

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 DeVos Place, Ballroom A,
303 Monroe Avenue, N.W., Grand Rapids, Michigan, on
Thursday, September 20, 2012, at the hour of 9:00 a.m.

AT HEAD TABLE:

STEPHEN J. GOBBO, Chairperson

DANA M. WARNEZ, Vice-Chairperson

KATHLEEN ALLEN, Clerk

JANET WELCH, Executive Director

HON. JOHN CHMURA, Parliamentarian

ANNE SMITH, Staff Member

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Grand Rapids, Michigan
Thursday, September 20, 2012
9:08 a.m.

R E C O R D

CHAIRPERSON GOBBO: If I could have everybody's attention. If you could take your seat so we could start the meeting. Good morning to everybody.

VOICES: Good morning.

CHAIRPERSON GOBBO: We are going to just need to certify that a quorum is present.

CLERK ALLEN: Mr. Chairman, there is a quorum present.

CHAIRPERSON GOBBO: There is a quorum. Is there a motion to adopt the proposed calendar, and I am going to call the chair of Rules and Calendar forward for that purpose.

MS. WILLIAMS: Good morning, Mr. Chair. At this time on behalf of the Rules and Calendar Committee, I move that the body accepts the proposed calendar for today, September 20th, as submitted to the body on or about August 17th, 2012.

VOICE: Support.

CHAIRPERSON GOBBO: Hearing a second and a motion moved, all in favor say aye.

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Any opposed to, say nay.

The ayes carry.

Is there approval to adopt the summary of proceedings from the April 21st meeting?

VOICE: So moved.

CHAIRPERSON GOBBO: Hearing a motion, is there a second?

VOICE: Second.

CHAIRPERSON GOBBO: Hearing a second, any discussion?

Hearing no discussion, all in favor please say aye.

Any opposed say nay.

The motion carries.

I am going to call Jeff Nellis, the chair of the Nominating and Awards Committee to come forward concerning filling vacancies of the body.

MR. NELLIS: Thank you, Mr. Chair. Good morning. I am Jeff Nellis from the 51st circuit. I am the chairman of the Nominating and Awards Committee, and before I do the formal stuff here, I would just like to thank everyone on my committee. As you know, we deal with filling the vacancies and also with coming up with our nominees for our awards that we are going to be giving out today. They put in a

1 lot of hard work, and I really appreciate your
2 efforts.

3 I would also like to thank Anne Smith, who is
4 always a great help to us. I would like to thank our
5 Representative Assembly officers. I don't know that
6 people can truly appreciate the amount of time and
7 effort that these folks put into this body. We have
8 these meetings, and they run very smoothly. There is
9 a lot of hours and a lot of meetings that go into
10 making these meetings really work, and so I think they
11 should be congratulated on their work.

12 Finally, I would like to encourage you all
13 when we give out our awards today, if you get a
14 chance, take the time to personally meet these people,
15 congratulate them. These are people that really
16 epitomize what it is to be a great attorney. They
17 give us all the good name, and we can always use the
18 positive PR. So if you get a chance, introduce
19 yourself, thank them for their service, because they
20 are some really truly outstanding attorneys.

21 Moving on to formal business, we have two
22 vacancies that we need to fill today, and, as I always
23 say when I come up here, it's our goal to have 100
24 percent participation. We have that again this year,
25 and we have done that for several years in a row, and

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1 I think that's a true testament to how important our
2 body is.

3 The first is the 6th circuit, which is
4 Oakland County, we have David Senawi, Bloomfield
5 Hills, and then our second vacancy from the
6 30th circuit, which is Ingham County, Michael
7 Jankowski from Lansing. I guess I would entertain a
8 motion to accept those folks.

9 VOICE: So moved.

10 CHAIRPERSON GOBBO: Hearing a motion, is
11 there a second?

12 VOICE: Second.

13 CHAIRPERSON GOBBO: Hearing a second, any
14 discussion?

15 Hearing no discussion, all in favor please
16 say aye.

17 Any opposed say nay.

18 The ayes carry.

19 Two housekeeping issues before we move down
20 the agenda. Anne Smith informed me that a number of
21 people did not register for lunch. If you want to go
22 to the luncheon, which is going to be in between the
23 two sessions of this meeting, please see Anne. She
24 also has tickets to get you out of the parking in the
25 DeVos place parking area if you parked over here. So

1 please see her with respect to that.

2 At this point in time it's with great
3 pleasure that I have the opportunity of making the
4 announcement concerning the presentation of awards to
5 people in the profession who otherwise may not have
6 been recognized for the contributions in different
7 ways, and the first person to be called up for an
8 award is Judy Calton for the Unsung Hero Award.

9 (Applause.)

10 CHAIRPERSON GOBBO: Without getting into a
11 real lengthy background on Judy, because you have
12 material in front of you which is in this booklet,
13 should be at everybody's table and also with respect
14 to the information that was in the agenda booklet.
15 But I've got to tell you, years ago when I first
16 became an attorney, I did pro bono bankruptcy work,
17 and it was satisfying, but it wasn't the most easy
18 thing to do, and this is a woman who, and an attorney,
19 who has pulled together a fabulous program in the
20 bankruptcy court in her particular district, and it
21 goes without saying that there is a lot of effort to
22 this, so I am very pleased to present you with the
23 Unsung Hero Award, and thank you.

24 (Applause.)

25 CHAIRPERSON GOBBO: The next award recipient

1 is Jeffrey Kopp. Jeffrey, if you could come on up for
2 presentation of the award.

3 (Applause.)

4 CHAIRPERSON GOBBO: Again, more detailed
5 information is in the booklet, but Jeffrey is a
6 graduate of West Point, which is kind of near my neck
7 of the woods where I grew up. To do any type of work
8 concerning men and women that are in the armed
9 services at this particular critical time is
10 commendable, so I just want to thank you for your
11 service, not only to the Bar but also to our country.

12 (Applause.)

13 CHAIRPERSON GOBBO: The next award recipient
14 is the Honorable James Fisher who most recently has
15 chaired a commission that was established by Governor
16 Snyder to look at a number of different issues, and
17 those issues are currently being debated in the
18 Legislature, and hopefully there will be some final
19 resolution soon.

20 So Judge Fisher, it's a pleasure to present
21 you with this award, not only for your most recent
22 work but for some of the work that you have done in
23 the profession over your lifetime.

24 (Applause.)

25 MR. FISHER: Thank you very much, Stephen. I

1 just want to acknowledge some of the friends who have
2 come here this morning to support me. I really
3 appreciate it. Thank you to the Representative
4 Assembly for this award. I had the privilege of
5 meeting Michael Franck many years ago, and I served on
6 the Ethics Committee, and I know how devoted he was to
7 our profession. No one gets here by themselves, and I
8 had the great good fortune to have many fine people
9 put in my path throughout my career.

10 Present today are my former benchmates
11 Gary Holman and Dick Shaw, who helped me set up a
12 unified court in Barry County that's been a great
13 success.

14 Also the next generation of our judges are
15 present, District Judge Mike Schipper, Probate Judge
16 Bill Doherty, and Circuit Judge Amy McDowell. They
17 are doing a great job and expanding on what we started
18 years ago.

19 Justice Tom Davis, who is a good friend of
20 mine, wanted to be here this morning, but Tom is in
21 Ireland visiting his daughter. He and I have been
22 going around the state the last year or so helping
23 other courts set up their current jurisdiction plans,
24 and so he has been a great support to me through the
25 year.

1 He wanted to be here. I did make him promise
2 me that -- it's 3:00 in Ireland right now -- that he
3 would find a suitable public house to raise a pint, so
4 here is to you Justice Davis.

5 I would like to tell you what's going on with
6 some of those things. I am excited about the Indigent
7 Defense Commission and our recommendations that are
8 now working their way through the Legislature. The
9 main recommendation is that Michigan have a permanent
10 Indigent Defense Commission, that that bill has been
11 introduced, it was reported out of the House Judiciary
12 Committee yesterday, will be making it's way to the
13 full floor next week or the week after. It has 77
14 cosponsors, and so we are thinking that that's going
15 to be a success and then it will be on to the Senate.
16 We have our work cut out for us.

17 I think that's important to the Bar that that
18 happen, and hopefully it will happen. The commission
19 was a very diverse group. It came together and made
20 some great recommendations.

21 So, you know, this is a point where I look
22 back on my career. It's been a great career. It's a
23 great profession. There are many talented
24 individuals, many of whom should be recognized as I am
25 this morning. I very much appreciate the award.

1 Thank you.

2 (Applause.)

3 CHAIRPERSON GOBBO: At this point in time we
4 would have called for a break, but I am wondering if
5 we might be able to just push on through for a little
6 while because it just seems like you sat down a few
7 minutes ago.

8 I see assent from the body, so I will
9 continue unless somebody vocally opposes it.

10 At this point in time on the agenda there
11 were a few minutes set aside for me to make comments
12 as the chair. And what I really would like to do,
13 because in the past year we lost a member of the
14 Assembly, and that was Marty Krohner. For those of
15 you that knew Marty, had worked with him on various
16 endeavors in the State Bar, you will know not only was
17 he a great guy, but he was also a talented attorney
18 who spent most of his time in public service either
19 working for a prosecutor's office, the juvenile
20 justice system in Detroit, which couldn't have been
21 easy, and I would like the body to please stand and
22 just have a moment of silence for Marty's passing.

23 (Moment of silence.)

24 CHAIRPERSON GOBBO: Thank you. I can tell
25 you that I very much appreciate the experience that

1 the membership of this august body provided to me by
2 electing me as the clerk of the Assembly a few years
3 ago, and in that position you then become the
4 vice-chair and then the chair of the body. It's an
5 experience that seems when you begin it's going to be
6 a long, long time by the time you complete your term,
7 which essentially is a three-year term. During that
8 period of time you also serve on the Board of
9 Commissioners. It's a bittersweet moment when you
10 think that something is going to continue forward and
11 then it ends, and that's the way it is today for my
12 term as chair.

13 The one-year period you have some hopes, some
14 goals, and I feel I might have met one or two of the
15 goals that I set for myself, but there are other
16 things that you wish you had more time to work on.
17 But as everything happens in life, sometimes that time
18 comes when it ends.

19 So at this point I want to assure you that
20 Dana and Kathleen, who will be moving up in terms of
21 their respective positions, we have worked together
22 very closely. We have some shared objectives, which
23 you will hear more about later on in the meeting, and
24 it's going to be up to this body really to move things
25 forward in some way to make sure that it remains

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1 relevant in the scheme of the way decisions are made
2 within the Bar, and this is the final policy-making
3 body.

4 Just remember that as issues come up and you
5 are presented with those issues or, more importantly,
6 if you see issues to bring them forth, any one member
7 of the body can bring an issue forth. An example is
8 one of the proposals that is on the agenda. Matt
9 Abel, long-term member of the Assembly, had attempted
10 to get this particular item on the agenda at the last
11 meeting, but logistically with some of the issues
12 involved it didn't make it on the agenda, and I recall
13 Matt saying, you know, this is an issue that is
14 important to me. I think it's important to all the
15 other attorneys that practice in the trial courts,
16 and, you know, I want to move it forward. And Matt
17 and the committee that the proposal was assigned to
18 worked diligently for quite a long period of time
19 debating different issues to hone down that particular
20 proposal the way that you see it on the agenda and in
21 the materials.

22 So I just want to leave you with a thought
23 that the Assembly going forward is going to have to
24 reach into its own resources, each individual, to
25 determine certain things going ahead into the future,

1 which I hope that a foundation had been established
2 this year.

3 So having said that, and this will become
4 much clearer I think as we get in to more specifics
5 later on, what I would like to do at this point in
6 time -- is Janet here? I think what we will do at
7 this point is maybe take the five-minute break or what
8 have you because we would have remarks from Janet, but
9 then also from -- Julie, are you here? We are so far
10 ahead that our State Bar President, Julie Fershtman,
11 is on her way but won't be here for a while. And
12 Janet must be tied up.

13 One of the things that we could do if you
14 don't want to take a break right at this moment is we
15 could try to have the Assembly Review interim report
16 and future direction presented, because it kind of
17 dovetails with the comments I had just made.
18 Mike Blau is not going to present the report. He was
19 going to be a stand-in for the committee chair,
20 Richard Barron, who was able to attend the meeting, so
21 I am going to ask Richard to come up for a few
22 minutes, and I know Richard is here. And look at it
23 this way, the more items we get done on the agenda,
24 the less time we will be at the end of the meeting.

25 MR. BARRON: Good news for the art lovers in

1 the body, I expect to be extremely brief to keep us
2 ahead of our schedule today. You have in your
3 material today a very concise report from our body
4 which met a couple of times, tried to solicit as much
5 input as possible from you and other members of the
6 Bar. The best we were able to come up with was some
7 fairly generic questions about the Assembly, what
8 changes, if any, are required or desirable, and
9 because Steve's term is ending because there is a new
10 leadership team coming in, we felt the appropriate
11 thing to do would be to simply tell you where we are
12 at at this time and encourage each member of this body
13 to talk among yourselves, talk among the people in
14 your circuit, decide what we are doing very
15 effectively and what we are not doing so effectively
16 to try to come up with specific suggestions and
17 discuss them.

18 I mentioned to the chair one of the problems
19 with rules for a body like this is that the rule has
20 to apply in the County of Wayne and it has to apply in
21 the County of Ontonagon, and they are very different
22 situations, but we need to address that. We need to
23 think about making ourselves more effective, more
24 efficient. Maybe having awards like today where they
25 move substantially faster than in the past is progress

1 on that, since all the members of this body have had
2 an opportunity to review the rather extensive CV's of
3 these awardees.

4 So all I would have to say is any
5 organization needs to keep looking at itself
6 critically. This body has done a lot in the past, but
7 we need to do it in the most efficient, most
8 thoughtful manner, realizing that we affect all
9 members of the State Bar of Michigan, and members of
10 my committee look forward to working with the new
11 leadership on this. Thank you.

12 (Applause.)

13 CHAIRPERSON GOBBO: I have to commend Richard
14 and his committee for the efforts that they undertook.
15 What they attempted to do with some rough direction
16 was to really kind of do a review of the different
17 operational aspects of the Assembly. There was such a
18 review conducted about seven years ago with extensive
19 participation and extensive reporting, and something
20 similar will have to be done in the upcoming years.

21 With respect to that, each of you may be
22 called upon at some point to respond to surveys, and
23 Dana as the incoming chair will likely be establishing
24 different forms of committees to look at different
25 issues, and I don't want to go too far into what she

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1 has in mind as the chair, and I will leave that for
2 her to make comments on later on.

3 In terms of either taking a break or moving
4 down to the next agenda item, any thoughts on that?

5 VOICE: Keep going. You are doing great.

6 CHAIRPERSON GOBBO: That would bring us down
7 to consideration of mandatory posting of court dockets
8 by all courts. And the proponent is Matthew Abel,
9 Representative Assembly member. Matthew is on his way
10 up here. He is even putting his jacket on.

11 MR. ABEL: Somebody told me they are filming.

12 Good morning, ladies and gentlemen. My name
13 is Matthew Abel, and I am a marijuana lawyer in
14 Detroit, but don't hold that against me.

15 A couple of years ago -- I am a trial lawyer,
16 and a couple of years ago I was handling a case in a
17 district court, happened to be Rochester. And I have
18 been practicing 25 years, and so I have learned to
19 find out as much as I can about what's going on to
20 benefit my client. And so what I have learned in the
21 district courts is that psychology has a lot to do
22 with how well my client does, and so I want to know
23 all of the factors that are influencing the other
24 side.

