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

AT HEAD TABLE:

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

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<table>
<thead>
<tr>
<th>CALENDAR ITEMS</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Call to order</td>
<td>3</td>
</tr>
<tr>
<td>Certification of quorum</td>
<td>3</td>
</tr>
<tr>
<td>Adoption of proposed calendar</td>
<td>3</td>
</tr>
<tr>
<td>Approval of 4-21-12 summary of proceedings</td>
<td>4</td>
</tr>
<tr>
<td>Filling of vacancies</td>
<td>4-6</td>
</tr>
<tr>
<td>Presentation of Unsung Hero Award to Judy B. Calton</td>
<td>7</td>
</tr>
<tr>
<td>Presentation of Unsung Hero Award to Jeffrey S. Kopp</td>
<td>7-8</td>
</tr>
<tr>
<td>Presentation of Michael Franck Award to Hon. James H. Fisher</td>
<td>8-10</td>
</tr>
<tr>
<td>Remarks from Chair Stephen J. Gobbo</td>
<td>11-14</td>
</tr>
<tr>
<td>Assembly Review Interim Report &amp; Future Direction by Richard Barron</td>
<td>14-16</td>
</tr>
<tr>
<td>Consideration of Mandatory Posting of Court Dockets by all Courts by Matthew R. Abel</td>
<td>17-40</td>
</tr>
<tr>
<td>Remarks from President Julie I. Fershtman</td>
<td>40-55</td>
</tr>
<tr>
<td>Remarks from Executive Director Janet K. Welch</td>
<td>56-62</td>
</tr>
<tr>
<td>Panel Discussion on Developing an Inventory Attorney Rule for Michigan</td>
<td>63-93</td>
</tr>
<tr>
<td>Nomination and Election of Assembly Clerk</td>
<td>93-101</td>
</tr>
<tr>
<td>Introduction of Hon. Michael J. Riordan, Michigan Court of Appeals</td>
<td>109-111</td>
</tr>
<tr>
<td>Swearing in of Dana M. Warnez, 2012-2013 Chair</td>
<td>111-115</td>
</tr>
<tr>
<td>Announcement of Assembly Clerk</td>
<td>115</td>
</tr>
<tr>
<td>Presentation of Recognition to Assembly Members Completing terms of service, Committee Chairs and Immediate Past Assembly Chair</td>
<td>115-121</td>
</tr>
<tr>
<td>Adjournment</td>
<td>121</td>
</tr>
</tbody>
</table>

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

RECORD

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

VOICES: Good morning.

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

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

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

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

VOICE: Support.

CHAIRPERSON GOBBO: Hearing a second and a motion moved, all in favor say aye.
Any opposed to, say nay.
The ayes carry.
Is there approval to adopt the summary of proceedings from the April 21st meeting?
VOICE: So moved.
CHAIRPERSON GOBBO: Hearing a motion, is there a second?
VOICE: Second.
CHAIRPERSON GOBBO: Hearing a second, any discussion?
Hearing no discussion, all in favor please say aye.
Any opposed say nay.
The motion carries.
I am going to call Jeff Nellis, the chair of the Nominating and Awards Committee to come forward concerning filling vacancies of the body.
MR. NELLIS: Thank you, Mr. Chair. Good morning. I am Jeff Nellis from the 51st circuit. I am the chairman of the Nominating and Awards Committee, and before I do the formal stuff here, I would just like to thank everyone on my committee. As you know, we deal with filling the vacancies and also with coming up with our nominees for our awards that we are going to be giving out today. They put in a
lot of hard work, and I really appreciate your efforts.

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

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

Moving on to formal business, we have two vacancies that we need to fill today, and, as I always say when I come up here, it's our goal to have 100 percent participation. We have that again this year, and we have done that for several years in a row, and
I think that's a true testament to how important our body is.

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

VOICE: So moved.

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

VOICE: Second.

CHAIRPERSON GOBBO: Hearing a second, any discussion?

Hearing no discussion, all in favor please say aye.

Any opposed say nay.

The ayes carry.

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

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

(Appause.)

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

(Appause.)

CHAIRPERSON GOBBO: The next award recipient
is Jeffrey Kopp. Jeffrey, if you could come on up for
presentation of the award.

(Applause.)

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

(Applause.)

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

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

(Applause.)

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

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

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

Justice Tom Davis, who is a good friend of mine, wanted to be here this morning, but Tom is in Ireland visiting his daughter. He and I have been going around the state the last year or so helping other courts set up their current jurisdiction plans, and so he has been a great support to me through the year.
He wanted to be here. I did make him promise me that -- it's 3:00 in Ireland right now -- that he would find a suitable public house to raise a pint, so here is to you Justice Davis.

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

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

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

(Applause.)

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

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

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

(Moment of silence.)

CHAIRPERSON GOBBO: Thank you. I can tell you that I very much appreciate the experience that
the membership of this august body provided to me by
electing me as the clerk of the Assembly a few years
ago, and in that position you then become the
vice-chair and then the chair of the body. It's an
experience that seems when you begin it's going to be
a long, long time by the time you complete your term,
which essentially is a three-year term. During that
period of time you also serve on the Board of
Commissioners. It's a bittersweet moment when you
think that something is going to continue forward and
then it ends, and that's the way it is today for my
term as chair.

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

So at this point I want to assure you that
Dana and Kathleen, who will be moving up in terms of
their respective positions, we have worked together
very closely. We have some shared objectives, which
you will hear more about later on in the meeting, and
it's going to be up to this body really to move things
forward in some way to make sure that it remains
relevant in the scheme of the way decisions are made within the Bar, and this is the final policy-making body.

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

So I just want to leave you with a thought that the Assembly going forward is going to have to reach into its own resources, each individual, to determine certain things going ahead into the future,
which I hope that a foundation had been established this year.

