STATE OF MICHIGAN
STATE BAR OF MICHIGAN

MEETING of the REPRESENTATIVE ASSEMBLY of the STATE BAR OF MICHIGAN

EXCERPT
Proceedings had by the Representative Assembly of the State Bar of Michigan at Lansing Community College MTEC Center, West Campus, 5708 Cornerstone, Seminar Rooms 1-4, Lansing, Michigan, on Saturday, April 26, 2014, at the hour of 9:30 a.m.

AT HEADTABLE:
KATHLEEN ALLEN, Chairperson
VANESSA WILLIAMS, Vice-Chairperson
Daniel Quick, Clerk
JANET WELCH, Executive Director
HON. JOHN CHMURA, Parliamentarian
ANNE SMITH, Staff Member
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Lansing, Michigan
Saturday, April 26, 2014
9:34 a.m.

RECORD

CHAIRPERSON ALLEN: It's 9:35. The meeting is coming to order. Thank you, everyone, for coming today. I appreciate your time on a Saturday morning. This is probably one of our very few sunny Saturday mornings we have had in a long time, so I appreciate you being here.

I am Kathleen Allen, the chair for the Assembly this year. I am going to try to move this along as fast as we can so you can get home and enjoy the remainder of the day that's left. So I want to thank you all for being here.

I want to acknowledge and introduce the individuals who are up here. We have Dan Quick to my left, who is clerk for this year, and your vice-chair is Vanessa Williams, and on this other side we have Judge Chmura, who is going to be our parliamentarian. Any questions with regard to the amendments or anything parliamentarian I am going to direct directly to him and he is going to answer it. So we are not going to be doing the back and forth. We are going to make sure it's clear.
Next we have Janet Welsh, who is executive director for the State Bar, and Anne Smith at the very end of the stable who has put this together every year for 15 years now. Is that about right?

MS. SMITH: About 12.

CHAIRPERSON ALLEN: Feels like 15 sometimes. Without her help, we wouldn't be here today. So thank you, thank you very, very much.

I am going to certify that a quorum is present. I would like to know, Mr. Quick, is there a quorum?

CLERK QUICK: There is a quorum.

CHAIRPERSON ALLEN: Thank you, sir.

And you also have the calendar in your packet. Since we have a quorum, we are going to move for the adoption of the calendar, so we have Ms. Kathleen Kakish at the podium.

MS. KAKISH: Thank you, Madam Chair.

Kathy Kakish, 3rd circuit. On behalf of the Rules and Calendar Committee, I move that the calendar that is before the Assembly, which was included in the packets of materials that were mailed to the members on March 27th, be adopted.

UNIDENTIFIED SPEAKER: Second.

CHAIRPERSON ALLEN: Any discussion? No
discussion, all in favor yes.

Opposed. No opposed, the calendar is adopted. Thank you very much, Ms. Kakish.

Also included is the summary of proceedings for the September 19th, 2013, and you had an opportunity to review those, and I would like to entertain a motion now to enter the summary of proceedings. Do I hear a motion?

UNIDENTIFIED SPEAKER: So moved.
CHAIRPERSON ALLEN: Second?
UNIDENTIFIED SPEAKER: Support.
CHAIRPERSON ALLEN: Any discussion? No discussion heard.

All in favor? I didn't hear that. Yes? Any opposed.

The minutes or the summary of proceedings for the September 19, 2013 are approved.

Now it's time to do the vacancies. I would like to have Judge Jeffrey Nellis come to the podium, who is chair of the Nominations and Awards Committee, to fill our vacancies. Thank you, Judge, for your continued assistance and help in this area.

JUDGE NELLIS: Good morning. I am Jeff Nellis from Ludington, and it's been a privilege and an honor to serve as the chair of this committee
again this year.

Just a comment which has nothing to do with this, but have you ever noticed how it is always sunny and nice on the Assembly meetings? I have been coming to these meetings for years, and it is always sunny and beautiful, so might be a good day to plan a vacation.

I want to first acknowledge the folks on my committee. They put in a lot of hard work. So if you could stand when I read your name. John Mucha from the 6th circuit, Pam Enslen from the 9th circuit, Bill Renner from the 15th circuit, Douglas Kaye from the 3rd circuit, and Shenique Moss from the 30th circuit. Thank you.

I also want to, like Kathleen, acknowledge Anne Smith. For those of you who are new or don't know, Anne and her staff put in a tremendous amount of time getting these meetings ready and with the organization, and there is a lot that really goes into putting one of these together, so I think we should give Anne a round of applause.

(Applause).

JUDGE NELLIS: I always embarrass her every year, so I didn't want to forget this year.

I also want to acknowledge the executive
board, Kathy, Vanessa and Dan. Again, with our
vacancies, sometimes we end up having to kind of
scramble at the end. We learn about new vacancies
within a week or two before this meeting, and they
have been very helpful and instrumental in getting our
vacancies filled, so I appreciate your help as well.

At this time I would like to go through the
list, and I do believe everyone should have a copy of
the list, but I am just going to read these off. From
the 3rd circuit Audrey Monaghan, from the 6th circuit
Patrick Crandell, from the 9th circuit
Mark Holsomback, from the 10th circuit John Lozano,
from the 12th circuit Andrew Sarazin, from the 13th
circuit William Brott, also from the 13th circuit
Lea Sterling, from the 20th circuit Ronald Foster,
from the 31st circuit Timothy Cook, from the 31st
circuit Gregory Stremers, from the 36th circuit
Theresa Cypher, from the 39th circuit Jennifer Frost,
and from the 57th circuit Steven Cross.

At this time I would make a formal motion to
have these individuals seated to serve as
representatives of their respective circuits in this
esteemed body.

UNIDENTIFIED SPEAKER: So moved.
UNIDENTIFIED SPEAKER: Support.
CHAIRPERSON ALLEN: Did I hear a second?

Thank you. Any discussion?

MR. ABEL: Are those people present?

JUDGE NELLIS: Yes.

MR. ABEL: Are they all present?

CHAIRPERSON ALLEN: Yes.

MR. ABEL: Thank you.

CHAIRPERSON ALLEN: Any further discussion?

All in favor.

All opposed.

Okay. Thank you very much. Can you please come to your seats and thank you very much for joining this Assembly.

Again, as I said, I thank you for taking your time today to be here.

(Appause).

CHAIRPERSON ALLEN: As you noticed, we did the calendar, when the calendar was drafted, I put some discussions with regard to the president of the State Bar and our executive director later in the afternoon because I thought the proposals were important for our discussion and you have them early in the morning, and for me earlier in the morning is usually more fresh and people are more thoughtful and they are not looking at the clock to run and beat the
pavement and get home.

MS. KAKISH: Point of order, can't hear.

CHAIRPERSON ALLEN: Can you hear me now?

MS. KAKISH: Yes.

CHAIRPERSON ALLEN: So I changed the
schedule, and I changed the schedule to help move
things along, as well as to allow the thoughtfulness
in the morning. But I also decided this year that we
would help with our voting, and in front of you are
clickers. This is going to be the first time that we
have ever had clickers. Does everybody have a clicker
in front of them? These clickers are going to be used
to vote. So rather than typically we would stand and
say yes, no, and we would count, we are going to use
the clickers to tabulate, and we have, and I want to
make sure it's 1, 2. One, 2 and 3, but ours are going
to be basically 1 and 2, so we do have 1, 2, and 3.

The important thing is when we are done with
these clickers there is going to be boxes out by the
registration desk. Please put these clickers in that
box, and it's important because I know, like for me,
we always get these name tags, and we never return our
name tags. We get home and look in the mirror and
think, oh, I forgot to put the name tag in the box.
So I have a collection of 20 or 30 of these name tags,
so I don't want any more souvenirs, and these cannot be souvenirs, because these are $47 apiece. So we are going to put them in the boxes. So to remind you again, we don't want to put them in the briefcase and just forget. I am bringing it to your attention when we leave, we need to have them all.

Anne is taking now the ones that are not are empty spots and so that everybody has one, but we are not having extras float about. And if I don't return these clickers, I would have to work with Anne the rest of the year, and Anne will not let me work with her because she will shoot me if we don't have all these clickers back. Okay.

We are now moving towards the proposals, and our first proposal is consideration of recommendations and/or comments to Michigan Supreme Court Administrative Order No. 2014-5, and the proponent is Carl Chioini. Carl, would you please come to the podium.

MR. CHIOINI: Good morning, everybody. I hope you all had an opportunity to review the materials, because I am sort of counting on that. If not, it will be on the screen.

We are here this morning to talk about the consideration and the comments of the Supreme Court on
Administrative Order 2014-5. When I first heard about this, I really didn't know a lot about it, and Kathleen informed me about it, and since that time did my homework. But we have got to back up a little bit.

There is a bill out there by the Senate, Senate Bill 743, that was introduced January 23rd of this year that's a proposal to eliminate the mandatory bar status of the State Bar of Michigan. This is a very hot button topic, I am sure you are all aware of it, whether we are going to continue as a mandatory bar or not.

The Board of Commissioners took immediate action on this in February, on February 6, 2014, and they took the position to oppose the bill. They immediately contacted the Supreme Court, and they offered the Supreme Court their full resources and cooperation for a meaningful review of the issue. So it's on a fast track. It's moving very quickly from January when the senate bill was introduced and then to January 23rd when the bill was there, and then to the Board of Commissioners responding to the Supreme Court that they would be cooperating. Ultimately it got down to us, and that's one of the reasons we are here this morning.

In February of 2014 the Michigan
Supreme Court created the administrative order that we are talking about, this 2014-5, and created a task force to address whether the State Bar, with their current programs and their activities, supports the status as a mandatory bar. The Supreme Court took that step forward. They created a task force. The Task Force was charged with determining whether or not the State Bar dues and its activities can be accomplished by means less intrusive on individual's First Amendment rights in view of the Falk decision. At the same time the order also provided that the Task Force would report and include proposed revisions of the Administrative Orders of the Court Rules and the governance of the State Bar of Michigan.

In your materials the Task Force is listed, the members of the Task Force who are going to report, and one of the things we have to consider this morning is our involvement in that. If you look at the proposed motion that's in your materials, that specifically says -- is that on the board? It's not. Just missing my one piece of information.

The motion before the body this morning is should the Representative Assembly make recommendations and/or provide comments to this Task Force created by this Administrative Order 2014-5
or directly to the Supreme Court on whether the role and functions of the Assembly support the State Bar's status as a mandatory bar; and, number two, on any proposed revisions of the administrative orders and court rules governing the State Bar as they relate to the Assembly in order to improve the governance and operation of the State Bar through the following two steps, and it's a two-step approach.

We are asking to create a special commission, recently established by the Chairperson, with the responsibility to summarize and make recommendations at this meeting on April 26 and incorporate them as part of an Assembly report responsive to Administrative Order 2014-5 and submit the reports to the Task Force or the Supreme Court or directly after review by this Assembly as a practical and recommendation to them.

If that's the case, then we would have a discussion this morning, if you approve that, of the April 26 meeting for members to comment to provide paragraphs one and two above.

That is the motion that's before you this morning to generate something to the Supreme Court or to the State Bar to give them our thought, so to speak, on whether or not this bill should pass or not.
Any support?

UNIDENTIFIED SPEAKER:  Second.

CHAIRPERSON ALLEN:  Any discussion?  No discussion being heard --

MR. CHIOINI:  We get to use our clickers?

CHAIRPERSON ALLEN:  Get to use your clickers now.

All in favor. Use your clickers.

UNIDENTIFIED SPEAKER:  Which one do we click?

CLERK QUICK:  One for yes, two for no, three for abstain.

UNIDENTIFIED SPEAKER:  How do you know it works?

MR. CHIOINI:  We will find out in a minute.

CLERK QUICK:  It's working.

Motion passes.

CHAIRPERSON ALLEN:  Motion passes.

For the discussion, I thought rather than have just a group of people come down and talk various ideas and thoughts, I chunked the concepts down. We are going to have 25 minutes for each concept, three minutes per person to talk. You can come up three different times, because the concepts are going to be different. They may interrelate, but I am allowing for you to come back, because I think this is
Now, when we discuss it to begin with, it's going to be, I have entitled it the governance, okay. How the role and the function of the RA supports the State Bar status as a mandatory Bar. Is this the least intrusive upon the First Amendment rights? I would like you to think about that, and there are other options if you haven't already thought about it and want to talk. We are changing this rule, and we have the rule in front of you.

Everybody see this yellow piece of paper.
The Rule 6, the Rule 6, Powers, one, The Representative Assembly, the final policy-making body of the State Bar. No petition may be made for an increase in the State Bar dues except as authorized by the Representative Assembly.

Would we change this rule to change the governance of this policy and make final policy-making body authority to go with the Board of Commissioners, because, as you know, we have a Board of Commissioners and the RA, so the Board of Commissioners would make the final policy, they implement it, and we become an advisory board to the Board of Commissioners. And we would look at items that are assigned to it, the RA, by the Board of Commissioners and/or the
Supreme Court. Would this make the Bar, State Bar, less intrusive upon the First Amendment rights of individuals?

Another concept, define the type of policy the Board of Commissioners decides and the type of policies the RA wants to decide.

Another concept, the Board of Commissioners makes policy but is ratified by the RA.

Another concept, what types of policy does the RA want to ratify with total control.

Now, those are some questions that, to be able to hear what your thoughts are with regard to the change of this policy and this rule, of Rule A within our policy, our body of what we do, I would like to have our thoughts, because if we don't have our thoughts right now of what we really want, either remain the way we are or other options, we won't have the time in the future to be able to discuss this or present these ideas to the Task Force.

The next 25 minutes would be about the inside of the RA. How do we function more effectively? There has been some criticisms that we are not that effective, we are irrelevant. People don't like coming here because we don't do a lot. Members really don't like it, okay. So we need to look at this. If
this is true, this is the time and place to look at it.

How do we function more effectively? Loosen the rules to be able to come to the floor to bring subject matters to the floor for discussion? Is the membership too large? Do we want it larger, do we want it smaller? Do we want 25 people, do we want five, do we want 200? We are right now at 150. We began in 1972. Forty-two years later we have moved to 150 people. Our membership as of March is 43,000 members. Do we fairly and accurately represent, based upon the diversity and the size, these members? Maybe, maybe not.

UNIDENTIFIED SPEAKER: Point of order. Do we know how many members are in attendance today out of 150?

CHAIRPERSON ALLEN: Anne, can you find that out for us. We have a quorum, but we will find out how many are here.

How often should we meet. Right now the Court Rules, as stated here, we meet two times a year. We are required by two times a year. We can meet often, we can meet more often if we want to, because our rules of procedure don't limit us to amount of times you want to meet, but it limits us to a minimum
amount of time to meet, which is two years by Court Rule, or two times by Court Rules. Do we want to meet more? Do we want to meet less? How do we want to meet?

Technology, do we want to improve the RA function with technology? Do we want to do virtual meetings? Do we want to meet twice a year and have virtual meetings at other times? Do we want to be able to use our sources throughout the state of Michigan so that we have people in the U.P., so they don't have to travel. Do we want to be able to by teleconference and webinars? Everybody is doing that now. I have been to a number of webinars. Maybe that's something we also want to incorporate. It is not going to be one or the other. It could be a mix. We will have this discussion as well.

131 attending, and we have 150 members. That's better than any party I ever had.

Email proposals. We email the proposals, it goes directly to the entire membership, and then we have a link from your membership to you so there can be discussion and there can be ongoing communication. Maybe that would be helpful.

Electronic voting. So we have electronic voting, but because some people don't like electronic
voting, an option with electronic voting is pass a
proposal by a super majority. Maybe that's something
we want to take a look at.

We also use the internet. Maybe we can,
rather than have wordsmithing here, change of numbers,
letters, paragraphs, maybe what we want to do is do a
noncontent language amendment at committee, and then
it comes here, we vote up or we vote down. And the
discussion with regard to the proposals or the Court
Rules could be online and then go directly to the
committees for their input and come back.

