit, I don't know if you remember this,
18 was the Bar exam results, and dealing with the
19 blowback from all quarters/corridors on that. The law
20 school deans were upset with the Bar exam, the Board
21 of Law Examiners taking heat saying that they had not
22 done anything wrong, the law students who were upset
23 because they had failed after becoming \$120,000
24 average in debt, so that's how my year as the
25 president started out.

1 It was something that forced me to get up on
2 my feet quickly, learn about an area, frankly, that I
3 knew nothing about. The State Bar was not actively
4 involved in the examination process, was not actively
5 involved in anything, other than calling together the
6 parties, getting them to talk, and most of all
7 insisting that there be transparency in the system.

8 That's the one thing I heard as I went around
9 the state from the lawyers, that they didn't
10 necessarily care about the results, they just wanted
11 to make sure that the process was open and fair. So
12 that's why your State Bar is advocating for that
13 position, and I am glad to say that is one that has
14 been adopted by the parties. There is still not
15 unanimity of thought among the law schools and among
16 the BLE, but they have at least professed at this
17 point it will be a lot more transparent than it has in
18 the past.

19 We also heard shortly after I took office
20 about a hue and cry coming out of mainly Oakland
21 County regarding the dark money in judicial campaigns.
22 For those of you who aren't familiar with it, in that
23 campaign there was a total of \$2.8 million spent on
24 the campaign, roughly \$700,000 of which was raised by
25 the incumbent candidates, the slate of five judges who

1 were running for reelection, and just over \$2 million
2 that was donated by an anonymous individual to run
3 issue ads opposing the incumbent.

4 We heard loudly and clearly that the
5 profession did not like the presence of dark money in
6 judicial campaigns, so I appointed a work group that
7 was bipartisan, that was as diverse as possible among
8 the board -- young, old, women, men, litigators,
9 nonlitigators, republicans, democrats, far left, far
10 right -- and I asked them to look at it. By the way,
11 Tom Rombach is here, and Tom was gracious enough to
12 chair that work group. They came back with a report
13 to the Board.

14 I don't think it went as far as some people
15 wanted it to go. Some people, frankly, wanted sort of
16 a truth squad where if anybody ran an ad the State Bar
17 would be jumping in saying whether it was true or
18 false. We did not go down that road, and I am glad we
19 didn't, but what that work group did, it came back and
20 said that the State Bar feels that it is important to
21 have clarity and disclosure in judicial campaigns.
22 And I mention that specifically to you, because this
23 body played an integral part in that, because this
24 body in September of 2010 voted unanimously to support
25 full disclosure in judicial election campaigns. So

1 relying in large part on the work of this body, that
2 work group came back and said it ought to be a top
3 priority for the Bar.

4 Without a doubt a highlight to my
5 presidential year was in July, when on July 2nd I
6 actually was on vacation, drove down from
7 Walloon Lake, made a stop at the Mt. Pleasant Meijer,
8 or the Cadillac Meijer's, to buy some of undershirts,
9 because I hadn't packed any, and appeared at the
10 Indigent Defense bill signing. So Governor Snyder,
11 after the State Bar had been working for more than ten
12 years to have improvements made to our indigent
13 defense system, Governor Snyder signed the bill on
14 that day which authorized the creation of the Indigent
15 Defense Commission. And this is a huge first step for
16 assuring that the promise of Gideon versus Wainwright
17 becomes reality and that every person who is charged
18 with a crime who is facing jail time will have the
19 right to adequate counsel, and not only will they have
20 the right, but it will be a reality in the state of
21 Michigan where it has not been. So that was
22 definitely a highlight of the year.

23 And then the last, you know, the old
24 philosophy with going out with a bang and not a
25 whimper relates back to what I mentioned earlier about

1 the Oakland County Circuit race. On September 11th,
2 the State Bar, Janet Welch and I cosigned a letter
3 submitted to the Secretary of State asking her to
4 revisit a 2004 letter issued by one of her
5 predecessors which allow dark money to be used in
6 issue advocacy ads in judicial election campaigns.

7 Our position is that the prior letter which
8 was written in 2004 may have been correct given the
9 state of the law at that time but that since that time
10 there have been three United States Supreme Court
11 cases, including Citizens versus United and the
12 Caperton decision, which clearly indicate that there
13 is no place for anonymous issue ads in judicial
14 election campaigns.

15 So we have initiated the formal process
16 asking the Secretary of State to revisit that and
17 hopefully change that ruling so that hopefully in the
18 next election cycle we will not face the specter of
19 the ever-increasing dark money going into judicial
20 election campaigns. It's too important that the
21 public knows that justice is not for sale in Michigan.
22 It's too important that as litigants going into court
23 you have the right to know whether the other side has
24 donated millions of dollars in dark money to get that
25 judge elected so that you as a lawyer would know

1 whether or not to seek recusal of that judge. I think
2 it's common sense. I think that it's overwhelmingly
3 supported by the public. The most recent polls were
4 that 96 percent, maybe it was 94 percent, of the
5 public support full disclosure of judicial campaigns.
6 Seems to me the only people who are opposing it are
7 those who benefit from the dark money.

8 I am aware that there was a letter in the
9 Detroit News today taking a contrary view and accusing
10 the State Bar of wading into political waters. I can
11 assure you this is not a political issue. This is a
12 policy issue. It is a justice issue.

13 As I mentioned in one of the radio spots that
14 I was interviewed, I am a Kent County republican. I
15 do not look at this as an "R" issue or a "D" issue. I
16 look at this as a capital "J" for justice issue.

17 So the public comment period is now open.
18 You can comment to the Secretary of State's website.
19 If we don't have it yet, I am hoping that we can get a
20 link on the State Bar website so you can go to the
21 State Bar website, click on that and leave your public
22 comment with the Secretary of State. I encourage you
23 to do that. This is an issue that I think will make a
24 significant difference in the way that we choose our
25 judges -- fairly, openly, and honestly.

1 I want to thank your Assembly leaders. It
2 has been a true pleasure working with Dana. Dana and
3 I go back to when I was a young lawyer, I think, so
4 she was probably rolling around on a tricycle, but she
5 has been an outstanding leader, an outstanding
6 advocate, and it was a combination of serendipity and
7 just great good fortune that I had the opportunity of
8 being State Bar President when she was Assembly clerk.

9 Kathleen Allen and I are both from Grand
10 Rapids, but one of the benefits of being involved in
11 State Bar activities, until we were on the Assembly
12 together, I never knew Kathleen Allen. I now count
13 her as a close friend, and she is a close friend to
14 the Assembly, a great advocate for the Assembly and
15 will do a wonderful job as your leader next year.

16 And I have just gotten to know Vanessa this
17 year, and, again, I can't speak highly enough of her.
18 She is going to do wonderful things.

19 But your leaders are only as good as the
20 support they get from you. So I encourage you to help
21 them out, give them ideas. Remember, judicial
22 campaign disclosure was an idea that started in this
23 body. Come up with ideas like that. Come up with
24 ways to make our practice better, our profession
25 better. That is the vital role that this body fits no

1 better than any -- it is the best role for this body.
2 Nobody can do it any better than this body.

3 I covered my watershed. I don't know if I
4 have used my full ten minutes. If anybody has any
5 questions, I would be happy to answer them either now
6 if we have time or I will be around, so look for me.
7 Thank you very much for the honor of being your
8 president.

9 (Applause.)

10 CHAIRPERSON WARNEZ: Thank you, Bruce.

11 Next up is our esteemed executive director,
12 Janet Welch. I welcome her to the stage and to the
13 podium to make her remarks.

14 (Applause.)

15 EXECUTIVE DIRECTOR WELCH: Good morning. I
16 want at say a word or two about the immediate past
17 president of the State Bar of Michigan. He has been
18 an extraordinary president. I would say almost
19 perfect, but he has two flaws, one of which is very
20 pertinent right now. The first flaw is that -- and
21 these really are personal to me. They relate to the
22 world of the executive director and the president.
23 First one is that he often made me laugh
24 inappropriately. That's not relevant right now, but
25 what is relevant is that the other habit that he had

1 is that he would speak so eloquently and so on point
2 about matters that he would leave me nothing to say,
3 and that's what he has done right now. But he has
4 also used up most of my time, so that's fine. So I
5 can be brief.