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

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

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

I mentioned to the chair one of the problems with rules for a body like this is that the rule has to apply in the County of Wayne and it has to apply in the County of Ontonagon, and they are very different situations, but we need to address that. We need to think about making ourselves more effective, more efficient. Maybe having awards like today where they move substantially faster than in the past is progress
on that, since all the members of this body have had
an opportunity to review the rather extensive CV's of
these awardees.

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

(Appause.)

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

With respect to that, each of you may be
called upon at some point to respond to surveys, and
Dana as the incoming chair will likely be establishing
different forms of committees to look at different
issues, and I don't want to go too far into what she
has in mind as the chair, and I will leave that for her to make comments on later on.

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

VOICE: Keep going. You are doing great.

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

MR. ABEL: Somebody told me they are filming.

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

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

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

And after that experience I went back to my
office and I took a look at the Court Rule, because I
couldn't believe that it didn't require that dockets
be posted. And so it turns out that, I think it's
8.112 says that the court clerk may post the docket.
Apparently they may not post the docket if they feel
that's appropriate. And I didn't feel that was
appropriate. So I began a small campaign to change
the word from "may" to "shall," and so a year and a
half later here we are.
I thought it was a no-brainer, but, you know, I am a young guy, I guess, and so it had to go through drafting, and I appreciate the help of the Drafting Committee and Steve and Vanessa. Several people helped on this. And so now we have it back, and it seems that it's a simple and clear amendment to the Court Rule that we will just say that before each courthouse opens its doors to the public, all daily court dockets for all courts in the courthouse shall be displayed in a common place in the courthouse and in a manner that can be easily read by the general public.

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

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

One of the reasons why I do this is I think the Assembly is great. I went to law school because I want to be a legislator. I have run for office seven times. I have never made it, so this is as high as I get in policy making, and the speeches are great, but I get tired of just sitting through speeches and not actually doing anything. This is actually the only action item on the agenda today. And that frustrates me, and this is a no-brainer, and I exhort and encourage all of you to find those things that aggravate you, those small things, and bring forward a proposal to change them.
This was the no-brainer, the top of my list of five or ten items that I thought should go through the Assembly, and if I live long enough, maybe you will get to see more of them. But how many criminal defense lawyers are in the room? Okay. How many prosecutors? Couple, okay. So there are a lot of criminal defense lawyers. Let me just, if I can, just take one minute to talk about one other issue.

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

Now, it's wrong and it's garbage, but they are hiding behind a Court Rule that needs to be amended. That Court Rule needs to say that discovery is available in all criminal cases. Why is there a distinction between felonies and misdemeanors? And this comes up repeatedly. I would say monthly, if not weekly, there is a case where someone is trying to get...
discovery and a prosecutor plays games with them citing the Court Rule, saying it's not available.

Now, that doesn't happen all the time. A lot of prosecutor's offices will just email you the discovery right up, but that is a real serious change that would benefit a lot of people and save a lot of money in the criminal justice system because it wouldn't take so much attorney time to run down something that we are entitled to have in the first place, much like this court docket. This is a simple thing, but there are more things that can be done, and I think that change for discovery will be huge, and I would be happy to work on a committee to do that.

This is my last term on the Assembly, because it's two terms and off, but luckily my office is in Wayne County, where there are plenty of seats, and I hopefully will have the opportunity to run again next year, and I intend to do this.

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

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

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

So with all of that, I think this would have a de minimus cost. Yes, it might require them to print a couple extra sheets of paper, so we have some paper and some ink and maybe some wear and tear on some printers, but aside from that this would be a huge benefit to the Bar and to the public and to me.
personally, and I am all out for me, but actually it
makes me a better lawyer, and my clients think I am a
pretty good lawyer, and I am going to continue doing
that. So please help me. Let's pass this small
no-brainer and move on to something more important.
Thank you all very much.

(Applause.)

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

VOICE: Support.

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

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

Matt, you got a winner here. This is great,
and, more importantly, the speech that you just gave
about calling this body to action, it was right on.
This body, it's like anything else, the more you put
into it, the more you get out of it. This body can do
some wonderful things. We have got some incredible
minds in this room. Come up with ideas, bring them.
If you don't have the time to do it, send it to the leadership and they can send it to the Special Issues Committee and somebody will take care of it. We just need people to show a little bit of initiative, and this body can be a wonderful entity. It will be something. I know I have cherished my time here, and I hope all of you have as much fun of with it as I have.

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

(Applause.)

MR. SMITH: Joshua Smith, 30th circuit. I may have mentioned this at the April meeting, but I think the problem with this proposal remains, the Headlee Amendment problem. Even if the cost is de minimus, that doesn't mean the State might not or won't get sued, and in the Supreme Court case from a few years ago the State's position, and full disclosure, I work for the attorney general's office, and I work for the division that defends most of the
Headlee suits, the Supreme Court allowed the plaintiff's case to go forward even though they hadn't proven any cost.

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

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

CHAIRPERSON GOBBO: Any other questions?

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

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

CHAIRPERSON GOBBO: Thank you.

MR. PHILO: John Philo from 3rd circuit. I would just like to say I am a strong proponent of open courts, and as young as I like to think I am, when I started practice it was very common to see the dockets out in front of every courtroom, and in a relatively short time I can't figure out what's going on in most of the courtrooms. I notice that more because I am more interested in sitting through watching a trial if I have a free day. That's very difficult, and I can
only imagine for a member of the public, and I have represented groups and worked with groups who want to do court watching, how difficult it is to truly figure out where they want to be or what's going on without going in and sitting down for a half hour.