Right now we have to have proposals here 45
days beforehand. Maybe you want to shorten that.

Then the last 25 minutes are going to be
anything your thoughts are, okay. Not anything. No,
not anything, but your thoughts with regard to the RA
and how it functions and its role as Rule 6, okay.
Because some of these areas that we just talked about
may not fit in what you think is good, and that's what
the beauty of this room is about, are ideas that other
people don't think of. And so I want at least 20
minutes to discuss that.

I have spoken to quite a few people in the
last two weeks here at the RA. I called them directly
to tell them how important this is and to be here and
discuss, because today is make it or break it day so that we can have your thoughts, and I have had a couple people have some really good ideas, and they don't fit with these categories, sort of, but I would like them to come to the floor too to discuss and see what you have to say.

And what we are going to do is we are going to take this information and we are going to compile it and we also have two other committees working. We have the Assembly Review Committee, which is Carl's committee, and Special Issues Committee to look at the rules. And we are going to take that information you have and bring it to the Special Committee so they can decipher and break it down to see what's the most helpful and important for the RA, and we are going to get the transcript and we can expedite that so we can discuss it and review it.

The Special Issues Committee, the Special Committee, is going to be diversified by people who have years of experience with the RA and some younger people, because of the role of technology I thought was important, and if anybody has been looking at the demographics of the practice, we are having more younger people here also. So I wanted to open this up so we have more diversity so we can use those roles of
technology that some people have lived with and go forward. So I think I have said enough, and -- oh, there is one more thing.

As of yesterday we have had, there was the president of the State Bar put together a work group, and they evaluated the Court Rules, and yesterday they presented their findings to the Board of Commissioners, and the Rules Committee recommended no changes to the current structure of the RA or its function. And that again is this, so they recommended no changes to the current RA structure or function. The BOC, it had decided to defer any changes to this committee to us, to this body, and the Board of Commissioners conferred that and agreed that if any changes were to be made, substantively or procedurally, it was going to be in our court.

So we are here to discuss it, and you can come down to your microphones, and let's begin. Again, we are going to begin with the governance issue, twenty-five minutes for that. Please state your name and your circuit when you begin.

MR. LINDEN: Jeff Linden, 6th circuit. Good morning. Thank you, Madam Chair and distinguished members of the Representative Assembly and any guests who haven't been announced yet who are in the room.
I had sat as a member/participant of the Special Issues Committee who met a couple of weeks ago to discuss the matter, and we had thoughts addressing this, the first topic, and the issue of the Supreme Court's request on is there a lesser role or a lesser governance that would be less intrusive on First Amendment rights of our members, and we attacked that fairly substantively. And that's the issue, the fundamental issue for us is the State Bar and the way the proposed bill came up was whether or not those people who don't agree with the positions taken by the Bar and the expenditure of their dues or whether there really is for First Amendment or actually under the Keller Supreme Court analysis ideological purposes as opposed to the functional purposes of the performance of the legal system in the state of Michigan. And my personal view, and the committee, I think, consensus was that this body is one of the best ways to mitigate against imposition of First Amendment constriction on individual members.

This body is composed of, we just heard, 150 members from across the state, across all political lines. It's not a political body. Young members, old members, et cetera. In the years I have been on the Representative Assembly, which I didn't count, but
it's, I think, middle of the road for those here, I
have heard many issues that have been brought up that
have been contentious, and those in the larger
circuits, the circuits with the largest members, tend
not to necessarily carry the day on any given issue.
The smaller voices, the smaller circuits, the smaller
opinions, they get heard here, and they often have
fantastic ideas that are then debated and change the
outcome of the policy decision of the State Bar.

And that is the point. If you eliminate a
body like this or eliminate the forced nature of the
State Bar as a mandatory, I think you lose the voice
of the smaller voice to come and get heard. Anybody
can come to a meeting, anybody can raise a proposal.
It gets debated. They all get taken seriously. The
only limitation may be somewhat in the functioning, in
that we only meet twice a year and we meet for a
limited number of hours, some issues may not get the
discussion that everybody wishes they get, and perhaps
in the way we function with maybe pre-meeting vetting
or pre-discussion, you know, it might facilitate that,
but I think it's one the best bodies.

The other issue that we had thought of was
the complaint that people are being forced to pay
money for ideological or political speech that the Bar
then takes that they don't agree with.

I don't know about you, but I did a survey of one and myself, and the last time I was paid by State Bar funds to be here, I can't remember. I think we are all volunteers. So the State Bar spends money for these meetings on administration and coordination, photocopying, services, food to facilitate, but it doesn't spend money on the policy decisions or any ideological decisions that are presented here, and I think the issue is largely communication.

I think despite the work we do and the years that we have been here, the Bar at large doesn't really have a good concept of what we do and how we protect their free speech rights and how we don't make policy against the minority. There is no way to factor in -- I am running out of time. There is no way to factor in every small opinion, but every opinion gets a voice here, and I think that should not be lost and I think it should be elevated to a point where it's obvious and broadcast to the community.

CHAIRPERSON ALLEN: Thank you.

MR. POULSON: Barry Poulson, 1st circuit. Our esteemed chair asked me to speak today, and I was shocked. Anyway, as to governance, I think if the governance becomes the decision making through the
central committee, then we will become a rubber stamp. We can simply buy one that says, Yeah, we agree. I don't think that's the point.

There is an engineering concept -- I have 40 years as a software engineer -- called group mind. This is a group mind. We call each other, we talk, we think, we puzzle out things, we come here on the floor and debate, and I think the decision-making process that flows out of this is phenomenal. I don't know that anyone has not been heard. I think that we have a full spectrum of strange political thought, all the way from mine, who revers Attila the Hun as an agrarian reformer, to other folks that look at things quite a bit differently.

Wherever there should be a time I do oppose use of State Bar money on what I consider the political initiatives, because they are so far to the left wing I can't see them from Hillsdale, but I think this has been a phenomenal State Bar. They are efficient, they are effective, they are dedicated, and even if the dues become free, I will pay for it, but I don't like to see the commissioners become the decision maker. I think this group does it quite well.

Now, later when we get to the technological
phase, I will speak again briefly on efficiency.

Thank you.

MR. PAVLIK: Adam Pavlik of the 26th circuit. I think that, first of all, I would like to point out that I am strenuously opposed to the effort to make this a voluntary as opposed to mandatory bar. I think that the Bar provides a variety of services that have to be provided by someone. Unauthorized practice of law investigations, character and fitness evaluations, so on and so forth, and so I think it's important for those services to be uniquely responsive to lawyers as a group, and a mandatory bar facilitates that.

I would say, however, that the proposals to move toward a voluntary bar are, in my opinion, attempting to capitalize on the fact that our membership tends not always to understand where their Bar dues go. They pay the money in, and I certainly know that when I speak to my constituents about this, I got over and over and over again people saying, Sure, why not go to a voluntary bar. If it saves us 5, 10 bucks a year on dues, that's fine. I think that reflects a degree of resentment of the typical member of the State Bar in not understanding where their Bar dues go.

The solution to that that I see is to
strengthen the governance role that this body has in actually running the State Bar. Right now in some respects we are a bit of an adjunct to the Board of Commissioners, because it's the Board of Commissioners that actually run this organization. I think that as we are demonstrating here today with the 150-ish people who are members of this body, we are much closer to our membership than the Board of Commissioners is. I know that my members know who their representative in the Assembly is. They don't know who their commissioner is on the Board of Commissioners.

If we had a stronger governance role in approving the budget, in approving the way money gets spent in the State Bar, I am convinced that that would deflect much of the pressure to move toward a voluntary bar, because I think it would reduce some of the concerns that the median member of our organization has. They see it in dollars and cents terms. They don't always understand the decisions that are made from a budgetary standpoint by the Board of Commissioners. I am not sure that there is always as much transparency there as there could be, and if this body was more responsible for those kinds of decisions, I think that would improve the legitimacy
of a mandatory bar in the eyes of our membership, and if that happens, I am skeptical that the effort to move toward a voluntary bar would keep streaming forward.

Now, obviously that raises challenges. Would we have to meet more often if we had more extensive governance role? Possibly. We would also have to work out what our relationship would be with the Board of Commissioners. Would we be a bicameral organization where something has to pass the Board of Commissioners and this body, like in Washington where it has to get through the House and the Senate. I mean, those are things that could be debated, but my baseline is that we should have a stronger governance role in the State Bar.

CHAIRPERSON ALLEN: Thank you very much.

MR. ENGELHARDT: Chad Engelhardt from 22nd circuit, Ann Arbor.

First of all, I imagine, like most people, or everyone in this room, I am strongly in favor of a mandatory, united State Bar, but the issue that I want to talk to you about is, when it comes to legislation and informing the Legislature of the impact of its actions on our profession, on the role of lawyers and on our civil justice system and criminal justice
system, lawyers have a significant obligation to inform the Legislature, many of whom are not lawyers, about what impact their actions may have on our society. What are the impacts of the laws that they are empowered to pass, should they pass them, and what will be the impact?

Oftentimes these are just decisions that have to be made and positions that have to be taken on a very short-term basis, sometimes a matter of days or weeks. This is a body that meets twice a year, and one of the things that I would strongly urge is restraint by this body that we not put our pride in front of the effectiveness of the State Bar to act. One of the things that I would encourage is not to undermine in any way the role of the Board of Commissioners and our leadership. We have professionals, such as Peter Cunningham, who do a wonderful job in advocating us in Lansing and assisting us in educating the Legislature.

If you were to compare tools, we are a powerful tool. We are over 150 people. We represent a very wide swath of the entire State Bar, but in many ways we are like an ax, and in some situations we are not the right tool for the job. In some situations we need a more nimble, a more responsive, a more precise
tool, and in that situation, such as in pending legislation in Lansing, the Board of Commissioners and our professionals, our officers, are in a better position to do that.

With our size and with our power does come a bit of unwieldiness, and we have to respect the professionalism and the wonderful job that our leaders have done. When you look at what Bruce Courtade did as president or Brian Einhorn have done as president, what I have no doubt Tom Rombach will do as president, what Janet Welch has done as executive director. They have provided significant leadership, and we should not take any action which undermines our position or effectiveness as a State Bar, and I am concerned that in the way that these things are being presented today and decisions that are being asked to be made today that we truly don't have enough information in front of us, that we have not discussed this information, debated the positions or proposals that are in front us, and that we take more time to study them before making any action. Thank you.

MS. KAKISH: Thank you. Kathy Kakish, 3rd circuit. I now speak as a current member of the Assembly, but also as a former chair of the Assembly, 2008-2009.
The meeting today, I understand quite well, is not to discuss the question whether the State Bar should remain mandatory. What we are discussing is the future of the Assembly itself, the Representative Assembly. It seems to me that we are discussing the future of the Assembly because there is a possibility that the Assembly will somehow become a scapegoat in exchange for keeping the State Bar mandatory. Those are my beliefs.

My thoughts are this: A representative assembly that is representative of all walks of the professional life, the legal profession, and this Assembly is indeed that, is an essential element for a mandatory bar. Mandatory bar, we do need a Representative Assembly.

Now, I know there was discussion as to the creation of the Task Force that is bringing this issue today here before us, but the very underlying incident that was used to start all this is a position actually that the Representative Assembly took at the September meeting back in 2010. I went back to the transcript of that meeting. On page 36 of that transcript it shows that a question was raised from the floor about whether the proposal on the Michigan Campaign Finance Act was Keller permissible. The response was that the
attorney for the State Bar had reviewed the proposal and found that it was, indeed, Keller permissible, and I believe there is a strong argument that it is.

Now, I raise this point about the underlying incident not to discuss the Keller merits of that particular proposal or to place any blame on anyone or to point fingers or to raise the question why the State Bar leadership at the time sent our resolution to a state agency rather than exclusively directly to the Supreme Court. However, I do raise this because it shows two important things.

First, it shows that the Assembly itself understands its responsibilities and understands the limits to its responsibilities.

Second, if, indeed, this particular proposal that was debated by the Assembly back in 2010, if, indeed, it were precluded by Keller, it was not a deliberate act on the part of the Assembly to overstep its boundaries, and the solution to this thing or mistake, if it is, is not to scrap the Assembly at the expense of maintaining a mandatory bar, by no means, and this one mistake should not be used by those who disagree with the Assembly and would like to see it gone.

Now, having said that, today represents a
remarkable opportunity for the Assembly and its future, and I welcome it. There is, as was mentioned before, there is no other body within the State Bar that represents all 57 counties and their circuit courts. No other body that has lawyers from all walks of the profession, sparsely populated areas to densely populated areas, solo practitioners, midsize, and large law firms, private and public attorneys, et cetera, et cetera, and the list goes on.

Coupled with this is the fact that it is always amazing to see, and we will see this afternoon as we discuss the four afternoon proposals, how viewpoints and concerns with all its accompanying wisdom and expertise that this body brings to the State Bar. And I repeat, wisdom and expertise. It is tremendous. I have been a chair of the Representative Assembly. I am a member, and every single meeting amazes me at the depth of knowledge, expertise, dedication that this body brings.

I must disagree with the gentleman who spoke before me as related to --

CHAIRPERSON ALLEN: Time.

MS. KAKISH: Time. Okay, it will be in the next round. Thank you very much.

MR. SMITH: Please, at the three-minute mark,
throw something at me or get one of those giant keys
to just pull me aside. I will try to be quick.

Joshua Smith, 30th circuit, two points.

First of all, as nearly everybody has pointed out, the Representative Assembly is the closest to the Bar membership, period. It's not difficult to get elected to the Representative Assembly, and that's a good thing. It means that younger, different types of people can get in here who haven't necessarily been practicing for a long time or at a large firm. That's a huge plus, because most of our membership hasn't necessarily been doing either of those things. We have a diverse membership. This body reflects it better than any other. And that leads into the second point.

In terms of a mandatory bar, by requiring bar membership, it means that in terms of this body, this body is going to be much more representative of a much more diverse group of people. If you take away that mandatory bar membership, you are going to get a much more selective group, mainly people whose, A, employers will pay for it and, B, who can much more easily afford it, and you are going to really lose that bottom, you know, the tier of lawyers who maybe are working for legal aid or maybe the State of
Michigan and don't make quite as much money, or younger. That would be a tragedy. Thank you.

JUDGE NELLIS: Jeff Nellis, 51st circuit. I am going to keep this short and sweet, but I think, and it's a very it complicated topic, but I can summarize it in one word. The concept is diversity, and that's what this body has. Diversity in a lot of ways, but especially geographic diversity, which I think is very important. Like other people have indicated, we have at least one representative from each circuit, and if we want our Bar to be responsive to the needs of its members, I can think of no better way than to have a body that has this kind of access and has a member in every single circuit. So to me this provides diversity, it provides access, and I just think that that's why we are an important body and we need to keep that in mind.

MR. HILLARD: Martin Hillard, 17th circuit. I agree with the earlier speaker that the mandatory bar is a separate issue from the role of the Representative Assembly, but briefly on that first part, the mandatory versus voluntary bar as it relates to First Amendment concerns. The concern is greater actually with a voluntary bar because that's more prone to adopting one political viewpoint or another
or advocating that, yet in the eyes of the public the Bar is going to represent all lawyers. So although your money may not be going towards those advocacies, the perception that you support those ideas as a lawyer because the Bar does would persist.

But with respect to the role of the Representative Assembly -- a couple of the pieces of paper out here -- the Rule, as it relates, the Representative Assembly is the final policy-making body of the State Bar. We are the Representative Assembly. As earlier speakers have said, we have the larger membership, we have the greater membership base coming from each circuit versus the commission districts.

The larger the body, the more likely it is responsive and reflective of the views of membership. The greater danger, and not to cast aspersions on our fine Board of Commissioners, but whenever you have a smaller body, it's easier for that smaller body to divert in one direction or another.