25 Specifically, this day in Rochester I had a

1 few minutes, and there were a couple people in the
2 hallway, so I went down to find the docket, because
3 some dockets are posted. In Rochester, brand new
4 courthouse, all electronic stuff, I couldn't find the
5 docket posted, so I waited in line to get to the
6 clerk, and when I finally got to the clerk I said, I
7 haven't seen the docket. Is it posted somewhere in
8 the courthouse? And she said, Well, I have a copy of
9 it. I said, Well, okay, but is it posted somewhere in
10 the courthouse? And she said, No, I just have this
11 copy. And I said, Could I see it? And she said,
12 Well, I can let you look at it, but I need it back.
13 And I said, Okay. So I took it and I walked over to
14 the counter and took a couple of minutes and read
15 through it, and I went back and gave it to her.

16 And after that experience I went back to my
17 office and I took a look at the Court Rule, because I
18 couldn't believe that it didn't require that dockets
19 be posted. And so it turns out that, I think it's
20 8.112 says that the court clerk may post the docket.
21 Apparently they may not post the docket if they feel
22 that's appropriate. And I didn't feel that was
23 appropriate. So I began a small campaign to change
24 the word from "may" to "shall," and so a year and a
25 half later here we are.

1 I thought it was a no-brainer, but, you know,
2 I am a young guy, I guess, and so it had to go through
3 drafting, and I appreciate the help of the Drafting
4 Committee and Steve and Vanessa. Several people
5 helped on this. And so now we have it back, and it
6 seems that it's a simple and clear amendment to the
7 Court Rule that we will just say that before each
8 courthouse opens its doors to the public, all daily
9 court dockets for all courts in the courthouse shall
10 be displayed in a common place in the courthouse and
11 in a manner that can be easily read by the general
12 public.

13 People ask me why I do it. I think I kind of
14 explained that, but -- yeah, this may not benefit the
15 general public. I think it might. I mean, if I
16 wanted to go to 36th District Court in Detroit, I'd
17 like to see the cases posted, find out what's
18 interesting so I could look. But it will help me as a
19 lawyer because, and the prosecutors in the room may
20 not appreciate this, but as a criminal defense lawyer
21 it's not just the law, it's also the circumstances
22 surrounding the case, and my clients for years have
23 said to me, you know, everybody in the criminal
24 justice system is all interested in the same thing. I
25 say, What? And they all come up with the same answer,

1 Money, it's all about money. They want money for
2 probation, money for fines and money for drug testing.

3 I said, Well, I think you are right about one
4 thing, they are all interested in the same thing, but
5 I think you are wrong about what that exactly is. My
6 analysis is that we are all interested in the same
7 thing, and that is going to lunch. And the more that
8 I know about how many cases the prosecutor has between
9 him or her and lunch, the more effective I can be in
10 representing my client, and you all laugh, but you
11 know it's true, right. And so I am trying to better
12 represent my clients and trying to amend the Court
13 Rule to do that.

14 One of the reasons why I do this is I think
15 the Assembly is great. I went to law school because I
16 want to be a legislator. I have run for office seven
17 times. I have never made it, so this is as high as I
18 get in policy making, and the speeches are great, but
19 I get tired of just sitting through speeches and not
20 actually doing anything. This is actually the only
21 action item on the agenda today. And that frustrates
22 me, and this is a no-brainer, and I exhort and
23 encourage all of you to find those things that
24 aggravate you, those small things, and bring forward a
25 proposal to change them.

1 This was the no-brainer, the top of my list
2 of five or ten items that I thought should go through
3 the Assembly, and if I live long enough, maybe you
4 will get to see more of them. But how many criminal
5 defense lawyers are in the room? Okay. How many
6 prosecutors? Couple, okay. So there are a lot of
7 criminal defense lawyers. Let me just, if I can, just
8 take one minute to talk about one other issue.

9 In a criminal case there is a Court Rule that
10 says in a felony case you are entitled to discovery.
11 Okay. It's silent as to misdemeanors. Now, there is
12 ample case law to say that defendants are entitled to
13 discovery in any criminal case, including
14 misdemeanors. But even just last week there was
15 something on a criminal defense email list where a
16 lawyer had requested discovery from the City of
17 Dearborn and the city said, You are not entitled to
18 discovery in a criminal case, citing the Court Rule.

19 Now, it's wrong and it's garbage, but they
20 are hiding behind a Court Rule that needs to be
21 amended. That Court Rule needs to say that discovery
22 is available in all criminal cases. Why is there a
23 distinction between felonies and misdemeanors? And
24 this comes up repeatedly. I would say monthly, if not
25 weekly, there is a case where someone is trying to get

1 discovery and a prosecutor plays games with them
2 citing the Court Rule, saying it's not available.

3 Now, that doesn't happen all the time. A lot
4 of prosecutor's offices will just email you the
5 discovery right up, but that is a real serious change
6 that would benefit a lot of people and save a lot of
7 money in the criminal justice system because it
8 wouldn't take so much attorney time to run down
9 something that we are entitled to have in the first
10 place, much like this court docket. This is a simple
11 thing, but there are more things that can be done, and
12 I think that change for discovery will be huge, and I
13 would be happy to work on a committee to do that.
14 This is my last term on the Assembly, because it's two
15 terms and off, but luckily my office is in Wayne
16 County, where there are plenty of seats, and I
17 hopefully will have the opportunity to run again next
18 year, and I intend to do this.

19 I clerked in a law firm where one of the
20 members of the firm was on the Representative Assembly
21 many years ago, and that's how I learned about the
22 Assembly, even before I was a lawyer. I ran five
23 years in a row before I got elected, and finally when
24 I did get elected, I think I was the second, came in
25 second, and I have never failed to be elected since

1 then.

2 I think we need to encourage younger people
3 to learn about the Assembly, to get involved, to see
4 how it actually can make a change in the policy. I
5 know we are just advisory and it still has to go to
6 the Supreme Court, but let the Supreme Court turn down
7 this mandatory posting of court dockets. You know,
8 let them turn down a change in the discovery rules
9 that benefit everyone.

10 So we need more action items. I am not going
11 to keep coming to these meetings unless we have things
12 to vote on. And so I am -- you know, do I have to do
13 it all myself, or are you folks going to help, because
14 you were elected here to represent the people, the
15 lawyers in your jurisdictions, and you know there are
16 problems, and I have just cited one that more than
17 half the people in the room clearly know and probably
18 have experienced it, but let's not just sit around and
19 complain about it, let's do something about it.

20 So with all of that, I think this would have
21 a de minimus cost. Yes, it might require them to
22 print a couple extra sheets of paper, so we have some
23 paper and some ink and maybe some wear and tear on
24 some printers, but aside from that this would be a
25 huge benefit to the Bar and to the public and to me

1 personally, and I am all out for me, but actually it
2 makes me a better lawyer, and my clients think I am a
3 pretty good lawyer, and I am going to continue doing
4 that. So please help me. Let's pass this small
5 no-brainer and move on to something more important.
6 Thank you all very much.

7 (Applause.)

8 CHAIRPERSON GOBBO: I am going to take Matt's
9 final comments as a motion. Is there a second?

10 VOICE: Support.

11 CHAIRPERSON GOBBO: Hearing a second, is
12 there any discussion? If anybody wants to make any
13 comments with respect to this, please come up to the
14 podium.

15 MR. COURTADE: Bruce Courtade, 17th circuit.
16 I just wanted to say I have had the honor of serving
17 with Matt for many years. Our terms sometimes expired
18 at the same time, sometimes didn't.

19 Matt, you got a winner here. This is great,
20 and, more importantly, the speech that you just gave
21 about calling this body to action, it was right on.
22 This body, it's like anything else, the more you put
23 into it, the more you get out of it. This body can do
24 some wonderful things. We have got some incredible
25 minds in this room. Come up with ideas, bring them.

1 If you don't have the time to do it, send it to the
2 leadership and they can send it to the Special Issues
3 Committee and somebody will take care of it. We just
4 need people to show a little bit of initiative, and
5 this body can be a wonderful entity. It will be
6 something. I know I have cherished my time here, and
7 I hope all of you have as much fun of with it as I
8 have.

9 CHAIRPERSON GOBBO: Bruce, please stay where
10 you are for one second. What I would like the body to
11 know, Bruce Courtade, for those that don't know, is
12 the incoming president of the State Bar, and
13 Julie Fershtman will be relinquishing that distinctive
14 position at the luncheon today. So I just wanted you
15 to recognize your incoming president.

16 (Applause.)

17 MR. SMITH: Joshua Smith, 30th circuit. I
18 may have mentioned this at the April meeting, but I
19 think the problem with this proposal remains, the
20 Headlee Amendment problem. Even if the cost is
21 de minimus, that doesn't mean the State might not or
22 won't get sued, and in the Supreme Court case from a
23 few years ago the State's position, and full
24 disclosure, I work for the attorney general's office,
25 and I work for the division that defends most of the

1 Headlee suits, the Supreme Court allowed the
2 plaintiff's case to go forward even though they hadn't
3 proven any cost.

4 So the fact that the cost might be de minimus
5 or small does not mean that, A, the State won't get
6 sued; that, B, the State won't have to pay damages;
7 and, C, if you think the damages that will be paid
8 will be for copying a sheet of paper, you are wrong,
9 because the State will have to pay attorney fees. As
10 you can imagine, the attorney fees are a lot more
11 expensive than printing the sheet of paper.

12 So although I think Mr. Abel's proposal makes
13 sense to me, I think it would be a great idea, the
14 problem remains that it opens up the State liability
15 for a Headlee violation. I think that's highly
16 problematic, so we should think about that before we
17 vote on it.

18 CHAIRPERSON GOBBO: Any other questions?

19 MR. HAUGABOOK: Terrence Haugabook, 3rd
20 circuit. In '96 when I was with Wayne County
21 Prosecutor's Office, we did a rotation over at
22 juvenile, and that was my only experience at the
23 Juvenile Court in Detroit. As a matter of fact, we
24 stood in recognition of Marty. I got to work with
25 Marty back then in the juvenile courts as a

1 prosecutor.

2 But I know in the Probate Court there were
3 certain proceedings in Juvenile Court that were
4 closed, and I haven't practiced in Probate or in
5 Juvenile Court in a long time. I don't know if some
6 of those proceedings are still ongoing or still
7 happen. So if somebody has more recent experience in
8 Juvenile Court, I would like to hear from them, but
9 the concern I have is that this says all courts, and
10 so I know that in Probate Court or Juvenile Court,
11 there are certain things that are just closed to the
12 public, so I am thinking that that might infringe upon
13 that, whereas they were closed for various reasons,
14 and so I think that, you know, if you paint too broad
15 a brush, you run up against those issues. Thank you.

16 CHAIRPERSON GOBBO: Thank you.

17 MR. PHILO: John Philo from 3rd circuit. I
18 would just like to say I am a strong proponent of open
19 courts, and as young as I like to think I am, when I
20 started practice it was very common to see the dockets
21 out in front of every courtroom, and in a relatively
22 short time I can't figure out what's going on in most
23 of the courtrooms. I notice that more because I am
24 more interested in sitting through watching a trial if
25 I have a free day. That's very difficult, and I can

1 only imagine for a member of the public, and I have
2 represented groups and worked with groups who want to
3 do court watching, how difficult it is to truly figure
4 out where they want to be or what's going on without
5 going in and sitting down for a half hour.

6 I do think this is a de minimus cost. As
7 somebody who is plaintiff's attorney and brought
8 matters, I found that the courts are more than willing
9 to grant summary judgment when it's a de minimus
10 matter, and it literally I think would freeze us in
11 action if this small cost holds up a proposal of this
12 nature. That's all. Thank you.

13 MR. POULSON: Perhaps there is a simple
14 change to -- sorry, Barry Poulson, 1st circuit. My
15 term runs out the end of this, so I probably won't see
16 you again. It's been great. Thank you.

17 Matt's proposal could perhaps suffer no loss
18 if the text said "open actions" or "open cases". In
19 other words, the juvenile and the neglect cases are
20 not open, so I would ask him to consider where the
21 word should go, but that aside, in Hillsdale the
22 docket is on the morning radio. We all know where
23 it's going to be at 8:00. They tell us who is being
24 tried. They probably tell us the verdict ahead of
25 time too. But I have been to some courts where I

1 couldn't find out what's going on, I agree with that.

2 I thank Matt for finally getting off his butt
3 and doing something positive with the group, and I
4 know he has set an example for us. I am going to take
5 on, if I ever come back here, that typewritten form in
6 the family law that you all hate or your assistants
7 do. I support this, but I would ask someone who is
8 more adroit at this to consider putting in the word
9 "open" so that we don't have this Juvenile
10 Court/Neglect Court issue.

11 CHAIRPERSON GOBBO: Just for the body's
12 information, if there are any amendments to the text
13 of this, it's going to have to fit within, and I would
14 have to check the rules specifically, but I think it's
15 three to four words, and our parliamentarian is going
16 to just provide that information quickly. But the one
17 point, when Matt read the text of the material, I
18 think he read incorrectly, and the way that the text
19 currently is has two words perhaps switched, and he
20 read it as, Easily read by the general public, in
21 terms of that last phrase, and what the text currently
22 says is, Read easily. So for those of you that might
23 have been English majors, you could either confirm my
24 thought on it and the way Matt read it versus the way
25 that it's presented. So if there are to be any

1 amendments, consider that in terms of a motion.

2 Please.

3 MR. MCCARTHY: My name is Tom McCarthy. I am
4 from the 17th circuit, and I take no position on the
5 wordsmithing, but I think it's a great idea and I
6 support a change that requires the public posting. I
7 rarely practice criminal defense but often am in the
8 courtroom as a civil practitioner, and I just in the
9 last couple of weeks have seen people, family members,
10 going up to those rosters looking and trying to figure
11 out I am here for the such-and-such case, where can I
12 figure it out? This would help alleviate that
13 confusion, make the courthouse more user friendly to
14 the public, which it should do, and I think it's a
15 great idea, I support it.

16 So wordsmithing aside, whether we need to
17 tinker with that word or that, it's a great idea and I
18 support it and appreciate the initiative to bring it
19 to the body.

20 CHAIRPERSON GOBBO: Thank you. Six words or
21 less for amendments from the floor.

22 JUDGE NINOMIYA: Thank you. Chris Ninomiya
23 41st circuit. I am rising in opposition to the
24 proposal. I am not opposed to the concept in general
25 that dockets be posted, but I think there needs to be

1 a little more consideration that goes into this.
2 Specifically, I think probably the various judges
3 associations should be at least consulted, asked for
4 their feedback. They may have very specific reasons
5 in terms of why they don't want a specific case
6 posted. There could be security issues with a PPO
7 case. There could be security issues with a domestic
8 violence case. There could be a lot of different
9 reasons. Closed cases, as somebody else mentioned.
10 And also I think it was Frederick mentioned there is a
11 great deal of difference between Wayne County and
12 Ontonagon. I work up in the U.P., and I can vouch for
13 that.

14 Our courthouse is very user friendly. There
15 are three courtrooms. It's very rare that they are
16 all in session at the same time. In Ontonagon there
17 may only be two cases on the docket. If the judge is
18 on vacation for a week, are they going to post it
19 every day if there are no cases for the day. It just
20 doesn't seem to make sense in some rural locations
21 where you don't walk into a courthouse and have 30
22 different courtrooms going and trying to figure out
23 where you are going. We get court watchers on
24 occasion. I see maybe two or three a year.

25 So the concern about the general public

1 coming in and that being of assistance, it really
2 doesn't make sense, at least where I come from, so I
3 think the shotgun approach as far as mandating all
4 these courts to post the docket, but then again, I
5 really don't have a problem with posting the dockets,
6 but to mandate it without talking to the various
7 judicial associations, I think you may want to get
8 their feedback before you go forward with something
9 like this. They may have some additional concerns,
10 and in some places it just doesn't make sense. I
11 mean, there is one or two courtrooms in a building in
12 some of the locations up north. So to force those
13 courts to have those postings, I don't think it makes
14 a whole lot of sense, so I think it needs to be given
15 a little more thought and consideration.

16 CHAIRPERSON GOBBO: Thank you.

17 MR. GILBERT: Dave Gilbert, 5th circuit. I
18 sat on the committee that drafted this proposal. We
19 researched the issue, didn't really find anything of
20 value as far as Headlee is concerned. I don't believe
21 it's an issue.

