

The Representative Assembly at 35

By Naseem Stecker

This year marks a milestone for the Representative Assembly. As it turns 35, leaders of this 150-member group have been reflecting on its achievements and considering if it has fulfilled the purpose for which it was established. The current RA chairperson, Edward Haroutunian, points out that people's eyes often "glaze over" whenever there is talk about the Representative Assembly. So he has been on a mission to get the legal community to sit up and take notice, but more importantly to take part in RA meetings. At an April RA meeting this year, he was very heartened. Not a single seat was empty. One hundred percent member participation!

The highest policymaking body of the bar, the RA was conceived in 1972, when the State Bar Board of Commissioners urged the Supreme Court to create a "representative assembly" to keep pace with the increasing membership. At the time, the State Bar only had 12,000 members. Today, "with over 38,000 State Bar members, the assembly is even more necessary than it was then," Haroutunian said. "The Assembly is currently comprised of 142 elected members, plus eight members of the Board of Commissioners for a total of 150 members."

What exactly does the Representative Assembly do? Is it fulfilling its intended purpose? And what are some significant contributions of the RA over the past 35 years? What meaningful experiences have RA chairpersons had? Assembly leaders respond:

Edward L. Haroutunian

The Assembly meets a minimum of twice each year and as often as four times a year, based on need, to discuss and consider court rules, pending or anticipated legislation, resolutions from State Bar sections and committees, and issues presented by the Supreme Court. In recent years, the Representative Assembly studied and made suggestions about the Michigan Rules of Professional Conduct for lawyers, sanctions associated with these rules, the increase of Bar dues, and the State Bar strategic plan. The Assembly has brought together experts with differing points of view to discuss various issues so that votes taken by the Assembly after hearing the discussion would be well-informed. The positions of the Assembly, and perhaps more importantly, the rationale for these positions, are forwarded to the Supreme Court for its consideration. Positions of the RA on pending legislation are also forwarded to the legislature for its consideration.



The RA in session 2006.

Photo by Michael Maurer-Smith

Lori A. Buiteweg

The single best way to glean an overall and in-depth understanding of the inner workings of our profession is to be a member of the RA. There is no doubt that the RA is fulfilling that portion of its purpose, which is to give a voice to the 38,000+ lawyers of Michigan and the clients they represent. The RA has the additional purpose of enacting great ideas that will improve the profession; however, this purpose is, in my opinion, thwarted by the everyday bureaucracies and delays that often plague our justice system on a routine basis. The RA establishes terrific policies that sometimes collect dust because there has not yet been established an effective method of follow-through. If this shortfall can be overcome, the usefulness of the RA to the lawyers of Michigan will skyrocket.



Bruce A. Courtade

My most meaningful experience as Assembly chair came from the relationships I had with Representatives from around Michigan. I developed what I know will be lifelong friendships with attorneys from Ann Arbor to Zeeland, Pontiac to Paw Paw, and Detroit to Marquette, none of whom I would have met but for the Assembly. I also had the tremendously unique, unforgettable experience of chairing the Assembly meeting held just days after 9/11. I will always remember the way in which my fellow attorneys all came together in that time of profound pain and uncertainty to debate the contentious issue of whether appellate judges should be elected or appointed. Though we were so different in every conceivable manner—age, race, gender, ethnicity, religion, geography, big firm, solo practitioner, in-house, Republican, Democrat, and Green Party—we discussed those issues in a calm, professional, and compassionate manner. At the end of that meeting, while our country was literally still smoldering and gathering itself from the ashes, the actions of the 150 members of the Representative Assembly comforted everyone who was there and offered tangible proof that a few good lawyers really can make a difference simply by engaging in reasoned and calm debate, no matter how contentious the differences between them.



Julie I. Fershtman

At the Assembly's January 2002 meeting, we considered and voted on two very timely proposals that had national, if not worldwide, implications following the 9/11 attacks: We took a stand on practices of the U.S. Department of Justice to monitor communications between terrorism suspects and their lawyers. We took a stand on a proposal regarding the use of military tribunals. These actions were unique and clearly went beyond the typical Assembly activity. I commend the Assembly for addressing them. Also, Assembly members voted on these proposals after listening to good informational panel discussions that educated us on both sides of the issues. The RA is definitely fulfilling the purpose for which it was set up as long as the Assembly continues to handle meaningful matters. The Board of Commissioners is simply not diverse enough. As a case in point, during the September 2006 Assembly meeting that focused on proposed jury reforms, it was especially gratifying to listen to Assembly members debate on how proposed reforms would directly affect their practices and the clients they serve. We had civil and criminal practitioners weigh in, many of whom could give specific and practical comments on how they and their clients would be impacted by the proposals. This was a quality of debate that I doubt we could find at the Commissioner level.