I have been on this body several years. We have had many different proposals come up, some that have passed overwhelmingly, some that have passed or failed closely, some that have failed overwhelmingly, but we have had thoughtful reflection on each of those
ideas. We are a greater reflection of the body as a whole, and in terms of the First Amendment opportunities of our membership, the other piece of paper is the list of appointments to vacancies that Judge Nellis and his group brought before us, and this is reflective of every meeting I have been at.

As the earlier speaker said, it's not difficult if you want to serve on this body to be here. As Judge Nellis said in his presentation on this report, you have to go scraping the last week or two as these vacancies become known to get people to serve. That's how I started on this body was to fill a vacancy that I was asked three days before the April meeting if I would serve, and I am glad I said yes.

But the point, is if you are a member of the State Bar and you want your voice heard, you want to take on a leadership role, this is the body you have the opportunity to do it in, not on the Board of Commissioners. So I think keeping the large role of this body will serve those First Amendment interests, not defeat them. Thank you.

MR. FLESSLAND: Dennis Flessland from the 6th circuit. Just three quick points.

I think the State Bar does a pretty good job of drawing the line with political versus legal
issues. I really don't have any complaints with how
the State Bar has done that. I don't feel that they
have overstepped the line, really handled it pretty
well.

Secondly, if we are going to keep a mandatory
bar in the state, I think the Representative Assembly
is an essential component of having a mandatory bar
for all the reasons that have been stated here today,
and I echo those.

The other point I want to make or mention is
that when I hear complaints from members of the Bar,
our colleagues about the State Bar of Michigan, they
don't talk about political activities. They talk
about bloated bureaucracy and the palatial office
building in Lansing. I hear chuckles. Other people
have heard the same thing. I don't want to comment on
the merits of that, and, you know, it may be a
communication problem, but I just wanted to bring that
to your attention so that you could keep that in mind
and the commissioners could keep it in mind, because
that's the complaint I hear, not political issues.
Thanks.

CHAIRPERSON ALLEN: Thank you.

MR. LABRE: Rob LaBre from 43rd circuit.

I think everybody in this room probably
agrees that regardless of whether we are a voluntary or mandatory bar, we should still be here. We should not disband this, meaning we become voluntary, there is still going to be a bar. We should be part of that. We should still gather and help out with that process. If we are mandatory, we should not be disbanded. We should still be here.

One of the questions that I had is this Task Force that's being created appears to have broad discretion in making recommendations to the Supreme Court about what they want to do with us. That leaves us to decide to leave recommendations to them what they should do. If we remain silent, they won't know. Maybe there will be assumptions that we are irrelevant and that we don't care enough. This proposal that we be present and that we voice our opinion, be it to make us more relevant so that we can balance out perhaps the Board of Commissioners and their decisions, considering the issues the 22nd circuit brought up, or merely to prevent us from being disbanded. We should be there for that. We should be there for that, and that's why I would recommend we adopt this proposal.

CHAIRPERSON ALLEN: We are down at 25 minutes, but since these two individuals have been
standing there, let's take them too.

MS. KRISTA HAROUTUNIAN: Krista Licata Haroutunian, 6th circuit.

I stand in favor of the mandatory bar, as well as keeping the RA and Board of Commissioners structure the way it is. I also bring up the idea from a governance perspective. This body started a long time ago when there were only 12,000 lawyers. Now we have 43,000 lawyers. It would seem that we still need to exist and we still need to have the diversity of every circuit and every practice area still be here and talk and represent them, and so that seems even more critical than it was in '72.

The other point I bring up very quickly would be that if there is an issue as to governance and to maybe correcting things that weren't necessarily as closely focused on or as energetically looked at, which is to have the RA and the BOC have a Keller vote and also have a Keller analysis done by counsel. So you first have a counsel opinion as to Keller permissibility and then have a Keller vote by the respective body, and then, assuming it passes, have a vote on the issue. And that would seem to me to make it clear to everyone who is watching that we are taking it real seriously as to the topic matters that
we are addressing. And if anyone is worried about the
Keller part, we could also say that there would be a
super majority for the vote after we heard the opinion
of the counsel and then have a simple majority as to
the topic once it came past the Keller test.

So I think that that would certainly address
issues of, well, maybe we are not focusing closely
enough on certain things or keeping the restraint that
the Keller decision and the administrative order from
the Supreme Court mandate us as a mandatory bar to do.

Thank you.

MR. PHILO: John Philo from 3rd circuit.

I somewhat view -- I don't think the context
can be ignored. I view the free speech issue as very
much a red hearing. I respectfully disagree with
Barry, who I have learned a lot from listening to him
come to this microphone. I come from a body of
attorneys that is liberal, that is avowedly so. There
is about two of us in the room.

UNIDENTIFIED SPEAKER: Sitting next to each
other.

MR. PHILO: We view this as, the community of
the attorneys I come, a very conservative institution,
and I think the differing viewpoints here is a good
thing and reflects well on this body in that there
needs to be an institutional voice and a voice that is exchanged and moderated. I do not see this body as out front on issues, and that's fine, because the role of this body is to speak for everyone in the body. I don't think we should be tepid about the areas where we have spoken, and I think that's important.

I practiced in Illinois, which has a voluntary bar, and the voices in the voluntary bar there are not a reflection of the bar of the state. You are a member if your firm pays for it, and that's about it, and the other folks are members of their individual practice bars. That's what we will be losing.

I would just like to echo, I think if there is a mandatory bar, it is essential that there be this body. It is a unique body among bar associations, and it does represent the voices moderated through all the membership that speak for our practice and our profession. That's all.

CHAIRPERSON ALLEN: Thank you.

The next is how do we function more effectively? And let's talk also, you know, about the rules of what we want to hear. How can we be more effective in terms of maybe the concepts of the policies. Maybe we are more effective is if that
policy is actually given to us to review rather than we create it on our own or we are a body that just receives that policy from either the Supreme Court, the Board of Commissioners. Does that make us effective? Let's talk about that as well.

Let's talk about the membership. We spoke about that in the last concept being too large or too small.

How often should be meet, let's talk about that, and the role of technology, how does that play for each and every person?

MR. POULSON: Barry Poulson, 1st circuit. I will speak only to technology, because that's my field, 40 years of computing. I know there are only two liberals in the room, but it's no coincidence they are seated right behind me. That worries me.

I learned to program computers in 1964. I had the first online system, so I worked on interstate networks in '68. I ran the largest computer network in the U.S. at one point, four time zones, and now my children are in the same field, so what I see is, my son's job for his new start-up is cyber medicine. He is working on a system where the doctors and the technology and instrumentation serve the rural people through electronics. I celebrated my grandson's
birthday with a family meeting on Skype, as I am sure many people do.

I love this book. This is a beautiful book, but the content is really what I need, and that can come to me electronically, so one of the steps is electronic book. But the other steps are to begin to look into technology.

Today we voted in less than a minute. We had votes that went on forever, people standing up and sitting down and raising the wrong hand and whatever. That's a step, and I think those steps can come down the road. We can meet effectively electronically and share our things.

We already do electronic emails back and forth. I know that's part of our group mind is we share our opinions and stuff back and forth. So I am all for the methodical approach to technology, and where methodical comes in is because not everybody is comfortable with it, and that's understandable. Some people are just not as young as I am and haven't seen, you know, what technology can do.

So I am all for the technology. I would like to be on the committee. I will serve and work well apolitically, because what's technology got to do with politics, except for like Al Gore. He didn't invent
it. I am sorry.

So I am very much in favor of the continued use of technology to make this group effective and efficient but not necessarily with so many road miles. Thank you.

MS. PARKER: Hello. I am Alisa Parker from the 37th circuit. I have just two quick points about more efficiency in the body. My first point is I have been a part of the Representative Assembly for a few years now, and one of the things that I found when I first got here was really trying to find my footing and how do I know what the Representative Assembly does, just how do I fit in here, and so as people are coming into the Assembly I think it's not echoed that we feel it is an important body.

One of the ways that technology could be helpful is really bringing in the newer members and informing them about what the Assembly does and then staying connected. I know that we are all very busy and meetings can be hard to get to, but even using technology for that connectivity to members of the body so that we are more connected, we are more cued into what's going on more than just twice a year I think would be very vital, and it would help more members to connect to the body sooner rather than
having to be here a couple times before they feel like they have a footing here.

MS. MCNAMARA: Anne McNamara, 47th circuit.

With regards to improvements that we could make as a body in terms of more technological types of things, I think that would be great, but not at the expense of our participation.

I have been a member of this Assembly a couple different times now. Back in the olden days, maybe 15, 25 years ago, us Uppers attended by a teleconference several times. It did not work well. It's not the same participation. You know, you can attend, for example, a court hearing by phone. It's not the same as being there. It's very similar to that.

I think where technology could really help is transmitting information to us ahead of time. For example, rather than sending packets in the mail, if we were to receive some of those things and arguments with regards to them ahead of time by emails, it would be also easier for us to share with other members of the Bar in our areas, but I strongly urge not to take away the presence of us being here at least twice a year. It's very important. Thank you.

MS. GLASS: Good morning. My name is
Alana Glass from the 6th circuit.

I am speaking today regarding the Assembly's role in technology. I would disagree with many of the comments that have already been stated. As someone who has started blogging and developing websites, albeit not as long as my colleague here in the 1st circuit, I do see that there is this tremendous value and how technology can connect us and can connect our profession.

I also agree with the previous speaker that what we should not do is allow technology to prevent us from coming together as a body. I think there is a healthy balance in having technology but also personal one-on-one interaction, which you cannot necessarily achieve by just videoconferencing and teleconferencing.

So at the end of the day my recommendation would be that we do explore ways that technology can be efficient in terms of being green. How many pieces of paper did we, you know, print today, whereas I notice a number of colleagues have their iPads and Smartphones up and running. But then also too, our Assembly coming together, and so meeting and engaging with each other. Thank you.

MR. GILBERT: David Gilbert, 37th circuit. I
agree with most of my colleagues on what we are talking about as far as trying to stay relevant to what we have going on here. I believe we should have two mandatory meetings, but we should take advantage of technology or videoconferencing and things of that nature.

I note that the Criminal Law Section, we meet once a month to go over pending legislation. In this particular case we are dealing with legislation that came out in January. We are lucky we have a meeting in April to deal with it. Many times legislation is done by the time we actually have a meeting. So if we want to be relevant, we need to actually be responsive enough to be there when legislation is still pending. This time, like I said, we got lucky.

We have got the ability to videoconference, we have the ability to meet online. We also have the ability to meet in groups smaller than 150 people. We only need a quorum of 50. That kind of bothers me in a way that we just need a quorum of 50 to actually hold a meeting, a special meeting, but we could hold those special meetings at different places throughout the state.

MR. PAVLIK: Hi, Adam Pavlik. When I spoke earlier, I misidentified my circuit. I said the 26th,
but I represent the 54th. My friend from the 26th waved at me before I started speaking. I lived there for three-and-a-half years. So I wanted to help out our poor reporter up there to get that right.

A couple of things. I think that the number of times we meet in the year depends a lot on the nature and quantity of work we have to do. So I am not sure you can bifurcate the two. I just wanted to point that out.

Second, just as a kind of related to the prior remarks, I kind of like getting the packet in the mail. If there is one person making the plug for getting the packet in the mail, that will be me.

And then the last thing is I just wanted to point out, I think that people, in my opinion, people have a tendency, not necessarily this group but people overall, have a tendency to be too confident in the ability to have an effective electronic or video meeting. I would point out that Roberts Rules of Order, which is our parliamentary manual, requires that for it to be a proper meeting there has to be the opportunity for simultaneous aural communication among all participating members equivalent to those of meetings held in one room or area. That's in Section 9 of Roberts Rules of Order. I am, frankly,
skeptical that we will be able to pull that off in a

group of 150 people all somehow Skyping in or
teleconferencing in and meet that standard. I think

that, as a prior speaker observed, when you try to
teleconference in, it's likely to produce an

unsatisfying result.

So, frankly, I think that what we are doing

here is fine. The key is making sure that the work

that we have to do is relevant, and if it is, I don't

think anyone will have a problem with us getting

together two or three or four times a year to do that

relevant work. Thank you.

MS. KAKISH: Kathy Kakish, 3rd circuit. To

follow up on what was just discussed, to present the

relevant work before the Representative Assembly, and

that is to bring the proposals that the Assembly works

best on. There are three points that I would like to

make with respect to bringing in the proposals.

One, how closely are we actually working with

the Bar sections and the committees to help them raise

their issues with respect to concerns that they have

so that we can help them bring these proposals before

us? Many of the Assembly members are appointed to the

committees and sections as liaisons. How effective

are we in bringing all of this together?
Second, here we are a group of 150 members. Each of us knows how things work well in our circuits, and each of us know how things work well in our professions, but we also know what does not work well. What is the mechanism whereby even the members here can bring up proposals and be helped in drafting them? That's where perhaps review of the rules concerning drafting, special issues should be looked at so that individuals will have access to and help to submit their own proposals.

Now, another point is that it's not only the Assembly that should change in how it does its business. There must be a change to how the State Bar and the Assembly work together.

Look to item 1D in your Assembly materials. It's the item titled Summary of the Board of Commissioners Minutes. Look at page number three there. There is a list of proposed amendments to rules and legislation that the Board of Commissioners or its committees had to resolve on behalf of the Assembly. They took positions on these, in part because of the time deadlines that have been mentioned earlier by a couple of the members.

There are time deadlines for responses to these proposals that are set forth by the
Supreme Court or the Legislature, and there has to be a solution to this. There has to be had a solution to what's happening whereby our work is being presented to the Board of Commissioners only because we don't meet the time deadlines, and that's where the number of the meetings of the Assembly can come in.

Also, the rules concerning the Representative Assembly should be changed to lessen the time and the nature of serving the material to the members before the meeting.

And there is another item. I don't believe that this was ever done before, but the Supreme Court could be easily approached. Perhaps we should work with the Supreme Court to set the public deadlines in a way that would allow us to work with these proposals, and so there is a lot to look at. How do we work within the State Bar itself?

And the third point is that we are not the only state bar representative assembly in the United States. The State Bar of Michigan has excelled in looking at other mandatory bars, examining how they do business, and we went beyond them. We are one of the best state bars in the United States.

Did we actually look to any representative assembly within the state bar throughout the
United States and see how they are operating, how they
gather their proposals, and perhaps we can similarly
adopt them, enhance them, and become the best
representative assembly of a mandatory bar in the
United States. Thank you very much.

MR. LINDEN: Jeff Linden, again 6th circuit.

Briefly just on some of the things I noted
about our effectiveness. When we were discussing the
issues in the Special Issues Committee, we did this
simple thing of looking on the State Bar web page in
the sections that define the role of Representative
Assembly. And we were all surprised to find that
there is very little information there. There is a
small two-line segment on the Representative Assembly
page about what we do, and there is a link that links
you to more information, which pretty much only goes
into the historical background of the Keller decision
and things like that, but there is no discussion
that's easily accessible to the membership at large
about what the Representative Assembly is, how we
represent the larger body of the Bar, and what we do
here, and that seems to me a profoundly simple thing
to fix from a communications standpoint in the larger
scope of thing.

There are other things. For those of us who
aren't well known by our constituencies, there are things the Bar could do in sending out its publications of the Bar Journals or the newsletters to list on a circuit-by-circuit basis, these are your Representative Assembly members. If you want to bring a proposal before the Bar, these are your people to contact.

I don't think that's out there for people who maybe don't know how to look for it or aren't necessary motivated to go out there. Just to make it very easy and user friendly for people would help the impression, which seems to be one of the issues that the State Bar doesn't adequately represent the voice of all political and all personal views of its membership. Little things like that I think can go a long way to improving the function of the Representative Assembly and the efficiency with regards to the issues that brought us here. Thank you.

MR. HILLARD: Martin Hillard, 17th circuit.

I think we need to look at how we do business, particularly the point that Ms. Kakish had raised about the issues that come before us, and perhaps a lot of it is because we only meet twice a year, but it seems to be rather hit or miss. Some
issues come to us, some don't. Some sections advocate their own issues that don't go through us. The Board of Commissioners take up a number of issues that we never see, and, again, maybe part of it is that we only meet two times a year and the deadlines come and go between meetings. And that brings me to the issue of technology.