6 But I do want to underscore the point that
7 Bruce made about the relevance of this body to really
8 critical issues, and the fact that this body in 2010
9 said that it is wrong for there to be it dark money,
10 undisclosed sources of judicial campaign expenditures,
11 was critical. It's critical for changing that problem
12 in our system. It's not a silver bullet for
13 correcting everything. We know that we have had a
14 problem that has grown over the last ten years to the
15 point where now 75 percent of the money in the
16 Supreme Court races is from sources that we don't know
17 where they came from.

18 The pushback that the Bar's position is
19 getting is coming not from one party or the other,
20 it's coming from the political establishment of both
21 parties. And that's a formidable obstacle, but the
22 public believes that they should know who is behind
23 these ads, and I want to personally thank the Assembly
24 in 2010 for overcoming the sense of cynicism and
25 powerlessness that I think many people, including me,

1 felt about the way in which judicial campaigns were
2 being conducted and the acts that we were seeing. You
3 stepped up and said, no, it's wrong and the State Bar
4 should do something about it. That was even before
5 the phenomenon spread into the trial courts in last
6 year's election.

7 That was a wakeup call, and the State Bar is
8 now doing something and the pushback is going to be,
9 we are already seeing it coming, that the State Bar is
10 doing this for a political reason and you are the
11 recognition for that, the fact that this body
12 consisting of people from all political stripes agreed
13 unanimously that this was a problem in the system.
14 That's the rebuttal, and we need that in order to be
15 effective to address this growing problem.

16 So I won't belabor that. You do have on a
17 green sheet in front of you information about how to
18 respond if you want to make a comment to the Secretary
19 of State. Do read the letter. Basically it says
20 something that I think is fairly obvious that Bruce
21 mentioned, that the 2004 letter that describes what is
22 covered as an expenditure under the Michigan Campaign
23 Finance Act was obviously based on case law up to
24 2004, and a lot has happened since then, and the three
25 cases that we cite in the letter I think need to be

1 addressed and I think lead to the conclusion that
2 judicial campaign expenditures need to be disclosed.

3 So the final thing I want to say is to say
4 something about Dana. Dana came into her position I
5 think with extraordinarily high expectation from those
6 of us who knew her and who knew her sister, and she
7 has done the impossible and managed to meet and exceed
8 those expectations. You see her up here and you see
9 what a gracious and capable leader she is, but you
10 don't see everything that goes on behind the scenes
11 among all the leaders, and I can tell you that, you
12 know, Bruce made me laugh inappropriately, but Dana's
13 flaw was she often made me tear up by her competent
14 and sheer goodness, and I will miss her personally in
15 this role, but Bruce, again, has said it, you are in
16 very good hands, and Kathleen will do a magnificent
17 job, but please join me again in thanking Dana for her
18 wonderful leadership.

19 (Standing applause.)

20 CHAIRPERSON WARNEZ: Thank you for that.

21 Thank you.

22 Now we are almost on time, I am welcoming and
23 inviting our Assembly Review Chair, Carl Chioini, to
24 come forward to the stage and make some comments about
25 his work this year.

1 MR. CHIOINI: Good morning. This is a tough
2 act to follow between the past president, Dana, and
3 our executive director, so I am going to try to be
4 brief and keep us on time.

5 About a year ago, just before Dana became
6 chair, I met her for breakfast because she asked me to
7 take on a task with the Assembly Review Committee, and
8 we had breakfast together and set a focus in terms of
9 what she would like to see the Review Committee do,
10 and basically it's some of the same things we talked
11 about today, and that is to keep this Assembly
12 meaningful, to make sure that we keep on track, and to
13 encourage people to participate in the Assembly. And
14 I can see we have done that with the dark money. We
15 have taken the forefront on that, and we are
16 addressing some of the concerns that all of us need to
17 address.

18 But when I first started, and I am going to
19 introduce the committee members, because I would like
20 you to talk to them afterwards if you have any ideas
21 that we could use, that we could implement over the
22 year, that would be fantastic, but the concept was to
23 make this Assembly, the final policy-making body, make
24 it meaningful.

25 My predecessor, Richard Barron, did a lot of

1 work on that. We focused on that, and ultimately we
2 decided that we were going to do a survey, and that
3 survey is at your places today. We really haven't had
4 a chance as a committee to look at it and digest it,
5 but I am pretty pleased with it. We were able to do
6 this by dovetailing onto one the Diversity Committee
7 had already started and was in place, and we were able
8 to sort of ride the coattails.

9 I didn't realize how much difficulty there
10 was with the survey, some of the things you had to
11 look at, some of the things you had to do. With the
12 help of the State Bar, with Anne Vrooman, Anne Smith,
13 Candace Crowley, they got us focused and they kept us
14 on task with what we wanted to do, and they assisted
15 us in getting it out to all of the members of the
16 Assembly, including the State Board of Commissioners.
17 The results are very impressive. I would like you to
18 take a look at them when you have time.

19 The people that participated in this
20 committee stand for just a moment and wave so we know
21 who you are, so if you have any ideas that will
22 continue us on the track that we are on, please tell
23 us. We want to serve you. Richard Barron, former
24 chair; Mike Blau; Kim Breitmeyer, John Blakeslee.
25 Candace, let us know where you are at so we can see

1 you. Thank you.

2 But take a look at the report, the survey.
3 It's a very extensive survey. I think we came up real
4 good. I think we did very well on it. I think we are
5 on the right track, but the group as a whole now needs
6 to have a meeting and we are going to sort of address
7 our concerns and address that report. A lot of effort
8 went into that report, and it provides a lot of
9 information that we hope to utilize over the next
10 year. Talk to us afterwards. If you have any
11 questions or concerns, let us know so we can continue
12 to do what you asked us to do.

13 I was going to spend some time and look at it
14 and review it with you, but I don't believe that was
15 part of the job today. Take a look at it. Thank you.

16 (Applause.).

17 CHAIRPERSON WARNEZ: Thank you, Carl.

18 I would like to, again, reinvite Dan Quick to
19 come forward as we begin our business for the day and
20 our consideration of the proposed new Rule 2.602(B) (5)
21 and (6) of the Michigan Court Rules.

22 MR. QUICK: Good morning again. I stand
23 before you as the representative of the State Bar
24 Civil Procedure and Courts Committee which has adopted
25 and proposed this modification to MCR 2.602 by adding

1 provisions (B) (5) and (6). A brief word of background
2 and supplemental to the materials you already have.

3 Michigan law provides both by common law and
4 eventually by statute for a beast called the cognovit,
5 which is a form of consent judgment designed to be
6 entered, agreed to between the parties and then once a
7 trigger event occurs entered expeditiously by the
8 court, perhaps even without notice to the judgment
9 debtor. This is memorialized currently at
10 MCL 600.2906. It has been recognized repeatedly by
11 the U.S. Supreme Court and Michigan Supreme Court as a
12 well-honored device in common law. In fact, the
13 Michigan Court of Appeals in the U.S.A. Airlines case
14 noted that the Michigan Supreme Court noted over 120
15 years ago that the use of these was a very common
16 practice and has been repeatedly upheld by courts in
17 this state and across the country.

18 All judgments are a matter of contract under
19 Michigan law to be negotiated between the parties and
20 enforced by the courts subject to those terms on most
21 occasions, yet whether it's cognovit or some other
22 form of consent judgment, the Michigan Court Rules do
23 not currently have a procedure for submission and
24 entry of such a thing by the court. So the effort
25 here was to not create any substantive rights in any

1 way, shape, or form but simply to provide the
2 procedural mechanism for a right the legislature and
3 the courts have long granted to the parties to manage
4 their affairs.

5 So the rule contemplates two scenarios. In
6 Subrule (D) (5) the context is where there is already
7 impending action between the parties or there has been
8 a former action between the parties. It provides that
9 when you have a judgment signed and approved by both
10 the debtor and the creditor that it will be
11 expeditiously entered by the court. It provides that
12 if notice is not specifically addressed in the consent
13 judgment signed by the parties that due process is
14 required and notice is required. It also requires a
15 sworn affidavit by the submitting party testing that
16 the trigger event has occurred such that entry of the
17 consent judgment is appropriate. And, finally, once
18 the judgment is entered, there is yet another
19 opportunity for an aggrieved party to raise challenge
20 to the court and object to its entry.