22 As far as cases that may not want to be open
23 to the public, most courts will suppress the name on
24 the file, provide the file number. As far as the
25 Supreme Court is concerned, I am sure the Supreme

1 Court isn't just going to just rubber stamp this. I
2 imagine they are going to be doing their own research.
3 I would ask the body to support it.

4 CHAIRPERSON GOBBO: Thank you, David. Are
5 there any other comments at this point?

6 Matt, as the proponent, we will give you a
7 reply.

8 MR. ABEL: Should I do that now?

9 CHAIRPERSON GOBBO: Please go ahead

10 MR. ABEL: Matt Abel, 3rd circuit. I think
11 the issue of the closed dockets is a red herring. In
12 fact, while the hearings may be closed, the notice of
13 the hearing still is required. There still -- it's
14 available to the public to know that there is a closed
15 hearing. They can't go into the closed hearing, but
16 they can know there is a closed hearing and that it's
17 going on at a certain time, and certainly the public
18 is entitled to that, and the failure to post that
19 would be more harmful than the reverse, because that
20 way some cases wouldn't have to be posted. I mean,
21 heck, if you want that, just leave the rule the way it
22 is now where they may post the docket. That's the
23 whole problem, and if the hearing is closed, it will
24 just say the name of the case, in re: minor child with
25 their initials, or whatever it is, as they typically

1 do in Juvenile Court, and it will say closed hearing.
2 And I think that's the way to deal with it.

3 And as far as Headlee, you know, let somebody
4 sue about it. My understanding of Headlee is that it
5 prevents legislation that would require expenditures.
6 First of all, there is a question whether the court,
7 the Supreme Court, is even subject to the Headlee Act,
8 and, secondly, even if they are, I think this falls
9 within the reasonable administration of justice and
10 that we should take the heat if that's the way it
11 goes. Thank you.

12 CHAIRPERSON GOBBO: Matt, before you leave, I
13 addressed the issue concerning the wording and that
14 last phrase. I don't know if you want to address it
15 while you have floor time.

16 MR. ABEL: Well, the word easily, that can be
17 read easily by the public. Unless you are going to
18 educate everybody to read so they can read things
19 easily, I don't know that you can say that it will be
20 read easily by the general public.

21 CHAIRPERSON GOBBO: The question that I had
22 is whether easily comes before read, because that's
23 the way you read it from the podium.

24 MR. ABEL: I did, and I apologize for
25 reversing the -- for the dyslexia. I don't really

1 have an opinion as to whether "easily" should go
2 before or after "read".

3 CHAIRPERSON GOBBO: I just wanted to give you
4 the opportunity to --

5 MR. ABEL: I am happy either way. If you
6 pass this, I will be happy whether the word "easily"
7 is before or after. Thank you.

8 CHAIRPERSON GOBBO: Thanks, Matt.

9 Anybody else, would you like to make
10 comments?

11 MS. MURPHY: Susan Murphy, 4th circuit. I am
12 a juvenile hearing officer, and my docket is printed
13 and posted outside my courtroom every day. But on the
14 Probate Court side and the abuse and neglect side, the
15 dockets are run and the way the court administrator
16 runs it, it comes up as nonpublic. So the names
17 aren't listed, but it says there is a case, and it
18 says it's nonpublic. So the language that I kind of
19 put together as a suggestion, and I guess I have to do
20 this because it's more than six words, because I used
21 "nonpublic" twice, would say, "nonpublic matters may
22 be displayed as nonpublic."

23 CHAIRPERSON GOBBO: If I could stop you. If
24 it's going to be more than six, it's going to have to
25 be in writing and then submitted, would have to get it

1 out to the body and everything, so I know it's a
2 little bit of a word challenge. Any changes of six
3 words or more is going to have to be in writing to the
4 body.

5 MS. MURPHY: That's fine. Where do I get
6 something to write it from? Is there a motion form?

7 CHAIRPERSON GOBBO: What we would end up
8 having to do is to postpone the decision on the motion
9 so that the body can get the item in writing and then
10 take the vote up later.

11 MS. MURPHY: Mr. Chair, in the past when we
12 have done this, I even thought for six words we would
13 just have the recorder change it. Obviously this is
14 in a different form than has been done in the past,
15 but the staff has usually just gone ahead and done a
16 red line version and we have done it at the same time.
17 That's my recollection of how things have been done in
18 the past. Whether it needs to be in writing or not, I
19 understand the writing part.

20 CHAIRPERSON GOBBO: As long as it's six words
21 or less, the amendment could be done here, and the
22 parliamentarian just pointed out to me that the
23 changes actually would have to be before the motion
24 was seconded in terms of the way the bylaws are set
25 up.

1 If we can, perhaps we could take a short
2 break and give our colleague the opportunity to come
3 up with something. If there are no objections, we
4 will take a break for about ten minutes. Also,
5 President Fershtman is here too, so after we dispose
6 of this particular motion and issue, we'll have Julie
7 come up and address the body.

8 (Break was taken 10:03 a.m. - 10:20 a.m.)

9 CHAIRPERSON GOBBO: If I could ask everybody
10 to start moving back to your respective seats in your
11 circuit.

12 Are we ready? I believe we'll have a motion
13 made from the floor with certain language, and that
14 motion is on an amendment to the original proposal.
15 So what will happen is there will be an opportunity
16 for debate on the motion, then we'll have to go back
17 to the original motion with the amendment inserted and
18 move forward from there, including any debate that
19 might occur.

20 So at this point in time, you have the floor.

21 MS. MURPHY: Thank you, Mr. Chairman. Again,
22 Susan Murphy from the 4th circuit. Before I make my
23 formal motion, I just want to say I think we had
24 enough of a debate on the floor going over these
25 words, so I want to thank everyone that participated

1 in trying to come up with something that was less than
2 five words, or less than six words, and so I am making
3 a motion that we amend the language so that we add a
4 comma after "courthouse," excluding parties' names in
5 nonpublic cases, comma, and then continue with the
6 original language.

7 CHAIRPERSON GOBBO: That is the motion. Is
8 there a second?

9 VOICE: Second.

10 CHAIRPERSON GOBBO: Hearing a second, any
11 discussion please come up to the microphone. Any
12 comments please come up to the microphone.

13 MR. GARRISON: Scott Garrison, 6th circuit.
14 In discussing the closed records, under 8.119 you can
15 seal portions of a file, but you can never seal the
16 register of actions. Register of actions contains all
17 the dates on it, so I don't think that worrying
18 about -- I don't think it's applicable. It's not a
19 valid concern I believe to worry about publishing the
20 names with this added language. Thanks.

21 CHAIRPERSON GOBBO: Thank you. Hearing that
22 comment, what I will do is call for a vote of the
23 body. All in favor say aye.

24 Any opposed say nay.

25 The ayes carry.

1 Now we go back to the original motion that
2 was on the floor in terms of the proposal, along with
3 the amended language. Is there a motion on moving the
4 proposal forward as amended?

5 VOICE: So moved.

6 CHAIRPERSON GOBBO: So we are back to an
7 opportunity for comments or debate with respect to the
8 whole proposal with the amendment. And if you have
9 any comments, please come up to the microphone.

10 MS. VESTRAND: Joan Vestrand from the 22nd
11 circuit. I just want to point out the possibility
12 that as worded "shall be displayed in a common place
13 in the courthouse," a judge could say that could be
14 anywhere. The rule doesn't say it needs to be in a
15 public place, a common place in the courthouse in a
16 manner that can be read easily by the general public.
17 We might consider "shall be displayed in a common
18 place in the courthouse accessible to the general
19 public." Just a thought.

20 CHAIRPERSON GOBBO: If I may just point out,
21 in the last phrase of the proposal it talks about in a
22 manner that can be read easily by the general public,
23 so I don't know if that addresses the concern.

24 MS. VESTRAND: It puts the word "and", and in
25 a manner that can be read easily by the general

1 public. I don't think they are connected.

2 CHAIRPERSON GOBBO: I didn't hear necessarily
3 a motion, so we will just continue with debate.

4 MR. JANKOWSKI: Michael Jankowski, 30th
5 circuit. I would argue the wording a common place
6 assumes and incorporates a place that is accessible to
7 the general public. It's not going to be in the
8 judge's office in the back. It's going to be in a
9 place where the public can see it and appreciate it.
10 That's all.

11 CHAIRPERSON GOBBO: Thank you. Any further
12 comments at this point in time? Otherwise I would
13 call for a motion on the entire proposal as amended.

14 All in favor please say aye.

15 Any opposed say nay.

16 The ayes carry. The proposal is adopted by
17 this body.

18 (Applause.)

19 CHAIRPERSON GOBBO: At this point in time it
20 gives me great pleasure to introduce our current
21 president of the State Bar, Julie Fershtman.

22 (Applause.)

23 PRESIDENT FERSHTMAN: Good morning. It's
24 still morning. I promise I won't use this. It's been
25 many years since I was Assembly chair. It is a honor

1 to be here today with all of you. As many of you
2 know, because you have looked at the schedule, in
3 about a little less than two hours you will be
4 convening in probably that facility over at the Amway
5 for the inaugural luncheon, and I have the opportunity
6 there to give about 15 minutes max, I am told, of
7 remarks as the outgoing State Bar president, so my
8 goal in being here now is not to rehash those 15
9 minutes, because we have a package of other items, and
10 you will be hearing it soon anyways.

11 So what I wanted to do while I am up here is
12 to focus on just two things which may end up using a
13 bit of time, but two things. First, I would like to
14 share with you what the Bar has been doing to ramp up
15 its services for the benefit of solo and small firm
16 practitioner attorneys, and second I wanted to make my
17 parting remarks with what the Bar can be proud of,
18 what we can be proud of.

19 Let me start out with the first part of my
20 remarks. What has the Bar been doing with solo and
21 small firm practitioner attorneys? Well, you probably
22 know the statistics that a very significant percentage
23 of the State Bar of Michigan, about 51 percent, is
24 composed of private practitioners, and of that, 71
25 percent is composed of solo and small firm

1 practitioners. The diversity among that group is
2 tremendous in terms of geography, age, racial
3 composition, gender, ethnicity. It's a very diverse
4 and large group, but the needs of that group are
5 substantial, and as I look around I think that some of
6 you are within that category, and I know I was. For
7 17 of my 26 years as a practicing attorney I was a
8 solo and then a small firm practitioner.

9 So what has the Bar been doing on that front
10 to look out for a substantial component of its
11 members, but more significantly since I am standing
12 here as the outgoing State Bar president, what has
13 happened in the last year on that front. I have quite
14 a few things to share with you, and I will only give
15 you very brief information.

16 First, the Bar has, as you know, a Practice
17 Management Resource Center, the most visible component
18 of which you can find by going to michbar.org, and you
19 will see on the left Practice Management Resource
20 Center, but the first thing I share with you is, aside
21 from the fact that there always was one for at least
22 in the last ten years or so, the Practice Management
23 Resource Center looks different on the website.

24 If you took a look at that website just a
25 year ago and you compared it to what you see today,

1 you would find the difference is almost night and day.
2 Thanks to the State Bar staff and its hard work, the
3 content has improved, the organization has improved.
4 They call it Practice EZ. There is even a section for
5 those of you who are playing around with your iPads
6 and iPhones, a section on, what do they call it, Apple
7 Practice, recognizing that many of you are using these
8 devices. That's one of the positive developments I am
9 happy to share with you about what the Bar has been
10 doing on that front.

11 Second, keeping in mind the Practice
12 Management Resource Center, many of you are aware if
13 you want a book you can borrow a book through the
14 Practice Management Resource Center. We will just
15 call it the PMRC. There is a lending library, and
16 it's been around for a few years, but a lot of you are
17 saying that's not quick enough. I don't want to have
18 to wait for this thing to come in the mail, and I
19 don't want to have to send it back. That's okay.
20 Because the Bar has just instituted only a few weeks
21 ago, maybe just a month or two, a downloadable free
22 lending library.

23 You go to the website, you will find the
24 lending library, and if you have a Tablet, iPad or
25 probably even your office computer device, look for a

1 publication involving an issue of practice management
2 that you find relevant and interesting. It will be
3 downloaded to your Tablet, iPhone, iPad instantly, and
4 then you don't have to worry about returning it,
5 because in Mission Impossible style, I think I
6 mentioned that in my text remarks, it self-destructs.
7 No, it does not destroy your devices. It simply
8 deletes itself from your system and it's gone.

9 This is a tremendously good service. It's
10 going to expand with more offerings. We are waiting,
11 we are waiting for the American Bar Association to
12 allow us to include its publications in that program.
13 That day may come. It hasn't come yet. That's
14 another very positive development that I am happy to
15 share with you about what the Bar has done in the last
16 year.

17 I've got about three more. The next one,
18 relevant seminars. And we go back as well to the
19 Practice Management Resource Center staff. They have
20 taken a look at the topics that they think are of
21 interest to those of us who are particularly involved
22 in solo, small firm practice and certainly other types
23 of practices too, and they have been trying harder
24 than ever to give us relevant programming, relevant
25 seminars. They have done two that were total

1 homeruns, and those involved the use of your iPad,
2 and, yes, I know that's not exactly a solo, small firm
3 issue, but it is an issue that cuts across lines of a
4 significant number of members.

5 We had two seminars involving the use of
6 iPads. One called Trial by iPad and another simply
7 involving iPads. These were sold out very quickly.
8 There was a waiting list for each one, and the
9 response, the feedback that we got was outstanding,
10 and the Bar is offering yet another. Oakland County
11 area people take a look. You will see there is one
12 being offered. Oh, it sold out. Sorry. Hopefully
13 that's because you signed up for it. And it just sold
14 out. I saw the email that said only a few slots left,
15 come and sign up for it. Okay. That's another
16 example of the Bar finding a topic that's relevant and
17 offering it quickly, inexpensively, and accessibly for
18 all of us.

19 Fourth, as many of you heard if you heard me
20 give my inaugural remarks just last year when I was
21 sworn in, we have a Practice Management Resource
22 Center Advisory Committee that is about to give us a
23 report that will help us learn how we can even further
24 expand and improve the Practice Management Resource
25 Center. There are needs out there that attorneys

1 have, and we are trying very hard to make sure that we
2 address them and that we do it quickly and
3 inexpensively.

4 And finally, discount programs. Those people
5 who actually read the Michigan Bar Journal these
6 days -- and some of you really do. A lot of you have
7 it in a pile maybe you will get to one day -- you may
8 have seen that I wrote a column about the programs and
9 services of the Bar, but I want to share with you here
10 some of the new services that are tremendously
11 valuable. And you may be wondering too, well, how
12 does the Bar do this? We have a member services
13 committee. Mary Chartier of Lansing is the chair of
14 it, and I expanded the size of that committee compared
15 to what it was the year before I took office. I
16 doubled it in size. Why? Because we needed fresh
17 blood, we needed ideas, and that committee took the
18 charge and ran with it. Mary and her committee made
19 recommendations to us. And using the 42,000
20 membership of the Bar, we can leverage programs and
21 services that will be helpful to the Bar. What are
22 they? Well, there is a whole list, and I will just
23 share with you a couple of them.

24 You probably noticed that for those in small
25 practice there is a virtual receptionist program.

1 That's not a bad idea, and I encourage you just to
2 take a look at it, see if it's worth your while to cut
3 or reduce overhead expense if you have to but yet
4 continue serving your clients and letting your clients
5 know that you have somebody there to take the calls,
6 forward information to you quickly and timely. That's
7 just one of them.

8 Also, systemize looking for discount
9 programs. I notice that the Bar has just instituted
10 one with Dell computers. Take a look at it, because
11 the discounts can range anywhere from 10 to 30
12 percent. There are other ones that have lower
13 discounts, lower percentages, but why not. If you are
14 buying new computers anyway, if you like their
15 products, why not save a little bit of money. That's
16 another one I wanted to share with you.