I am a great believer in the use of technology where it will work in our favor. There are a lot of things that we do that we can do technologically. The officer reports. Even some of these somewhat perfunctory matters we vote on, like filling of vacancies. I don't remember there every being a heated debate over whether one of the committee's nominees to fill vacancies should be approved or not, and that certainly could be handled even more perfunctory than what it already is and save a bit of time, opening up these meetings to taking on a longer list of issues.

But, as some of the earlier speakers have talked about, we have got to be careful with use of technology, because if we stop meeting in person, we lose a great deal of value. There is something about meeting here in person and building the relationship, sort of get to know each other, and there has been
more than once that my opinion on something has changed, not from what was in the proposal, not from what was said by the microphone, but, you know, sitting next to Tom TerMaat and knowing that that affects his practice area and what do you think of this, and he'd point out the practical problems or the practical positives of a proposal, and that, you know, has affected my view, and we lose that if we do it all electronically.

I teach part time at our local community college. I am ground classes, as we call it these days, as well as online classes. There is positives to both, but you lose something in the online classes. You can gain something too, but losing that contact, losing that ability for the back and forth, in person, the more asynchronous it becomes, you lose something of value.

So let's use technology. Let's improve our efficiencies with it, but don't turn everything over to it. Thank you.

MR. SMITH: Joshua Smith, 30th circuit. Two quick points.

One, seems like it might be a good idea to increase the membership of the Representative Assembly, given that the membership of the State Bar
itself has increased over the years. Obviously with an increased membership of the RA you are going to have better representation of the membership.

And a second point is that at the meetings themselves, and when I was on the Rules and Calendar Committee, I was like a broken record on this, but the focus should be more on the substantive work that we are doing in the discussion rather than what can often seem like an endless round of speeches. I remember one of the meetings, I got back to my office the following day. My constituents and workmates asked, What happened at the State Bar meeting? I said, Well, I heard a lot of speeches, and that's essentially what happened. Today is great, because we have a lot of substantive stuff that we are discussing and going over, but a lot of times it just seems like here is another speech, here is another speech, and I think the focus shouldn't be on that, nor should it be on things that we could get done at the committee level. Great case in point is the newly appointed members.

Thank you.

CHAIRPERSON ALLEN: Thank you. Why don't we take a break. We have another 20 minutes, and this is going to be the more open area of anything. If you want to talk about the type of policies you want and
if there is a location where policy should come from, what people want to hear. We are going to do that 20 minutes after our break. We were supposed to leave at 11:00 for our break, so let's take that now because we have got 10 minutes. We can take a 10-minute break and come back for the next part.

(Break taken 10:51 a.m. - 11:07 a.m.)

CHAIRPERSON ALLEN: We are back in session, and my goal again is to make sure everybody gets out on time, if not earlier.

Okay. So we are in the last 20 minutes of discussion, and I want to throw another idea out there, and this discussion is going to be things that we didn't talk about yet. So how about this idea. Say the Task Force, or that is to say the Task Force, the Supreme Court or some type of decision, that we do remain as a mandatory bar, what is going to be the role of our policy making decision, and if it has to be changed, how do you view it? This is just going to be an idea, okay, and then any other ideas that you are thinking of outside what we have discussed.

MR. BARRON: Richard Barron from the 7th circuit.

Madam chair, I have been on this body off and on since probably the 1980s, so I have had an
opportunity to see a lot of people come and go and have an opportunity to observe this part of the Bar.

I am very encouraged by the remarks that have been made by most of the people in the body. I think they review a sense of seriousness and purpose and commitment to this institution. Everybody here, as somebody pointed out, isn't getting paid, and it is a nice day outside. But we need to stand up and speak for the Bar and for the Representative Assembly, because there are people out there who would like to neuter both organizations in my opinion.

I think that Senate Bill 743 was wrong. I think that's why the Board of Commissioners unanimously rejected it, and I think that it represents the worst of partisan political effort to attack, in my judgment, one of the best state bars in the United States as far as I can tell.

I think that the Representative Assembly has been responsible for many of the improvements in the Bar and in our justice system over the years, albeit not perfectly, and I have served on the Assembly Review Committee and made specific suggestions for improving it.

The State Bar has done well over the years, precisely because it is a unified bar, and it has been
since 1935. We understand that it's only by working
together that we can accomplish our goals and
represent ourselves and our clients. The State Bar of
Michigan staff is, in my judgment, extremely
competent, extremely dedicated, hard-working people,
and that certainly goes for the volunteer attorneys,
such as the members of this body who are here this
afternoon.

I don't, like other speakers, I don't view
that the Representative Assembly has violated the
Keller decision in any way. As pointed out, this was
done thoughtfully and with advice of counsel on the
specific issue, as on every other issue. This is a
nonpartisan body made of people with widely divergent
political views, and I don't believe standing up or
standing against the introduction of dark money into
judicial races is an inappropriate thing for the
State Bar of Michigan to opine on.

I think it's important that we focus on the
big picture and we continue to do what we are doing
this morning, which is to begin to discuss ways to
improve what we do, whether that's through technology
or more frequent meetings.

The reasons why this body is necessary to the
Bar have been discussed by other people, and I won't
repeat those here today.

I would conclude by saying I think we need to strongly affirm the importance of a mandatory state bar. Number two, I think we need to emphasize the integral importance of the continuation of the State Bar of Michigan on this point, and, number three, we need to internally come up with improvements and ways to make ourselves more meaningful, more efficient and more representative and not to wait for outside parties to try to do it for us. Thank you.

MR. GILBERT: David Gilbert, 37th circuit.

I agree with everything he just said. I don't think we did anything wrong in 2010. I think we should just do our jobs. I think we are doing exactly what we are supposed to be doing. I don't think there are any changes necessary.

CHAIRPERSON ALLEN: Thank you. Sir.

MR. FLESSLAND: Dennis Flessland, 6th circuit.

One of the problems that we have sometimes is the role of the Representative Assembly. The last few meetings where we have had some meaningful things to fight about here is the most fun I have ever had on the Representative Assembly, and the people who brought those issues to the group should be commended,
and I appreciate it. But along those same lines, we sometimes, I think, have a tendency to become too much of nitpickers in a way, and let me give an example.

When we deal with a court rule recommendation that we have, the Supreme Court is not going to let us draft the details of that court rule, but our opinions and our values and our judgements of the impact of that court rule are important to them, but sometimes we get consumed arguing over details of the grammar and the comma and things like that and let the broader principles kind of fall to the wayside, and I think sometimes when we debate certain issues we should keep in mind that it's the principles and values that we represent, of the lawyers that we represent that need to be expressed and that sometimes the details of the proposal are not the most important. Sometimes we get lost in those details and good values don't get passed on.

The second thing I wanted to mention is that when I check my listing -- I am a member of the Character and Fitness Committee for my county as well -- and when I check the Bar Journal, my listing in the Bar Journal to make sure that I am still a member and haven't been kicked out, it shows that I am a member of the Character and Fitness Committee in my
circuit. I am wondering if it might not be possible
to list us as members of the Representative Assembly
in our State Bar listing too so that, you know, I have
opposing counsel on a case and I see that guy is a
member of the Representative Assembly, I could mention
some Bar issue that I had with him, because somebody
else here earlier mentioned that we are not always
known, and that might be a cheap and easy way to let
our colleagues know that we are a member of the
Assembly.

MR. CRAMPTON: Jeff Crampton, 17th circuit.
If you want an example of diversity, all you have to
do is look at the height of this microphone.

I just want to make three quick points. The
first is, I was looking on the website, and it talks
about the creation of the Representative Assembly. I
just want to read this to people. I know you can read
it, but I am going to read it for you.

In 1970 the State Bar Board of Commissioners
noted that due to a large increase in membership there
was a lack of opportunity for meaningful contact
between members of the Bar and the Board. When the
State Bar was founded in 1935, there were 4,278
members represented by a Board of 21 commissioners.
By 1971 there were near 12,000 members and only 23
commissioners. A special committee to review the structure of the Bar commented, and this is a quote, A board which involves only 23 individual points of view cannot adequately represent the range and variety of viewpoints to be found in so large and diverse a membership, particularly with respect to policy decisions, which is exactly what everybody is talking about here today.

I found it interesting that the last speaker talked about when we debated the court rules. That was my first Representative Assembly meeting when Elizabeth Jamieson was the chair, and we had all these -- the Taylor court had proposed a number of rules to change trial practices, and so we debated those things, and this was my first meeting. I am like, you got to be kidding me, because we were debating where commas went and things like that, but what was really interesting was, in the afternoon, after lunch, there was word sent to us that the members of the Supreme Court had been sitting in the back of the room listening to the debate to get our perspective, and they told us, Listen, stop bogging down on the minute stuff. We just want your input on what these changes are going to be.

So they listened to us. They sat here and
listened to us. They don't always do that. We sometimes have to tell them what we think, but they sat here and they listened to us, and they did make changes to a lot of it. Some of it they went with what we liked, some of it they didn't. But they did, they listened to us and they made changes.

The other point I want to make is, I don't know how many of you have ever looked at Rule 6, but the very first thing it says, The Representative Assembly is the final policy-making body of the State Bar. No petition may be made for an increase in State Bar dues except as authorized by the Representative Assembly. That's this body. And I don't know, but if we end up with a nonvoluntary bar, not only will we be paying, those of us that want to remain members, be paying bar dues, but you can be guaranteed that there is going to be a user fee or a tax or something that the State will impose on us to regulate us, because if we are not regulated by ourselves, the state will regulate us, and if they do that, they will impose user fees, and we'll have no say in that. I am telling you what, when the Legislature needs to raise money, what's the first thing they do? Sin taxes and user fees, and, boy, lawyers are going to be right at the top of the list.
I think if we want to control our destiny, this body is needed, and it's needed whether or not we have a mandatory bar, but it's really needed if we have a mandatory bar. Thank you.

MR. ROMANO: Thank you. I am Vince Romano, 3rd circuit. I rise to speak in favor of the continuation of the mandatory bar and this body in largely the same format as it now exists.

The most salient point that I have heard today involves the fact that whether we have a mandatory or a voluntary bar, a deliberative body of this type is going to be necessary to meaningfully address the issues that will come before whatever kind of a bar it is, mandatory or voluntary, and I think we ought to make that point strongly in whatever response we make here to the Task Force or beyond.

Second, I believe that a lot of people have identified some of the ways we can tweak this body, and I would suggest that we employ our deliberative skills, somehow get those compiled and bring them back before us when we have more time to kind of look at them and check them off on a list. But I urge you to support the mandatory bar and support the continuation of this body. Thanks.

MR. ANTKOVIAK: Good morning. Matt
Antkoviak, 48th circuit.

I first want to say that I do support the mandatory bar, and I am also in favor of the continuation of this body.

The issue that I want to raise this morning is not one of whether the Assembly is relevant, but how can we be more relevant to our constituency? I will give you an example. I sent out all the proposals to the full Bar in Allegan County, and I was looking for input. I thought, well, here is a chance for folks to say I don't like paying those Bar dues anymore. Matt, go to Lansing and tell them dump it. I heard from one person. I was sorely disappointed in that. In fact, the only proposal that I can recall in recent years that really drew a lot of attention was the change to the Court Rule that said that plea negotiations in criminal cases had to be on the record.

Now, we all know what kind of hailstorm that would cause, but my point is how do we become more relevant to our constituents? In our world, time is money. We are all busy. Some of us barely have time to grab a sandwich for lunch. How are we to be better members of this body? How do we communicate to our constituents the important issues?
We seem to live in a world of urgency, and where is the sense of urgency that we have that we need to communicate? And maybe I am telling on myself. Perhaps I should have made more phone calls about these issues. I would like to talk for a few minutes and maybe someone has some ideas as to how we can be better members of this body so that people say, yes, it's important; yes, that's an issue that I want to be heard on and someone needs to make a decision that's critical in that area.

CHAIRPERSON ALLEN: Do you have a suggestion?

MR. ANTKOVIAK: Here is how my life works. It's probably like most of yours. We have schedules. We hit the office and we run. What's the first thing we got to do, make sure that we are prepared for our cases. Sometimes we are waiting. I might have a few minutes to talk with a colleague, hey, what do you think about that issue? Maybe as we are standing waiting for a prosecutor or waiting to negotiate a deal or for the judge or something like that, we could talk about these issues.

I love the idea of technology, but the truth is life is about relationships. People can easily delete emails. I do it myself, even important ones, notices from the State Bar. I will be honest. The
reality is that, unfortunately, the State Bar for a lot of folks is getting your dues, having to pay those when it comes in. We pay them, because that's what we have to do, and heaven forbid we get a letter from the grievance section.

But we need to be more relevant. The cases that come out, those updates, we need to find a way to make those practical. How do we do that? Well, it has to be urgent. Talk to other colleagues. That's hard to do though, unless you are purposeful. I don't know. Our Bar meeting, our Bar association in the county meets four times a year. That's not really a tremendous amount of time to be able to facilitate those issues. So apart from just those conversations, I don't know. Does anybody else have any ideas?

CHAIRPERSON ALLEN: We'll have that on the floor. Thank you, sir.

MR. POULSON: Barry Poulson, 1st circuit.

First, briefly, as an intermediate step in technology is a concept called the blog, and I know our young colleague here, way ahead of me, and I know another member talked to me whose technology is so far beyond what I am able to comprehend, but that blog situation, a lot of people have interactions and conversations and threads, the technology is in there.
You may be involved in them already. If not, you can find one.

I know my tanker client is getting ready to fight a big battle tomorrow against Russian tankers to decide whether to advise Obama to have a land war against Russia. So you can imagine it's a discussion of politics, but it's a real thing. Hundreds of thousands of us communicate with that blog in nice threads, and it works.

I am suggesting that an intermediate step, before going to fully online meetings that could disenfranchise people or an optional one which could disenfranchise the U.P., that we have some consideration of creation of a blog with issue discussion. I am not capable and leading it. I am glad to participate in it. I know the technology exists.

Second thing, question for the Chair. Is Section 5, Terms, on the goldenrod thing appropriate for discussion at this time? That's about terms of office.

CHAIRPERSON ALLEN: Sure.

MR. POULSON: Every few years this seat sits empty. Thank God, Hillsdale County is silenced. But that comes about because you can't succeed yourself.
I work hard to try to get people to take over this thing. All I have to do is go to a meeting, I write my letter to the constituents. I can't get anybody to come. So what I am discerning here is -- I hesitate to say that there is a plot by the big counties to disenfranchise the little counties, but I think there is a puzzle there that could be solved. I don't know why they have term limits on it. Maybe there is a good reason, so somebody doesn't get stuck to the chair, but it's a problem, and so I would ask the collective membership to think about that at some point. Thank you.

MR. RIGGLE: I am James Riggle from the 50th judicial circuit in the Upper Peninsula.

The Supreme Court has asked us to look to see if the Bar functions can be done with means less intrusive to First Amendment rights of its members and the idea of abolishing this group. Aren't we doing that right now? Aren't we providing a forum for the expression of urgent views, your First Amendment rights, as it is? If we abolish the Representative Assembly, then where do those rights, where do those views get expressed? So I am certainly in favor of the mandatory bar and continuing the Representative Assembly.
I agree to the use of technology, that the world is evolving and if we don't evolve with it, we will be the victims of technology. We have to be able to respond to this type of proposal that was made in January about our Bar more quickly than we are. I agree that there should be the two in-person meetings, but I also agree that there should be electronic communications, webinars or email even, to allow us to respond, and we should have a procedure developed on when we will use technology and how. Two more electronic meetings would seem to be appropriate.