Elizabeth A. Jamieson



The Assembly has covered a lot of ground over the past 35 years and since the *Keller* decision, the Assembly has effectively changed its focus. In some ways, the Assembly is like our profession's Congress. It represents almost 40,000 lawyers from around the state, from different practices, locations, and backgrounds. We tapped into that melting pot while I was chair, when we addressed proposed changes to the Michigan Rules of Professional Conduct. We had the ability to educate lawyers around the state, interact and debate with them, and then make representative decisions that should be very helpful in the ultimate shaping of the practice of law within Michigan. The Assembly was efficient and effective, and the end-product was significant. As a lawyer and a leader, I was very proud of the Assembly and our profession. Everyone should have the opportunity to feel that way. As an Assembly member, lawyers have the opportunity and ability to make a difference for both those providing legal services and those receiving them.

Thomas C. Rombach



Far more than just a glorified debating society, the Representative Assembly has provided opinion leadership that will impact our profession for many years. Assembly actions are at the heart of efforts by the State Bar to influence judicial, legislative, and executive policymaking in Michigan. By design, the Assembly is often charged with addressing broader, long-term issues, while the State Bar Board of Commissioners serves a more managerial role.

In recent years, the Assembly has debated and devised revisions to the Michigan Rules of Professional Conduct (MRPC) and the Michigan Standards for Imposing Lawyer Sanctions (MSILS) that are used to enforce the MRPC. The Assembly's recommendations on both regulatory codes were forwarded to the Michigan Supreme Court. Because of the Assembly's extensive and thoughtful discussion of the regulatory revisions, the Court solicited the Assembly's input on its proposed jury reforms. While the Court is still grappling with the Herculean tasks of revamping the MRPC, the MSILS, and the Michigan jury procedures, the State Bar's elected leadership and staff continue to advocate, both formally and informally, for adoption of the Assembly recommendations.

The Assembly has also outlined an aggressive agenda to lobby the executive and legislative branches of government. In approving 11 standards for indigent criminal defense, the Assembly has set benchmarks for the long-overdue overhaul of the indigent criminal defense system in Michigan, including increasing fees for court-appointed counsel. Responding to legislative proposals to establish specialized courts and dockets in the executive and judicial branches, the Assembly adopted six threshold due-process standards that must be met before the State Bar will consider support. The Assembly's action empowered State Bar leaders and

lobbyists to oppose "The Patient Compensation Act of Michigan" and the land use tribunals proposed in 2006, and may lead the State Bar to support a criminal diversionary program for mental health patients, if amended, in 2007. ■

Naseem Stecker is a staff writer for the Michigan Bar Journal. She can be contacted by e-mail at nstecker@mail.michbar.org.

Representative Assembly Chairs

▲ John S. Clark, Petoskey	1972-1974
▲ Robert S. McKenzie, Harbor Springs	1974-1976
Daniel M. Clark, Detroit	1976-1978*
Donald L. Reising, Lansing	1978-1979**
Hon. Michael G. Harrison, Lansing	1979-1980***
Bruce M. Groom, Midland	1980-1981
▲ David A. Goldman, Southfield	1981-1982
Richard D. Reed, Kalamazoo	1982-1983
Angus G. Goetz, Jr., Bloomfield Hills	1983-1984
Bruce A. Barton, Jackson	1984-1985
Susan A. Howard, East Lansing	1985-1986
Dennis C. Valkanoff, Morristown, TN	1986-1987
Carl L. Chioni, Mount Clemens	1987-1988
Antoinette Beuche, Ann Arbor	1988-1989
Hon. Terry L. Clark, Saginaw	1989-1990
Gregory L. Ulrich, Livonia	1990-1991
Hon. Lorraine H. Weber, Detroit	1991-1992
Dawn A. Van Hoek, Detroit	1992-1993
Michael W. Legg, Farmington	1993-1994
Nkrumah Johnson-Wynn, Detroit	1994-1995
Lynn H. Shecker, Bloomfield Hills	1995-1996
Paul R. Sowerby, Lake Havasu City, AZ	1996-1997
Scott S. Brinkmeyer, Grand Rapids	1997-1998
Kurt E. Schnelz, Birmingham	1998-1999
Kimberly M. Cahill, Center Line	1999-2000
Bruce A. Courtade, Grand Rapids	2000-2001
Julie I. Fershtman, Farmington Hills	2001-2002
Thomas C. Rombach, New Baltimore	2002-2003
Daniel M. Levy, Detroit	2003-2004
Elizabeth A. Jamieson, Caledonia	2004-2005
Lori A. Buiteweg, Ann Arbor	2005-2006
Edward L. Haroutunian	2006-2007

▲ Deceased

*Officers elected to serve two-year terms

**Chair/Clerk elected to serve two-year terms

***Rule amended for service of one-year term