17 These are just some examples of the expanded
18 services and programs that the Bar has delivered in
19 the last year. But a couple of other things that have
20 nothing to do with the Bar serving solo and small firm
21 attorneys, but a couple of comments about what the Bar
22 is doing to serve all attorneys.

23 A year ago, actually almost two years ago,
24 the Bar did a member survey, two of them. One was the
25 member survey and one was the economics of law

1 practice survey, and we got an idea of the membership,
2 what interests people had, the economics of practice,
3 and among the many things that found their way into
4 our strategic plan was to work harder on mentoring.
5 And, as many of you know, the new mentor board is out.
6 Go to the State Bar website. The mentor board is kind
7 of a matching service, if you will, for young
8 attorneys and for attorneys who want to be mentors.
9 Take a look at it. It's out. We are working with it,
10 and it's already proving to be pretty popular and
11 pretty successful.

12 Anybody who knows, including yourself, if you
13 are in the search for a new job, the new, somewhat new
14 job target board, it's been up for about a year. The
15 job target board is in full force. And you may be
16 saying there are job boards all over the place. Yes,
17 that's true, they are pretty popular, but a comment on
18 that is that our job board will send you an alert, an
19 email alert, if an opportunity comes up in your areas
20 of interest. So you can immediately act and respond
21 on it pretty quickly. That's yet another service that
22 the Bar is providing considering the membership,
23 considering the difficult economic times that we are
24 in and, well, considering that it's simply trying to
25 be relevant.

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1 A couple of quick things I will add, then I
2 will share with you why I think we should be proud of
3 the Bar and, frankly, ourselves.

4 One of the issues that I thought was relevant
5 and timely was caregivers. Caregivers, these are
6 women and men who are trying to make a go in their
7 practices, in their work, whether it's a corporation,
8 large firm, small firm, solo, but it's typically an
9 employment, employee environment. Trying to make a go
10 and succeed but at the same time they have children,
11 they have aging parents, and they are being pushed in
12 every which way, every direction, what can we do about
13 that for people who are employed and want to balance
14 the demands of work with demands of family? That's a
15 massive concern as I see it.

16 I asked the Diversity and Inclusion Advisory
17 Committee to take a look at the issue, and it issued
18 very recently the caregiver work group report. If you
19 go to the State Bar website and you go to the area
20 where you just throw some words in, you can pull up
21 caregiver work group report. I encourage you to take
22 a look at it, because it offers best practices and
23 suggestions for large firms, small firms, and
24 corporations to help their members address the
25 problems. As I see it, it's a win, win, win. We keep

1 people in practice who would otherwise leave. We help
2 people and their families receive the attention they
3 need with children and aging parents. And employers,
4 of course, benefit by having continued work in the
5 work force. And of course the other benefit is we
6 keep people in the profession, because many people
7 work really too hard, as I see it, mainly women, leave
8 the profession. Hopefully with implementation of best
9 practices we can keep people here, keep them in the
10 fold, continue the profession's diversity. So this is
11 another very positive development.

12 What can the Bar be proud of? That was the
13 second thing I thought I would share with you today.
14 Well, we can be proud of a few things, and I have to
15 look around to share this with you. We can be proud
16 of -- oh, poor Janet. She hates when I get up here.
17 I always embarrass her. But Janet Welch was named, as
18 many of you know, Woman of the Year last year from
19 Michigan Lawyer's Weekly.

20 (Applause.)

21 PRESIDENT FERSHTMAN: Sorry, Janet. You will
22 be glad I am stepping down, then I will leave you
23 alone.

24 We also should be proud of the Bar because we
25 received, and just on my watch, I had nothing to do

1 with it, the American Bar Association's very
2 prestigious Grassroots Advocacy Award, which was
3 awarded at the U.S. Supreme Court with
4 Justice Sotomayor in attendance, and receiving that
5 award on behalf of the Bar and speaking was not easy
6 when the Supreme Court Justice is kind of staring you
7 down, but the job got done, the Bar received the
8 award, and it worked very hard for it, so I commend
9 the Bar.

10 Nancy Brown, from the State Bar isn't here
11 today. Many of you know her. She is the one that
12 sits here and does the work on the overhead chart.
13 She is not here right now, but she received a very
14 prestigious award from the Department of Natural
15 Resources and the Michigan Historical Commission for
16 her work with the Michigan Legal Milestone. That's
17 called the Swainson Award.

18 I think we should also be proud of
19 Steve Gobbo. We should be proud of him because, you
20 will hear more about him as he steps down, and you
21 know him from the meetings that you have attended, but
22 what you may not know is that very recently the
23 Michigan Supreme Court thought highly enough of Steve
24 that they appointed him for a term on the State Bar of
25 Michigan Board of Commissioners, so he will be serving

1 as a commissioner of the State Bar of Michigan yet
2 again because of an appointment from our Michigan
3 Supreme Court. That's something to be proud of.

4 (Applause.)

5 PRESIDENT FERSHTMAN: Sitting next to him,
6 Dana, you will know a lot more about her if you don't
7 know enough already. What you may not know is that
8 she was just sworn in as president of the Macomb
9 County Bar Association, so she is holding quite a bit
10 of work on her hands aside from the practice. She has
11 got Macomb County Bar, the Representative Assembly,
12 and the State Bar of Michigan, but, hey, I am very
13 proud of you, Dana.

14 (Applause.)

15 PRESIDENT FERSHTMAN: If you need advice on
16 how to survive on very little sleep, you know who to
17 talk to. You can talk to me.

18 Bruce Courtade, he probably is sleeping, poor
19 guy. He had a long night last night. Hopefully you
20 will join him and all of us in the presidential suite
21 which Bruce had, and it's not just for him to be alone
22 in. It's for all of us to join him in. But we should
23 be proud of Bruce. We should be proud of him because
24 he will do an incredibly good job as the State Bar
25 president, as the Grand Rapids people already know

1 what a great president he will be.

2 Just a few concluding remarks. We should be
3 proud of the State Bar of Michigan, and we should be
4 proud that we are not part of an association that is
5 simply functioning on auto pilot. This is a Bar
6 association that in the last 12 months and even
7 further back has listened to its membership, has tried
8 to find what members are concerned about, the needs of
9 the members, the interests of the members, and we have
10 worked hard. I can assure you in the last 12 months
11 that I have been the president we have worked hard to
12 be relevant, responsive, and in many ways to be
13 proactive to the extent that we can.

14 So as I conclude my remarks, I turn to you,
15 all of you sitting here today as Representative
16 Assembly members, and I can tell you that your
17 leadership as members of this Assembly, as thoughtful
18 people who look at proposals put before you and
19 analyze them, debate them, your leadership is
20 tremendous. The leadership that you have here already
21 seated is absolutely outstanding, and, as I looked at
22 my materials for today and I saw the election that you
23 have got later today for the next clerk, you have got
24 the clash of the Titans going on here.

25 Your election shows to me, when I looked at

1 the caliber and quality of the candidates that you
2 will be voting on, shows me you are going to be in
3 excellent hands for the years ahead. This is a group
4 that you should be very, very proud of, and before I
5 make my absolute final remarks, Bruce told me, Bruce
6 Courtade, that I have to say a few things while I am
7 up here, so I am doing it. And he is not here to do
8 it, but I am. So if you see him, tell him, hey, Julie
9 followed through.

10 There is a celebrate diversity reception this
11 evening. Yes, I know many of you need to get back
12 home, but for those of you who are staying here, I
13 strongly encourage you, come to the reception. You
14 will be not only looking at some of the Art Prize
15 competitors' work, it's there at the art museum where
16 we will be, but there is an Ann Arbor band. Who are
17 the Ann Arbor people? Show of hands. Hey, Ann Arbor
18 people. Soultivity, the band Soultivity is made up
19 primarily of Ann Arbor practitioners, will be
20 performing for us. I saw them at the ABA. They are
21 outstanding.

22 You will hear them.

23 There is a silent auction, and it benefits
24 the West Michigan Center for Arts and Technology, and
25 if nothing else, there is great camaraderie. You will

1 be able to meet fellow lawyers, judges, people who
2 care about our profession all in a fun, uplifting
3 environment.

4 In conclusion, I wanted to let you know that
5 you are doing a wonderful job. The State Bar
6 leadership has been doing a wonderful job serving you.
7 I have absolutely enjoyed my last year being the
8 president, working with you, the leaders of the
9 Assembly and other leaders of the State Bar of
10 Michigan. I wish you a wonderful conference, and I
11 wish you many years of continued leadership.

12 (Applause.)

13 CHAIRPERSON GOBBO: I asked Julie to not
14 leave the podium area for a second. I just wanted to
15 make some personal comments.

16 I couldn't have thought of a better partner
17 in terms of the leadership of the State Bar to have
18 served with her during this period of time. I had
19 joined the Assembly just about the time or at least
20 presented a proposal to the Assembly at the time that
21 Julie was a chair of this body, and you can see why
22 she has been the president of the State Bar, and this
23 past year she went through a number of personal
24 challenges but never missed a beat. I mean, just a
25 phenomenal person, so I would like you all to just

1 give her another round of applause.

2 (Applause.)

3 CHAIRPERSON GOBBO: Besides serving with
4 Julie, I have also served with two officers of the
5 Assembly who deserve recognition, because they have to
6 put up with me, and oftentimes it's nice to have
7 people that will look at issues and then kind of push
8 you sometimes in the direction, so I provide a lot of
9 thanks to Dana and Kathleen for doing so.

10 Also kind of behind the scenes but pretty
11 much public, Anne Smith, who provides administrative
12 assistance to the Assembly, needs to be recognized for
13 her efforts, and Marge Bossenbery, they work as a team
14 providing services to the Board of Commissioners,
15 Janet Welch as the executive director, as well as the
16 Assembly leadership. So I would like you to recognize
17 those persons.

18 (Applause.)

19 CHAIRPERSON GOBBO: Another person who
20 provides great counsel to the Bar and might be because
21 prior to her role as the executive director of the
22 State Bar, she was the counsel to the Bar, and that is
23 Janet Welch. Janet is going to come up and make
24 remarks, but I just want to acknowledge just her
25 efforts, and next to Julie, one of the most remarkable

1 women that I know as an attorney in terms of Bar
2 leadership, and please, Janet, I hope to recognize you
3 and then also allow you to have your remarks.

4 (Applause.)

5 EXECUTIVE DIRECTOR WELCH: Thank you, Steve.
6 I need to say for the record that I am not happy that
7 Julie Fershtman is stepping down. I think she left,
8 but tell her that I said that. If there is one word I
9 think that will stay in our collective memory about
10 Julie and her presidency is it is inspirational. And
11 the consolation in her stepping down is that
12 Bruce Courtade is stepping in, and he is also an
13 extraordinary leader, and we are looking forward to
14 having a lot of fun and to continuing the momentum
15 that Julie has been so diligent about keeping on
16 behalf of the lawyers of Michigan.

17 Normally I start out with my remarks at the
18 annual meeting, Representative Assembly meeting,
19 recognizing the efforts of the retiring chair of the
20 Assembly. This year, however, having been told, as
21 you were just informed, that Steve Gobbo is moving
22 from the Representative Assembly to the Board of
23 Commissioners, I will save my remarks about Steve for
24 another three years when his term on the Board of
25 Commissioners ends. So you will have to trust me,

1 Steve, that I had a lot of really nice things to say
2 about you.

3 Seriously, I do want to note that, as has
4 been the case with all of the predecessors with whom I
5 have worked, Steve's dedication to the work of the
6 Assembly and to the profession it serves has been
7 remarkable, and I also need to add, Steve, that your
8 knowledge of the inner workings of State government is
9 something I have particularly appreciated, and I look
10 forward to having that at the service of the Bar for
11 the next three years.

12 I want to share with you just two thoughts
13 about the Bar year that has just ended and the one
14 that lies ahead, both relevant to the next topic you
15 will be discussing on your agenda, which is the role
16 of the Assembly.

17 In my view, the justification for the
18 existence for the Assembly and for the expense of the
19 Assembly and for the time that you devote to all the
20 work that the Assembly demands, that justification is
21 your collective contribution in guiding the Bar
22 forward in addressing the basic but very hard
23 questions that the profession faces as the way legal
24 services are delivered are changing dramatically. So
25 your role in figuring out how in this environment we

1 protect our ethics, how we advance the elusive goal of
2 justice for all, and we do that as technologies change
3 and emerge and as the market does whatever the market
4 does, that is, I think, your essential challenge.

5 In carrying out that high standard, I think
6 that the story that will be told about the year that
7 is just ending for the Representative Assembly will be
8 your work in advancing a definition of the practice of
9 law. The proposal has been transmitted to the
10 Michigan Supreme Court on behalf of the State Bar, and
11 I think the only thing that we can say for certain is
12 that the Supreme Court is not going to act immediately
13 on that proposal.

14 But that, I submit, is as it should be,
15 because the point of the proposal, which is big and
16 important and difficult, is not simply to enshrine a
17 set of words in a court rule with the expectation that
18 those words will settle all the issues concerning what
19 lawyers do and how legal services are resolved and how
20 we protect the public. We do, in fact, hope that the
21 definition we recommend will make its way into court
22 rule, but the process by which the court considers the
23 proposal, the expansion of the dialogue about what the
24 practice of law is and the conversation about what the
25 implications of the definition are just as important

1 as what the law finally says, if and when the fog that
2 currently prevails on the subject is finally lifted.

3 Some of you may be thinking, but the Assembly
4 didn't do that much, that is, you didn't debate it for
5 weeks and weeks and you didn't spend hours and hours
6 fighting about it, but that, again, is not the point,
7 because the path to any State Bar proposal that is
8 seriously considered by the Supreme Court is always
9 through the Representative Assembly, and your close
10 attention to the matter, which you gave, your careful
11 reading and ultimately your approval, which was never
12 taken for granted, was an essential step in moving
13 this issue forward, which brings me to my second
14 thought, which is that in my view the year we had will
15 reflect on the work of the Representative Assembly in
16 two important ways.

17 The definition of the practice of law and
18 promoting an understanding of what we do to the public
19 at large is an increasingly urgent question in the
20 face of the growing number of people who can't afford
21 or just as importantly think that they can't afford to
22 hire a lawyer, and so they go to court to represent
23 themselves. Your proposal signals the beginning of
24 the official conversation on this vital topic. At the
25 same time, in the coming year the Assembly's efforts

1 in promulgating 11 principles of an effective public
2 defense system are just now beginning to bear real
3 fruit, the imminent promise of a permanent Michigan
4 indigent defense commission.

5 The commission is not the final solution to
6 fixing Michigan's substandard public defense system.
7 That will require, of course, actual appropriations,
8 but it is an indispensable step in bringing Michigan
9 up from the bottom of the heap and providing adequate
10 legal representation in criminal cases to all who need
11 it.

12 Legislation has been introduced. Yesterday
13 finally it was voted out of committee. That is a huge
14 step. There are actually very few days left in the
15 legislative calendar in this session, but there is
16 very good reason to hope that the legislation can be
17 enacted in this legislative session, and really that
18 the key to that hope is the governor's support of this
19 legislation. We are further along the road to
20 improvement than we have ever been, and that is thanks
21 to you. It would not have happened without the
22 Assembly.

23 Whenever it crosses your mind as you are
24 sitting here that you could be somewhere else making
25 money, for example, or enjoying a beautiful Michigan

1 day outside, seeing some art, or even catching up on
2 sleep, something very much on my mind right now,
3 please remember that the slow but hugely important
4 changes are work that you have done.

5 Finally, I want to say that your leadership
6 is about to pass to a woman whom I have admired from
7 even before the moment I actually met her going
8 through some very good advance work by my dear friend,
9 her sister Kim. You are in very good hands as the
10 gavel passes from Steve to Dana. Thanks to each of
11 you for your service and may the year ahead be a great
12 one for the Assembly and for the lawyers of this great
13 state.

14 (Applause.)