As to the State Bar using money to express a political view, all our judges are elected, or they are supposed to be elected, and the public perception of those judges is certainly a State Bar concern, and the dark money altered that perception, as it has, in a very negative way, and I think that's a legitimate concern of the State Bar, because it reflects on the State Bar, it reflects on the judges, it reflects on the law, and it reflects on all of us as lawyers as we are working the system where the playing field is not level. So I have no problem with Mr. Courtade's remarks.

CHAIRPERSON ALLEN: Thank you.

MR. HILLARD: Martin Hillard, 17th circuit.
Couple of suggestions, Madam Chair. First, with respect to the communication to members, perhaps putting our proposals on the website with a prominent link on the home page so that members may quickly get to it. Perhaps even an email blast from the office before our meeting with a listing of the proposals in the link for them to read them in more detail and the earlier suggestion on how to find out who their Assembly members are, maybe even a link to the blog spot that Barry just volunteered to moderate.

And the second suggestion I have is our technology here. Why don't we use this all the time and, when we report the results of the actions on those proposals on the website and whomever they are sent to, report the vote. It means something maybe if it passed 131 or however many people we have here today to zero, that that reflects that this diverse body, geographically, politically and otherwise, all supported it, or that it passed, you know, 70 to 61, that it maybe passed, but it reflects that we are not all of one mind and that we are not just jamming ideas down the throat to say that this is what the Bar is saying. Just a couple of suggestions. Thank you.

MR. MORGAN: Ken Morgan from the 6th circuit.

My practice is largely national. As a
percentage, I probably do only about 20, 25 percent in Michigan. When I began to do that, I thought that what I was going to find was a better quality of communication and lawyering in places like California, New York, Chicago and elsewhere. What I found is that's not true. What I found is lawyers around the country are in the same circumstance we are as far communicating with each other. Everybody is too busy, everything is moving faster than it used to, there is more to lose, but what I have found is in those places where the bar has created the method of communicating, it goes easier. The lawyers work better together, and they do actually, it surprised me a bit, they have a more collegial relationship when they are dealing with each other.

I think that this body is First Amendment. I can't imagine someone who would argue that a legislature should not exist because it interferes with the First Amendment rights of the citizens. So the very notion of that I have a hard time with.

This body has to exist. How it exists becomes a more interesting question to me, and it seems as if an attack on it generally or an attack on the integrated bar is an impetus for improvement. I think that improvement can really be here. I think
that this bar can become better than elsewhere if this
organization embraces the kinds of communication
technology we are talking about.

    And the face-to-face, it's essential. We are
lawyers who self-select to be in a social position, a
profession where we deal with people. We can't
dispense with that either, but we can do so much with
a lot less than we used to. It's not as expensive.
There are only 130-some people here. There are
organizations ten times bigger than that that
communicate more effectively with technology they can
buy off the shelf.

    So there should be a group that focuses on
that. Those that haven't used it, it's going to be a
little harder. Once you use it, you are going to like
it better than not having it. To me there is no
question this organization has to push forward to take
the tractors out and just change the conversation. So
that's all I'd like to say.

    CHAIRPERSON ALLEN: Thank you.

    MR. LARKY: My name is Sheldon Larky from the
6th circuit. A lot of people this morning asked me to
stand up, and I will stand up and talk.

    I am one of those rare people in the room.
My P number starts with a 1, which means that I have
been around for a while. I think I was 15 when I got that number, by the way.

However, I have been on the Representative Assembly, as my brother from the 7th circuit has indicated, I think I have been on the Representative Assembly since the mid-eighties, and the only way I get off is I am term limited, so I am probably one of the more consistent people here, and I have to give you a background story.

Background story is I am heavily involved in politics. In my local bar association, I am the co-chairman of our legislative committee and have been for almost two decades, and I read every single bill, every single piece of legislation that comes out of the House or Senate of Michigan. In the 44 years that I have been an attorney, not once ever has there ever been a bill introduced to take away the mandatory State Bar. And it's only been brought because Bruce Courtade and the Board of Commissioners and our Assembly took a position regarding the openness regarding judicial elections. That's what brought this all about. And we are now arguing and we are now fighting with ourselves and we are fighting with the Legislature to try to convince them to not change the state law that was enacted in 1933, I think, because
in '35 we got the State Bar, to fight against the mandatory State Bar.

What happens if Michigan goes to a voluntary State Bar? Let me give you the easiest example. When I was chairman of the Oakland County Bar Association's membership committee, we had a little under a thousand members. In the two years that I served as the chair, we were able to double the membership from about 800 to about 1600. Membership now in the Oakland County Bar, which is the largest bar association, voluntary bar of Michigan, is 3,000 members. There are almost 12,000 lawyers in Oakland County, which means only one out of every four lawyers belongs to the largest voluntary bar in the state.

What's going to happen if we become a voluntary bar? For those of us in this room, the answer is we will pay the bar dues. We will pay the bar dues, because we are bar trekkies, all 131 of us are bar trekkies. What's going to happen though to our brothers and sisters who are not in this room? Are they going to look at the maybe upwards of $400 a year that they have to pay for bar dues, are they going to look at that as, well, maybe we should, we could save that money?

As someone said initially, if we don't pay
the bar dues, the state is going to take it from us. The state is going to take us and they are going to impose numbers, and those numbers are not going to take care of the disciplinary functions that we help pay for every year. It's not going to take care of all the things that we protect the small person and, frankly, the big corporations as we do our activities in this association.

So the question really is -- we did A, we approved A that says summarize our comments and recommendations made April 26. That's what it says we have to do. I would urge the committee to do the following: One, in no uncertain terms say to the Task Force and to the Supreme Court and to the Legislature, as the final policy-making Bar, policy positions of the 43,000 members, we urge the continuation of the mandatory bar, that's number one. That should be the first line of that report.

Second line is we believe that the system works, the bar system works, and we believe that -- what's wrong with what we have done for almost the last 80 years as a bar association? If it isn't wrong from the standpoint of big generalities, why dismantle it? Why does it have to be dismantled if it's working? To all of us in this room, especially those
in the smaller communities, ladies and gentlemen in the smaller communities, whether in Hillsdale or Menominee, our brothers and sisters are too busy. We are the eyes and ears of them. If you want, maybe we ought to do like congress. They talk about our constituency. I think we ought to mandate the State Bar ought to pay us to have constituency offices and have constituency hours. It isn't going to work.

Let's be honest, it's not going to work, because people are satisfied with what's going on. If you are satisfied with what you are doing -- yeah, you can grouse about we ought to have a law, we ought to do this, the judge should have done that, but if we live day by day and we are successful and we have been successful for almost the last 80 years, why do we have to change a thing? Why do we have to change a thing? We don't have to change our goal.

Section 1 of the rule is exactly what we should be, and yet, I agree, that there have been many meetings personally where I sat there and said, oh, hell, we are going to talk about commas and we are going to talk about T's and Q's, and we are going to talk about this rule. Guess what, we are lawyers. We love to nitpick. Why not? Why not do that? It's part of the process. It's part of discussing this.
You don't think the Supremes do that when they have a
court rule decision. They talk about nitpicking. We
can do it too. So we are 150 people. We have 150
opinions of it. All right, big deal. We will come to
a consensus, and like my brother from the 3rd circuit
who says there is only two liberals in this room. I
can count more. Matt Abel makes it three.

But the bottom line is, the bottom line is
we, all of us bring our wants and our needs to this
room, and we try to bring the wants and needs of our
constituents, but our constituents for the most part
don't know what we are doing. They don't.

Let's be honest about it. Larger circuits,
like I am in the 6th, I don't know how many members we
have. We have 20-some members. Do you think that all
20 of us go out and sing Kumbaya to all of our people?
No, we don't. Do the people come to us? No, not
always. But when there is a major issue, we bring it
back, we talk about it, we discuss it.

So the bottom line, I think, is part A of
what we voted yes on, I think we have to send a clear,
concise message.

Just one last thing. I think personally for
over the years what has really disturbed me personally
is the annual meeting. At the annual meeting I think
we make a serious mistake. The serious mistake is
many of us are members of various sections and
committees, and we would like to go to those meetings,
and they interfere with the Representative Assembly.
And if there is anything, I wouldn't have the
Rep Assembly meeting on the State Bar day. I would
have it meet some other time. I don't think we have
to meet at the annual meeting. It doesn't make sense
personally, and there is no reason for us to coincide
with it. I think we should be able to spend time in
our various committees and various sections.

And I personally, after having being on this
RA for this many years, I like to talk to people. I
love to meet people. I want to talk and shake
Tom Rombach's hand, and I want to tell a dirty joke to
somebody around here. And I want to find out who is
interacting with me, and this body does that, and it
gives me, ladies and gentlemen, I don't know about
you, it gives me a network to find new business.

Forgive me for saying it. You want an
attorney in Hillsdale? You better talk to somebody
here. You want an attorney in Menominee? They are
here. And they think that they are dedicated. I want
that dedicated person. Thank you.

MR. HERRMANN: Fred Herrmann, 3rd circuit. I
rise in support of the mandatory bar and the 
continuation of this body. Mr. Larky is always a 
difficult act to follow. I will do my best.

Picture for a minute your least sophisticated 
client. The person comes to you knowing very little 
about the law or the legal system or even the 
structure of lawyers in the State Bar. Bring that 
person into this meeting and witness this debate that 
we are having today. That's the person we serve. 
That's why we exist as a profession. And although 
today we have been discussing the structure of the 
Representative Assembly and the State Bar with respect 
to lawyers themselves, our ultimate purpose is to 
serve that client.

We are a body not just representing lawyers. 
We represent those clients and their interests as 
well. That's why the State Bar exists. That's its 
fundamental and primary purpose, not to serve lawyers, 
but to serve their clients. The work we do here, the 
rules we debate, the policies we discuss, they are all 
before us for the ultimate purpose of serving those 
clients.

If we take away the structure we have today, 
the ability to talk to one another, the ability to 
discuss issues with people up in the Upper Peninsula
who perhaps don't have the infrastructure support that we have downstate, how are those clients going to benefit when we are all islands floating out there on our own just trying to do our best without coming together?

The issues we debate, the viewpoints we get from across the state allow us to create better policy and create better rules that ultimately serve those clients, and, if we give that up, we take away that structure, we are hurting the public, and that's what we are all about, and that's why I support this.

CHAIRPERSON ALLEN: Thank you.

MR. WEINER: Jim Weiner from the 6th circuit. I have also been a member of the Representative Assembly almost since I became an attorney in the early 1990s, except for the mandatory one year sitting off when I served my two terms. It's been a very rewarding, personally, and I hope the Bar, experience for me and everybody else.

I come out in front in favor of a mandatory bar. I can't imagine not having a mandatory bar. I haven't practiced in a state that didn't, except Illinois, as I understand, doesn't have a mandatory bar, but they have the same dues structure as we do anyways.
I can't imagine the State Bar without the Representative Assembly. This body does do -- at times it doesn't seem like it does a lot of work, but it really does. I think it grounds the Board of Commissioners, it grounds the State Bar as something that is representative of all attorneys, and I think that it's very, very important for us to recognize that.

We have all sorts of viewpoints, and sometimes we do argue about commas, but I remember times when we have come up here and something has been presented to us and it doesn't say what the drafter has intended. So sometimes we have to debate those commas, we have to make those changes just to make sure that the Court Rules, or whatever rules that we are looking for, mean on paper what we intended it to mean. A misplaced comma, a misplaced period, or the wrong word in a certain area can make a major difference.

For those of you that practice administrative law, for those of you that deal with legislation day in and day out, you understand that. A change in the law, a change in a single word can mean a significant -- make a significant difference to what a law, regulation, court rule means. So I don't think
that's bad. Sometimes there are ways we can streamline it.

There are ways, whether it's an email blast or blog, it gives people ten days to respond and do that and things like that, especially now with the cloud out there that we can all have access to. There are ways that we can make ourselves even more relevant for those things and get the Representative Assembly's input on documents, on regulations, on acts and not have to deal with it at a meeting every six months and not have to wait.

There are times, whatever we do, if we do put that in, I hope that we all realize that there is a failsafe, that we should put in a failsafe for that so that when there is something that rises to a certain importance that people feel strongly about that is very, very divisive, that it is adjourned to a mandatory meeting. It is adjourned to one of the six meetings. If we all agree on something, there is no reason to bring it before this Assembly on one of these days. So I just want to put that together.

CHAIRPERSON ALLEN: Thank you.

We only have five minutes before lunch, and this is the first time that I am going to have all of you people in one room to ask a question. And this is
something that I struggle with as being Chair. What
types of issues do you want to hear? Because we have
got five minutes to give some ideas to get a feel.
What type of issues do you want to hear? Anybody? Do
you want just only court rules? Come up and tell me.
What do you want to hear?


Somebody right next to me suggested that some
of the speeches and awards ceremonies actually could
be done in the annual lunch. Everybody is there, more
people than you have in the Rep Assembly. The person
gets the recognition that they, quite frankly, deserve
and a broader group of people get to hear their
speech, their acceptance, and their story.

CHAIRPERSON ALLEN: Thank you. Got three
minutes before lunch starts.

MS. KAKISH: Kathy Kakish, 3rd circuit. I
don't think that we should make any preferences. Any
court rule, any legislation that properly belongs
before the Assembly should be submitted before the
Assembly, and to limit our work would actually defeat
the purpose of the role of the Assembly.

MR. WEINER: Jim Weiner 6th, circuit. I
agree with that. I don't think we need to limit what
comes before us as much as we need to be efficient about it. I remember one time -- it was very, very important -- was the Supreme Court wanted this Assembly to come out in favor of appointment of judges rather than election of judges, which would require an amendment to the state constitution, and, in fact, we had a special Representative Assembly meeting for that, and we came out strongly in favor of elected judges and continuation. I think that's important.

CHAIRPERSON ALLEN: Thank you.

MS. BRANSDORFER: Liz Bransdorfer from the 17th circuit. I think this body needs to reach out to the committees of the State Bar and to the sections of the State Bar and to invite those groups, smaller groups of our constituents to let us know what are the issues that affect their members' daily practices and what they think would make the practice of law better for the lawyers and for the clients that we represent, and that this group ought to take affirmative steps to invite those groups to let us know what's important, and then we ought to listen to those smaller constituencies. We shouldn't be limited to things that are going to affect every lawyer in this state. Those smaller constituencies have very important concerns.
MS. KRISTA HAROUTUNIAN: Krista Licata Haroutunian, 6th circuit.

I think in sort of echoing what a lot of the other members have said, but I think one of the things to do is to look at the liaisons. We were talking to some people in the break and, you know, we were talking about what about the liaisons, and I think Kathy Kakish maybe mentioned that as well. What about the liaisons? I mean, the commission, I think, has liaisons, but the RA has liaisons. I am not exactly sure, I haven't thought it through enough to know, but I am not exactly sure how to bring that out, but there has got to be a better way of bringing out what the liaisons learn at those sections and other meetings and bring that to us and maybe be a little more active in those meetings to say, Do you want the RA to look at this? Obviously they are talking about different things and that those issues could come out most effectively through the liaisons, because we have people there, and those are our people. Those are our RA people. So anyway, that was the thought I had.

CHAIRPERSON ALLEN: Thank you.

MR. PHILO: John Philo from 3rd circuit.

I would just oppose anything that seeks to narrow what we discuss. I think that just confining
ourselves to court rules, we have a greater duty, and
I think it was well said, we have a duty to the
public, and that is what we are about. We may express
that as we should talk about the things that affect
the practice of law, but that's in relation to the
public, and I think it's filtered through that, and
that sort of arbitrary narrowing I think diminishes
our role and the value of our role.

CHAIRPERSON ALLEN: Thank you.

MR. MEKAS: Pete Mekas, 49th circuit. Our
body has a lot of experience bringing in here a lot of
knowledge and very important, not only issues, but
arguments. Is there a way, especially with our new
emphasize on technology, that when a speaker comes
before the microphone, can we put his name or her name
on the board? With some circuits that have 20
representatives, not all of us know who all of them
are. We try to make notes as to who they are, but I
just wonder if there is a way that we can flash the
name and the circuit instead of just hearing it and
scurrying to write it down.