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

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

Matt's proposal could perhaps suffer no loss if the text said "open actions" or "open cases". In other words, the juvenile and the neglect cases are not open, so I would ask him to consider where the word should go, but that aside, in Hillsdale the docket is on the morning radio. We all know where it's going to be at 8:00. They tell us who is being tried. They probably tell us the verdict ahead of time too. But I have been to some courts where I
couldn't find out what's going on, I agree with that. I thank Matt for finally getting off his butt and doing something positive with the group, and I know he has set an example for us. I am going to take on, if I ever come back here, that typewritten form in the family law that you all hate or your assistants do. I support this, but I would ask someone who is more adroit at this to consider putting in the word "open" so that we don't have this Juvenile Court/Neglect Court issue.

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

Please.

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

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

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

JUDGE NINOMIYA: Thank you. Chris Ninomiya 41st circuit. I am rising in opposition to the proposal. I am not opposed to the concept in general that dockets be posted, but I think there needs to be
a little more consideration that goes into this. Specifically, I think probably the various judges associations should be at least consulted, asked for their feedback. They may have very specific reasons in terms of why they don't want a specific case posted. There could be security issues with a PPO case. There could be security issues with a domestic violence case. There could be a lot of different reasons. Closed cases, as somebody else mentioned. And also I think it was Frederick mentioned there is a great deal of difference between Wayne County and Ontonagon. I work up in the U.P., and I can vouch for that.

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

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

CHAIRPERSON GOBBO: Thank you.

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

As far as cases that may not want to be open
to the public, most courts will suppress the name on
the file, provide the file number. As far as the
Supreme Court is concerned, I am sure the Supreme
Court isn't just going to just rubber stamp this. I imagine they are going to be doing their own research. I would ask the body to support it.

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

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

MR. ABEL: Should I do that now?

CHAIRPERSON GOBBO: Please go ahead

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

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

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

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

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

MR. ABEL: I did, and I apologize for reversing the -- for the dyslexia. I don't really
have an opinion as to whether "easily" should go before or after "read".

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

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

    CHAIRPERSON GOBBO: Thanks, Matt.

    Anybody else, would you like to make comments?

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

    CHAIRPERSON GOBBO: If I could stop you. If it's going to be more than six, it's going to have to be in writing and then submitted, would have to get it
out to the body and everything, so I know it's a little bit of a word challenge. Any changes of six words or more is going to have to be in writing to the body.

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

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

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

CHAIRPERSON GOBBO: As long as it's six words or less, the amendment could be done here, and the parliamentarian just pointed out to me that the changes actually would have to be before the motion was seconded in terms of the way the bylaws are set up.
If we can, perhaps we could take a short break and give our colleague the opportunity to come up with something. If there are no objections, we will take a break for about ten minutes. Also, President Fershtman is here too, so after we dispose of this particular motion and issue, we'll have Julie come up and address the body.

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

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

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

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

MS. MURPHY: Thank you, Mr. Chairman. Again, Susan Murphy from the 4th circuit. Before I make my formal motion, I just want to say I think we had enough of a debate on the floor going over these words, so I want to thank everyone that participated
in trying to come up with something that was less than five words, or less than six words, and so I am making a motion that we amend the language so that we add a comma after "courthouse," excluding parties' names in nonpublic cases, comma, and then continue with the original language.

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

VOICE: Second.

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

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

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

Any opposed say nay.

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

VOICE: So moved.

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

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

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

MS. VESTRAND: It puts the word "and", and in a manner that can be read easily by the general public.
public. I don't think they are connected.

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

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

CHAIRPERSON GOBBO: Thank you. Any further
comments at this point in time? Otherwise I would
call for a motion on the entire proposal as amended.
All in favor please say aye.
Any opposed say nay.
The ayes carry. The proposal is adopted by
this body.

(Applause.)

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

(Applause.)

PRESIDENT FERSHTMAN: Good morning. It's
still morning. I promise I won't use this. It's been
many years since I was Assembly chair. It is a honor
to be here today with all of you. As many of you know, because you have looked at the schedule, in about a little less than two hours you will be convening in probably that facility over at the Amway for the inaugural luncheon, and I have the opportunity there to give about 15 minutes max, I am told, of remarks as the outgoing State Bar president, so my goal in being here now is not to rehash those 15 minutes, because we have a package of other items, and you will be hearing it soon anyways.

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

Let me start out with the first part of my remarks. What has the Bar been doing with solo and small firm practitioner attorneys? Well, you probably know the statistics that a very significant percentage of the State Bar of Michigan, about 51 percent, is composed of private practitioners, and of that, 71 percent is composed of solo and small firm
practitioners. The diversity among that group is
tremendous in terms of geography, age, racial
composition, gender, ethnicity. It's a very diverse
and large group, but the needs of that group are
substantial, and as I look around I think that some of
you are within that category, and I know I was. For
17 of my 26 years as a practicing attorney I was a
solo and then a small firm practitioner.

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

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

If you took a look at that website just a
year ago and you compared it to what you see today,
you would find the difference is almost night and day. Thanks to the State Bar staff and its hard work, the content has improved, the organization has improved. They call it Practice EZ. There is even a section for those of you who are playing around with your iPads and iPhones, a section on, what do they call it, Apple Practice, recognizing that many of you are using these devices. That's one of the positive developments I am happy to share with you about what the Bar has been doing on that front.

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

You go to the website, you will find the lending library, and if you have a Tablet, iPad or probably even your office computer device, look for a
publication involving an issue of practice management that you find relevant and interesting. It will be downloaded to your Tablet, iPhone, iPad instantly, and then you don't have to worry about returning it, because in Mission Impossible style, I think I mentioned that in my text remarks, it self-destructs. No, it does not destroy your devices. It simply deletes itself from your system and it's gone.