21 Somewhat similarly under Subrule (6), which
22 contemplates that there has been no prior action, the
23 Michigan Court Rules require a civil action sort of as
24 the front door, if you will, to the court. Has to be
25 civil action on file, so it requires such a thing to

1 be filed. It requires service of that, along with a
2 motion for the entry of the judgment and, obviously,
3 an opportunity to be heard by the opposing party. It
4 does accelerate the time by which the matter can be
5 brought to a head and hopefully the judgment can
6 either be entered or otherwise addressed by the court.

7 I do wish to reiterate that the intent here
8 is not to create any rights. There may be some
9 context where a consent judgment may not be
10 enforceable. The Drafting Committee of the
11 Representative Assembly -- we have a drafting
12 committee which reviews these proposals, Mr. Herrmann
13 chairs that. They made some very fine suggestions.
14 Most of the text changes were adopted in what you have
15 before you, and in response to one of their concerns
16 we added some additional language, and so you will see
17 this in the loose-leaf, which you should have in front
18 of you, and all we did there was to add the phrase
19 "otherwise lawful," which is shown in all caps in
20 Subrule 5 and 6, really a belt and suspenders
21 mechanism to communicate that obviously we are not in
22 a rule of civil procedure saying that, creating a
23 substantive right, but simply the procedure to enter
24 something which is otherwise lawful and enforceable.
25 And, of course, parties always have rights under 2.612

1 to challenge a judgment after its entry.

2 So on behalf of the Civil Procedure and
3 Courts Committee, I would move for the adoption of
4 this proposal. As most of you know, the procedure, of
5 course, is that even once and if adopted by the
6 Representative Assembly, it's simply submitted to the
7 Supreme Court. The Supreme Court can elect to do any
8 number of things, including nothing. They can open an
9 ADM file on it and obtain additional public comment,
10 so this is simply a first step in a longer process.

11 CHAIRPERSON WARNEZ: So we have a motion from
12 Mr. Quick, should the Representative Assembly adopt
13 the above resolution regarding Michigan Court Rule
14 2.602 (B) (5) and (6). Do I have a second from the
15 floor?

16 VOICE: Support.

17 CHAIRPERSON WARNEZ: Second. Is there any
18 discussion to be had?

19 MR. ARD: I am Josh Ard of the 30th circuit,
20 and I am speaking in opposition.

21 VOICE: Can't hear.

22 MR. ARD: I have no idea how to turn this on.
23 I guess it's working, sorry.

24 First of all, I would like to compliment the
25 proponents for making a change after the Drafting

1 Committee, but what does that mean, otherwise lawful?
2 Any of you know what otherwise lawful is? Anybody
3 want to volunteer their hand? Experts are going to
4 know, but how many plaintiffs are going at know, how
5 many attorneys are going at know, how many defendants
6 are going at know? Some of the examples, the
7 defendant's military, it's illegal. But more
8 important than that is if it's a consumer debt, this
9 is illegal.

10 Now, there are consequences to that, but who
11 is to check? Are we expecting the courts to check all
12 of these to see, well, are they otherwise legal? And
13 if you read the rule for (6) (B), even if the court
14 does check, if the defendant shows up, the requirement
15 is they have to enter an order that's illegal, given
16 no discretion, but they have to enter it.

17 Now, what are the risks? Well, an attorney
18 who creates one of these, files the affidavit,
19 presumably could get in trouble for making a false
20 statement if they are saying this is a legal thing to
21 do, but more important than that, at least I know the
22 consumer defendant of an attorney who files one of
23 these things has arguably violated the Fair Debt
24 Collection Practice Act, is subject to sanctions of a
25 thousand dollars plus attorney fees.

1 Now, how many attorneys are going to know
2 helping out their friends entering one of these things
3 in court could get them sued in federal court for
4 those kinds of damages? What about a court here?
5 Well, arguably any court that would enter an order
6 that's illegal could be sued under Section 1982 and
7 get some sanctions there.

8 So there definitely are some risks in having
9 this go through with this just "otherwise lawful" if
10 people don't know what that means except the experts.

11 And, finally, I guess I would want to say is
12 this the direction we really want to go? Do we want,
13 as lawyers do we want to say, well, let's make it
14 easier for there to be less process and less reason
15 for people to go to court. And I know what the law
16 is, and we can't change the law, but the Federal Trade
17 Commission decided that these cognovits were unfair
18 for consumers and made them illegal.

19 Now, small businesses, I think, are just as
20 unsophisticated as consumers. There is no law out
21 there that protects them. We can't do anything really
22 about the Michigan law, but do these things really
23 make sense for small business? You sign something,
24 you don't know what you are doing, and you have no
25 idea that you have given up your right to complain to

1 the court? So I would urge you to vote against this
2 proposed rule. Thank you.

3 CHAIRPERSON WARNEZ: Thank you. Please come
4 forward.

5 MR. TAVLIK: Hello, Adam Tavlik, 54th
6 circuit. My remarks are, unfortunately, not directly
7 responsive to the last speaker's, and I don't mean to
8 suggest that I disagree with him as such, but I was
9 going to say -- this is no offense to the Courts and
10 Civil Procedures Committee or the Drafting
11 Committee -- aspects of the proposal strike me as
12 being a bit characterized by lawyerease, something
13 that I think we are all trying at move away from. A
14 good rule of thumb for me is anything that has
15 language like "thereto," or "so provided," certain
16 terms or phrases like that are the kind of thing that
17 I think we as a profession are hopefully trying at
18 move away from.

19 So I intended to move that we refer this
20 proposal to the planning and subcommittee to be
21 restyled in a fashion that is easier to understand,
22 less wordy, and less dense.

23 CHAIRPERSON WARNEZ: I am sorry, could you
24 verify which, as a part your motion, which committee
25 you want the --

1 MR. TAVLIK: The planning and subcommittee
2 that's responsible for putting together a column in
3 the Bar Journal for Mr. Kimball at Cooley Cares or is
4 otherwise involved with that. He handles -- he does
5 work with restyling federal rules, civil procedure and
6 evidence.

7 CHAIRPERSON WARNEZ: I do believe that the
8 authority to refer it would have to be limited to the
9 committees that comprise the Representative Assembly,
10 and that committee is not part of this body, so I
11 don't believe we are able at refer it in that manner.

12 MR. TAVLIK: Just a thought, I think maybe
13 the body is being set -- I recommend -- If I am not
14 mistaken, it's a subcommittee of the Publications and
15 Website Advisory Committee, and so to the extent that
16 that's a committee of the State Bar, I thought that we
17 could reach out to them in the same fashion.

18 CHAIRPERSON WARNEZ: I am just, from a
19 procedural standpoint, confirming what's possible.
20 With respect to the motion, we are not able to refer
21 it to a committee outside of this body, so I would
22 consider your motion out of order at this time.

23 MR. RIGGLE: James Riggle from the 50th
24 judicial circuit in Sault Ste. Marie. I worry about
25 the context of a giant credit card company and an

1 individual debtor and having some clause in your
2 credit card agreement that says by signing this credit
3 card agreement I agree to entry of a consent judgment
4 any time J. P. Morgan Chase declares my VISA account
5 to be delinquent.

6 I don't think it's a good idea to streamline
7 the entry of these judgments. I have represented many
8 debtors who have defenses and need a day in court, and
9 I would oppose this rule change.

10 MR. QUICK: Without engaging directly some of
11 the comments, let me just share with you some of the
12 deliberations of the Civil Procedure and Courts
13 Committee on these issues. On that committee, as you
14 likely know, it's a significant sized committee of
15 representatives, judges, plaintiff bar and defense bar
16 of all sizes, shapes and geographics in this state.

17 There certainly was awareness of sensitivity
18 on consumer issues as well as a public policy matter
19 and also awareness of the, in some instances, statute
20 for laws, in the federal context in particular, which
21 would suggest that something that was just described
22 by the speaker may not be enforceable in certain
23 contexts.