CHAIRPERSON ALLEN: Thank you.

Lunch. Okay, we made it. I adjourn the
meeting so we can go to lunch, and our lunch is from
11:50 and we will begin at 12:45.
(Lunch break 11:53 a.m. - 12:48 p.m.)

CHAIRPERSON ALLEN: Thank you, everybody. Can we take our seats. We are now back in session.

MR. CHIOINI: I would like to take the opportunity quickly to thank you for all your input this morning. It's invaluable to us at the State Bar and the Representative Assembly. We are going to take that information that you gave us and the questions that you had, we are going to give it to our committee, and let me give you the names of the committee, so if you want to communicate something to them, you can do that by email or however you like. Richard Barron, who you met with earlier this morning. Michael Blau is also here. Kim Breitmeyer, who is here. Myself, Lee Hornberger. Krista Haroutunian, I think she was here earlier, in the corner. Robert LaBre and Eilisia Schwarz. Thank you again, and all of your information will be given to the committee to give to the task force.

Oh, the vote, I forgot the vote, because we are new at the clickers. The vote was 97 to 3 in favor of the proposal. We will try to do that again the next time. Thank you.

CHAIRPERSON ALLEN: Thank you, Carl, very much.
We are now at consideration of proposal for MCR 2.602(B)(5), entry of consent judgment. The proponent is Dan Quick, not only our clerk, but also the chair of the Civil Procedure and Courts Committee.

CLERK QUICK: Thank you. Daniel Quick, 6th circuit. I am here before you as the representative of the Civil Procedures and Courts Committee. For the benefit of the new members, I thought I would take a moment to describe the process here.

When the Civil Procedures and Courts Committee originates a court rule proposal and it passes that committee, it comes only and directly to the Representative Assembly for your consideration. Should the Representative Assembly vote in favor of a proposal, it is then submitted to the Michigan Supreme Court for action.

The Michigan Supreme Court may do a number of things with it, including absolutely nothing, or it may open an ADM file, in which case it will solicit comments from the public and practitioners and additional sections of the Bar.

So in the event that something is passed by the Representative Assembly on these court rule proposals, it's not the final say. It doesn't go directly into your court rule books, but it advances
the dialogue to the court, which then has great
discretion in terms of how it handles the matter. So
for our new members I thought maybe that description
of process was useful.

Our first item today is a repeat, for those
of you who were here previously. This is a proposed
amendment to 2.602, addition subsection 5, to provide
an expressed mechanism for the entry of consent
judgments. The Court Rules do not at the moment call
expressly as to how these are supposed to be handled
and dealt with. They are used increasingly by
parties, typically in settlement discussions, as a
part of a settlement package, and the Court Rule
specifies how it should be presented to the court,
opportunity for an opposing party to challenge whether
the triggering event, in fact, has occurred, and that
is the right granted, unless the order itself says it
can be entered without notice, both before the actual
entry of the consent judgment and then there is an
additional window after the entry of the judgment for
a party to come forward and challenge and say
essentially, hey, that should have never happened.
That triggering event for the entry of the consent
judgment was never satisfied, and the trial court
retains complete discretion in terms of how that be
handled.

This proposal has gone through our Rules and Drafting Committee, and I would move the Assembly to adopt the resolution regarding MCR 2.602(B)(5).

CHAIRPERSON ALLEN: Is there a second?

UNIDENTIFIED SPEAKER: Second.

CHAIRPERSON ALLEN: Discussion?

MR. LINDEN: Good afternoon. Jeff Linden, 6th circuit. I had just a question. I don't know with regard to the discussion, but with regard to the no notice to the opposing party of entry if it's contained in the judgment section, coupled with the subsection (D) of the proposal, which has basically a right to have a hearing within 21 days of service of the judgment, my question is, if you want and were preserving the right to challenge entry of the judgment after it's entered, why permit an option to have the inability to challenge it while it's pending but before entry? And I understand the argument of being it's a negotiated situation with a consent judgment. My concern is in the circumstances where an adhesion contract type situation might be drafted with consent judgment language in it where the party who is affected by entry of it doesn't have any opportunity to say whether the conditions have been met or not
before entry, and it's a different universe to try and
undue the court action after the fact than to raise
the argument that the judge then has before entry, and
I want to know if that was addressed by the committee
and if a slight modification might be available to
alleviate that concern.

CLERK QUICK: This goes back to what
originally came before the Assembly where there was an
additional subsection 6 which dealt more with the
situation that you just gave in your example. If you
look at the language in 5, it only deals with, first
of all, where there is already an action pending
between the parties or was pending previously, and it
only applies when there is an actual proposed judgment
signed and approved by the parties thereto or their
counsel of record.

So if I understood your hypothetical
correctly and there is something in a credit card, you
know, terms abuse buried in page 37 in small print,
that doesn't satisfy this standard. You would have to
have a judgment actually signed by the plaintiff and
the defendant or their counsel to be able to submit it
to the court and invoke this rule.

The logic in terms of the ordering of things
is that, and the Michigan Court of Appeals has said
this, that a consent judgment, even though, obviously, all judgments carry force of law, really is a different animal than a judgment that's a result of a deliberative process, a jury or a trial, and it is a matter of contract between the parties. So if the parties contracted for entry without notice in order to move things quickly, as ought to happen if, in fact, the trigger event had occurred and the party entitled to enter the consent judgment, then it does get entered, but we did think it appropriate to have a check on that process beyond the judge, which is to provide the party notice and give them that de novo opportunity after the fact to come in and say, no, it shouldn't have been entered for X or Y or there is a mathematical error. So that at least was the thinking of the committee.

MS. BRANSDORFER: Liz Bransdorfer from the 17th circuit. You have a 14-day notice before the hearing on a motion to enter the judgment if the judgment doesn't provide for entry without notice. But then in the last sentence it says, If the debtor does not file and serve specific objections within that time, the court shall enter the judgment. Every other motion that gets filed, you can appear at the hearing and object. Was it intentional
that the debtor didn't have the opportunity to simply appear at the hearing and object and there did, in fact, have to be something filed in writing before the hearing date? And if that's intentional, I would like to know why, because it is so different, I think people would get tripped up.

CLERK QUICK: I will just explain to you the rationale. Keep in mind, again, this is only when you have already had an action and both parties have signed the judgment or their counsel have, and this scenario is I now have filed a motion for entry of the consent judgment. So, like any motion, if the court has the discretion and somebody hasn't filed a response brief, to simply grant the relief requested in the motion. So we wanted to clarify that unless the party against whom the judgment is being entered doesn't come forward with some specific objection, that the court has the authority to enter that order.

Again, I think that's completely consistent with already the motion rules that require a response, but also to avoid a stringing out of the process where a motion gets filed, no response brief is filed, the debtor comes in and hems and haws at a hearing, and the judge say, Well, what am I supposed to do with this? We wanted to make it clear that there is a
process, you got to follow the process.

MS. BRANSĐORFER: Yes, but the judge doesn't have discretion; the judge shall enter the judgment.

CLERK QUICK: Right. If they waive the opportunity to file their objection, that's right.

MS. BRANSĐORFER: So that is the intent of the rule?

CLERK QUICK: Yes, it is.

MR. PAVLIK: Adam Pavlik, 54th circuit. At the September meeting when this first came up -- by the way, I would just like to lead off, I support this in substance. I think this is a fine change to the Court Rules. I think this gets at my discomfort with some of the knocks that were made on debating punctuation and whatnot earlier. I think that some of that stuff can be very important, and I think this is a good example of that.

I said at the September meeting that I felt like this proposal, as much as I supported it in substance, is, in my opinion, somewhat archaically worded, and I would just give you one example of something that I think is a drafting issue with this, which is if you look at (B)(1), (2), (3) and (4), they are all complete sentences, but (B)(5) is not a complete sentence. Just as an example of something, I
think that's suboptimal work product for us to send to the Supreme Court, and, frankly, if I had my druthers, I would recommit this to the pertinent committee and have them improve upon it in that respect. Whether there is any support in this group for that or not, I don't know, but that's my take on this, notwithstanding my substantive support for the intent behind this proposal.

MR. ROTENBERG: Steven Rotenberg, 6th circuit. I am just wondering if this rule is redundant, because a judgment is a final order, and you can enter an order with everybody waiving notice and presentment and signing off on it, and I am just wondering if we are muddying the Court Rules by having something that we could already do, and I am just wondering why we are messing with something that we can already do and just codifying it in a way that could add to confusion. I don't see how this improves stuff. If you dislike something that was entered, there is opportunity to challenge it within seven days if it was improperly entered. There is already a 21-day appeal, or even for other good cause shown, a year to show that something was done improperly in various other sections of the Court Rules. I am just wondering why we need to add suspenders to the belts
that are already there.

CLERK QUICK: Two responses come to mind. First, our committee, like the RA, consists of practitioners across the state in different practice areas -- large firms, small firms, public and private -- and there was a strong consensus that consent judgments tend to confound the courts because there is not expressed provisions dealing with them, especially in a situation which this rule contemplates, where it may expressly call for entry without having to file a motion and go through all the normal procedures that you might go through in another context. So that was the rationale. So the consensus of the committee was different than your observation, which is that it is not belts and suspenders and that you need something expressed in order to make the court feel more clarity in terms of what it's doing.

MR. FALKENSTEIN: Peter Falkenstein, 22nd circuit. This is my first meeting. I am a new member, so excuse me if I go back to Judgments 101 here just to try and catch up to where we are. I note in the background section here that cognovit, also known as pocket judgments, are recognized statutorily. What I am curious about is how does this new rule put a gloss on the statutory
recognition or the precedent that has established
that, and will there be any change, substantive
change, to those of us who have used the pocket
cJudgment in the past that we are going to have to be
aware of? It's not abundantly clear how this
interplays with the statutory provisions.

CLERK QUICK: I will tell you that the intent
as to the cognovit statute was to recognize that even
though the statute exists there wasn't clear
implementing language in the Court Rules, so it was
meant to actually recognize the statutory right that
existed, also to recognize other scenarios, but
certainly to recognize the statutory right, and
provide a clear path for its operation in the courts,
that was the intent.

Quick question for clarification. With respect to the
Court Rule, it deals, at the second sentence of (5),
the creditor and debtor. Does that mean that this
Court Rule only applies to what we might commonly
refer to as a collection case, or can this Court Rule
be used to apply to anything?

CLERK QUICK: It's intended to -- it says the
word -- that's why the word "thereto" is included.
It's meant to capture the parties to that judgment.
So if, you know, it's Joe versus Susie, one of them is the creditor and one is the debtor in that scenario.

MR. RENNER: So, for example, you couldn't use this in a real estate judgment or --

CLERK QUICK: No, you could use it anywhere, but in the context of the judgment, right, somebody is a creditor and somebody is a debtor, and this is a consent judgment.

UNIDENTIFIED SPEAKER: Only if it were money.

MR. RENNER: Rather than saying plaintiff and defendant, it says creditor/debtor, which seems to me to be --

CLERK QUICK: It was not meant to be limiting in the sense you just described.

UNIDENTIFIED SPEAKER: Can you say all parties and/or their attorneys?

MR. TERMAAT: Tom TerMaat, 17th circuit. I had a question about the creditor and debtor language there. Maybe, correct me if I am wrong, but I think technically they are not really creditors and debtors until after the judgment is already entered, right? So at this point when they are submitting it to the court, they are just either proposed or alleged. Did the committee look at that language, adding a qualifier, or did they intentionally use that
language?

   CLERK QUICK: Well, as I said, the intent was
to capture the parties which are going to affect the
judgment. So all parties would probably be
overbroad -- I heard somebody make a comment -- as
there may be multiple parties that the judgment
doesn't affect. You wouldn't necessarily have all
parties to the litigation. I understand the comment,
but I am just telling you what the intent was.

   MR. TERMAAT: Would it be more appropriate to
put proposed or purported or alleged or something in
front of those terms, because at that point they are
not creditors or debtors yet?

   MR. WEINER: James Weiner, 6th circuit. May
I offer a friendly amendment and say, instead of the
creditors and debtors, say the parties bound by the
judgment or their counsel? That would eliminate the
need for a signature of parties not bound.

   CLERK QUICK: I would accept that.

   MR. KOROI: Mark Koroi, 3rd circuit. This
situation comes up a lot in the creditor/debtor
context, mostly in collection cases, and there has to
be some due process what I believe include this case
that protects the defendant. Many of these people in
these type of cases are unrepresented parties being
defendants. You have a collection train on one side, you have unrepresented party on the other side, especially in district court, and there has to be some type of method where people go in, file objections and do something, at least I think does provide it. What I have seen in the history of court case also is that judges have no guidance. Every judge's office has its own policy how they address these type of cases.

The tip-off case is a lawsuit is filed for $10,000, for example, and the parties will agree if you pay 5,000 payments, we will enter a dismissal with prejudice. Before that it will be dismissal without prejudice. And some judges say, once it's thrown out without prejudice, I have no jurisdiction afterwards; it's done. And they will not -- or this will provide for some kind of meat where the judge actually has power to take this type of case and enter in those terms.

It's going to be more and more common with the advent of the financial collapse of 2008, and we have situations where the courts are being flooded with these collection cases. Credit card cases, all types of collection cases are flooding the courts, and I believe that this type of particular rule is necessary to guide the judges on what to do. But
typically what I have seen is that there will be a settlement for X amount of dollars. If there is default, the affidavit is entered. Meanwhile, it gets off the judge's docket via, this is without prejudice, and if everything is paid for, a dismissal with prejudice will enter. If not, a judgment will enter for the full amount or greater amount, so it uses the incentive for the debtor to pay the money on time, and so this particular rule, I believe, in whatever form it's finally entered, is needed in the court system to guide the judges and the parties or attorneys on how to do this.

CLERK QUICK: Thank you. Your comments, and I didn't want to read the whole rule, because we have addressed it before, but I point out in subsection (C) the requirement of an affidavit by the submitting party or their counsel averring as to the basis of the judgment. So, again, it's something signed under penalty of perjury, yet an additional protection that the judgment being sent into the court is being properly submitted.

MR. PAVLIK: I just was going to raise a point of order, and if no one else is rising to speak, it may be moot, but I was wondering what the question on the floor is? Are we going to vote on the
amendment, or is discussion going to be as to the merits of the proposal itself?

UNIDENTIFIED SPEAKER: I call the question.

PARLIAMENTARIAN CHMURA: Before we call a question, we have what's called a friendly amendment. Robert's Rules hates friendly amendments, they do, and the reason why is because when you adopt a friendly amendment, you don't get a chance to vote on the amended motion, and Robert's Rules thinks that everybody should have a chance to vote on what the amendment is separately from the motion itself, and if the maker of the motion accepts the friendly amendment, you don't get a chance to vote on that, you are now voting on something else.

However, it's always been the practice of this body, at least since I have been around, which is five years, and I think even before that, to do friendly amendments. The tradition is that we just do it that way, we accept it that way.

So I guess really the question before the Assembly is whether it wants to, I don't want to say suspend Robert's Rules of Order, but at least put that one provision aside and go by way of friendly amendment instead of voting on it separately. You could do it by unanimous consent, which means saying
that no one had an objection, we will just accept the
friendly amendment and vote. The motion would be as
the provision is amended, instead of voting
separately.

MR. LARKY: I move to accept the friendly amendment.

UNIDENTIFIED SPEAKER: Second.

CHAIRPERSON ALLEN: All in favor?

It passes.

PARLIAMENTARIAN CHMURA: So to answer your
question.

UNIDENTIFIED SPEAKER: One in every crowd.

PARLIAMENTARIAN CHMURA: What is before the
Assembly now is the proposal, as amended. Whether or
not that should actually be passed or not is currently
pending.

CLERK QUICK: There was a motion to call the
question.

PARLIAMENTARIAN CHMURA: There was a motion
call the question.

CHAIRPERSON ALLEN: All in favor. Now you
can use the clickers. We are voting now.