15 CHAIRPERSON GOBBO: At this point in time we
16 have kind of gone through the agenda for the morning,
17 and you all are invited to the inaugural luncheon.
18 And, again, if you need tickets for the luncheon, see
19 Anne Smith concerning that or for parking. Otherwise,
20 adjourned until 2 p.m. Thank you.

21 (Luncheon break taken 10:57 a.m. - 2:10 p.m.)

22 CHAIRPERSON GOBBO: If I could get
23 everybody's attention. We are running a few minutes
24 behind, and while the panel is starting to assemble
25 below, the day is here, and what I would like to do is

1 to introduce Gregory Ulrich. It's been my pleasure to
2 serve with Gregory on this body, as well as on the
3 Board of Commissioners, and he is going to be
4 moderating the panel discussion on this particular
5 informational item which, from what I can tell in
6 reading some of the comments in the various Bar
7 publications and the local Bar publications, it's gone
8 in some interesting -- and a lot of questions.

9 So hoping that, because this matter is likely
10 to come before the Assembly at its next meeting, that
11 it will be informative so that you could give the
12 panel who have kind of constructed this proposed rule
13 some positive feedback, or negative I guess, in terms
14 of kind of providing some guidance to them, and it
15 should help the Assembly in any further deliberations
16 when it comes before the Assembly as an actual
17 proposal.

18 So, Gregory, if you would be kind enough to
19 introduce the panel.

20 MR. ULRICH: Good afternoon. I am
21 Greg Ulrich, and currently I am chair of the Master
22 Lawyers Section, and sometimes they let us old chairs
23 back into the room from the R.A. So I appreciate
24 being able to be here.

25 The Masters Lawyers Section, as you may have

1 learned over the last two years, is one of the newer
2 sections of the State Bar, and it is integrated into
3 the Bar function, both in terms of budget and
4 activities, much as the Young Lawyers is, and for the
5 Master Lawyers Section, we set out to do outreach
6 within the profession by services and programs that
7 would help attorneys in their, probably more
8 importantly their years of wisdom and experience,
9 because the demographic for the Master Lawyers Section
10 is really above 50 and on up, 20 years of service at
11 that point, or 30 years and age 60.

12 The other areas are the protection of the
13 public, and that is something that is in particular to
14 the focus of the discussion this afternoon in the
15 proposal for April, and then also outreach to the
16 community, and in particular we are hopeful that the
17 programs that will work along the lines of civic
18 education in high schools in particular is something
19 that we can do on a localized basis, again, with the
20 experienced attorney's involvement maybe at their
21 favorite high school.

22 Just to give you an idea of where we have
23 gone logistically with this, we have solicited
24 information, responses, comments from sections and
25 committees and from local Bar associations from major

1 metropolitan areas in Michigan, groups that meet on a
2 regular basis, and we have asked them to react to the
3 language of the rule but also to aspects that they
4 might see as either unintended consequences or things
5 that need to be taken into consideration. And I do
6 want to tell you that there is one kind of overarching
7 theme to most of the responses, I just received one a
8 few days ago from the Arts Section, another one from
9 the Health Law Section, where there is I guess a
10 reading of the rule as providing for a process but
11 without in their minds a lot of detail.

12 That's true. There is no detail to the rule.
13 The rule is to be as simple as possible, especially
14 when you are dealing with the Supreme Court approved
15 rule for the Bar, and so the rule itself simply says
16 we would ask attorneys to provide the name of an
17 individual that has been identified, sort of like a
18 patient advocate might be identified, and that
19 individual has agreed to do something, but it's
20 between the attorney parties to work out how expansive
21 or how limited the function, but there is the aspect
22 that there is somebody identifiable in records to go
23 to or to be notified in the event of disability or
24 death of an attorney and can proceed with something,
25 whether it is a mass of records, files, but more

1 importantly that there is some conduit to the client,
2 because that is the direction that we have to face,
3 that we are safekeepers of our clients' information,
4 records, and money.

5 So that is the overall approach of the rule
6 proposal. It is not set in stone yet. Hopefully by
7 April we'll have it clarified.

8 The panel you have before you are people who
9 have worked on the committee through the Master
10 Lawyers and who each have a particular insight because
11 of experience and actually dealings they have had
12 where an attorney has been disabled or has passed
13 away.

14 As an aside, I just learned a couple of days
15 ago that an attorney friend from Grosse Pointe passed
16 away about a month ago. Apparently his passing is not
17 yet at the level of the State Bar.

18 The Bar does not use a clip service to know
19 when we are gone. There is nobody who is appointed to
20 let the Bar know that an attorney's office is now
21 closed or that clients need to be contacted. That's
22 the situation that does occur, and it occurs on a
23 fairly frequent basis now as our demographics move on
24 through the age bands.

25 Ed Pugh is in the middle down here. Ed is

1 former chair, actually he was the first chair of the
2 Master Lawyers Section. He has been involved in the
3 drafting of the rule and meeting of the committee for
4 two years now, and in particular Ed in his practice,
5 you may even know, does advise attorneys on succession
6 planning. Same thing that we might be advising our
7 clients on business succession planning, but it's a
8 very particular nuanced area when you are dealing with
9 a profession, especially the legal profession where we
10 could have continuing control of client property.

11 John Conway, who is a long-time friend from
12 years of Bar involvement, is in private practice, and
13 John in particular has been involved in the winding
14 down of a practice for an attorney. Sudden events are
15 that, sudden events, and oftentimes there may be short
16 deadlines that need to be met for the client.

17 Rhonda Pozehl to my left here is with the
18 Attorney Grievance Commission, and she is the person
19 who handles the calls to the Attorney Grievance
20 Commission when the death of an attorney occurs and
21 there is no one around to take care of things. The
22 Attorney Grievance Commission entices attorneys,
23 requests help, tries to get volunteers to try and help
24 out.

25 I have not had to handle that type of

1 situation directly myself. I had to handle it for a
2 business when my father had a heart attack, but just
3 knowing that piece of having to call clients, deal
4 with ongoing scheduling, it's a fairly intense period
5 of time, and families of us as attorneys often have no
6 idea what it is to practice law. They know it's time
7 consuming, they know there are client demands, but
8 they don't know what the ultimate ethical admonition
9 is that we are there to protect our clients.

10 So we are going to start with each of them
11 giving a bit of an intro, and then we are going to
12 walk through some things, and then we would like it to
13 be open to questions, comments, suggestions, language,
14 ideas that need to be addressed, anything that you
15 feel that you may have gleaned from, especially in the
16 different locales in the state. There is a different
17 component when you are in outstate Michigan versus the
18 metro areas. There is a component if you are in a
19 large practice versus a solo or small practice.

20 I have had occasion recently to be in Monroe
21 and discovered there was one firm where the five
22 partners don't know what each of the others do as far
23 as their direct client contact and none of them really
24 have an idea that they could take over for one of
25 their partners.

1 So, Elizabeth, we start with you.

2 MS. POZEHL: Hi, I am Rhonda Pozehl.

3 MR. ULRICH: I am sorry, Rhonda.

4 MS. POZEHL: I am at the Attorney Grievance
5 Commission and, like Greg said, I field calls that
6 come into our office. I am here to encourage you to
7 pass this proposed amendment and first to consider it
8 favorably and then to obviously pass it.

9 There is a dire need for this amendment for
10 the protection of the lawyer's family, the lawyer's
11 client, for the courts who are often left in limbo
12 when the lawyer cannot be found and for the legal
13 profession.

14 Many of you went into this profession because
15 it's a helping profession, and this amendment would
16 just reinforce the notion that first and foremost
17 lawyers always seek to protect their clients from
18 harm.

19 I have been involved in these types of
20 situations since 1987. We have seen a huge increase
21 in the number of telephone calls that are coming into
22 the Attorney Grievance Commission from individuals
23 that are seeking assistance because they have been
24 made aware that the lawyer has passed away and that
25 there is no one available to wrap up that attorney's

1 practice.

2 We have received requests from widows, former
3 secretaries, suite mates who, like Greg said, may or
4 may not have the same type of practice as the
5 deceased, disabled, or missing lawyer, and we have
6 also seen a huge increase in the number of instances
7 where we are unable to find anyone who is willing to
8 step in or who has information even to help us get
9 started in determining whether or not an inventory
10 attorney is needed.

11 Frankly, our office is pretty much maxed out
12 on our ability to handle more than what we are
13 currently handling, and oftentimes the calls come in
14 years after the attorney has died from perhaps a
15 landlord who has found boxes of clothes, client files
16 in a basement, doesn't know what to do with them
17 because they contain original wills or deeds or other
18 documents that might have independent legal
19 significance. In those types of cases it's really
20 difficult sometimes to determine and backtrack as to
21 who might have information that will assist in
22 resolving what remains of this lawyer's practice.

23 In the past few years we have, like I said,
24 we have seen a huge increase. In 2010 we were
25 involved in nine formal receivership matters. Nine

1 might not sound like a big number, but when you are
2 dealing with one receivership that might involve, you
3 know, 1,000 client files, many of which, believe it or
4 not, may still be pending perhaps in Bankruptcy Court
5 or traffic matters that may be pending and people need
6 immediate assistance, it can be pretty grueling and
7 pretty voluminous.

8 In 2012 so far we have had nine
9 receiverships. They have been particularly involved.
10 They have been very voluminous, and geography has been
11 an issue. Our office is in Detroit, and we may be
12 asked to step in and obtain the files from an office
13 up in Menominee or up in the U.P. in some other
14 locale.

15 We recently had a receivership where three
16 members of our staff traveled out of town, worked 18
17 hours straight in a lawyer's office packing up the
18 client files and records on pending cases, brought
19 them back to our office and now we have to get them
20 back, geographically back to the clients who are
21 actually in another city far from our office.

22 So it causes a lot of strain on our
23 resources. This is a small part of what our office
24 covers, and it's becoming increasingly burdensome, and
25 we would like to have a rule in effect that will just

1 merely give us a starting point, someone to contact
2 who knows of this lawyer, what his or her practice was
3 about, and then we can go from there. If we have that
4 starting point, we can offer assistance by way of
5 resources, forms, other types of information that
6 someone who may then volunteer to serve as the
7 inventory attorney might find useful.

8 MR. PUGH: I am Ed Pugh. I am with a small
9 firm, Pugh Moak, PC, 78 years old, because I started
10 with my dad, who really started the firm. Wrapped up
11 his practice, and I hope some day my daughter will
12 wrap up my practice.

13 We are estate planning attorneys, and in my
14 estate planning I get involved with different
15 attorneys who are friends and in many cases had to
16 involve myself with the successor trustees of their
17 trusts, personal representatives of their estates,
18 their families in planning and resolving all of the
19 different client issues.

20 As a result of that, I sort of formed a
21 format, this will be going back maybe 10 or 15 years
22 ago, where you would have a plan to have another
23 attorney have access to your client trust account, to
24 your own working accounts, to have your retainer
25 agreement made reference to. All of this is what we

1 are trying to codify in some fashion so that everyone
2 can do this and make it work. I have seen it where
3 families have just been destroyed by trying to wrap up
4 the deceased attorney's estate and all their client
5 records, and without any planning it's almost
6 impossible.

7 A few years back I interacted with the Senior
8 Lawyer Section and I became chairman of it, and we
9 started talking about this when we were fighting for
10 the Master Lawyers, and this has been a couple year
11 drive to try and find something that would work in a
12 fashion that could work easily for the attorney and
13 always for the benefit of the client.

14 The group that we had that really came up
15 with this proposal was Charlie Rutherford, who I am
16 sure many of you know was -- is a great attorney.
17 Although he is retired from practice, he is still
18 involved in all aspects of the law. John Conway.
19 David Kerr, who was very active with the Master
20 Lawyers got involved with this. Greg, and to a very
21 great extent Dawn Evans, who is hiding in the back of
22 the room who kept us corralled and working towards a
23 goal.

24 As a result of this we reviewed laws and
25 proposals from, I would say, at least 15 different

1 jurisdictions -- Florida, Indiana, Ohio, ABA
2 proposals. We saw some of them that might be as long
3 as 30 pages on their great outline of it on down to
4 just a few sentences. I think that Wyoming was about
5 a sentence and a half.

6 In reviewing all of these we realized we
7 wanted to keep whatever we were going to propose
8 clear, easy to understand, and easy to comply with so
9 it's not going to be a burden to the attorneys but it
10 will be a benefit to their clients and most especially
11 to their family if they have a permanent disability or
12 death.

13 May 11th of this year the Master Lawyers
14 Section approved the proposed changes and will present
15 them to you. We asked for input from the various
16 sections of the State Bar, and we have received it and
17 reviewed it, and it's all really reflective of what we
18 are presenting to you. We would like more input from
19 the Representative Assembly, especially because you
20 represent all of the areas of the state and really all
21 different practices to know if we are on the right
22 track on what we are proposing here. So we are
23 looking for more input, and we hope we can get this
24 passed at the April 27th meeting and sent to the
25 Supreme Court. John.

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1 MR. CONWAY: Thanks, Ed. My name is John or
2 J.J. Conway, and I have a practice in Royal Oak. It's
3 of counsel to a firm Fildew Hinks, and the area that I
4 principally practice in is ERISA. Representing
5 employees and employee benefit disputes is my area of
6 work.

7 Just a couple of comments about the rule
8 itself, and when I was listening to some of the
9 comments before, Rhonda's remark that they get calls
10 from secretaries. During the wind-down of a
11 particular practice I did have a chance to review a
12 file and did see this letter. It was not in the
13 practice I was involved with closing down, but it was
14 the client had had a prior attorney and had some
15 misfortune, and the letter was written by a secretary,
16 and it was just -- the line was, Dear Client, and it
17 said, Your attorney has had a massive coronary.
18 Things are totally out of control. Please don't call
19 the office. And you start realizing if you are a solo
20 practitioner out there and you have been doing this
21 for 20-some odd years and you have a legal assistant
22 and something like this happens, who do you call, and
23 she was the only one, and obviously there wasn't a
24 contingency plan.

25 One of the things that I wanted to emphasize

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1 was that we didn't commit this with any particular
2 agenda or any type of, we didn't even know if a rule
3 recommendation was going to be the ultimate outcome,
4 and there has been a different composition within the
5 group that worked on this, and one of the things that
6 started our discussions was we didn't want anything
7 that was going to be onerous to lawyers. We wanted to
8 make sure that this wasn't just some new requirement
9 that lawyers would have to follow, and we wanted it to
10 be something that obviously was client centered but
11 also lawyer centered.

12 And what I mean by that is there are two real
13 components to this. If you ask lawyers, and not
14 lawyers that you are going to meet at Bar functions
15 like this who are probably very keenly aware of their
16 responsibilities and fiduciary responsibilities to
17 their clients, but if you were to ask a lawyer in
18 court, Do you want a new rule that you have to comply
19 with? Well, the answer, of course, would be no. But
20 if you said, Would you like to make sure your clients
21 were protected in the event something happened to you,
22 I think the answer would overwhelmingly be yes. So
23 this is just something that brings it to the floor and
24 that there could be a discussion.

25 As Greg was pointing out, it was purposely

1 left so that there wasn't a huge amount of detail here
2 within the rule itself, and I think we will talk about
3 this. The idea would be that there would be resources
4 available at the Practice Management Section of the
5 State Bar to help people with coming up with the
6 designation. But, in addition to the protection of
7 the client, there are other considerations, which is
8 the lawyer's own family, the lawyer's own estate, in
9 making sure that that lawyer's family is taken care
10 of.

11 So there are sort of two aims to this. One
12 is to allow someone to be in charge if something
13 should befall a lawyer to make sure the clients are
14 taken care of, but also to make sure the lawyer has
15 thought through what will happen to his or her family
16 in the event of a misfortune, and so that was the way
17 we approached it, and we tried to come up with the
18 best recommendation.

19 CHAIRPERSON GOBBO: Gregory is going to
20 moderate any possible debate from the floor, but if
21 there are any questions, please just come up to the
22 microphone and feel free to ask the panel any
23 questions or provide any feedback.