24 I think the unanimous position of the
25 committee was that, again, this is a rule of civil

1 procedure. These things are used and are legal in a
2 broad number of contexts, and so the fact that they
3 are perhaps impermissible in some limited context is
4 not a good reason to not have a rule which permits
5 their implementation in any other number of contexts.
6 So I guess it's the let's not through the baby out
7 with the bath water logic, so I tender that again, not
8 by way of argument but simply to share some of the
9 thinking that had taken place.

10 MS. HOWARD: Donna Howard, 2nd circuit. Mine
11 is more of a question. Both of the proposed sections
12 refer to creditors and debtors yet it does not specify
13 this is only going to apply to collection cases, and
14 it's in the section without that specification, so I
15 am confused whether it would be the intent of the
16 proponents to limit it to collection cases only, for
17 instance, implied on the second line after otherwise
18 lawful signed and approved by the creditors and
19 debtors. There are consent judgments obviously in
20 civil cases that have nothing at do with creditors and
21 debtors and the parties are coming together in a civil
22 capacity to settle something other than that, so that
23 is my question.

24 MR. QUICK: All I can share is that the
25 intent there was to capture all scenarios and to use

1 creditor and debtor in that context, not in a narrow
2 fashion, but simply in, if it's a consent judgment,
3 somebody is paying and somebody is receiving, and so
4 that was the intent there as opposed at some broader
5 language about I guess it could be proposed tentative
6 judgment payor, payee, et cetera. I believe that was
7 the intent.

8 MS. HOWARD: Why wouldn't we just use the
9 parties? There are -- a plat modification case has
10 nothing to do with necessarily the exchange of money
11 and two parties being in a position of a creditor or
12 debtor.

13 CHAIRPERSON WARNEZ: Are there any further
14 comments?

15 MR. ENGELHARDT: Because I can't let an open
16 microphone pass by, Chad Engelhardt from the 22nd
17 circuit. I just want to echo the sentiments of
18 brother counsel that while this proposed rule change
19 may be appropriate in the context of sophisticated
20 corporate litigants entering into a contract for copy
21 judgments or for security otherwise, I can see that
22 it's ripe for abuse in the consumer context and, in
23 fact, may be illegal in the consumer context, yet with
24 the judgment in hand, those consumers may be pursued
25 without access to the very court that they are

1 supposed to. So I would ask that we vote in
2 opposition and express my opposition.

3 MR. FLESSLAND: Dennis Flessland, 6th
4 circuit. I did a lot of collection law at one time in
5 my career, and I would like to -- I mean, I see a
6 tremendous distinction between Section 5 where you are
7 already in a litigation context and the parties agree
8 they are going at make some installment payments and
9 if they default the judgment can be entered and the
10 situation -- I mean, that's totally different than the
11 situation where there is no litigation and the matter
12 just comes in, you know, with the old-fashioned
13 cognovit confession of judgment, and then the
14 defendant never has his day in court. As was pointed
15 out, I think that's why special issues started that
16 Collection Practices Act, and I don't think we want to
17 go down that road.

18 So my suggestion would be that we pass along
19 Section 5, which is the consent judgment, enter the
20 consent judgment in the litigation context, let that
21 go to the Supreme Court or recommend that be
22 considered by the Supreme Court, and just delete
23 Section 6, because I think, as has been pointed out
24 here, there are way too many messy, sticky issues
25 involved in Section 6, and we are just poking a stick

1 into a hornet's nest there, but Section 5, I think,
2 makes some sense and should be considered by the
3 court. So I would move that, if it's appropriate at
4 this the point, Madam Chairman, that Section 6 be
5 deleted from the proposal.

6 PARLIAMENTARIAN CHMURA: I guess as the
7 parliamentarian I am a little confused about what you
8 want at do. This is a proposed court rule. It's not
9 drafted by the Assembly. I don't know what authority
10 the Assembly has to change a proposed court rule,
11 since that's not something the Assembly drafts to
12 begin with, and it's not -- I guess do you want to
13 amend the motion to say that you support only part of
14 the court rule but not all of it?

15 MR. FLESSLAND: Maybe I misunderstood, Judge,
16 but it is my thought that the Drafting Committee of
17 the Representative Assembly had proposed this as a
18 draft court rule and is moving that it be adopted by
19 the Representative Assembly and forwarded on. If
20 that's incorrect, then my motion would be out of
21 order.

22 CHAIRPERSON WARNEZ: Just as we sort through
23 this issue, what came to my mind would be perhaps to
24 have the motion -- specifically this motion doesn't
25 fit within the rules that permit amendments from the

1 floor if there are more than six words, so with
2 respect to the conceptual motion that you are making,
3 it may be best to refer it back at the Drafting
4 Committee or Special Issues.

5 MR. FLESSLAND: If that's out of order, then
6 I withdraw that motion, but my point is I think 5 is
7 good, 6 is bad.

8 CHAIRPERSON WARNEZ: Thank you.

9 MR. TAVLIK: I was having a conversation with
10 another member and did not hear what it was that the
11 member had moved that was out of order. I just wanted
12 to make sure I was clear on that.

13 CHAIRPERSON WARNEZ: I am sorry, could you
14 repeat that comment.

15 MR. TAVLIK: I was in conversation with
16 another member and did not hear the motion that was
17 made that was just ruled out of order, so I wanted to
18 be clear on what had happened.

19 CHAIRPERSON WARNEZ: I had provided feedback
20 to Dennis who had made that motion. His motion, as I
21 understood it, was to delete a whole section of the
22 proposed court rule, and, as such, that would
23 technically modify that more than six words, and so
24 there is a -- rules permit modification of proposals
25 from the floor under six words verbally unless they

1 can be submitted in writing. So if they are over six
2 words, they have to be submitted in writing, so from a
3 point of order, I just don't believe his approach
4 would be, you know, possible under the circumstances.

5 PARLIAMENTARIAN CHMURA: I don't think the
6 motion technically was ruled out of order. I think
7 there was a question raised as at what the motion was,
8 and, as Dana said, the question was brought up about
9 whether or not you can properly amend this given the
10 fact that you can only amend six words or less. I
11 think the maker of the motion just simply kind of
12 changed his position so I support 5, I think, but not
13 6, and that's his position on the main motion.

14 MR. TAVLIK: Is the six-word rule an aspect
15 of our bylaws?

16 PARLIAMENTARIAN CHMURA: Yes.

17 MR. TAVLIK: Thank you.

18 MR. QUICK: I just want to briefly say one
19 thing to the previous speaker and maybe the language,
20 I heard it wrong, but even under the proposed Subrule
21 6, there is due process required. Civil action must
22 be filed, if there is a motion for entry of the
23 consent judgment, it must be filed, it must be served,
24 and it calls for a notice of hearing.

25 MR. LEBRE: If I understand it correctly --

1 Robert LeBre, 43rd circuit -- there is no motion
2 pending because it's out of order to amend the actual
3 court rule, but we can move to commit this rule back
4 to committee for drafting?

5 CHAIRPERSON WARNEZ: Correct.

6 MR. LEBRE: To accept, with the specific
7 instructions to accept 5, delete 6. I so move.

8 CHAIRPERSON WARNEZ: I think that's
9 appropriate. We have a motion from the floor to
10 amend -- excuse me, to refer this back to Drafting. I
11 have to ask is there a second on the floor?

12 VOICE: Second.

13 CHAIRPERSON WARNEZ: Any further discussion,
14 only on the motion to refer it back to drafting? Any
15 comments are limited at this moment to whether it
16 should be referred to Drafting.

17 Hearing none, all in favor of the motion,
18 please signify by saying aye.

19 All not in favor, please signify by saying
20 no.

21 Any abstentions?

22 The ayes have it. It's been referred to
23 Drafting currently. Thank you.

24 Okay. This brings us to -- it's 11:15. We
25 are a little bit ahead of schedule. If I may

1 encourage everybody currently, we will adjourn, but
2 prior to, please see the vendors. If you have an
3 opportunity, you do have a few minutes now to perhaps
4 go see our vendors, participate in passport if there
5 is anything that you need.