MR. HILLARD: Call the question.

UNIDENTIFIED SPEAKER: Point of order. Are we voting on whether to vote on the question?
PARLIAMENTARIAN CHMURA: No, you are voting on that.

CHAIRPERSON ALLEN: We are voting on that, because we --

UNIDENTIFIED SPEAKER: We need to vote on whether to call the question.

CHAIRPERSON ALLEN: We did.

UNIDENTIFIED SPEAKER: We voted on whether to accept the amendment.

CHAIRPERSON ALLEN: No, we did not vote on accepting the amendment, because we had discussion that the amendment was a friendly amendment. We voted on that to move it along so that we would move now to this. There was a motion to call the question. We called the question.

PARLIAMENTARIAN CHMURA: That requires a two-thirds majority.

CHAIRPERSON ALLEN: Now we are voting on this.

MR. HILLARD: There was a motion on the floor to accept the amendment. That's what we voted on.

PARLIAMENTARIAN CHMURA: What we are voting on now is whether or not to end debate, call the question. It was seconded. That's a nondebateable motion. It requires two-thirds majority.
UNIDENTIFIED SPEAKER: Madam Chair, please state the question before us.

PARLIAMENTARIAN CHMURA: This is on whether to end debate. If this passes, then we vote on the proposal.

UNIDENTIFIED SPEAKER: Tell us when it's time.

CLERK QUICK: Vote now on calling the question, please.

UNIDENTIFIED SPEAKER: Technology is wonderful.

CLERK QUICK: We will do it by webinar next time.

UNIDENTIFIED SPEAKER: Some of us already voted.

CLERK QUICK: We cleared it. You cannot vote more than once, unless you collected clickers from other people.

Any final votes?

The vote is 93 to 9 with two abstentions.

UNIDENTIFIED SPEAKER: Now we vote on that?

CLERK QUICK: The voting is now open on the main motion. Any final votes?

The vote is 75 to 28.

UNIDENTIFIED SPEAKER: Which way?
CLERK QUICK: Up.

CHAIRPERSON ALLEN: The proposal 2.602(B)(5), entry of consent judgment with the friendly amendments as stated on the screen, passes 75 to 28.

CLERK QUICK: Thank you. The next item is a proposed amendment to MCR 2.305(A)(1) to add the language you see there. It is intended to clarify that a subpoena cannot be issued in a case until the guidelines of 2.306(A)(1) have been he met, which by way of summarizing basically means somebody has had enough time to show up in a case and be active in it.

Some counsel have taken the position that as soon as you file a lawsuit you have the authority to start firing off third-party subpoenas and deposition notices, even though the defendant maybe even hasn't been served with the underlying complaint and, hence, obviously, is not in a position to address the subpoena.

The committee believes that that is not the intent of the Court Rules, in that there is language already, in terms of the interplay between 2.305 and 2.306, that speaks to this issue, but it is not perfectly clear. So in the desire to try to achieve perfect clearness, on what we have undoubtedly failed, as I am about to be told, the intent was to the make
it very clear that the 2.306(A)(1) timing requirements apply on these subpoenas.

UNIDENTIFIED SPEAKER: Second.

CLERK QUICK: Thank you. Motion and second.

Yes, sir.

MR. FALKENSTEIN: Peter Falkenstein, 22nd circuit. The first sentence says, Subpoenas should not be issued except in compliance. Why does it not say "shall not" instead of "should not".

CLERK QUICK: I don't know.

MR. FALKENSTEIN: I would offer a friendly amendment that the rule be, Shall not be issued except in compliance.

CLERK QUICK: I would accept that amendment.

UNIDENTIFIED SPEAKER: Second on the amendment.

CLERK QUICK: Now we need a motion on the amendment.

PARLIAMENTARIAN CHMURA: Just ask, is there any objection to accepting that as a friendly amendment.

MR. PAVLIK: Adam Pavlik, 26th circuit. I, once again, support this proposal in substance. However, I would note, and I don't have my copy of the Court Rules right here in front of me, but I believe
if you consult, I think it's MCR 2.310(C)(1), this is inconsistent with that, because MCR 2.310(C)(1) specifically allows for the service of this kind of a subpoena with the filing of the complaint. I think that this is a fine thing, but I would not amend MCR 2.305 to provide this language. I would instead direct this amendment to MCR 2.310, which is the court rule that governs demands for the correction of documents which are initiated by a subpoena of this sort.

CLERK QUICK: I do have the benefit of the Rules here. 2.310 deals with requests to a party.

MR. PAVLIK: Uh-huh, and this --

CLERK QUICK: Not dealing with subpoenas, which would be to nonparties.

MR. PAVLIK: I see. Notwithstanding that, I guess -- okay, I understand what you are saying. Okay. Thank you.

CLERK QUICK: Thank you.

MR. KOROI: Mark Koroi, 3rd circuit. I just want to point out I do oppose this for a number of reasons, the most salient of which I have had situations in the practice of law where, for instance, I represent a third party who may have, for instance, a machine that's allegedly defective by the
manufacturer. The plaintiff's attorney will then file a lawsuit, and they then will have an expert examine the particular machine that may be in my client's custody and issue a report whether or not they believe there is anything defective about the design.

If that expert report comes back negative, the case is dismissed. If it comes back positive, the case goes forward. There is really no reason at that point for opposing side to have notice of this particular type of situation, because all it is is giving the plaintiff an opportunity to see if he has a case at all. They can't discover if they have a case until an opportunity to view something that may be in the control of a third party. It's analysis to hospital records in medical malpractice suits, but in that case at least you get that from a third party. In a products liability case you cannot.

So I do believe that the way the language is here, I do not believe it covers -- it covers situations in which a defendant may benefit from the fact who's on the case to expend money, and the plaintiffs benefit because that's a situation where they would be open to sanctions for filing a frivolous lawsuit because they get to have their opportunity to look at expert report, they could look at the machine,
get an expert report done, and decide whether or not
to go forward with the lawsuit and serve papers upon
the defendants.

So in this particular case I don't like the
language here. It's too overly broad. I am sure
there are situations where there are abuses that do
occur, and if it was there merely to address those
abuses, it would be a far better rule, but in this
current language I cannot support it.

CLERK QUICK: Thank you. Let me just
indicate that 2.306(A)(1) does contain language which
permits parties to seek leave of the court if they
want to get it sooner than the rule would otherwise
allow. So there is the ability in the right
circumstance to go to court and get that authority.
So that's a partial response. Yes, sir.

MR. ROTENBERG: Steven Rotenberg, 6th
circuit. While I somewhat agree that this rule
addresses something -- let me clarify, because I have
had in my personal experience fights over whether or
not discovery has begun or not. I don't have my Court
Rules with me, but the phrase "rules of discovery
shall be liberally construed" comes to mind here, and
I just don't see why we should be narrowing this in
this matter.
CLERK QUICK: Well, I don't want to repeat what I said earlier. I mean, obviously, if one party is not represented and there is a bunch of third-party discovery taking place, that's a potential for abuse, and in the federal system, of course, there is no discovery kicked off until after the initial Rule 16 conference and the parties have an opportunity, everybody is sort of at the table before someone says go. So that's the intent.

MR. ROTENBERG: Okay.

MR. LARKY: Call the question.

UNIDENTIFIED SPEAKER: Is there support for that?

MR. ROMBACH: You can't call the question unless they are acknowledged by the microphone. You have to be the speaker.

UNIDENTIFIED SPEAKER: You want to acknowledge him?

CLERK QUICK: No.

Yes, sir.

MR. MORGAN: Kenneth Morgan, 6th circuit. The rule as drafted is slightly inconsistent with 2.303, which pertains to the preservation of testimony by way of deposition prior to an action of appeal. Under that rule, the Court can issue an order
authorizing the taking of depositions, but the text of that rule does not authorize the court to then in its order compel the person to attend, that instead speaks to the use of other devices under the rules, which I presume, as I read it, to mean the subpoena.

As you propose it, one could go to court, obtain the authority to go get the deposition, but not have the means to compel the attendance of the person whose testimony is to be preserved. There should be, in my view, some reference to 2.303 so that it's clear that in that circumstance a subpoena could be issued as authorized by the court.

CLERK QUICK: The committee did recognize that, and it felt it was handled by virtue of the language that exists in 2.306(A)(1), which says, Leave of court, granted with or without notice, may be obtained to get the deposition beforehand. So it's --

MR. MORGAN: You think it's tied in there?

CLERK QUICK: -- built in there because of the leave of the court's discretion.

CHAIRPERSON ALLEN: Any further discussion? None being heard.

CLERK QUICK: Voting is open. Any further votes?

Vote is 81 yes, 16 no, 3 abstain.
CHAIRPERSON ALLEN: Proposal 2.305(A) with the amendment of "shall" passes at 81 yes, 16 no.

CLERK QUICK: Thank you again.

Next item is a proposed change to MCR 2.003(D)(3)(a), just perceived to be a little bit of a hole in the rules where you have a chief judge who has also been disqualified and what happens. The existing practice, we confirmed with the SCAO, is exactly what this rule says, which is if the, normally that if the trial court is disqualified it would go to the chief judge, but if the chief judge is disqualified or it's a one-judge court, then the SCAO would pick a judge from a different circuit to hear the matter. So this just memorializes existing practice. It really just identifies a gap in the Court Rule in terms of possible scenarios and trying to address it.

So I would move that the Assembly recommend the adoption of this proposed amendment, 2.003(D)(3)(a).

UNIDENTIFIED SPEAKER: Second.

CHAIRPERSON ALLEN: Discussion? No discussion?

CLERK QUICK: Voting is open.

Any final votes.
Vote tally is 98 to 5, 98 in favor.

CHAIRPERSON ALLEN: 2.003(D)(3) passes 98 to 5.

CLERK QUICK: Thank you again.

Last but not least is the proposed modification to MCR 2.403(G)(1). The recommendation calls for the advance notice of the names of the case evaluators before you actually show up at case evaluation. It was proposed in recognition of issues where case evaluator names are not disclosed, then it turns out that one of the case evaluators has a conflict, which then causes infirmities in the panel or sort of run around at the last minute trying to find a replacement panelist who then hasn't read the materials, et cetera, et cetera.

The proposal is to add that language to (G)(1), and I would move that the Assembly recommend the adoption of this amendment to 2.403(G)(1).

UNIDENTIFIED SPEAKER: Support.

CHAIRPERSON ALLEN: Discussion? There not being discussion, it's time to vote.

MR. FLESSLAND: No, no, you are not going to get off that easy.

Dennis Flessland, 6th circuit. The concern that I have is, in all the years I have been
practicing, both as a case evaluator and as an advocate in these cases, I have never run across a situation where we had to disqualify a mediator, and I have never heard of a situation where that has happened, so my guess is that it's a pretty rare, pretty rare event, and that to require, especially in the big circuits, to require the number of cases they have to evaluate to send out notices every time one evaluator can't be there or they change evaluators because of a schedule problem I think puts way too much of a burden on the ADR clerks in the big circuits in particular, and for very little benefit for a situation that doesn't happen very often. If it does happen, I suppose that if there is a serious conflict the attorney who feels he is disadvantaged or he or she is disadvantaged can just say, I don't want to go ahead, and refer it to the assigned judge to rule on it or deal with the issue some way like that, but it seems to me changing these names and notifying all the people who are going to evaluate on a particular day that a panel member has changed is a burden to the administration.

CLERK QUICK: Let me just say in partial response, obviously in the bigger circuits, Wayne and Oakland for example, there is e-filing, and it's
pretty easy to push a notice out. That was
considered.

JUDGE NELLIS: Jeff Nellis, 51st circuit. As
a person who practiced and was a case evaluator, I can
tell you, in small counties this comes up fairly
often, so I don't know if the rule was crafted with
the smaller counties in mind, but I would rise in
support of it, because sometimes you are dealing with
a relatively small pool of case evaluators who have an
expertise in the subject matter, and conflicts do come
up just by virtue of the fact there is a limited
number of attorneys who are both practicing and
sometimes serving.

CLERK QUICK: Yes, sir.

MR. KOROI: Mark Koroi, 3rd circuit. I was
going to say, I have been a case evaluator for a
number of years in Macomb County and Wayne County, and
the situation in Macomb County, they do give notices
out to all the litigant attorneys of who the people
that are going to be the mediators in the circuit are
beforehand, and it's been twice in my particular
experience that I had to recuse myself as a
mediator/case evaluator, and one time the advanced
notice helped, got me out early in the case. The
other case I had, it was brought, at least learned
that one of the witnesses in the case, it was on the
day of the hearing, and I recused myself, and
everything went okay, but this situation does happen
even in the larger circuits, which I practice.

I think it's a good rule, so we ought to
cover this type of issue on the date of hearing and
all of a sudden you get a new mediator, because as a
case evaluator/mediator, the trouble is you are
getting high volume of cases every single day, and if
we have to switch places with another panel, a
different room, that particular case evaluator then
has to learn, get up to speed on that new case.
That's hard to do. This advanced notice I think
protects everyone and is a smooth change to a neutral,
somebody that's neutral, as opposed to somebody
subject to disqualification, and I think it's a good
rule to have.

CLERK QUICK: Thank you.
CHAIRPERSON ALLEN: No further discussion, we
call the vote.

CLERK QUICK: Voting is open. Any final
votes?
The vote is 101 yes, 6 no.
CHAIRPERSON ALLEN: MCR 2.403(G)(1) passes
101 yes to 6 no.
CLERK QUICK: Thank you very much, ladies and gentlemen.

(Applause.)

CHAIRPERSON ALLEN: Thank you, Dan.

We are now moving towards -- we are early also -- the 2014 award recipients. May I ask Judge Nellis to come back to the podium as the Assembly's Nominating and Awards Committee chair to present the proposed individuals for the Michael Franck and the Unsung Hero Award.

JUDGE NELLIS: Good afternoon. I will start with the Unsung Hero Award, and this award is given to an attorney who exhibits the highest standards of practice and commitment for the benefit of others. This year's nominee is Susan F. Reed of Detroit. She was nominated by Elizabeth Jolliffe. Her complete information is in the packet, but just a couple of comments.

Susan has focused her lengthy practice in the area of criminal law with distinction. She frequently receives the most troubling criminal assignments because she has done such an exceptional job with challenging situations. It's also noteworthy that she has served as an adjunct professor at Detroit College of Law, is president of the Wayne County Defense Bar,
and is a former teacher in the Detroit Public Schools. So we thought that she, in particular, was an excellent pick for this year's Unsung Hero Award. So at this point in time I would move for the nomination of Susan Reed as this year's recipient.

UNIDENTIFIED SPEAKER: Support.
CHAIRPERSON ALLEN: All in favor?

Discussion.

Support. Discussion? No discussion. All in favor?

JUDGE NELLIS: I believe the motion carries.

Secondly, the Michael Franck Award. This award is given to an attorney who has made an outstanding contribution to the improvement of the profession. This year's proposed nominee is Julie Fershtman. She was nominated by Frank Hamilton Reynolds.

As most of you know, she was the chair of this body. She has served as the president of the Michigan State Bar. Quite frankly, her accomplishments are really too numerous to mention here today. Again, the information is in our packet, but we really felt on our committee that her career and what she has accomplished really exemplifies the principles that Michael Franck stood for, and so at
this time it gives me great pleasure to move for the nomination of Julie Fershtman as the recipient of the Michael Franck Award.

UNIDENTIFIED SPEAKER: Support.

CHAIRPERSON ALLEN: Discussion? No discussion, vote.

UNIDENTIFIED SPEAKER: We are not going to use our clickers?

CLERK QUICK: No.

CHAIRPERSON ALLEN: All in favor say aye.

Objections?

Thank you, Judge, for your presentation with regard to the Michael Frank and the Unsung Hero Award.

Next I would like to welcome to the podium our State Bar President, Brian Einhorn.

(Appause.)

PRESIDENT EINHORN: This is what you want, right, speeches? I was sitting back there and thinking, well, one thing everybody is most consistent on is they want to do away with speeches, so I took it personally. But I am still going to give you one. The reason I became Bar president is that I like to give speeches, so that's it.