24 MR. FLESSLAND: My name is Dennis Flessland
25 from the 6th circuit. I am unclear what is the

1 obligation of this inventory lawyer, whoever signs or
2 agrees to cover my practice or something like that. I
3 mean, I hear the Attorney Grievance Commission
4 attorney talk about the receiverships they are
5 involved in all the time and travel is involved. Now,
6 if I agree to cover somebody's practice in that
7 context, am I responsible for all of that work? Do I
8 get paid for it? I mean, how are my costs covered?
9 Do I get sued if there is a conflict, if it turns out
10 that he has a client that I am adverse to and get
11 access to all kinds of secret information and
12 documents? How does that happen? Do I get sued? Do
13 I get protected? Really there were an awful lot of
14 questions and obligations, and as I read the rule I
15 said, man, I am not going to sign one of those for
16 anybody. You know, that was my reaction. What's the
17 obligation of the inventory lawyer in your minds?

18 MR. ULRICH: Let me just give you kind of a
19 thumbnail overview. The thumbnail is the degree of
20 involvement is between the parties. If I am the one
21 who is looking to have you as my designated inventory
22 attorney, the discussions would have to be to what
23 degree you are going to take on the role. Are you
24 going to be very active? Are you simply going to
25 notify clients? Will you have access to accounts?

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1 Maybe not. And it depends really on the relationship
2 between the person who is proposing and the party who
3 is agreeing to do that.

4 We did not want to delineate the specific
5 method or a specific agreement. We are going to leave
6 that to the parties. There will be, as the committee
7 will continue over the next year or so, the idea is to
8 have some recommended ideas and language, but not to
9 have something that is set in stone, because, frankly,
10 it's pretty dangerous to start setting very definitive
11 aspects in State Bar rules. The inflexibility of
12 amending rules is always present, and we have tried to
13 avoid it over these last 30, 40 years. Ed.

14 MR. PUGH: You know, the way that I have
15 worked with some is if you are not in that same
16 practice at all, of course you can't handle those
17 files. The last one I wrapped up was a personal
18 injury attorney. I have never touched that in my
19 life, but the main idea was to get the files either
20 back to the client or to another attorney that can
21 handle it for them and perhaps make them aware of
22 other attorneys. Quite often there was a referring
23 attorney that already has some relationship with that
24 client who wants to handle getting that over to a
25 different attorney.

1 It's going to be different on every case.
2 Also, we are not saying that you have to do it. So
3 you can sign up and say you are going to do it. We
4 hope you are going to do it, but at least Rhonda will
5 know to be able to contact you and you can say I
6 thought it over and I just can't do that because our
7 practices were too similar or too dissimilar or
8 whatever, but at least I know his family, I know what
9 the type practice it was, I can get her started in the
10 right direction.

11 So you are not really agreeing to be
12 responsible for anything on that. Hopefully you will
13 be able to step in and help.

14 MR. ULRICH: Rhonda.

15 MS. POZEHL: I just have a comment. It's my
16 understanding that because of where the rule is placed
17 or the language is placed in Rule 2 that it doesn't
18 create a basis upon which a lawyer could be
19 investigated for declining or prosecuted by our office
20 for not fulfilling some duty. It's merely a
21 designation of someone who has information about the
22 lawyer's practice who will be able to serve as a
23 liaison. It can be as broad in scope, your agreement
24 with the other lawyer, or as narrow as you want it to
25 be.

1 I wasn't on the committee, but I believe that
2 simplicity of the amendment is really its beauty,
3 because there is no two receiverships that I have
4 handled that have been alike, and you can have
5 something as simple as the attorney has resolved all
6 of his business issues and he merely has 10 or 15
7 banker boxes of closed files sitting somewhere and
8 that's the only thing that needs to be resolved at the
9 point that the attorney passes away or becomes
10 disabled.

11 So there is no such thing as a one size fits
12 all, and it would be between the lawyer and the person
13 that they have designated as their inventory attorney
14 to try to figure that out in advance, and I think what
15 it will do is it will get a dialogue going among
16 lawyers as to steps that they should take in planning.

17 One of the important things is having a file
18 retention plan so that files aren't accumulated -- say
19 an attorney is in practice for 50 years and they pass
20 away and you find 50 years of closed files in the
21 basement. You know, a lot of attorneys do have a good
22 retention plan, they get rid of files as they go, but
23 some do not, especially find, no offense to the Master
24 Lawyers, but a lot of old timers kept everything
25 because there wasn't the ability to save it perhaps

1 electronically, so there was always the idea that if I
2 ever wanted that document again I would have to
3 physically have to have that piece of paper.

4 It just creates a lot of unnecessary work, I
5 think, for someone going forward, but there would be
6 no repercussion for an inventory attorney who declined
7 to serve, either because they changed their mind or at
8 the time that their service was needed the job was
9 just too overwhelming because of other business.
10 Really there would be no explanation required at all,
11 simply I decline to serve at this time.

12 MR. ULRICH: John, we have a question. Is it
13 something we can plug in? John, and then the cost
14 issue is something you raised, and we have been
15 conscious of that. John.

16 MR. CONWAY: I was just going to add --
17 hopefully that answers your question -- there is an
18 escape hatch there if you don't want to do it, but at
19 the same time when you do go through this dialogue --
20 and I have had a plan like this in place for the last
21 five years. I have met with two layers I trust very
22 much. They know my practice. They would be very good
23 fits with my clients. My clients would feel
24 comfortable with them, and they know what my wishes
25 are, and it says right within the estate plan that

1 they are to be paid at their customary rates off the
2 top. So I don't want them to feel that this is going
3 to be taking away from their practice. They are to be
4 compensated appropriately, but I think that's sort of
5 the idea, there would be a little bit of a dialogue
6 with whomever you suggested.

7 MR. ULRICH: I want to get as many questions
8 as possible. Here on the right.

9 MS. STANGL: I am Terri Stangl from the 10th
10 circuit. I have a couple questions. First, I am
11 curious about whether you are really envisioning
12 whether the inventory attorney would be given notice,
13 whether there is a requirement of notice that they
14 were being named. I see that the appointing attorney
15 has to list them, but I am not sure, in the worst case
16 scenario where there may not be a nice sit-down
17 arrangement, how the inventory attorney would really
18 know for sure, so that's one question I have.

19 The second question is I am curious about how
20 this was going to, how this might apply to larger
21 organizations and nonprofits, law school clinics that
22 have bigger institutional structures, and one thought
23 that occurs to me off the top of my head is something
24 along the nature of like the agent for a business in
25 the state, whether a large organization designated a

1 person for that entity and that everyone in the firm
2 can say it's that firm's designated entity as a
3 simplified way of doing it.

4 MR. ULRICH: For the entities there is some
5 language already in there, some references. Those
6 need to be expanded. We have had input about that.
7 For corporate department, obviously it's within that
8 department, a large firm, but, again, in some of these
9 smaller arrangements, not affiliated offices or
10 anything or shared space, but small five, six-people
11 firms, there is so much demarcation that they probably
12 do need to do something within their firm, even though
13 they are all separate practices. Let me bounce over
14 here.

15 MR. PUGH: We are looking at the idea,
16 perhaps if you are inhouse counsel, maybe you are not
17 going to have to name someone, because it's your
18 employer that's going to be planning that.

19 On the other part of your question, do they
20 have to know that you have appointed them? Yes,
21 because the attorney has to identify and certify the
22 name of an active attorney, member of the Bar who has
23 agreed to serve, so you have to notify them, they have
24 to say yes, I will do it.

25 MS. STANGL: It's helpful to have it in the

1 rule.

2 MR. PUGH: It is. That's what I am saying,
3 but the rule says --

4 MS. STANGL: I thought you said notify the
5 Bar.

6 MR. PUGH: No, your dues statement in that
7 you must identify and certify the name of an active
8 member who has agreed to serve as an inventory
9 attorney in the event of death or disability. In
10 other words, when you are doing your dues statement
11 and everything else, you are going to have a check
12 box. I have notified and certified that Ed Pugh is
13 going to take care of this position for me, or whoever
14 you have worked it with, so it's something that will
15 just appear right in your dues with the other things
16 you are checking.

17 MR. ULRICH: But you do have to make an
18 agreement. I want to get to all these questions.

19 MR. COLBECK: J.R. Colbeck from the 15th. I
20 am a 73-year-old 46-year single practitioner with many
21 active files, so this impacts me probably greater than
22 most here. I am the one that this would be directed
23 at, and I can honestly say that where I practice, it's
24 impossible. We have perhaps 30 attorneys in Branch
25 County. Fifteen of them are involved in public

1 service and would not be eligible. The others are all
2 involved in similar practices that I have and are
3 genuinely, there is not a one of them that does not
4 have an adversarial interest in causes that I have.
5 They would be impossible to take them over.

6 Now, I am getting mixed messages. As I read
7 this rule, what it says and what the board is telling
8 me is that if the person I name, if I die tomorrow
9 they can say, oh, I changed my mind, I don't want to
10 do it, then that's fine, because that's the message I
11 got from the panel. So then we have a meaningless
12 rule which puts me in a position of having to attest
13 to something on my dues statement that we are not
14 going to do anyway, or it's an impossible
15 circumstance.

16 Where do we get the panel of attorneys who
17 are willing to do this in counties like Branch County
18 where I am at or adjacent county, Hillsdale County,
19 which is again similarly situated? If we have only
20 got 20 practicing attorneys all involved in cases
21 together against each other, what do we do? Why do
22 you have to have an attorney certify if the practice
23 is, as has been indicated by this panel, to have a
24 person say, well, we can refer it here or send it to
25 an attorney there? Why can't I designate my secretary

1 with that responsibility of saying that my domestic
2 cases should be referred here, my malpractice, my
3 accidents should be referred here and deal with it
4 that way? Why would it require the person that we are
5 naming to be an attorney?

6 MR. ULRICH: That has been reiterated by some
7 other sections and committees already, so we will take
8 that into account. There is some difficulty in
9 outlying areas, and there was some recommendation
10 about trying to use something along the lines of a
11 mentoring arrangement that we now have starting up
12 with the Bar.

13 MR. ARD: Josh Ard from the 30th circuit. I
14 agree that we need to have something, but there are a
15 lot of problems here that have to be addressed
16 probably through some other rules that are going to
17 release some people of liability, but we are going to,
18 we are really naive if we think this is just between
19 two attorneys, unless we have a rule that's totally
20 meaningless.

21 Clearly you got clients of the nominating
22 attorney, you have got clients of the inventory
23 attorney. As several people have said, it could turn
24 out there is going to be a conflict. Imagine the
25 inventory attorney happens to see, whoa, this is

1 somebody who is an adversary and there is something
2 that needs to be filed within two days for that or
3 that person is in a lot of trouble and I am
4 representing the other side.

5 Now, you got a real problem there. Is that
6 person going to notify somebody really fast? Is that
7 person going to say, well, no, there is no need to
8 notify somebody immediately, I have got more duties to
9 my client. Those kinds of problems are going to
10 happen. You are going to get situations, well, maybe
11 it's malpractice for me to name an attorney that's
12 going to just blow it all off when I die. Maybe I
13 should be picking somebody better, and I have already
14 heard from some attorneys that their malpractice
15 carrier is requiring them to do something, and they
16 are requiring them to actually find out that the
17 person that they are nominating is competent, the
18 person they are nominating has proper malpractice
19 insurance, and there are all kinds of complications
20 that are going to happen here, and we are really naive
21 if we think this can just be something between two
22 attorneys that they can work out.

23 MR. ULRICH: Over here.

24 MR. BARTON: Bruce Barton, 4th circuit.

25 Quick follow-up on that comment. You are telling us

1 that there can be an agreement between attorneys as to
2 how far and what the inventory attorney is going to
3 do. Is that agreement going to be communicated in
4 writing to the State Bar? Because the State Bar will
5 have something that says this is an inventory
6 attorney, and the client is going to say, oh, fine, I
7 will go talk to him. He goes and talks to him and
8 says, well, I am the inventory attorney, but my
9 agreement was limited to whatever. I can see
10 circumstances in which that client is going to have a
11 lawsuit.

12 MR. ULRICH: Right.

13 MR. SENAWI: David Senawi from the 6th
14 circuit. Last year I inadvertently became an
15 inventory attorney when my 89-year-old boss who had
16 been practicing law since 1946 just drops dead and had
17 a huge caseload. He died last July, and I still deal
18 with it now. Still get the calls.

19 I encourage everybody to adopt the rule, and
20 my glance at the rule, I think it's a really good
21 starting point, but probably needs some massaging
22 somewhere. I would like to help you guys through my
23 own experience, but what I would say is I feel like
24 the responsibility shifts to this inventory attorney,
25 and I sure as heck wouldn't want to be one again, so I

1 think we need to shift the responsibility on to us.
2 We should be obligated to provide a will, so to speak,
3 to say here is, at least at a minimum, here is my
4 client list to that inventory attorney, or here is my
5 bank account information, here is the IOLTA, and
6 obviously there would have to be a level of trust and
7 confidence, but if we don't place the obligation on
8 the attorney that dies first, then that inventory
9 attorney is just running around with their head
10 chopped off.

11 MR. ULRICH: How many have wills? Not
12 everybody. We are all shoemakers' children. This is
13 Elizabeth, by the way.

14 MS. JOLLIFFE: Thank you. Elizabeth Jolliffe
15 from the 22nd circuit, officer of the Law Practice
16 Management and Legal Administrators Section, and at
17 our meeting last month we discussed this issue, and I
18 am not sure, Greg, whether we submitted to you a final
19 report of our comments.

20 MR. ULRICH: It may have gone to Dawn.

21 MS. JOLLIFFE: I don't think it's been sent
22 in yet, but many of the things that have been
23 discussed here we discussed at our meeting, because
24 that's what we do, analyze these law practice
25 management issues, so I won't go over those things,

1 because people have said it so well, just the things I
2 have talked about with other people here, the
3 language, and I understand what Rhonda said about it's
4 up to the two lawyers to agree with it, and J.J. said
5 that if the two lawyers to agree to use the form later
6 that the State Bar will prepare, it won't be
7 mandatory, but they will prepare it. It says upon
8 receipt of such notification the inventory attorney
9 shall take such action as is appropriate to protect
10 the interests of the client.

11 So you have that word there "shall" and to
12 protect the interests of the client, with the
13 State Bar's rule saying that that's what the inventory
14 attorney shall do. That seems to be not just
15 something that's left between the two lawyers but
16 something the State Bar says you shall protect the
17 interests of the client. What does that mean? Does
18 that mean, as people have said, that the inventory
19 attorney has to go and, you know, follow, respond to
20 these issues, all the statute deadlines and
21 everything. What does that mean?

22 What about the new lawyers who only have a
23 few files, what if they can't get anybody to agree to
24 be the inventory attorney? What are we going to do
25 about that? Are you anticipating -- I don't expect

1 answers, of course, but are you anticipating -- this
2 could actually create a new category or, you know, a
3 new practice area for some lawyers and perhaps Master
4 Lawyers should become inventory attorneys, and that
5 might be a good thing, that might be a fine thing,
6 then we could avoid conflicts and things like that.
7 That might be a solution. I guess that's all I have,
8 and I will just sit down now. Thank you.

9 CHAIRPERSON GOBBO: We are running a little
10 behind in terms of time. We got into the room a
11 little behind, but we are about broke even at this
12 point.

13 We have the nominations for the clerk that is
14 the vital aspect of this particular meeting. I don't
15 necessarily want to cut debate off, and what I would
16 like to do is, with the body's permission, to move on
17 to nominations from the floor, get ballots passed out,
18 and then while you are all voting you may formulate
19 some more questions, since we have this distinguished
20 panel in front of us, to continue asking questions, if
21 that's what might be your pleasure.