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

I've got about three more. The next one, relevant seminars. And we go back as well to the Practice Management Resource Center staff. They have taken a look at the topics that they think are of interest to those of us who are particularly involved in solo, small firm practice and certainly other types of practices too, and they have been trying harder than ever to give us relevant programming, relevant seminars. They have done two that were total
homeruns, and those involved the use of your iPad, and, yes, I know that's not exactly a solo, small firm issue, but it is an issue that cuts across lines of a significant number of members.

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

Fourth, as many of you heard if you heard me give my inaugural remarks just last year when I was sworn in, we have a Practice Management Resource Center Advisory Committee that is about to give us a report that will help us learn how we can even further expand and improve the Practice Management Resource Center. There are needs out there that attorneys
have, and we are trying very hard to make sure that we
close them and that we do it quickly and
inexpensively.

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

You probably noticed that for those in small
practice there is a virtual receptionist program.
That's not a bad idea, and I encourage you just to take a look at it, see if it's worth your while to cut or reduce overhead expense if you have to but yet continue serving your clients and letting your clients know that you have somebody there to take the calls, forward information to you quickly and timely. That's just one of them.

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

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

A year ago, actually almost two years ago, the Bar did a member survey, two of them. One was the member survey and one was the economics of law
practice survey, and we got an idea of the membership, what interests people had, the economics of practice, and among the many things that found their way into our strategic plan was to work harder on mentoring. And, as many of you know, the new mentor board is out. Go to the State Bar website. The mentor board is kind of a matching service, if you will, for young attorneys and for attorneys who want to be mentors. Take a look at it. It's out. We are working with it, and it's already proving to be pretty popular and pretty successful.

Anybody who knows, including yourself, if you are in the search for a new job, the new, somewhat new job target board, it's been up for about a year. The job target board is in full force. And you may be saying there are job boards all over the place. Yes, that's true, they are pretty popular, but a comment on that is that our job board will send you an alert, an email alert, if an opportunity comes up in your areas of interest. So you can immediately act and respond on it pretty quickly. That's yet another service that the Bar is providing considering the membership, considering the difficult economic times that we are in and, well, considering that it's simply trying to be relevant.
A couple of quick things I will add, then I will share with you why I think we should be proud of the Bar and, frankly, ourselves.

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

I asked the Diversity and Inclusion Advisory Committee to take a look at the issue, and it issued very recently the caregiver work group report. If you go to the State Bar website and you go to the area where you just throw some words in, you can pull up caregiver work group report. I encourage you to take a look at it, because it offers best practices and suggestions for large firms, small firms, and corporations to help their members address the problems. As I see it, it's a win, win, win. We keep
people in practice who would otherwise leave. We help people and their families receive the attention they need with children and aging parents. And employers, of course, benefit by having continued work in the work force. And of course the other benefit is we keep people in the profession, because many people work really too hard, as I see it, mainly women, leave the profession. Hopefully with implementation of best practices we can keep people here, keep them in the fold, continue the profession's diversity. So this is another very positive development.

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

(Applause.)

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

We also should be proud of the Bar because we received, and just on my watch, I had nothing to do
with it, the American Bar Association's very prestigious Grassroots Advocacy Award, which was awarded at the U.S. Supreme Court with Justice Sotomayor in attendance, and receiving that award on behalf of the Bar and speaking was not easy when the Supreme Court Justice is kind of staring you down, but the job got done, the Bar received the award, and it worked very hard for it, so I commend the Bar.

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

I think we should also be proud of Steve Gobbo. We should be proud of him because, you will hear more about him as he steps down, and you know him from the meetings that you have attended, but what you may not know is that very recently the Michigan Supreme Court thought highly enough of Steve that they appointed him for a term on the State Bar of Michigan Board of Commissioners, so he will be serving
as a commissioner of the State Bar of Michigan yet
again because of an appointment from our Michigan
Supreme Court. That's something to be proud of.

(Appause.)

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

(Appause.)

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

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

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

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

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

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

There is a silent auction, and it benefits the West Michigan Center for Arts and Technology, and if nothing else, there is great camaraderie. You will
be able to meet fellow lawyers, judges, people who
care about our profession all in a fun, uplifting
environment.

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

(Applause.)

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

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

(Applause.)

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

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

(Applause.)

CHAIRPERSON GOBBO: Another person who provides great counsel to the Bar and might be because prior to her role as the executive director of the State Bar, she was the counsel to the Bar, and that is Janet Welch. Janet is going to come up and make remarks, but I just want to acknowledge just her efforts, and next to Julie, one of the most remarkable
women that I know as an attorney in terms of Bar leadership, and please, Janet, I hope to recognize you and then also allow you to have your remarks.

(Applause.)

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

Normally I start out with my remarks at the annual meeting, Representative Assembly meeting, recognizing the efforts of the retiring chair of the Assembly. This year, however, having been told, as you were just informed, that Steve Gobbo is moving from the Representative Assembly to the Board of Commissioners, I will save my remarks about Steve for another three years when his term on the Board of Commissioners ends. So you will have to trust me,
Steve, that I had a lot of really nice things to say about you.

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

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

   In my view, the justification for the existence for the Assembly and for the expense of the Assembly and for the time that you devote to all the work that the Assembly demands, that justification is your collective contribution in guiding the Bar forward in addressing the basic but very hard questions that the profession faces as the way legal services are delivered are changing dramatically. So your role in figuring out how in this environment we
protect our ethics, how we advance the elusive goal of justice for all, and we do that as technologies change and emerge and as the market does whatever the market does, that is, I think, your essential challenge.