6 Also, if I may also request that if you have
7 been selected as a teller -- we previously identified
8 you. If you are a teller, would you please come
9 forward prior to departing the room for lunch.

10 So thank you everyone for your attention and
11 your work so far. We will adjourn for lunch and
12 hopefully we will see you back after lunch. We are
13 scheduled to reconvene at 2:00. We will see you back
14 at 2.

15 (Lunch break from 11:16 a.m. - 2:12 p.m.)

16 CHAIRPERSON WARNEZ: I am going to call the
17 meeting to order. The rules do provide for me to make
18 some comment with respect to the last vote we took,
19 and for all of our benefit I would like to just make a
20 comment with respect to that referral. We did vote or
21 we did refer that proposal to the Drafting Committee.
22 I just want to specify for the record that it is with
23 the instructions and the request that they consider or
24 help advocate for the removal of subpart 6. So for
25 the record, everybody knows it's going with

1 instructions.

2 With that in mind and that completed, we are
3 now resuming our business, and it's time again to have
4 Dan Quick come forward as a proponent for the
5 consideration of the amendment to MRPC 7.1.

6 MR. QUICK: Thank you, and good afternoon.
7 On behalf of the Civil Procedure and Courts Committee
8 we will be moving to have you endorse the proposed
9 amendment to Model Rule of Professional Conduct 7.2.
10 Those of you who were here at the last session will
11 recall that a version of this proposal came before you
12 that had been modified, relatively speaking, at the
13 last minute which caused some confusion, and
14 rightfully so. So we pulled it and have represented
15 it to you here today.

16 Rule 7.2 puts limits on advertising for
17 attorneys and must be read in tandem with Rule 7.1,
18 which specifies that a lawyer may on his own behalf or
19 on behalf of a partner or associate communicate with
20 the public so long as it's not false, fraudulent,
21 misleading, deceptive, and numerous other number of
22 ways that the communication is appropriate or
23 inappropriate, and that rule only refers to a lawyer,
24 lawyers, of course, in our mandatory Bar registered
25 with the state with an official name and address, and

1 so the proposal, the form that comes before you in
2 7.2(d) is to specify that communication made pursuant
3 to this rule shall prominently include the name of an
4 active member in good standing with the State Bar of
5 Michigan who is responsible for its content, using the
6 name provided to the State Bar of Michigan.

7 Within your materials are a number of photos
8 which have been taken primarily by
9 Commissioner Olsman, who was the original moving force
10 behind this proposal in our committee, and these are
11 not intended to pick on anybody or to suggest anything
12 untoward other than to point out the obvious, that
13 these advertisements do not contain the name of an
14 attorney, do not contain clearly identifiable
15 information as to who could be held responsible if, in
16 fact, there was a violation of either Rule 7.1, 7.2,
17 or perhaps some other technical violation.

18 We have provided in the materials to you in
19 short form version some cross reference to other
20 versions other states have adopted to deal with
21 attorney advertising.

22 In summary, Michigan, which has almost
23 nothing outside of the court rules, pales by
24 comparison. Many states have multi-page, complex and
25 detailed requirements as to what is permitted and not

1 permitted, minimal information which must be included
2 and the manner in which it must be included, the font
3 size, et cetera, et cetera. One might take the
4 position that the State Bar or the court should more
5 holistically review the manner in which attorney
6 communication takes place and whether adoption of some
7 broader set of principles ought to happen, but that is
8 not what's before you today. The theory is that this
9 is a modest suggestion which adds an important piece
10 of information to the public when they are evaluating
11 and receiving attorney advertising.

12 So the motion before you, should the
13 Representative Assembly recommend adoption of the
14 following amendment to Rule 7.2 of the Michigan Rules
15 of Professional Conduct and hereby move that you do
16 so.

17 CHAIRPERSON WARNEZ: With Mr. Quick's motion,
18 I am entertaining a second on the floor. I see that
19 support. Is there any further discussion on this
20 proposal? If so, I would ask that you come forward
21 please to the microphones.

22 MR FERGAN: Hello, Robert Fergan from the
23 22nd circuit. I oppose this as currently written. It
24 requires the individual attorney name, which would be
25 okay for a sole practitioner, but the problem is for

1 like a large firm, requiring the attorney name is
2 somewhat problematic and that actually requiring the
3 attorney name rather than, say, a firm name is
4 problematic for, you know, large law firms and much
5 more restrictive than any of the examples of the rules
6 given, for example New York or ABA, which includes
7 either the name of the attorney or the firm name.

8 The problem that you could run into with this
9 is if you have an advertisement that goes into a
10 national publication, it's going to 49 other states,
11 and you would only have to have, for example, the
12 Michigan lawyer listed because it would be, of course,
13 going to Michigan, and then not only would you have to
14 necessarily have to put his name, you would to say he
15 is only licensed in Michigan, so you could see where
16 that gets problematic for a large firm.

17 What I would propose is that we would do a
18 friendly amendment to (d) and put in that, where it
19 says, This rule shall prominently include the name of,
20 and after "of" I put, The sponsoring law firm or an
21 active member in good standing is what I would
22 suggest.

23 MR. QUICK: Can I have the language again,
24 please.

25 MR. FERGAN: After "the name of," the

1 sponsoring law firm or an active member in good
2 standing.

3 VOICE: I second that.

4 MR. QUICK: Oh, the pressure. I mean, there
5 is a desire, I think, to tie to the language in 7.1,
6 which makes lawyers responsible, not law firms, and,
7 secondly, I am aware that there are law firms who have
8 actually registered with the State of Michigan as an
9 800 number, for example. So I am not a hundred
10 percent sure that it quite has the same punch with
11 that amendment, although I am understanding your point
12 and am sympathetic to it. I don't know how many law
13 firms do sort of national advertising that you
14 mentioned.

15 MR. FERGAN: Quite a few.

16 MR. QUICK: I guess I would be interested in
17 hearing commentary from other members of the Assembly.
18 I think that that's a prudent suggestion. I think
19 that would be preferable to otherwise not adopting
20 some additional protocol.

21 MR. FERGAN: That's my proposed amendment, so
22 there should be discussion on my proposed amendment.

23 VOICE: Second.

24 CHAIRPERSON WARNEZ: We would entertain that
25 you desire a motion to amend the proposal to add the

1 language that you have requested.

2 MR. FERGAN: Yes, I make the motion to add
3 the language that I proposed.

4 CHAIRPERSON WARNEZ: Is there a second to
5 that motion?

6 VOICE: Second.

7 CHAIRPERSON WARNEZ: Is there any further
8 discussion just on the addition of this language? If
9 so, I would invite parties to come forward to the
10 microphone to express just the amendment.

11 MS. KAKISH: Kathy Kakish, 3rd circuit. I
12 can understand where the angle was coming from, but as
13 the discussion was going on I looked at the
14 advertisements themselves on the first page of the
15 pictures. The bottom one, look at it, harassed at
16 work. We got a law firm name, Gold Star Law. We are
17 back to where we were where still we don't know
18 exactly where this is coming from. If you go to the
19 second page at the bottom, AdamDivorceLaw.com. I
20 assume that's the name of a law firm, but, again,
21 without the name of a member in good standing with the
22 State Bar of Michigan, I don't think these
23 advertisements provide information to the general
24 public, so I would be in opposition to the amendment.

25 MR. WEINER: Jim Wiener, 6th circuit. I

1 agree that I am in opposition. I happen to know ADAM,
2 and that is d/b/a, assumed name of a law firm, and so
3 you could easily set up multiple assumed names and the
4 only way you would be able to figure out who it was
5 was to go to, not the State Bar, but to the State
6 website or LARA and look at the Corporations and
7 Security Bureau and start taking a look at it.

8 It's very difficult sometimes for someone
9 that is not an attorney to find those things, and so
10 someone that is -- I believe that it's a good idea to
11 include a member of the State Bar, and so I would be
12 in opposition.