22 MR. POULSON: So moved.

23 CHAIRPERSON GOBBO: Hearing the motion, is
24 there a second?

25 VOICE: Second.

1 CHAIRPERSON GOBBO: Hearing a second, any
2 discussion.

3 MR. POULSON: I would like to discuss it.

4 CHAIRPERSON GOBBO: If you want to discuss
5 it, please step up to the microphone, please.

6 MR. POULSON: We have this distinguished
7 panel. There could be a few more questions pending,
8 it could be really short, but we are cutting it off to
9 have a voting, so I am happy to sit down if we are
10 going to vote and stand back up again, but I still
11 have a question.

12 CHAIRPERSON GOBBO: I understand that. So we
13 are going to call for the motion in terms of the vote
14 on the motion. All in favor say aye.

15 Any opposed.

16 Thank you. Carried unanimously. Thank you
17 for your understanding.

18 At this point the chair will entertain
19 nominations from the floor for the position of clerk
20 of the Representative Assembly. If you are going to
21 make those nominations, please step up to the
22 microphone.

23 MR. MCLAIN: Patrick McLain from the 3rd
24 circuit. It's's my great pleasure to nominate for
25 clerk of the Assembly my law partner and fellow of the

1 3rd circuit, Fred Hermann. His biography is in the
2 book.

3 CHAIRPERSON GOBBO: Is there a second to that
4 nomination?

5 VOICE: Second.

6 CHAIRPERSON GOBBO: Hearing second, any other
7 nominations?

8 MS. JOLLIFFE: Thank you, Mr. Chair.
9 Elizabeth Jolliffe from the 22nd circuit again. I
10 think this is the first time I have spoken on record
11 at all at one of these Representative Assemblies. I
12 am very pleased to nominate for the position of clerk
13 my friend and our colleague, Vanessa Peterson
14 Williams.

15 I have known Vanessa for more than five
16 years. I have served with her on the Detroit
17 Metropolitan Bar Association Board of Directors. She
18 has been a leader in that group, as she has been in
19 this group, and in the ABA.

20 When Vanessa speaks, people listen. I listen
21 and I notice that others listen. She has come before
22 this group many times reporting as a delegate to the
23 ABA. People listen to what she has. Vanessa takes
24 everything that she does seriously, and what she gets
25 involved in, she gets involved in things she is

1 passionate about. She will be passionate about this
2 Assembly. She is passionate about the practice of law
3 and improving the practice of law and the profession,
4 and I am very honored to nominate her. Thank you.

5 CHAIRPERSON GOBBO: Thank you. Is there a
6 second?

7 VOICE: Second.

8 CHAIRPERSON GOBBO: Hearing a second, are
9 there any other nominations for the position of clerk?

10 MR. LARKY: I am Sheldon Larky from the 6th
11 circuit. I would like to name Daniel Quick as a
12 member from the 6th circuit. Dan, as you see his bio,
13 is a University of Michigan graduate -- don't some of
14 you hold that against him -- both B.A. and J.D.

15 I have known Dan from the Oakland County Bar
16 Association. He is dynamic. He is strong. He has
17 been decisive through the entire time he has been a
18 member of the Bar. He sits as co-chair of the
19 Intellectual Property Committee for the American Bar
20 Association. He is a fellow in the State Bar
21 Foundation. He has been a member of the
22 Representative Assembly for a number of years. He is
23 currently chair of the Committee on Civil Procedure in
24 the Courts.

25 As I indicated a moment ago, since 2011 he

1 has been a member of the Oakland County Bar
2 Association, and he served with distinction on the
3 Circuit Court Committee for our Bar association. He
4 sits also for the Federal Bar and has been very active
5 in the Federal Bar Association. He has been a
6 contributing attorney for the ACLU for a number of
7 years. He sits on the Board of Directors of the
8 Community House. He brings a great deal of talent and
9 a great deal of strength, and I would urge his
10 nomination.

11 CHAIRPERSON GOBBO: Is there a second to that
12 nomination?

13 VOICE: Support.

14 CHAIRPERSON GOBBO: Seeing multiple seconds,
15 we have three candidates that have been nominated.
16 Are there any other nominations for the position of
17 clerk of the Representative Assembly?

18 Hearing no other nominations, I make a motion
19 to close nominations at this point, if I can get a
20 second to that.

21 VOICE: Second.

22 CHAIRPERSON GOBBO: Hearing a second, all in
23 favor say aye.

24 Any opposed.

25 Thank you.

1 I need to just read this from our bylaws.
2 It's not the actual text.

3 Pursuant to the permanent rules of procedure
4 of the Representative Assembly, speeches, nominating
5 and seconding speeches shall be limited to two
6 speeches per candidate. We essentially have gone
7 through the nominations and seconds. No nominating or
8 seconding speech shall exceed two minutes. The
9 candidates have the ability to make a statement if
10 they like. However, that could be waived, so I leave
11 it up to the candidates' discretion as to whether they
12 want to make any comments at this point in time. And
13 I will take those comments in the order of the
14 nominations.

15 MR. HERMANN: I will comment. Mr. Chair,
16 would you like me to do so from the floor?

17 CHAIRPERSON GOBBO: I think it would be
18 easier if you did it from the floor, Fred.

19 MR. HERMANN: Good afternoon, everyone.
20 Thank you for the opportunity to address you today.
21 For those I haven't met, my name is Fred Hermann. I
22 am a member of the law firm of Kerr Russell Weber in
23 Detroit. I have practiced there for 16 years in
24 commercial litigation. I attended Michigan Law
25 School. I have been active in the State Bar,

1 including during law school as a student member, and
2 then afterward immediately when I began practice I
3 joined counsel of the Antitrust, Franchising & Trade
4 Regulation Section, and I have served in that section
5 twice as chair since graduating law school.

6 Before the law, I had a career in Freeport.
7 Before University of Michigan, I was a logistics
8 officer. I moved marines and their equipment around
9 the globe. I feel that I am very capable and able to
10 take on the duties of clerk and other duties of the
11 officers of the Assembly. So thank you for your time,
12 and I look forward to serving.

13 CHAIRPERSON GOBBO: Would any other
14 candidates like to make comments?

15 MS. WILLIAMS: Just briefly. My name is
16 Vanessa Peterson Williams. I have spoken to most of
17 you, and I just wanted, if I haven't had an
18 opportunity to talk to you, I am looking for an
19 opportunity to serve. I have been involved in Bar
20 service all of my 17 years of practice, and I do have
21 a passion for the law. I am a corporate attorney, so
22 I use the Bar as my avenue to serve the legal
23 profession, to serve our community. I have a passion
24 for at-risk youth. I have a passion for making things
25 better. I like what we do in the Rep Assembly. I

1 think that I can do a good job here. I know that we
2 do great work, and I would be honored to be your clerk
3 and eventually your leader so that we can continue to
4 serve our profession, serve our community, and do what
5 we all took an oath to do so many years ago. Thank
6 you.

7 CHAIRPERSON GOBBO: Thank you, Vanessa. Dan.

8 MR. QUICK: In the spirit of my friend and
9 nominator, Shel Larky, I waive to advance the agenda.
10 Thank you.

11 CHAIRPERSON GOBBO: Thank you, Dan. Tellers
12 have been appointed from those persons that are not
13 running, that I would ask the tellers to step forward
14 and to distribute the ballots.

15 Voting is going to be by a written ballot,
16 and what would happen is that we will continue voting
17 until somebody has a majority of the votes cast. If
18 there are more than two nominees and no nominee
19 receives an absolute majority on any ballot, the
20 nominee who receives the fewest votes on that ballot
21 shall be eliminated from further balloting, so there
22 is a potential we may go through at least two ballots
23 with this.

24 Dana, I think you have a motion you want to
25 make.

1 VICE CHAIR WARNEZ: I would like to make a
2 motion that, per custom of the Representative
3 Assembly, the result of the voting be announced and
4 recorded as to the winner only, without the vote
5 total, and that the vote total will be known only to
6 the tellers and to any candidate who requests it.

7 CLERK ALLEN: There has been a motion made.
8 Is there a second to that motion?

9 VOICE: Second.

10 CHAIRPERSON GOBBO: Hearing a second, any
11 discussion on that motion?

12 Hearing no discussion, all in favor please
13 say aye.

14 Any opposed say nay.

15 The affirmative vote carries.

16 As you get the ballot, please check the name
17 of one candidate, fold it in half, and then raise your
18 hand for the teller, one of the tellers to collect the
19 ballots.

20 After the ballots are collected and the
21 tellers go to tabulate those ballots we will go back
22 to the discussion that we started a few minutes ago.

23 Have all those who wish to vote voted at this
24 point in time? Hearing no response, the voting is
25 closed, at least the first go-around. So we are going

1 to begin with Mr. Poulson, with his question to the
2 distinguished panel that we have.

3 MR. POULSON: As brief as I can, I am a
4 public defender. There is no question about that I
5 will die in practice. There is no retirement for
6 public defenders.

7 I can demonstrate by asking Mr. J. Richard if
8 he would take on the responsibilities, and he would
9 say no, so what happens if I turn in my Bar dues thing
10 and the thing is blank? I assume that I would be
11 immediately disbarred. That will happen to tens of
12 thousands of us. Let's move on.

13 Forty thousand attorneys, two and a half
14 percent a year, a thousand die a year. So let's not
15 underestimate the volume we are talking about.

16 Now, I have spent 40 years in computer
17 business disaster recovery planning. I have walked
18 knee deep through the remains of computer centers, and
19 items falling and roofs collapsing around me. I
20 understand that disaster recovery planning inside out.
21 What I suggest is that a lot of what the committee's
22 goals are could be met on a disaster recovery plan per
23 law firm.

24 I am a solo firm. My disaster recovery plan
25 requires me to -- you know, the fact when I die that

1 the brains of the operation live on in my wife and my
2 assistant, who will also be in mourning, but I know
3 where the stuff is at on my thumb drive at home, so I
4 could write that plan for my own firm, and no one else
5 can write it for another firm as well, but there is a
6 great consulting game for people who do. There is, as
7 already mentioned, the schedule of how a business plan
8 for a company which is the Inventory, LLC law firm.
9 Great business opportunity.

10 But I think we could consider adding, and I
11 would be happy to work with the committee, in terms of
12 disaster recovery planning aspects of doing some of
13 the same work. It's more than just a photograph of,
14 you know, here are my banker boxes. My plan uses can
15 you get by the dog? God help you. The boxes are
16 there, but that's not enough.

17 So I think we should look into not just the
18 handoff to an attorney but a mandated plan. I know
19 how to formulate that, so I am suggesting that -- I
20 see the mandate, I see it as a necessary. Nobody is
21 ever going to agree to do this for anybody else, but
22 maybe a firm might, so I am hoping that we can
23 consider disaster recovery planning as part of doing
24 that.

25 MR. ULRICH: Before, Shel, one second, but

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1 Rhonda had an item concerning what Elizabeth had
2 raised, just it might move more questions.

3 MS. POZEHL: With respect to one of the
4 issues that Elizabeth raised with regard to whether or
5 not it was mandatory, if you continue down in the
6 little reading, it says, In the event the inventory
7 attorney is unable or unwilling to act, MCR 9.119(G)
8 shall apply, and that's the rule that allows the
9 Grievance Administrator to petition the chief judge of
10 the circuit court where the lawyer last practiced for
11 the appointment of a receiver.

12 So the rule, even though it contains "shall,"
13 it's only what the inventory attorney who agrees to
14 proceed shall do. I believe that that language, and I
15 wasn't on the committee, so I will have to have others
16 address that, was just meant to empower the inventory
17 attorney then to start taking action as opposed to a
18 mandatory rule, because there is a provision for now
19 if the lawyer is unable or unwailing to act.

20 MR. LARKY: Sheldon Larky, 6th circuit. We
21 have been talking -- my estate planning attorney is
22 sitting in the middle, so he already has my estate
23 plan and knows what my wife wants. All she wants is
24 money. Not true, not true.

25 But the bottom line is we have been listening

1 and hearing about what happens if we croak, what
2 happens if we die. We forget that many of our brother
3 and sister attorneys have heart attacks or they become
4 disabled or they become sick or some trauma, and none
5 of us are immune from that. We are not invincible,
6 and one of the things that concerns me -- and I just
7 want to give a lifestyle story. In December of 2006 I
8 went through triple bypass, and I knew I was going to
9 live because I am strong and I am lovely and I felt
10 good and all that good stuff.

11 MR. PUGH: Barbara wouldn't let you die.

12 MR. LARKY: Ed knows. My wife would not let
13 me die. She told the doctor that too.

14 But the bottom line was, I was scared. I was
15 scared. Here I am, a sole practitioner, an active
16 practice. I think I was doing good, and I think I was
17 doing good for my clients, but I was scared going
18 under the knife and to try to find out what would
19 happen if I became disabled on that particular day
20 after the surgery, and I immediately -- you didn't
21 have this rule, we didn't have this concept -- I
22 immediately started to talk to my brother and sister
23 counsel who I trust and I love and I said, Can you
24 help out in the event that something happens to me?

25 It was that day it was like an epiphany for

1 me. It was that day when I realized, one, it's time
2 now to start cleaning up all of my files I have
3 accumulated, get rid of all those banker boxes that
4 our spouse wanted to get out of the garage or basement
5 or the storage room, and finally started doing that.
6 And that was scary, that was scary. And as Rhonda
7 says, tens of thousands of files you can wind up with
8 in one particular case.

9 The second thing I realized is that I had to
10 have backup. As a sole practitioner -- not
11 necessarily backup on a daily basis, but somewhere
12 that somebody could come in in my office and say where
13 is the checkbook, who owes me money, where is my
14 docket, where is my calendar, and for sole
15 practitioners, which most of us in this room are, it's
16 scary when you think about it. You are sitting here
17 today, if you get in an accident tonight, could your
18 office run tomorrow, could it run next month, let your
19 clients know what's going on?

20 I like the idea of an inventory attorney. I
21 think the concept makes sense. I think it may need
22 some refinement, but it's certainly something that,
23 yes, we should be mandated. I think that we should be
24 mandated to have this, and I think it makes complete
25 sense, not for the dead ones, but for everybody, to

1 say, well, the injured attorneys, the ones who get
2 stuck, the ones who get stuck on a trip and they can't
3 get back or something, that there is that form of
4 somebody can step in, and I guess maybe one of the
5 things I am trying to say to every one of us in this
6 room, it's time for you to look for somebody else next
7 to you or nearby that you can say, Will you help in
8 case something happens to me? Thank you.

9 MR. CHERRIN: Dan Cherrin from 6th circuit.
10 There are many students graduating from law school
11 without jobs, without any direction, and this may be a
12 great opportunity to bridge the generations and mentor
13 students who are becoming lawyers in your practice.
14 Perhaps the Bar can work with law schools to create a
15 mentoring program or an inventory program, training
16 program, much like the State of Michigan created for
17 emergency managers where students become certified in
18 this area, they know the process or techniques. They
19 build relationships with attorneys, start that kind of
20 network or incubator within the Bar. Thank you.

21 MR. ULRICH: Anybody else? I do want to
22 indicate at this point, because this is an ongoing
23 process leading up to April, that if you go back to
24 your circuits and you can have some discussion with
25 the local Bars, please do that, and send on the

1 information to Dawn, and I think that probably is the
2 easiest way to get the information to the committee.
3 Lori.

4 MS. BUIREWEG: Lori Buiteweg, 22nd circuit.
5 Just a comment on this proposed change for the
6 Michigan Rules of Professional Conduct and the Bar
7 requirements. This is not about you. This is about
8 protection of the public. This is what we are here to
9 do is to protect the public. That's our primary
10 purpose in our practice.

11 When something happens to you as happened to
12 my beloved partner, Margo, about four years ago when
13 she was hit by a car while she was riding her bike
14 home, trying to conserve gas and be green, you know,
15 she was in the hospital for months and was left as
16 dead on the side of the road. We all picked up her
17 caseload for her, and we carried on for her, but she
18 was very fortunate to have us, and thank God she is
19 with us now. She is here at this meeting, and we are
20 thankful to have her.

21 If she had been a solo practitioner, I don't
22 know what would have happened to all of those clients,
23 and I can tell you, because I handled four of her
24 cases, they were hot and heavy, and those people
25 needed my help, so I am asking you to consider this

1 for the protection of the public.