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

But that, I submit, is as it should be, because the point of the proposal, which is big and important and difficult, is not simply to enshrine a set of words in a court rule with the expectation that those words will settle all the issues concerning what lawyers do and how legal services are resolved and how we protect the public. We do, in fact, hope that the definition we recommend will make its way into court rule, but the process by which the court considers the proposal, the expansion of the dialogue about what the practice of law is and the conversation about what the implications of the definition are just as important.
as what the law finally says, if and when the fog that currently prevails on the subject is finally lifted.

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

The definition of the practice of law and promoting an understanding of what we do to the public at large is an increasingly urgent question in the face of the growing number of people who can't afford or just as importantly think that they can't afford to hire a lawyer, and so they go to court to represent themselves. Your proposal signals the beginning of the official conversation on this vital topic. At the same time, in the coming year the Assembly's efforts
in promulgating 11 principles of an effective public defense system are just now beginning to bear real fruit, the imminent promise of a permanent Michigan indigent defense commission.

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

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

Whenever it crosses your mind as you are sitting here that you could be somewhere else making money, for example, or enjoying a beautiful Michigan
day outside, seeing some art, or even catching up on sleep, something very much on my mind right now, please remember that the slow but hugely important changes are work that you have done.

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

(Applause.)

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

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

CHAIRPERSON GOBBO: If I could get everybody's attention. We are running a few minutes behind, and while the panel is starting to assemble below, the day is here, and what I would like to do is
to introduce Gregory Ulrich. It's been my pleasure to
serve with Gregory on this body, as well as on the
Board of Commissioners, and he is going to be
moderating the panel discussion on this particular
informational item which, from what I can tell in
reading some of the comments in the various Bar
publications and the local Bar publications, it's gone
in some interesting -- and a lot of questions.

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

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

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

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

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

Just to give you an idea of where we have gone logistically with this, we have solicited information, responses, comments from sections and committees and from local Bar associations from major.
metropolitan areas in Michigan, groups that meet on a regular basis, and we have asked them to react to the language of the rule but also to aspects that they might see as either unintended consequences or things that need to be taken into consideration. And I do want to tell you that there is one kind of overarching theme to most of the responses, I just received one a few days ago from the Arts Section, another one from the Health Law Section, where there is I guess a reading of the rule as providing for a process but without in their minds a lot of detail.

That's true. There is no detail to the rule. The rule is to be as simple as possible, especially when you are dealing with the Supreme Court approved rule for the Bar, and so the rule itself simply says we would ask attorneys to provide the name of an individual that has been identified, sort of like a patient advocate might be identified, and that individual has agreed to do something, but it's between the attorney parties to work out how expansive or how limited the function, but there is the aspect that there is somebody identifiable in records to go to or to be notified in the event of disability or death of an attorney and can proceed with something, whether it is a mass of records, files, but more
importantly that there is some conduit to the client, because that is the direction that we have to face, that we are safekeepers of our clients' information, records, and money.

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

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

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

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

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

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

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

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

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

I have had occasion recently to be in Monroe and discovered there was one firm where the five partners don't know what each of the others do as far as their direct client contact and none of them really have an idea that they could take over for one of their partners.
So, Elizabeth, we start with you.

MS. POZEHL: Hi, I am Rhonda Pozehl.

MR. ULRICH: I am sorry, Rhonda.

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

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

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

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

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

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

In the past few years we have, like I said, we have seen a huge increase. In 2010 we were involved in nine formal receivership matters. Nine
might not sound like a big number, but when you are
dealing with one receivership that might involve, you
know, 1,000 client files, many of which, believe it or
not, may still be pending perhaps in Bankruptcy Court
or traffic matters that may be pending and people need
immediate assistance, it can be pretty grueling and
pretty voluminous.

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

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

So it causes a lot of strain on our
resources. This is a small part of what our office
covers, and it's becoming increasingly burdensome, and
we would like to have a rule in effect that will just
merely give us a starting point, someone to contact who knows of this lawyer, what his or her practice was about, and then we can go from there. If we have that starting point, we can offer assistance by way of resources, forms, other types of information that someone who may then volunteer to serve as the inventory attorney might find useful.

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

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

As a result of that, I sort of formed a format, this will be going back maybe 10 or 15 years ago, where you would have a plan to have another attorney have access to your client trust account, to your own working accounts, to have your retainer agreement made reference to. All of this is what we
are trying to codify in some fashion so that everyone
can do this and make it work. I have seen it where
families have just been destroyed by trying to wrap up
the deceased attorney's estate and all their client
records, and without any planning it's almost
impossible.

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

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

As a result of this we reviewed laws and
proposals from, I would say, at least 15 different
jurisdictions -- Florida, Indiana, Ohio, ABA proposals. We saw some of them that might be as long as 30 pages on their great outline of it on down to just a few sentences. I think that Wyoming was about a sentence and a half.

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

May 11th of this year the Master Lawyers Section approved the proposed changes and will present them to you. We asked for input from the various sections of the State Bar, and we have received it and reviewed it, and it's all really reflective of what we are presenting to you. We would like more input from the Representative Assembly, especially because you represent all of the areas of the state and really all different practices to know if we are on the right track on what we are proposing here. So we are looking for more input, and we hope we can get this passed at the April 27th meeting and sent to the Supreme Court. John.
MR. CONWAY: Thanks, Ed. My name is John or J.J. Conway, and I have a practice in Royal Oak. It's of counsel to a firm Fildew Hinks, and the area that I principally practice in is ERISA. Representing employees and employee benefit disputes is my area of work.

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

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

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

As Greg was pointing out, it was purposely
left so that there wasn't a huge amount of detail here within the rule itself, and I think we will talk about this. The idea would be that there would be resources available at the Practice Management Section of the State Bar to help people with coming up with the designation. But, in addition to the protection of the client, there are other considerations, which is the lawyer's own family, the lawyer's own estate, in making sure that that lawyer's family is taken care of.