13 CHAIRPERSON WARNEZ: Mr. Romano.

14 MR. ROMANO: Vic Romano, 3rd circuit. I rise
15 to speak in opposition of this proposal in general. I
16 have spent 25 years --

17 CHAIRPERSON WARNEZ: I hate to interrupt you,
18 but comments need to be directed at whether we add the
19 language or not.

20 MR. ROMANO: Sorry.

21 CHAIRPERSON WARNEZ: Any further commentary
22 about that language, please come forward.

23 MS. ORTNER: Ava Ortner from the 6th circuit.
24 I am from one of the large firms in the area, and I am
25 involved in law firm marketing, and the problem is

1 that the definition of law firm marketing includes
2 anything that is put out for (inaudible) for clients,
3 is pretty broad, so if we are doing a seminar that
4 spans a number of states, we have to include the name
5 of a lawyer licensed in Michigan who may have
6 absolutely nothing to do with that subject matter.

7 We haven't thought through all of the
8 ramifications. It's certainly going to be large
9 administrative task. It's a big change in the way
10 that we market. And I guess I am torn, because we
11 also are very much in favor of the purpose of the
12 change in the rule. And I think that we are focusing
13 on billboards and things of that type, but we need to
14 keep in mind that the definition of advertisement is
15 broader, much broader than that.

16 MS. JOLLIFFE: Elizabeth Jolliffe, 22nd
17 circuit. Having been a lawyer in a large firm for
18 nearly 20 years, I understand the concerns in the
19 proposed amendment and I speak in favor of it, but I
20 also am completely in support of the purpose of
21 Mr. Quick proposing this and his committee, but it
22 strikes me, as some previous speaker said, it would be
23 like Dickinson Wright having to put Daniel Quick's
24 name on the billboard or one of your partners or
25 something like that. I don't really think that's what

1 we are trying to do, and, yes, we are looking at
2 things like Gold Star, whatever that is, and the
3 American Association of Divorce for Men, whatever. I
4 think we are concerned about things like that, but I
5 don't know that the rule as proposed adequately deals
6 with that, and I think puts some burdens on some of
7 the firms that we, a burden that we don't really want
8 to put on. Thank you.

9 CHAIRPERSON WARNEZ: Is there any further
10 discussion on the addition of the language?

11 MS. VESTRAND: Joan Vestrand from the 22nd
12 circuit. I spent many years at the Attorney Grievance
13 Commission and years doing disciplinary work, and I am
14 in favor of this amendment. The purpose, I believe,
15 for the ABA Model Rule and the rules around the
16 country are so that we can determine who put this ad
17 up there so that we can vet it for truthfulness,
18 whether it's false or misleading, and we need to be
19 able to get to the source of that ad. Having the word
20 law firm should be sufficient, because that allows the
21 disciplinary agency with any concerns about the
22 content of the ad to go back and know who created it.
23 They can then also vet the ad content itself, for
24 example, any trade names that the firm has adopted as
25 to whether or not it's misleading to the public.

1 So the purpose is so that we know who put the
2 ad out so we can investigate it if we need to and take
3 action, and that's all this is. And so there
4 shouldn't be the need to require only a lawyer's name.
5 A law firm name should be sufficient to help us get
6 that investigation conducted and then they make
7 decisions on whether the ad itself is misleading, so I
8 support it.

9 MR. FERGAN: The only thing --

10 CHAIRPERSON WARNEZ: State your name and
11 circuit.

12 MR. FERGAN: Robert Fergan. I actually
13 proposed the amendment. Do I get a chance to speak?

14 CHAIRPERSON WARNEZ: Yes.

15 MR. FERGAN: So briefly, I accept what other
16 people had said. Generally you are trying to identify
17 the law firm, and obviously partners of the law firm
18 are responsible for what the law firm does.

19 You know, the last thing I would say on that,
20 on this point as well, I think this moves the ball
21 forward in the right direction and tries to accomplish
22 what we are trying to accomplish. There is probably
23 language that we could probably throw in there more
24 specific, that you have got to register the law firm
25 with the State Bar, or there may be some compromise

1 that's better, but I think this language really kind
2 of moves things in the right direction and is better
3 than the alternative, which I think would get a lot of
4 pushback from a lot of attorneys that work for large
5 firms. Thank you.

6 CHAIRPERSON WARNEZ: Any further comment with
7 respect to the addition, the language? I invite last
8 call for comment.

9 Hearing none, all in favor for adding the
10 amended language in this proposal, please signify by
11 saying aye.

12 Any noes?

13 Any abstentions?

14 The ayes have it. The language is added into
15 the proposal. I also continue now to invite comments
16 on the proposal with the amendment. Please come
17 forward.

18 MR. TAVLIK: I confess that I am quite rather
19 concerned about the fact that the proposal requires
20 that the communications made pursuant to this rule be
21 made by an active member in good standing with the
22 State Bar of Michigan. I am not sure whether that's
23 intended to require that only Michigan attorneys may
24 advertise in Michigan, but I have to say that I don't
25 think that would be appropriate, and if I were an

1 attorney in Toledo, for example, that practices horse
2 law or slip-and-fall law or something to that effect,
3 it seems fairly appropriate to me that an attorney in
4 that circumstance should be able to place billboards,
5 cell phones on 75, advertise to potential clients who
6 work in Monroe, live in Toledo.

7 Conversely, if the rule is required to place
8 requirements on Michigan attorneys for advertising
9 outside the state of Michigan, I also don't know that
10 I am particularly enthused about that. It strikes me
11 that Michigan attorneys, that for some reason a
12 Michigan attorney wants to run an advertisement in
13 Indiana or Ohio or Illinois that that attorney should
14 follow the advertising rules that are pertinent to
15 Ohio or Indiana or Illinois.

16 I am not quite sure what the best solution to
17 that would be given the six-word rule in our bylaws
18 other than perhaps the rule to refer this matter back
19 to the Drafting Committee to rewrite the rule without
20 references to membership in the State Bar of Michigan
21 as such.

22 CHAIRPERSON WARNEZ: Mr. Romano.

23 MR. ROMANO: Vince Romano, 3rd circuit. I
24 rise to oppose this proposal. I had a 25-year career
25 in legal marketing, so I have dealt with these issues

1 across a broad range of circumstances, but what
2 strikes me most about this particular approach is that
3 a prohibitive ruling should only follow some kind of
4 demonstrative harm to the public. Remember that
5 charge we have is to look after the well-being of the
6 public, okay. Well, where is the harm here? No one
7 has suggested, no one has shown any harm of any kind.

8 Look at the photos. They are in the book.
9 Where is the harm with those photos? There is also
10 talk about how would you identify the attorney? Call
11 the number. I am sure you will get a lot of
12 information about who that attorney is when they
13 answer the phone number.

14 You remember that we have had some other
15 recent prohibitions. Part of what concerns me here
16 with this individual one is I remember when my
17 honorable colleague from Oakland County,
18 Sam Bernstein, going all the way back to
19 George Googasian's Professionalism Committee. We had
20 a stream of individual lawyers coming before us
21 offering this very same kind of individual proposal,
22 and we listened to them all until they all just
23 collapsed of their own weight, and we found that the
24 regulatory statement that we had was working just
25 fine.

1 And I think that that's the risk that we run
2 here. This is a very slippery slope. If we start
3 serving the proclivities of individual lawyers and how
4 they feel about lawyer advertising, we are headed down
5 a very slippery slope, because, believe me, there are
6 dozens of people right behind this that would want
7 further restrictions on the right of lawyers to
8 advertise.

9 So on those two bases, no harm to public and
10 restriction to lawyer advertising, I ask you to reject
11 the proposal. Thank you.

12 MR. QUICK: Let me partially respond to that
13 and share with you, not by way of arguments but in
14 terms of deliberations of the committee, that there
15 was belief that there was harm to the public, finding
16 specific information provided in the attorney
17 advertising, in that while you and I are probably well
18 versed in looking up even the name of a law firm in
19 the state of Michigan or going on the internet, that
20 on some basic identification of the attorney who is
21 making representations or putting themselves out there
22 was deemed to be informant, basic level of information
23 for the public, so there was that concern.

24 CHAIRPERSON WARNEZ: Anymore comments? I
25 invite them and if there are none.

1 Seeing none, the motion is should the
2 Representative Assembly adopt the above resolution as
3 amended regarding MRPC 7.2.