2 CHAIRPERSON GOBBO: Thank you, Lori. I got
3 to say that we kind of ran out of time, and it's
4 pretty evident why this was put on our agenda as more
5 of an informational issue and for dialoguing. I just
6 spoke to Gregory, who is the chair, at least until the
7 end of this meeting, I guess, of the Master Lawyers
8 Section, and that section is more than willing, and I
9 am sure the panelists that have been involved with
10 this are more than willing to take direct feedback
11 from you, and I heard at least one person who was more
12 than willing to add the voice of, perhaps a more
13 youthful voice in terms of the aftermath of one of
14 these tragic situations.

15 So what I would do is encourage you to
16 provide additional feedback to this group so that
17 perhaps a rule or at least the concerns will be
18 addressed in a rule before you have to vote on this.

19 MR. ULRICH: Here is an email address. It is
20 Dawn Evans'. It's a public email address. She is our
21 fantastic staff support to the section, including
22 committees, including Ethics. Her email address is
23 devans@mail.michbar.org, the standard format for the
24 Bar.

25 Thank you very much. Thank you for giving us

1 the feedback. I would hope that all of us don't end
2 up with some feeling along the lines of Christmas
3 Carol and Ebenezer Scrooge wondering what the future
4 holds. This hopefully is maybe a reawakening about
5 what our responsibility is. Thank you very much.

6 (Applause.)

7 CHAIRPERSON GOBBO: Thank you to the panel
8 for coming and spending time with us. I have a
9 suspicion while my term on the Assembly ends at the
10 end of this meeting that you will be back here again.

11 We don't have the results from the voting
12 yet, but I was alerted that the Honorable Michael J.
13 Riordan, Court of Appeals Judge, had asked if we could
14 perhaps move the swearing in of Dana Warnez as the
15 chair at this point in time as opposed to continuing
16 with the presentation of the recognition to the
17 retiring Assembly members. So with your permission, I
18 hope to swap item number 16 and 17 on the agenda for
19 that purpose.

20 VOICE: So moved.

21 CHAIRPERSON GOBBO: Is there any objection?

22 VOICE: No.

23 CHAIRPERSON GOBBO: Hearing no objection,
24 Judge Riordan, would you approach the bench.

25 JUDGE RIORDAN: Everything Steve just told

1 you is absolutely not true. They told me to be here
2 at 3:15. I came, I got dressed, and he makes up this
3 story about me wanting to change the agenda, which is
4 not true, but I thank you for having me now, because I
5 do have to get home and help a kid with homework.
6 Believe it or not, they are relying on me, which is, I
7 think, foolish.

8 I have about 20 minutes worth of remarks.
9 Just kidding. I just want to say what a pleasure it
10 is that Dana Warnez has asked me to swear her in.
11 This is a privilege. I have known Dana for many
12 years. She comes from a family of service. Her
13 mother, Florence Schoenherr-Warnez and of course her
14 sister Kim, who in many ways Dana reminds me very much
15 of, and just both great friends, and I met your mother
16 and your sister, I don't know if Rick Troy is still
17 here, but the Macomb County Bar and the Irish Warriors
18 had a meeting up in Macomb County. It was one of the
19 wildest parties I was ever at, and I met your mother
20 and sister outside the door. I think we were all
21 thrown out about the same time.

22 But my family has come to know Dana and her
23 partner Mary very well. Very close friends, and we
24 look forward to seeing them in Mackinaw every year.
25 And I am not only blessed to have Dana as a friend,

1 Mary as a friend, but we were blessed to have Dana as
2 chair of the Representative Assembly, so
3 congratulations, Dana.

4 (Applause.)

5 JUDGE RIORDAN: Now, this is my first
6 swearing in of something like this, so if I screw up
7 you can shut the cameras off, but hopefully I will get
8 the words right, unlike Justice Roberts, so we don't
9 have to do it again.

10 You can raise your right hand. I do solemnly
11 swear --

12 MS. WARNEZ: I do solemnly swear --

13 JUDGE RIORDAN: -- that I will support the
14 Constitution of the United States --

15 MS. WARNEZ: -- that I will support the
16 Constitution of the of the United States --

17 JUDGE RIORDAN: -- and the Constitution of
18 this state --

19 MS. WARNEZ: -- and the Constitution of this
20 state --

21 JUDGE RIORDAN: -- and the Supreme Court
22 Rules concerning the State Bar of Michigan --

23 MS. WARNEZ: -- and the Supreme Court Rules
24 regarding the State Bar of Michigan --

25 JUDGE RIORDAN: -- and I will faithfully

1 discharge the duties as chair of the State Bar
2 Representative Assembly according to the best of my
3 ability.

4 Well, go ahead. We'll go word for word.

5 Will you do a good job?

6 MS. WARNEZ: Yes.

7 JUDGE RIORDAN: That's enough.

8 (Applause.)

9 CHAIRPERSON WARNEZ: Wow, I think that's the
10 first time in my life I have had a standing ovation,
11 and I am really touched. I appreciate it very, very
12 much.

13 To stand here is something I didn't ever
14 expect to do, but I am so glad I have the opportunity
15 to do, because with this opportunity I have a chance
16 to honor lots of people in my life, including my
17 mother, who poineered a way for women to be attorneys,
18 just like I am today. To honor my sister, who showed
19 me, my sister Kim to be specific, who showed me how to
20 be a good lawyer, how to serve, how to get involved,
21 and in her death taught me to be a better person.

22 I am a much better person. Not that I wanted
23 to have lost her, but having to experience that, I am
24 a much better person than I was before we lost her,
25 and so every day I think about her and it informs my

1 life, and I hope it informs -- I know it will inform
2 your life as we go together in our service next year.

3 I want to thank my sister Pam, who couldn't
4 be here, and my mom, who couldn't be here. Work
5 obligations kept them home, but they are here in
6 spirit and in heart, and I have to live up to my dad,
7 who was a constant advocate for me and at my side
8 during every school event, athletic activity, whatever
9 it was. My dad was a big cheerleader in my life, and
10 he is here in spirit too.

11 And having referenced Kim, I can't help but
12 acknowledge the people who have grown to be family to
13 me throughout the last few years, especially the
14 people here from the State Bar. Many of the staff
15 people became family to us when we needed them, and I
16 don't want to call names out, but I would like to just
17 acknowledge that there were many, many people who were
18 by our sides as we dealt with one of the hardest times
19 of our life, and we thank you for that, I thank you
20 for that.

21 I would like to thank my circuit and my
22 friends who are here from Macomb County, and I know
23 Rick Troy is here, so thanks to him and my board there
24 who is letting me graciously kind of tag team and do
25 lots and lots of service. I give a lot of credit to

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1 that Bar association for training me in the ways it
2 has through Young Lawyers Service, Board of Director
3 service, and executive leadership there. I wouldn't
4 be able to even stand here without that experience, so
5 I thank them very, very much.

6 I thank the fellow Board of Commissioners who
7 are here in attendance. I also send a very special
8 thank you to Julie Fershtman and she has been like a
9 sister this last year, and I love you, Julie. I am
10 glad that you are in my life. Thank you for being
11 here.

12 Last but not least, Mary, you have made me a
13 better person. You make everyday one of the best. I
14 love you very much. Thanks for being here today, and
15 here is to all the future. Here is to what the future
16 brings. I am excited. I look forward to serving all
17 of you, and I am glad that we are in it together.
18 Don't forget, we are all in this together. Thank you.

19 (Applause.)

20 CHAIRPERSON WARNEZ: You know what, I just
21 want to say one more thing too. I also couldn't be
22 here without all the past chairs of the Representative
23 Assembly who are here, and especially Steve Gobbo.
24 Steve, you have been so gracious, informative, kind,
25 thoughtful. I just I want to thank you personally,

1 and Kathleen as well. Thank you for being my
2 right-hand girl during all this past year, and here is
3 to more time together serving, and whoever our next
4 clerk is I also would like to extend a welcome and
5 encouragement for that as well. Thanks for the
6 position.

7 (Applause.)

8 PAST CHAIRPERSON GOBBO: As Dana indicated,
9 whoever is going to be the next clerk, the results are
10 in from the tellers, and I am pleased to announce
11 there were three candidates, so I am pleased for the
12 candidate that won and obviously for those two that
13 did not I appreciate, and so does the leadership, in
14 terms of submitting your name. We won't have to go
15 through a revote on this, because there was a majority
16 vote on the first ballot, and the new clerk of the
17 Assembly is Vanessa Williams.

18 (Applause.)

19 PAST CHAIRPERSON GOBBO: At this time on the
20 agenda we are going to continue with agenda item
21 number 16 in terms of presentation of recognition for
22 a number of people. We are going to begin with those
23 Assembly members who were term limited and will be
24 leaving the Assembly and, as I call your name, if you
25 could please come up to receive the recognition

1 certificate. Matt Abel.

2 MR. ABEL: You are getting rid of me now.

3 (Applause.)

4 PAST CHAIRPERSON GOBBO: William DeBiasi.

5 Susan Murphy. Gordon Gold. Richard Colbeck.

6 Duane Hadley. Linda Pioch. Christian Horkey.

7 The other persons that I would like to
8 recognize are all those who served on the various
9 committees that were formed during the Bar year. Some
10 of those committees did not have an assignment,
11 per se, but they are there as support to the Assembly
12 in the event that there was something that was
13 assigned to them and for consultation on other
14 matters, and what I would like to do is just to
15 recognize at this point in time the Assembly Review
16 Committee that was chaired by Richard Barron, but
17 there were a number of other people who were on that
18 committee. Mike Blau, John Blakeslee, Carl Chioini,
19 who had replaced Steve Taratuta who had resigned
20 during his term and Kim Breitmeyer. I would ask
21 Richard if you could meet me on this side over here
22 for a second.

23 We have the Hearings Committee and
24 Elisia Schwarz was the chair of that committee. On
25 the committee was Frank Hathaway, April Neihsl, Alisa

1 Parker, Mike Marutiak, who I know is not here, Susan
2 Murphy, and then we had an advisor alternate, and that
3 was Mike Delling. So if Elisia is here, please come
4 on up.

5 (Applause.)

6 PAST CHAIRPERSON GOBBO: The Drafting
7 Committee, which was put to work as it usually is, was
8 chaired by Josh Ard. Fred Hermann was a member of
9 that committee. Marty Hillard, Erane Washington,
10 Lee Hornberger, and we also had an alternate,
11 Matthew Antkoviak. The problem is pronouncing the
12 last name. So, Josh, if you could come up please.

13 Similarly, the Rules and Calendar Committee
14 goes through a lot of effort, and you now have a new
15 clerk who was the chair of that committee,
16 Vanessa Williams. Kathy Kakish, who shouldn't be
17 unfamiliar to you, because she is a former chair of
18 this body. Amy Kline, Joshua Smith, Becky Bolles were
19 members of that committee. And, Vanessa, if you
20 could.

21 (Applause.)

22 PAST CHAIRPERSON GOBBO: The Special Issues
23 Committee, which is a committee that I chaired two
24 years in a row, both years were kind of unique in
25 terms of some of the items that were referred to that

1 committee, was headed by Dave Gilbert, Maureen
2 VanHoven and Krista Haroutunian, James Bartlett,
3 Nathan Edmonds, Mike McClory, and we had as an advisor
4 or alternate was John Mucha. Dave, If you could come
5 up.

6 (Applause.)

7 You all may be wondering what's in here. We
8 try to do something a little unique and practical for
9 those that chair the committees. I saved Rules and
10 Calendar for last. I am sorry, Nominating for last,
11 which was headed by Jeff Nellis. Jeff is an
12 extraordinary person. He has chaired this committee
13 for quite a long period of time and has done amazing
14 things in terms of recruiting people to fill vacancies
15 and then also to deal with the issue of superintending
16 the submission of awards for the Assembly, and Jeff is
17 just an amazing resource in terms of this particular
18 committee. Nobody wants to remove him from the
19 committee in any way, because he has just been able to
20 move things along, and it makes it so much easier for
21 the officers of the Assembly.

22 On that committee was Pamela Enslin,
23 Anne McNamara, Dan Cherrin, Margie VanHouten, and then
24 we had an alternate Lauren Rousseau. So Jeff, if you
25 could please come up.

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1 (Applause.)

2 PAST CHAIRPERSON GOBBO: In terms of this
3 particular meeting we are essentially done, but there
4 is one thing that I'd like to do is a tradition, and
5 that's to pass the gavel to the new chair of the
6 Representative Assembly.

7 (Applause.)

8 CHAIRPERSON WARNEZ: Don't go anywhere. No,
9 no, we are not letting you leave.

10 PAST CHAIRPERSON GOBBO: I just told you I am
11 done, I want to leave.

12 VICE CHAIR WARNEZ: There is one final thing
13 to do, and that is to present to Steve a plaque on
14 behalf of the body to thank him for his service, so
15 let's just give him this so he can look at it. The
16 plaque reads, The State Bar of Michigan honors
17 Stephen J. Gobbo, Representative Assembly Chairperson
18 2011-2012; Vice Chair 2010-2011, Clerk 2009-2010, in
19 appreciation for distinguished service to the
20 Assembly, the State Bar and all Michigan lawyers,
21 September 20th, 2012.

22 (Applause.)

23 CHAIRPERSON WARNEZ: A couple more comments.
24 Hang on.

25 PAST CHAIRPERSON GOBBO: I just want to say

1 thank you. It was a honor to have served.

2 CHAIRPERSON WARNEZ: If Steve leaves, I am
3 still going to make a few comments. I just want him
4 to understand how much I appreciate him and also to
5 acknowledge we all know what a great person Steve is.
6 He is hard working. He is an exemplary leader, and he
7 is an example to all of us how to be a good member of
8 the R.A. and a leader. He is generous in spirit. He
9 is willing to listen, and offers guidance. He is
10 going to leave a legacy, like all chairs do, with his
11 leadership on the practice of law definition, and I
12 think we owe him a round of applause and thanks for
13 that contribution.

14 (Applause.)

15 PAST CHAIRPERSON GOBBO: Thank you very much.

16 CHAIRPERSON WARNEZ: I think this -- just one
17 more thing. This legacy let's us also, I think, keeps
18 in focus what we should do in the upcoming year, which
19 is, by Steve's example, we should look at the broader
20 benefits that we can provide by our actions. Just
21 like the Unauthorized Practice of Law, Steve didn't
22 let us get caught up in minutia or nitpicking on any
23 small portion of that but looked at the broadest
24 picture and the broadest benefit that we could
25 achieve, and I just want him to know that that's what

1 I intend to try to latch onto, embody, and continue on
2 in our service, so thanks for letting me make some
3 comments about Steve and thank you everybody. Steve
4 can adjourn our meeting.

5 PAST CHAIRPERSON GOBBO: I can't tell you how
6 I feel completely, but I very much appreciate this.
7 For those of you that really know me, you know I also
8 have kind of a little bit of a sense of humor on some
9 things, and I couldn't help but think in my other
10 role, my day job, at least one of them, is the State
11 Cemetery Commissioner, and Dana kept on using the term
12 "legacy," and then I had all these people standing up
13 before me, that I was laying prone.

14 So anyway, thank you very much for a
15 fantastic three years and the last year as chair, and
16 I will entertain a motion for adjournment.

17 VOICE: So moved.

18 CHAIRPERSON GOBBO: Hearing the motion,
19 sounds like it's by acclamation. I declare this
20 meeting adjourned.

21 (Applause.)

22 (Proceedings concluded at 3:41 p.m.)
23
24
25

1 STATE OF MICHIGAN)
2 COUNTY OF CLINTON)

3 I certify that this transcript, consisting
4 of 121 pages, is a complete, true, and correct transcript
5 of the proceedings and testimony taken in this case on
6 Thursday, September 20, 2012.

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8
9 October 15, 2012

10 Connie S. Coon, CSR-2709
11 831 North Washington Avenue
12 Lansing, Michigan 48906

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