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

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

MR. FLESSLAND: My name is Dennis Flessland from the 6th circuit. I am unclear what is the
obligation of this inventory lawyer, whoever signs or agrees to cover my practice or something like that. I mean, I hear the Attorney Grievance Commission attorney talk about the receiverships they are involved in all the time and travel is involved. Now, if I agree to cover somebody's practice in that context, am I responsible for all of that work? Do I get paid for it? I mean, how are my costs covered? Do I get sued if there is a conflict, if it turns out that he has a client that I am adverse to and get access to all kinds of secret information and documents? How does that happen? Do I get sued? Do I get protected? Really there were an awful lot of questions and obligations, and as I read the rule I said, man, I am not going to sign one of those for anybody. You know, that was my reaction. What's the obligation of the inventory lawyer in your minds?

MR. ULRICH: Let me just give you kind of a thumbnail overview. The thumbnail is the degree of involvement is between the parties. If I am the one who is looking to have you as my designated inventory attorney, the discussions would have to be to what degree you are going to take on the role. Are you going to be very active? Are you simply going to notify clients? Will you have access to accounts?
Maybe not. And it depends really on the relationship between the person who is proposing and the party who is agreeing to do that.

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

MR. PUGH: You know, the way that I have worked with some is if you are not in that same practice at all, of course you can't handle those files. The last one I wrapped up was a personal injury attorney. I have never touched that in my life, but the main idea was to get the files either back to the client or to another attorney that can handle it for them and perhaps make them aware of other attorneys. Quite often there was a referring attorney that already has some relationship with that client who wants to handle getting that over to a different attorney.
It's going to be different on every case. Also, we are not saying that you have to do it. So you can sign up and say you are going to do it. We hope you are going to do it, but at least Rhonda will know to be able to contact you and you can say I thought it over and I just can't do that because our practices were too similar or too dissimilar or whatever, but at least I know his family, I know what the type practice it was, I can get her started in the right direction.

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

MR. ULRICH: Rhonda.

MS. POZEHL: I just have a comment. It's my understanding that because of where the rule is placed or the language is placed in Rule 2 that it doesn't create a basis upon which a lawyer could be investigated for declining or prosecuted by our office for not fulfilling some duty. It's merely a designation of someone who has information about the lawyer's practice who will be able to serve as a liaison. It can be as broad in scope, your agreement with the other lawyer, or as narrow as you want it to be.
I wasn't on the committee, but I believe that simplicity of the amendment is really its beauty, because there is no two receiverships that I have handled that have been alike, and you can have something as simple as the attorney has resolved all of his business issues and he merely has 10 or 15 banker boxes of closed files sitting somewhere and that's the only thing that needs to be resolved at the point that the attorney passes away or becomes disabled.

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

One of the important things is having a file retention plan so that files aren't accumulated -- say an attorney is in practice for 50 years and they pass away and you find 50 years of closed files in the basement. You know, a lot of attorneys do have a good retention plan, they get rid of files as they go, but some do not, especially find, no offense to the Master Lawyers, but a lot of old timers kept everything because there wasn't the ability to save it perhaps
electronically, so there was always the idea that if I ever wanted that document again I would have to physically have to have that piece of paper.

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

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

MR. CONWAY: I was just going to add -- hopefully that answers your question -- there is an escape hatch there if you don't want to do it, but at the same time when you do go through this dialogue -- and I have had a plan like this in place for the last five years. I have met with two layers I trust very much. They know my practice. They would be very good fits with my clients. My clients would feel comfortable with them, and they know what my wishes are, and it says right within the estate plan that
they are to be paid at their customary rates off the
top. So I don't want them to feel that this is going
to be taking away from their practice. They are to be
compensated appropriately, but I think that's sort of
the idea, there would be a little bit of a dialogue
with whomever you suggested.

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

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

The second question is I am curious about how
this was going to, how this might apply to larger
organizations and nonprofits, law school clinics that
have bigger institutional structures, and one thought
that occurs to me off the top of my head is something
along the nature of like the agent for a business in
the state, whether a large organization designated a
person for that entity and that everyone in the firm can say it's that firm's designated entity as a simplified way of doing it.

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

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

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

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

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

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

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

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

MR. COLBECK: J.R. Colbeck from the 15th. I am a 73-year-old 46-year single practitioner with many active files, so this impacts me probably greater than most here. I am the one that this would be directed at, and I can honestly say that where I practice, it's impossible. We have perhaps 30 attorneys in Branch County. Fifteen of them are involved in public
service and would not be eligible. The others are all involved in similar practices that I have and are genuinely, there is not a one of them that does not have an adversarial interest in causes that I have. They would be impossible to take them over.

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

Where do we get the panel of attorneys who are willing to do this in counties like Branch County where I am at or adjacent county, Hillsdale County, which is again similarly situated? If we have only got 20 practicing attorneys all involved in cases together against each other, what do we do? Why do you have to have an attorney certify if the practice is, as has been indicated by this panel, to have a person say, well, we can refer it here or send it to an attorney there? Why can't I designate my secretary
with that responsibility of saying that my domestic
cases should be referred here, my malpractice, my
accidents should be referred here and deal with it
that way? Why would it require the person that we are
naming to be an attorney?

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

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

Clearly you got clients of the nominating
attorney, you have got clients of the inventory
attorney. As several people have said, it could turn
out there is going to be a conflict. Imagine the
inventory attorney happens to see, whoa, this is
somebody who is an adversary and there is something that needs to be filed within two days for that or that person is in a lot of trouble and I am representing the other side.

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

MR. ULRICH: Over here.

MR. BARTON: Bruce Barton, 4th circuit.