4 All in favor of the motion, please signify by
5 saying aye.

6 All noes, please signify by saying no.

7 Any abstentions?

8 I think the ayes have it.

9 VOICE: Division of the Assembly.

10 CHAIRPERSON WARNEZ: With the request for
11 division, we would ask for everybody who voted yes to
12 please stand.

13 Thank you. I would ask you to be seated.

14 All parties who voted no, I would ask you now
15 to please stand.

16 Thank you. I would ask you to be seated.

17 If there is any abstentions, I would ask you
18 to stand.

19 Upon division, it's clear that there is a
20 majority of votes in favor of the motion. Thank you
21 very much for that.

22 We are going to move on to the next --

23 MR. QUICK: Thanks to the Assembly for that
24 discussion.

25 CHAIRPERSON WARNEZ: With that business

1 completed, we are now going to move to the election,
2 nomination and the election of the Assembly Clerk, but
3 prior to beginning that process, I want to make sure
4 that everybody who may be in this room who is entitled
5 to vote, I need you to be seated in your circuit. So
6 if you are for some reason in the back, you need to
7 come forward. It's imperative that you come forward
8 now and sit down in your circuit.

9 With everyone seated, the chair will now
10 entertain nominations from the floor for Assembly
11 Clerk. I think we were going to approach this
12 alphabetically, so I would ask for a motion with
13 respect to Mr. Herrmann. His nominator can come
14 forward.

15 MR. CLARK: John Clark from the 3rd circuit
16 nominating Fred Herrmann for clerk.

17 CHAIRPERSON WARNEZ: Thank you. Likewise, I
18 would entertain -- I know Mr. Quick has submitted his
19 letter. I would ask for a nominator of Mr. Quick to
20 come forward.

21 MR. LARKY: Members of the Assembly, my name
22 is Sheldon Larky from the 6th circuit. Before I make
23 the nomination, I want to indicate that Albert
24 Einstein one day decided to pave his driveway, but a
25 bunch of kids messed it up completely, so he started

1 running after the children, and his neighbor grabbed
2 him and said, Albert, what are you doing? I thought
3 you loved your children. And Albert Einstein said --
4 he said, Do you love children? And Albert Einstein
5 said, Yes, I love children in the abstract, but not in
6 the concrete.

7 So in the concrete I am nominating my friend
8 and good attorney, Dan Quick.

9 Madam Chair, do you want us to go through the
10 background of these gentlemen?

11 CHAIRPERSON WARNEZ: To the best of my
12 understanding, the candidates have waived formal
13 speeches. We were seeking just nominations at the
14 candidates' request.

15 MR. LARKY: Thank you.

16 CHAIRPERSON WARNEZ: Thank you. I would
17 request at this time that the tellers come forward
18 that have been selected. We are going to distribute
19 ballots as to each of you at your seats. I would ask
20 that you complete them and return them to the tellers
21 once you cast your ballot.

22 MS. JOHNSON: Madam Chairperson,
23 Elizabeth Johnson from the 3rd circuit. Point of
24 order. I believe the Chair needs to call for
25 nominations from the floor.

1 CHAIRPERSON WARNEZ: Oh, thank you. Thank
2 you for your keen insight and help in that regard.

3 Is there a motion to close nominations at
4 this time?

5 VOICE: So moved.

6 CHAIRPERSON WARNEZ: Is there a second?

7 VOICE: Support.

8 CHAIRPERSON WARNEZ: Any discussion? Hearing
9 none, all in favor for closing nominations, please
10 signify by saying aye.

11 Any noes?

12 Any abstentions?

13 That carries. Thank you very much.

14 With that being closed, I would ask the
15 tellers to distribute the ballots.

16 (Ballots being distributed.)

17 CHAIRPERSON WARNEZ: To the extent that there
18 is any question, once you complete your ballot, please
19 stick it back in the envelope that you received it in
20 and seal the envelope.

21 (Assembly members voting.)

22 CHAIRPERSON WARNEZ: How is everybody doing?
23 Show of hands, who is having fun? I am. We are
24 adjusting a little bit at the request of our almost
25 Chair, incoming Chair Kathleen Allen. Without

1 objection, I would ask that we move up in the calendar
2 to the swearing in of Kathleen to accommodate
3 everybody who she would like to be here during that
4 process. So if there is a problem with that, please
5 speak now or forever hold your peace.

6 Hearing no objections, we are going to move
7 up to our swearing in, and that leaves me with the
8 distinct honor to welcome an old friend here on behalf
9 of Kathleen and introduce all of you to the Honorable
10 Cylenthia LaToye Miller.

11 Judge Miller was appointed to the
12 36th District Court in 2006, elected in November of
13 2006 and again in November of 2011. She presides over
14 cases in that court's criminal and traffic division.
15 Judge Miller is the founding and presiding judge over
16 the Street Outreach Court Detroit, SOCD, Program that
17 serves the homeless population in the city of Detroit.

18 Judge Miller is also the former director of
19 the Detroit Workforce Development Department, which is
20 a Michigan Works agency. She received her Bachelor's
21 of Arts in the degree of sociology from Wayne State
22 University in 1988, her jurist doctorate cum laude
23 from Michigan State University, Detroit College of Law
24 in 1996. She was admitted to the Bar in 1996 and the
25 State Bar of Arkansas in 1997. She also was an

1 adjunct professor at Baker College in Allen Park and a
2 member of the Michigan District Judges Association
3 Board of Directors.

4 She has so many distinctions and honors, but
5 I would like to at this point welcome her to the
6 Assembly. Give her a big round of applause.

7 (Applause.).

8 JUDGE MILLER: Well, good afternoon everyone.
9 I am delighted and thrilled to be here. I was so very
10 honored when my very dear friend of many, many years
11 asked me to come and swear her in before this esteemed
12 body this afternoon.

13 Kathleen and I go back quite a ways. She is
14 like a sister to me, and we don't get to see each
15 other as much as we would like, but we keep in touch
16 through heart and text and calls and emails, and you
17 know how it goes, right? We go all the way back to
18 the Women Lawyers Association of Michigan when I was
19 on the board and she was on the board, and I started
20 rising up through the ranks, became president, and I
21 wanted to have more women of color coming behind me.
22 I was the second woman of color to lead the Women
23 Lawyers Association of Michigan, and there was a
24 30-year gap between myself and the first.

25 So Kathleen was such a shining star on our

1 board, as I am certain you know she is here, that I
2 said you have got to come on and get in these chairs,
3 and she went on to become president of Women Lawyers
4 Association of Michigan, among the first of many of
5 her accomplishments with Bar associations, and she
6 gives me way more credit than I am due, but she is a
7 star.

8 I am honored to be here with her, for her. I
9 am also honored to be in front of you. And I just had
10 to take that point of privilege to just say that, and
11 I do apologize if I am out of order, but please
12 forgive me and we are going to proceed with swearing
13 her in at this time.

14 If would you be so kind as to raise your
15 right hand. State after me, repeat after me, I do
16 solemnly swear.

17 VICE CHAIR ALLEN: I do solemnly swear.

18 JUDGE MILLER: That I will support the
19 Constitution of the United States.

20 VICE CHAIR ALLEN: That I will support the
21 Constitution of the United States.

22 JUDGE MILLER: And the Constitution of this
23 state.

24 VICE CHAIR ALLEN: And the Constitution of
25 this state.

1 JUDGE MILLER: And the Supreme Court Rules
2 concerning the State Bar of Michigan.

3 VICE CHAIR ALLEN: And the Supreme Court
4 Rules concerning the State Bar of Michigan.

5 JUDGE MILLER: And that I will faithfully
6 discharge.

7 VICE CHAIR ALLEN: And that I will faithfully
8 discharge.

9 JUDGE MILLER: The duties as Chairperson.

10 VICE CHAIR ALLEN: The duties as Chairperson.

11 JUDGE MILLER: Of the Representative
12 Assembly.

13 VICE CHAIR ALLEN: Of the Representative
14 Assembly.

15 JUDGE MILLER: Of the State Bar of Michigan
16 according to the best of my ability?

17 VICE CHAIR ALLEN: Of the State Bar of
18 Michigan according to the best of my ability.

19 JUDGE MILLER: Congratulations.

20 (Standing applause.)

