

**State Bar of Michigan
Representative Assembly
September 17, 2009**

SUMMARY OF PROCEEDINGS

The following is a summary of proceedings of the State Bar Representative Assembly session held Thursday, September 17, 2009, at the Hyatt Regency in Dearborn, Michigan.

1. Call to order by Chairperson Katherine Kakish.
2. Clerk Victoria Radke declared a quorum (50) was present.
3. Michael Pope moved that the proposed calendar be adopted. Upon a motion made and seconded, the calendar was approved.
4. As provided in Rule 4.8,¹ the Summary of Proceedings of the April 18, 2009, meeting was deemed approved since no objections had been received.
5. Ms. Kakish introduced Attorney General, Michael Cox who addressed the Assembly on the rule of law.
6. Jeff Nellis, Chair, Nominating and Awards Committee, addressed the Assembly to fill vacancies for the current meeting pursuant to Rule 6.6.² Upon a motion made and seconded the following were appointed to fill immediate vacancies within their respective Circuits: Tracie Dinehart of Charlotte (56th Circuit).
7. David Kortering, member of the Representative Assembly, presented the *Michael Franck Award* to Daniel F. Bonner from the Legal Aid of Western Michigan in Muskegon. Mr. Bonner accepted the award and addressed the Assembly.
8. Bernhardt (Chris) Christenson, member of the Board of Commissioners and Chair, Young Lawyers Section, presented the *Unsung Hero Award* to Brian Barkey of Flint. Mr. Barkey accepted the award and addressed the Assembly.
9. Elizabeth Jolliffe, member of the Representative Assembly presented the *Unsung Hero Award* to Kelly Kathleen Burris of Ann Arbor. Ms. Burris accepted the award and addressed the Assembly.
10. Ms. Kakish addressed the Assembly by giving a brief update on the judicial recusal amendments and the views taken at the special Board of Commissioners meeting held August 21, 2009. She spoke on the reception that was held at the State Bar for the Past Assembly chairs and the dedication of the pictorial display of past Assembly chairs. She also introduced State Bar staff members to the Assembly and thanked them for their hard work. Also, the meeting that is normally scheduled in April is scheduled for March, March 27, 2010.

¹ Rule 4.8 of the Permanent Rules of Procedure of the Representative Assembly.

² Rule 6.6 of the Permanent Rules of Procedure of the Representative Assembly.

11. Ed Pappas, President of the State Bar of Michigan, addressed the Assembly by introducing them to the Judicial Crossroads Task Force, a new initiative that the State Bar is involved with. He gave the Assembly a little background on how the task force was formed, the mission statement and its structure and where they are going and how the Assembly can have input into the task force.
12. Janet Welch, Executive Director of the State Bar of Michigan, addressed the Assembly by announcing that the State Bar was launching at the Annual Meeting a new high powered legal research tool called Casemaker 2.1, which should save members hundreds of dollars in legal fees this year.

Ms. Welch spoke on the trust account overdraft notification proposal, which was brought to the Assembly in 2006. Since then the Court published the rule for comment and the State Bar is hopeful that they are close to implementing the rule.

Ms. Welch also spoke on the judicial disqualification and recusal proposal as there is still discussion, the Board of Commissioners rather than voting, support for one of the three proposals adopted, the Board adopted 12 positions which were communicated to the court by the August 1, 2009 deadline. The 12 positions than opened questions raised by the difference between the proposals that had been published for comment. The Board of Commissioners met for a special meeting in August to address additional recusal questions and to provide further input to the Court in time for the Court's September 2, 2009 deadline. At the August meeting the Board adopted five additional positions which were immediately communicated to the court, it addressed the question of what the grounds for disqualification should be.

The majority of these recommendations would bring Michigan more in line with the ABA Model Rules on disqualification and none would move Michigan away from the Model Rules.

13. Elizabeth Lyon, Director of Government Relations addressed the Assembly with an update regarding the indigent criminal defense crisis at the national level and in Michigan.
14. Vanessa Williams, Representative Assembly member and American Bar Association House of Delegates member gave a brief overview of the ABA Annual Meeting and the proposals that were discussed at the ABA Annual Meeting.
15. Steve Gobbo, Representative Assembly member and chair of the Special Issues Committee, addressed the Assembly on Canon 2(F), the hiring of court employees, which was referred to the Special Issues Committee in September 2008. What happened was that it was moved, seconded, and it was under discussion as the Special Issues Committee did not want to move forward with the proposal as written, and then the Assembly voted to refer it back to the Special Issues

- Committee to seek input from State Bar sections and committees, which the Special Issues Committee has done. Motion was made, should the Representative Assembly support and endorse a resolution to amend the Michigan Code of Judicial Conduct to add Section F to Canon 2 as proposed. Upon the motion made and seconded, the Assembly unanimously opposed the motion.
16. Steve Gobbo, Representative Assembly member and chair of the Special Issues Committee, addressed the Assembly with an update on consideration of the revised Uniform Arbitration Act. This was referred to the Special Issues Committee in April 2009 for further review, the Special Issues Committee voted to recommend deferral of the proposal until the spring 2010 meeting. The reason for that is that this proposal had been put forth by the Alternative Dispute Resolution Section in response to the work of the NCCUSL to come up with standard model language regarding the arbitration provisions. The ADR Section is in the process of providing more information and then to have informed debate on this matter at the next Assembly meeting.
 17. Richard Cunningham, Board of Commissioners member, addressed the Assembly on consideration of proposed amendment to MCR 6.302, pleas of guilty and nolo contendere. Motion was made MCR 6.302(C)(1), pleas of guilty and nolo contendere, be amended to mandate that all discussion regarding a defendant's plea take place in open court and be placed on record, as proposed in ADM No. 2009-11. Upon the motion made and seconded, the Assembly unanimously opposed the motion.
 18. Elizabeth Sadowski, Representative Assembly member and Family Law Section member, address the Assembly on the consideration of a proposed amendment on attorney solicitation, which was withdrawn. They have concerns with this proposal and will bring it back to the Assembly at a later date.
 19. Chair, Kathy Kakish announced that there would be a contested race for the election of Clerk. In alphabetical order Stephen J. Gobbo was moved for nomination by Goldie Adele and seconded by Josh Ard. Krista L. Haroutunian was moved for nomination by Sheldon Larky and seconded by Margaret VanHouten. The Permanent Rules of Procedure were read, members voted and tellers tallied the votes. Upon a motion made and seconded, nominations were closed.
 20. Elizabeth M. Johnson was sworn in as 2009-2010 Chairperson of the Assembly by Chief Justice Marilyn J. Kelly, Michigan Supreme Court.
 21. Victoria Radke, Assembly Vice-Chair made the announcement on the election of 2009-2010 Clerk, which was Stephen J. Gobbo.
 22. Elizabeth Johnson presented certificates to the outgoing Assembly members whose terms of service expired at the end of the September 2009 Annual Meeting.

23. Elizabeth Johnson presented plaques to the 2008-2009 Committee Chairs for their work over the past year.
24. Chairperson Johnson presented a plaque to Katherine Kakish for all her work over the past year as Assembly Chairperson.
25. Adjournment at 3:00 p.m.