Quick follow-up on that comment. You are telling us
that there can be an agreement between attorneys as to how far and what the inventory attorney is going to do. Is that agreement going to be communicated in writing to the State Bar? Because the State Bar will have something that says this is an inventory attorney, and the client is going to say, oh, fine, I will go talk to him. He goes and talks to him and says, well, I am the inventory attorney, but my agreement was limited to whatever. I can see circumstances in which that client is going to have a lawsuit.

MR. ULRICH: Right.

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

I encourage everybody to adopt the rule, and my glance at the rule, I think it's a really good starting point, but probably needs some massaging somewhere. I would like to help you guys through my own experience, but what I would say is I feel like the responsibility shifts to this inventory attorney, and I sure as heck wouldn't want to be one again, so I
think we need to shift the responsibility on to us. We should be obligated to provide a will, so to speak, to say here is, at least at a minimum, here is my client list to that inventory attorney, or here is my bank account information, here is the IOLTA, and obviously there would have to be a level of trust and confidence, but if we don't place the obligation on the attorney that dies first, then that inventory attorney is just running around with their head chopped off.

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

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

MR. ULRICH: It may have gone to Dawn.

MS. JOLLIFFE: I don't think it's been sent in yet, but many of the things that have been discussed here we discussed at our meeting, because that's what we do, analyze these law practice management issues, so I won't go over those things,
because people have said it so well, just the things I have talked about with other people here, the language, and I understand what Rhonda said about it's up to the two lawyers to agree with it, and J.J. said that if the two lawyers to agree to use the form later that the State Bar will prepare, it won't be mandatory, but they will prepare it. It says upon receipt of such notification the inventory attorney shall take such action as is appropriate to protect the interests of the client.

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

What about the new lawyers who only have a few files, what if they can't get anybody to agree to be the inventory attorney? What are we going to do about that? Are you anticipating -- I don't expect
answers, of course, but are you anticipating -- this could actually create a new category or, you know, a new practice area for some lawyers and perhaps Master Lawyers should become inventory attorneys, and that might be a good thing, that might be a fine thing, then we could avoid conflicts and things like that. That might be a solution. I guess that's all I have, and I will just sit down now. Thank you.

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

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

MR. POULSON: So moved.

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

VOICE: Second.
CHAIRPERSON GOBBO: Hearing a second, any discussion.

MR. POULSON: I would like to discuss it.

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

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

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

Any opposed.

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

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

MR. MCLAIN: Patrick McLain from the 3rd circuit. It's my great pleasure to nominate for clerk of the Assembly my law partner and fellow of the
3rd circuit, Fred Hermann. His biography is in the book.

CHAIRPERSON GOBBO: Is there a second to that nomination?

VOICE: Second.

CHAIRPERSON GOBBO: Hearing second, any other nominations?

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

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

When Vanessa speaks, people listen. I listen and I notice that others listen. She has come before this group many times reporting as a delegate to the ABA. People listen to what she has. Vanessa takes everything that she does seriously, and what she gets involved in, she gets involved in things she is
passionate about. She will be passionate about this Assembly. She is passionate about the practice of law and improving the practice of law and the profession, and I am very honored to nominate her. Thank you.

CHAIRPERSON GOBBO: Thank you. Is there a second?

VOICE: Second.

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

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

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

As I indicated a moment ago, since 2011 he
has been a member of the Oakland County Bar Association, and he served with distinction on the Circuit Court Committee for our Bar association. He sits also for the Federal Bar and has been very active in the Federal Bar Association. He has been a contributing attorney for the ACLU for a number of years. He sits on the Board of Directors of the Community House. He brings a great deal of talent and a great deal of strength, and I would urge his nomination.

CHAIRPERSON GOBBO: Is there a second to that nomination?

VOICE: Support.

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

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

VOICE: Second.

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

Any opposed.

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

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

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

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

MR. HERMANN: Good afternoon, everyone. Thank you for the opportunity to address you today. For those I haven't met, my name is Fred Hermann. I am a member of the law firm of Kerr Russell Weber in Detroit. I have practiced there for 16 years in commercial litigation. I attended Michigan Law School. I have been active in the State Bar,
including during law school as a student member, and then afterward immediately when I began practice I joined counsel of the Antitrust, Franchising & Trade Regulation Section, and I have served in that section twice as chair since graduating law school.

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

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

MS. WILLIAMS: Just briefly. My name is Vanessa Peterson Williams. I have spoken to most of you, and I just wanted, if I haven't had an opportunity to talk to you, I am looking for an opportunity to serve. I have been involved in Bar service all of my 17 years of practice, and I do have a passion for the law. I am a corporate attorney, so I use the Bar as my avenue to serve the legal profession, to serve our community. I have a passion for at-risk youth. I have a passion for making things better. I like what we do in the Rep Assembly. I
think that I can do a good job here. I know that we
do great work, and I would be honored to be your clerk
and eventually your leader so that we can continue to
serve our profession, serve our community, and do what
we all took an oath to do so many years ago. Thank
you.

CHAIRPERSON GOBBO: Thank you, Vanessa. Dan.

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

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

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

Dana, I think you have a motion you want to
make.
VICE CHAIR WARNEZ: I would like to make a motion that, per custom of the Representative Assembly, the result of the voting be announced and recorded as to the winner only, without the vote total, and that the vote total will be known only to the tellers and to any candidate who requests it.

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

VOICE: Second.

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

Hearing no discussion, all in favor please say aye.

Any opposed say nay.

The affirmative vote carries.

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

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

Have all those who wish to vote voted at this point in time? Hearing no response, the voting is closed, at least the first go-around. So we are going
to begin with Mr. Poulson, with his question to the
distinguished panel that we have.