But some of you may or may not know, I have been practicing law almost as long as Larky. Actually
longer than larky, and I have a lower P. number.

I have been successful in any definition of what a successful lawyer would be as far as people I represent and people who are still willing to pay me to represent them and as far as the practice goes and starting with a small firm and becoming a bigger firm. And so I did this, the Bar presidency and getting involved with the Board of Commissioners somewhat on a lark, but because I wanted to sort of give back, and because I thought I would have the time to do it. Maybe not so much.

But I like lawyers. I mean, my practice pretty much involves representing lawyers and sometimes an occasional judge, and I have come to appreciate what we do, and I have come to appreciate that when I go and meet with a lawyer client, the first thing they say somewhere along the line is, hey, I knew I never should have represented that idiot, and secondly is that people aren't going to like me because I am a lawyer.

The first part is probably true. The second part is not. I mean, I have tried, I don't know, 20, 25 legal malpractice cases in my career, and the jury, so long as your client hasn't done something that, you know, there is lawyer jokes about, are appreciated.
The juries like what the lawyer did. They understand how hard the individual lawyer worked to provide the representation to the client.

And what I like most about lawyers, though, is that we make sure that the system works. We make sure that the justice system functions. We make sure that there is access to the courts, and we make sure that the access to the courts are at least maintained at a minimum and hopefully expanded. And we do it better when we do it collectively than we do as an individual.

If Brian Einhorn says to a group of four or five people that the fact that people don't get access to the court and it's too bad or that this judge was not elected in a fair way or that this judge maybe had $2 million contributed to his or her campaign and we don't know who contributed and doesn't that sound badly, I mean, people say yeah, yeah, yeah, but if Brian Einhorn says it as the president of the Bar, it's a big deal. Not because I am any different than when I said it as an individual or if I said it as a group. The message is there. And we make the message best when we are making it as a group.

So if you want to try to determine whether we are better off as a mandatory bar or a voluntary bar,
I say we are probably better off as a mandatory bar because we have more people. A lot of the things we do at the Bar, some of the functions we do at the Bar, we probably could do and would do even if we were a voluntary bar, and, believe me, there are a couple major advantages of being a voluntary bar. We wouldn't have to be worried about what we say. I mean, if you don't like what I am saying as your leader as a voluntary bar, then you walk. But we as an organization can make the point, and we don't have to be worried about who we might piss off. That's a Latin term.

So that's one of the, what I have found, to be the major advantage of being a mandatory bar is that we have the resources to do many of the things that need to be done, not for ourselves, not for our practice, somewhat for our practice, but for the justice system that most of us got into the practice of law to make sure is maintained.

So, I mean, there are programs that the Bar has engaged in, I mean, one being the Crossroads Task Force, which is three or four years now ago, but they recommended a bunch of programs -- business court, realignment of judges, elimination of certain courts, realization of where the customers are. I mean,
that's what the litigants are. That's what the people who go through the court systems are, they are customers, and understanding the way that we can provide those customers with better service. And the Crossroads did it by using the resources of the State Bar and the research capabilities of the Bar and providing the time for the Bar and providing the research for the people who served on the Crossroads, and there is a lot of positive things that came as a result of it because we had the resources to do it.

If we were a voluntary bar, we probably couldn't. I belong to the Oakland Bar. There is 3,200 members. They make their point, but still, 3,200 people don't have the same impact as allegedly 43,000 of us do.

So when Bruce Courtade and Janet Welch wrote a letter to the Secretary of State and said something really crazy -- I mean, the fact that the Representative Assembly the year before that voted unanimously that we would have disclosure in judicial elections, the fact that the Board of Commissioners subsequently had a subcommittee that included some pretty conservative people associated with conservative groups that agreed that you need to have disclosure in judicial elections, and the fact that we
wrote to the Secretary of State and just pointed out the obvious, hey, when you are having elections, we can't have what issue ads are involved with judges. Tell Judge Einhorn that he ought to be fair. Okay, good. But why do we also let this issue ad -- you know, when Brian Einhorn was a lawyer, he represented a rapist and said it was okay.

That's not an ad to vote against Brian Einhorn or in favor of Brian Einhorn. We know what they want. It's an issue ad, because it's telling Brian Einhorn, when you become a judge or now that you are a judge, be fair. That's issue ad, and, therefore, the people who contribute to the issue ad don't have to be disclosed.

Is anybody bothered by it? Well, of course we are. Everybody here who voted on it was bothered by it. As I have gone around the state and talked to various groups, I haven't gotten one person yet -- of course, I told them if they raise their hand I would shoot them -- but I haven't gotten one person yet who has suggested that it was a bad position.

And when people say that the Bar shouldn't be involved in ideological activities, well, we shouldn't be if we are involved in ideological activities that are not Keller permissible, but if they are Keller
permissible and having a fair justice system so that we know that when some circuit court judge or supreme court judge has had a million dollars contributed to him or her by Brian Einhorn or by some group that Brian Einhorn is behind and so that when you are on the other side of a case with me, you might want to raise to that justice or that judge that maybe he or she should disqualify themselves. And if they don't want to, you can then raise it to the entire court. That's the justice system. That way we know that when a person is going to hear the case, we have a reasonable crack at having it fair, and that's all we said. That's all we said.

And as I have listened to the discussion here this morning, some people, they said, you know, we may need to be careful about the positions that we take on certain things. So long as it's Keller permissible, if you want to go through a process of having the super majority to determine whether something is or is not Keller permissible, I guess that's okay if you are worried about whether or not you are doing something correctly or not. But this is as Keller permissible as anything I have ever seen in the eight or nine years that I have been on the Board of Commissioners. It is -- and Janet Welsh doesn't like to hear me say
this -- it is the best thing that's happened, that we have done as a Bar since I have been associated with the Board of Commissioners. We have done other good things. The task force was a good thing. Indigent defense was a good thing. But this got attention. It got attention to the people who should have had attention drawn to it. And what was the reaction? They didn't like it that we said it. That's it. They didn't like that we had a voice and that people heard it.

Isn't that what we want to be? Isn't that what we want? Don't we want to be a relevant group of people? And we were. And to have somebody suggest that we should be a voluntary bar because we said something they don't like to hear is scary to me. To be afraid of making a statement because it might piss somebody off -- again that Latin word -- is not something that I would think any of us would want to be a part of. I know I don't.

So we have nothing to apologize for that letter. We should loudly scream to anybody who thinks it's wrong. Explain that we can engage in -- what's an ideological issue anyway? Is an ideological issue something that, because I don't -- I am a member of the Republican party or the Democratic party and my
caucus thinks that, for example, I don't think people who are on the boards of corporations should sit on juries when a corporation is a defendant, because they are going to be too sympathetic to a defendant or a plaintiff. So we are going to, as a caucus, we are going to pass, propose a statute and pass a statute, or try to, that says, Members of boards of corporations cannot sit on juries when corporation is a party to the case. So the Bar goes, Wait a minute. We are now denying access to a jury of peers because some group thinks that these people will not be fair to their client? I mean, wouldn't we oppose it? So we oppose it.

Let's give the democratic party saying that they did this. They are in control and they say it's an ideological issue. This is what we believe in, and the fact that you don't agree with it is ideological and we are opposed to it, so, therefore, the bar should not engage in it.

That's not what we are supposed to do. We are supposed to take a look at what is on the table. Is it a statute? Does it meet Keller? And, believe me, I have been more frustrated by our Board of Commissioners' decisions about what is and what's not Keller permissible. If I was making the decisions,
there is a whole bunch of things that I think is Keller permissible that others might not. So we have been very restrictive about what we think is and is not Keller permissible. That's all we have to continue to do.

So when you are sitting around trying to decide what role the Representative Assembly has, and I will tell you, and I have expressed it to people privately, I get frustrated by the Representative Assembly sometimes, and I get frustrated, not because of who you are or what you go about, but how long it takes to get something done.

Yesterday, for example, at the Board of Commissioners meeting we looked at the rules involving the State Bar, and we made some proposed changes or suggested changes which we will submit to the task force. And a couple people said, well, you know, it ought to have been in the Representative Assembly, because they make a determination on policy. Well, so, therefore, we wait 45 days or until September for the Representative Assembly to meet to evaluate whether or not we should submit this to the task force which will have already been shut down for four months?

I mean, you can't be a policy-making body --
I am okay with you being a policy-making body, but you need to be responsive so that things can get done in a responsive way. If the Bar is going to consider, for example, the Court of Claims, which we were never able to consider, but if we were going to consider the Court of Claims and we had some time to do it and had decided that it's a policy-making issue, the Representative Assembly would not be hearing it until today. That is not how an effective organization should function.

So when you are evaluating what you are going to do, I wouldn't limit what you do. I mean, somebody suggested or somebody asked, Kathleen asked, well, should you be only looking at Court Rules or should you only be looking at statutes? No, you should not be limited to anything you are going to do, but you have to do it in a way that's effective. And there is no answer as to what might be effective. Taking a year to evaluate something in the right case might be the effective way to do it. Taking ten days to do it in another case might be the effective way to do it. So you need to adjust your rules so that you can function that quickly, I think, or take as much time as you want.

So in any event, it's been an interesting six
or seven months, and I have gotten to meet some very interesting people. I have had some interesting conversations, but I will tell you that there is no one so far, other than maybe Alan Falk, who thinks that a voluntary bar is a good idea, and there is no one who thinks that the Bar's position on the letter to the Secretary of State was a bad decision.

Thank you for making that policy decision and directing us, and good luck in making sure you function, because we don't know what the task force is going to do. No one knows what the task force is going to do, and, frankly, I mean, this is Brian Einhorn's opinion, period, because everything is Brian Einhorn's opinion, period, but the task force is, I think, very pro bar in its organization. I mean, you have got the incoming president of the Bar, you have got the executive director of the Bar. You have got three other sitting members of the Board of Commissioners on it. You have got two former presidents. The only three people who aren't, to my knowledge, associated with the Bar, or have been, is Professor Reed and Peter Ellsworth and a senator who is a lawyer, and maybe in the years past they have.

So I don't think the task force is going to do anything significant. I do hope that the task
force doesn't try to limit our public policy, because there are occasions where we need to be the voice of that public policy. My concern is more the court, because they are going to be looking for money in the election in 2014, and if they are going to say the Bar has done a wonderful job, the people who were paying money are going to say, Well, you didn't do anything for us. So I am a little concerned about what they might do, but I am not concerned about the task force.

Anyway, thank you for taking time to listen to my speech, and assuming we are still around in September, I promise the speech will be short.

(Appplause.)

CHAIRPERSON ALLEN: Thank you, President Einhorn.

Our next speaker is Janet Welch, executive director of the State Bar.

(Appplause.)

EXECUTIVE DIRECTOR WELCH: Thank you, Kathleen. What I am about to say I think will come as a surprise to those of you who have heard me speak to you, which is that it's my habit before I speak to you to script out what I am going to say and to lose sleep over it for about two weeks in advance, and the reason I do that -- there are three reasons. One is that I
am not a very good extemporaneous speaker. The other
is that there are about 150 of you and, you know, out
of respect for your time, I want to make sure that
what I have to say is tight and well scripted. And
the third reason is that everything that's said into
this mike is transcribed and lives forever in history,
and that's very intimidating.

But I did not do that this time. I lost
sleep over this meeting, but I didn't lose sleep
crafting remarks in advance of this meeting because
the topic that you were dealing with was so big and so
important and I knew I was going to speak after and
that I really wanted to listen extremely carefully to
what you had to say and take that in, and I didn't
want to be focused on remarks that I had thought about
before listening to you. So I am being slightly
extemporaneous here and it makes me nervous.

What you engaged in today is what the people
of the state of Michigan and lawyers need. The
attention that you have paid to the issues and what
you brought here today on this beautiful day is
something that I appreciate tremendously as executive
director. Being executive director is a humbling
experience. I am your servant. You can call me any
time. You can catch me after the meeting. You can
email me. I am yours. But the way I can best show my
gratefulness to you today, I think, is to say thank you
and to give you back eight minutes of this beautiful
April day. I agree that for the most part speeches
are not what you need to be about, and you were about
what you needed to be about today. So thank you.

(Applause.)

CHAIRPERSON ALLEN: I am going to try to wrap
up earlier so that I do let you go, because I would
like to be out of here before 2:15, when I am supposed
to be speaking, so we are early on the agenda.

I want to do a couple housekeeping matters
first. You have your forms from the RA committee.
Those have to be completed and sent to Anne. Without
these forms -- we talked about process, we talked
about engagement, we talked about working and making
us relevant, making us better. We cannot have those
things if you do not participate. Participation means
filling these out and signing it and providing it.
Because we don't know who you are. You can fill it
out, but that's not going to be helpful. So let's
fill it out, make sure you give it to Anne. And,
Anne, can this be done electronically also?

I would like to repeat. Sign it today, and I
am going to send it again electronically on Monday so
that you can have it, you can fill it out also, but
that doesn't mean you can't fill it out today. I am
just giving another option, because some people might
be tired of writing.

Also, this year, very important, our
president-elect, Tom Rombach, I think he is still
sitting here -- Tom, you want to raise your hand. He
is working this year with vice-chair Vanessa Williams,
and they are going to appoint RA members to the
State Bar committees. So they are going to work in
conjunction with each other, so that we are not -- we
are kind of tag teaming. So we are not doubling up
and having two people at the same place. It makes no
sense. Again, efficiency, be more effective, and
that's something that we are going to try to implement
this year.

So you received an electronic selection, and
that has to be completed. The due date is Monday.
Due date is Monday, but, as lawyers, we always have a
little extra time. We calendar it for Monday, it's
due on the 30th, which is Wednesday, all right, but I
want you guys, everybody to shot for Monday, but you
actually have till Wednesday. They changed the date
for us.

Additionally, these clickers, very important,
a couple things with regard to them. You want to thank the Representative Assembly review team. Carl's team got these, and you asked for them, so that's why we are trying them out, to see how effective they are. It did cut down time with regard to voting. Aside from the process, we are trying to figure out how everything works and is moving along, but in theory, it seems like it's going to be very functional, and it's much nicer than saying out loud, like we did a couple times.

Secondly, again, I mentioned earlier they are $40 a piece. We did not buy these, okay, so we need to have these returned, again. Because if these are not returned, Anne is going to get after me. I work at Legal Aid, and I cannot afford each and every one of these. So please, please return these. These are going to be by the desk where you came in in boxes. They are not garbage cans. They are boxes for these. So remember, please, put those in there.

I think that's it. Those are all the housekeeping matters. Anne, is there anything else? We have to pass out these attendance sheets. Please sign them and hand them back to Anne as well.

My closing remarks, you have heard a lot of speeches today. You don't need any more. I thank
everybody for coming here and the purpose, and the most important part of this meeting was for this morning, to hear each and every person to what they want. We can sit as committees and try to figure out what people really want, we can send out surveys to see what people really want, but to have you present and talk and at least have the opportunity to express your own feelings of what you want is the most important thing, and I thank each and every one of you for coming here, taking the time out of your day and getting up from your seat and coming to this microphone.

I know your time is precious, especially on a weekend, because you have families and you have things to do and you have taken your time away from your families, and thank you very, very much for doing that. And I think that we received a lot of valid and very good information. Concrete information, not just I like it. Concrete information to make us better, to improve who we are. And, again, if you have any other questions, you have the name of the committees, and we will email that out with that form that we are going to be sending to you to complete on Monday, so if you have any other questions, please, please email us if you have other thoughts so that we have more
information.

Does anybody have any questions? No, good.

Meeting is adjourned.

(Proceedings concluded at 2:00 p.m.)
I certify that this transcript, consisting of 141 pages, is a complete, true, and correct transcript of the proceedings and testimony taken in this case on Saturday, April 26, 2014.

May 27, 2014

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REPRESENTATIVE ASSEMBLY

February 26, 2014

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