21 VICE CHAIR ALLEN: Thank you very much. Due
22 to the time constraints, there are a couple people
23 that I want to say thank you for being part of this
24 event and part of my life, and so I am going to start
25 with the thank yous first.

1 Thank you so much Honorable Cylenphia Miller.
2 You administered my oath today. You made me so happy.
3 You have helped me through my journey that has led me
4 to be here today, and I thank you very, very much.

5 JUDGE MILLER: You are very welcome.

6 VICE CHAIR ALLEN: I also want to thank the
7 outgoing State Bar President, Bruce courtade, and your
8 incoming president, Brian Einhorn.

9 Bruce nominated me for Assembly Clerk two
10 years ago. He gave me the opportunity to work with the
11 Assembly in the State Bar. Thank you, Bruce. You are
12 a true leader, and I will fondly remember everything
13 you say, and you made your meetings enjoyable, but you
14 also moved very quickly, and I appreciated that.

15 I also want to thank the 17th circuit.
16 That's my circuit. None of this could have happened
17 without the circuit support. The circuit is very
18 important to me. Rob Buchanan and other circuit R.A.
19 members encouraged me to run. Without the
20 encouragement, I would not be standing here today.

21 And I would also like to thank my colleagues
22 at Legal Aid. I have got a couple in the back, my
23 legal assistant, Laney Cook, and our Deputy Director,
24 Mary Ellen Drolet. Their encouragement in the work we
25 do is a motivating factor for me to involved in the

1 Assembly of the State Bar.

2 Finally, I would like to thank my dear family
3 and friends. Your encouragement and support mean so
4 much to me, more than you will ever know. I
5 especially want to thank my mother, Josephine Allen.
6 My mom is here today, and she will be 90 in December,
7 and I am so grateful that she is here today to see me
8 accept this position. She lost her sister this week,
9 and she is the last of the family, and I am so, so
10 grateful that she is able to be here today to see this
11 happen. Thank you.

12 (Applause.)

13 VICE CHAIR ALLEN: I just wanted to say that
14 I am greatly honored to serve as the chairperson of
15 the Representative Assembly. The Assembly is the
16 State Bar's great final-policy making body, and it has
17 a proud history. It is now our obligation to help the
18 Assembly to continue its important contribution of
19 both the law and the practice of law in the state.
20 We, the current members of the Assembly, are now
21 charged to assure the Assembly remains important and
22 relevant.

23 As Chairperson, I humbly ask for your help in
24 working towards this goal. We have had some
25 discussions today with regard to some of the policies

1 that were here before. Bruce mentioned that, as well
2 as Janet, and these were important policies we do. We
3 do important work. The Assembly's strength is broad,
4 participation, diversity. Please become involved.
5 It's important to each and every circuit to talk with
6 their committee people who are in the circuit with
7 regard to the State Bar or to their local Bars as well
8 as the liaisons.

9 There are many opportunities to become
10 involved, and it's important. We need to have this
11 dialogue. We need to have ideas. The power of the
12 Assembly is collective. It lies with each one of you
13 and all of you, your voices, your thoughts, your
14 proposals individually and jointly, and these are what
15 makes the Assembly relevant and effective. So get to
16 the people you know. We need policies before us. We
17 need to remain on the board and we need to be
18 important and relevant. Thank you.

19 CHAIRPERSON WARNEZ: Returning to your next
20 order of business, I am happy -- it's a bittersweet
21 time when you have to leave, but there are some of us,
22 as you know, that as the rules work or provide that
23 you can only be here for so long, so there are certain
24 members in our body who are term limited and we have
25 to say good-bye to after this meeting. So we have

1 certificates honoring their service, and I am going to
2 read the names of each party who will be terminating
3 their services, terminating as of this meeting, and
4 ask for them to come forward and let us congratulate
5 you and present you with your certificate.

6 So first person we would like to applaud and
7 recognize is Bruce A. Barton. Bruce, would you come
8 forward.

9 (Applause.)

10 CHAIRPERSON WARNEZ: John R. Blakeslee.
11 Julia A. Close. Susan L. Haroutunian, James T. Hogan.
12 Adrienne L. Iddings. Michael J. McClory.
13 The Honorable Christopher Ninomiya, Kathleen M. Oemke.
14 Jennifer J. Schafer, Stephen Taratuta,
15 Maureen VanHoven, Robert H. Witkop. We thank each and
16 every one of them for their service over the years.
17 Thank you very much.

18 I would now like to ask the -- excuse me just
19 one sec. We have, as you know, several committees
20 that are part of the R.A., and each chaired by a very
21 fine individual, and we have gifts for each of them
22 for all their service, and I am going to ask that each
23 chair when your name is read to come forward and
24 accept a parting gift, a celebratory gift for your
25 service for this year.

1 First I would like to ask for John Clark, who
2 is chair of Special Issues, to come forward.

3 Next I would like to have Eilsia Schwarz to
4 come forward. She was chair of Hearings Committee
5 this year. Round of applause.

6 (Applause.)

7 Next chair of Rules and Calendar,
8 Kathleen Kakish, please come forward. Thank you for
9 all your hard work.

10 Chair of Drafting, Fred Herrmann, to come
11 forward. Thank you, Fred, for all your hard work.

12 Chair of the Nominating and Awards Committee,
13 Dan Quick, please come forward for your gift.

14 Last but not least, Carl Chioini, who is
15 chair of the Assembly Review Committee. Please come
16 forward.

17 While I have the chance, I would like to
18 thank each and every member of the committee who
19 served. The chairs were the excellent leaders and
20 forged ahead with the work, but the calls and the
21 meetings and conversations that were required, I want
22 to make sure I reach out to each of you and thank you
23 for your service.

24 I am in possession of the election results,
25 and I would like to announce that for the group. With

1 the majority vote, we have Assembly Member Quick as
2 the newly elected clerk of the Assembly. Congratulate
3 him.

4 (Applause.)

5 CHAIRPERSON WARNEZ: As a point of procedure,
6 if I may ask for a motion also that, per the custom of
7 the Representative Assembly, the results of the voting
8 be announced and recorded as to the winner only
9 without the vote total and that the vote total would
10 be known only through tellers as to any candidate who
11 requests it. May I request that motion from the
12 floor?

13 VOICE: So moved.

14 CHAIRPERSON WARNEZ: I hear a motion and a
15 second?

16 VOICE: Second.

17 CHAIRPERSON WARNEZ: Any discussion?

18 All in favor, please signify by saying aye.

19 Any noes?

20 Any abstentions?

21 That vote carries. So with the announcement
22 of the winner, we have concluded the election process,
23 which leaves us, I believe, to the conclusion of our
24 business.

25 VICE CHAIR ALLEN: Almost. There is one more

1 thing. I want to thank Dana Warnez as our outgoing
2 chairperson. She has served with dedication,
3 enthusiasm, and a total commitment to the legal
4 profession and to the Representative Assembly. I am
5 going to miss her greatly. She is a dear friend, is
6 also a true leader, and she has been compassionate and
7 understanding and quite the mentor in this whole
8 process. And so she has given me everything she has
9 learned from her sister down passed, and I want to
10 thank you, and I want to give you this award today.

11 The State Bar of Michigan honors Dana Warnez,
12 Representative Assembly Chairperson 2012-2013,
13 Vice Chairperson 2011-2012, Clerk 2010-2011, in
14 appreciation for distinguished service to the
15 Assembly, to the State Bar, and all Michigan lawyers,
16 dated September 19th, 2013. Thank you, Dana.

17 (Standing applause.)

18 CHAIRPERSON WARNEZ: Thank you so much. It's
19 been a great honor. With that I can wave my gavel to
20 conclude the meeting, but not so quick as to not pass
21 it on to Kathleen, so a ceremony to give her the
22 gavel, and I conclude that this meeting is over

23 (Proceedings concluded at 3:09 p.m.)

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 Thursday, September 19, 2013.

7
8 October 14, 2013

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

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