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

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

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

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

I am a solo firm. My disaster recovery plan
requires me to -- you know, the fact when I die that
the brains of the operation live on in my wife and my assistant, who will also be in mourning, but I know where the stuff is at on my thumb drive at home, so I could write that plan for my own firm, and no one else can write it for another firm as well, but there is a great consulting game for people who do. There is, as already mentioned, the schedule of how a business plan for a company which is the Inventory, LLC law firm. Great business opportunity.

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

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

MR. ULRICH: Before, Shel, one second, but
Rhonda had an item concerning what Elizabeth had raised, just it might move more questions.

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

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

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

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

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

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

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

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

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

I like the idea of an inventory attorney. I think the concept makes sense. I think it may need some refinement, but it's certainly something that, yes, we should be mandated. I think that we should be mandated to have this, and I think it makes complete sense, not for the dead ones, but for everybody, to
say, well, the injured attorneys, the ones who get stuck, the ones who get stuck on a trip and they can't get back or something, that there is that form of somebody can step in, and I guess maybe one of the things I am trying to say to every one of us in this room, it's time for you to look for somebody else next to you or nearby that you can say, Will you help in case something happens to me? Thank you.

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

MR. ULRICH: Anybody else? I do want to indicate at this point, because this is an ongoing process leading up to April, that if you go back to your circuits and you can have some discussion with the local Bars, please do that, and send on the
information to Dawn, and I think that probably is the easiest way to get the information to the committee. Lori.

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

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

If she had been a solo practitioner, I don’t know what would have happened to all of those clients, and I can tell you, because I handled four of her cases, they were hot and heavy, and those people needed my help, so I am asking you to consider this
for the protection of the public.

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

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

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

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

(Appplause.)

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

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

VOICE: So moved.

CHAIRPERSON GOBBO: Is there any objection?

VOICE: No.

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

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

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

But my family has come to know Dana and her partner Mary very well. Very close friends, and we look forward to seeing them in Mackinaw every year. And I am not only blessed to have Dana as a friend,
Mary as a friend, but we were blessed to have Dana as chair of the Representative Assembly, so congratulations, Dana.

(Applause.)

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

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

MS. WARNEZ: I do solemnly swear --

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

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

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

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

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

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

JUDGE RIORDAN: -- and I will faithfully
discharge the duties as chair of the State Bar Representative Assembly according to the best of my ability.

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

Will you do a good job?

MS. WARNEZ: Yes.

JUDGE RIORDAN: That's enough.

(Applause.)

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

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

I am a much better person. Not that I wanted to have lost her, but having to experience that, I am a much better person than I was before we lost her, and so every day I think about her and it informs my
life, and I hope it informs -- I know it will inform your life as we go together in our service next year.

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

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

I would like to thank my circuit and my friends who are here from Macomb County, and I know Rick Troy is here, so thanks to him and my board there who is letting me graciously kind of tag team and do lots and lots of service. I give a lot of credit to
that Bar association for training me in the ways it
has through Young Lawyers Service, Board of Director
service, and executive leadership there. I wouldn't
be able to even stand here without that experience, so
I thank them very, very much.

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

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

(Applause.)

CHAIRPERSON WARNEZ: You know what, I just
want to say one more thing too. I also couldn't be
here without all the past chairs of the Representative
Assembly who are here, and especially Steve Gobbo.
Steve, you have been so gracious, informative, kind,
thoughtful. I just I want to thank you personally,
and Kathleen as well. Thank you for being my right-hand girl during all this past year, and here is to more time together serving, and whoever our next clerk is I also would like to extend a welcome and encouragement for that as well. Thanks for the position.

(Applause.)

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

(Applause.)

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

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

(Applause.)

PAST CHAIRPERSON GOBBO: William DeBiasi.


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

We have the Hearings Committee and Elisia Schwarz was the chair of that committee. On the committee was Frank Hathaway, April Neihsl, Alisa
Parker, Mike Marutiak, who I know is not here, Susan Murphy, and then we had an advisor alternate, and that was Mike Delling. So if Elisia is here, please come on up.

(Applause.)

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

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

(Applause.)

PAST CHAIRPERSON GOBBO: The Special Issues Committee, which is a committee that I chaired two years in a row, both years were kind of unique in terms of some of the items that were referred to that
committee, was headed by Dave Gilbert, Maureen VanHoven and Krista Haroutunian, James Bartlett, Nathan Edmonds, Mike McClory, and we had as an advisor or alternate was John Mucha. Dave, If you could come up.

(Applause.)

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

On that committee was Pamela Enslen, Anne McNamara, Dan Cherrin, Margie VanHouten, and then we had an alternate Lauren Rousseau. So Jeff, if you could please come up.
PAST CHAIRPERSON GOBBO: In terms of this particular meeting we are essentially done, but there is one thing that I'd like to do is a tradition, and that's to pass the gavel to the new chair of the Representative Assembly.

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

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

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

CHAIRPERSON WARNEZ: A couple more comments. Hang on.

PAST CHAIRPERSON GOBBO: I just want to say
thank you. It was a honor to have served.

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

(Applause.)

PAST CHAIRPERSON GOBBO: Thank you very much.

CHAIRPERSON WARNEZ: I think this -- just one more thing. This legacy let's us also, I think, keeps in focus what we should do in the upcoming year, which is, by Steve's example, we should look at the broader benefits that we can provide by our actions. Just like the Unauthorized Practice of Law, Steve didn't let us get caught up in minutia or nitpicking on any small portion of that but looked at the broadest picture and the broadest benefit that we could achieve, and I just want him to know that that's what
I intend to try to latch onto, embody, and continue on in our service, so thanks for letting me make some comments about Steve and thank you everybody. Steve can adjourn our meeting.

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

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

VOICE: So moved.

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

(Appause.)

(Proceedings concluded at 3:41 p.m.)
STATE OF MICHIGAN  
COUNTY OF CLINTON  

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

October 15, 2012

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