STATE OF MICHIGAN
STATE BAR OF MICHIGAN

MEETING of the REPRESENTATIVE
ASSEMBLY of the STATE BAR OF
MICHIGAN

Proceedings had by the Representative Assembly of the State Bar of Michigan at DeVos Place, Ballroom A, Grand Rapids, Michigan, on Thursday, September 27, 2018, at the hour of 10:15 a.m.

AT HEADTABLE:

JOSEPH P. MCGILL, Chairperson
RICHARD L. CUNNINGHAM, Vice Chairperson
JANET WELCH, Executive Director
HON. JOHN CHMURA, Parliamentarian
CARRIE SHARLOW, Staff Member
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Grand Rapids, Michigan
Thursday, September 27, 2018
10:31 a.m.

RECORD

CHAIRPERSON MCGILL: Good morning. I am Joseph McGill, Chair of the Representative Assembly. I would like to welcome you all to our meeting for September 27th here at the DeVos Place. Thank you very much, all, for attending, and I would like to introduce our officers. We have Aaron Burrell, who is our Clerk.

(Applause.)

CHAIRPERSON MCGILL: Richard Cunningham, who is our Vice Chair and incoming Chair.

(Applause.)

CHAIRPERSON MCGILL: Janet Welch, the Executive Director of the State Bar of Michigan.

(Applause.)

CHAIRPERSON MCGILL: And our Parliamentarian, Judge John Chmura.

(Applause.)

CHAIRPERSON MCGILL: The first order of business is certification of a quorum, which I will turn over to our clerk, Aaron Burrell.

CLERK BURRELL: There is a quorum present,
Mr. Chair.

CHAIRPERSON MCGILL: Thank you very much.
And the next order of business is the adoption of the proposed calendar, which you all received in advance of today's meeting. I would like to call member Philip Moilanen.

MR. MOILANEN: Mr. Chairman, on behalf of the Rules and Calendar Committee, we move the adoption of the proposed calendar.

VOICE: Second.

CHAIRPERSON MCGILL: Is there any discussion with respect to the proposed calendar? Any changes to the calendar?

Hearing none, all those in favor, please indicate by saying aye.

Any opposed?

Any abstentions?

Hearing none, motion carries. Thank you very much.

MR. MOILANEN: Mr. Chairman, I would also move the approval of the April 21, 2018 Summary of Proceedings.

CHAIRPERSON MCGILL: Is there a motion, or is there a second to the motion?

VOICE: Support.
CHAIRPERSON MCGILL: Is there any discussion with respect to the Summary of Proceedings of our April 21st, 2018 meeting? Any changes, any additions? Hearing none, I will call the question. All those in favor, please indicate by saying aye.

Any opposed?

Any abstentions?

Hearing none, the motion carries.

Our next order of business is with respect to the issue of filling vacancies, and I believe we have a number of folks here that will be filling seats. Call to the podium member Judge Michael Brown.

MR. BROWN: Good morning. You should have received a memo with the nominees for the open positions. I move to approve the slate of nominees.

CHAIRPERSON MCGILL: Is there a second to the nomination?

VOICE: Second.

CHAIRPERSON MCGILL: Is there any discussion with respect to the filling of the various seats which Judge Brown has indicated and the materials have been submitted to you prior to the meeting? Any additions?

Any nominations from the floor?

Hearing none, I will call the question. All those in favor, please indicate by saying aye.
Any opposed?

Any abstentions?

Hearing none, the motion carries.

For those who are going to be joining us, I invite you now to come and take your seats, and congratulations.

(Applause.)

CHAIRPERSON MCGILL: Moving quickly on to our next order of business on the calendar, item number three, which is the presentation of the Unsung Hero Award, and our presenter this morning is Attorney Ellen Molly Burns. Molly, could you come up, please.

MS. BURNS: Thank you, Mr. McGill. Thank you very much to the members of the Representative Assembly for accepting my nomination. It is an honor to be here.

Good morning, my fellow colleagues. My name is Ellen Mollie Burns, and I am very proud to be a part of the 0.54 percent of all attorneys in the United States who has a disability. 0.54 percent. We are a staggering minority.

Most would never denounce support for people with disabilities. After all, it would be cruel to deny support for people who face daily obstacles and challenges that most will never have to encounter
their entire lives. But who will hire us?

I recently read an article which discussed how the legal industry has failed attorneys with disabilities. The article focused on the fact that law firms often incorrectly view disabilities as weaknesses or inabilities, and I can certainly relate.

I have two severe digestive illnesses which prevent my body from being able to properly digest food. Just over a year ago, after nearly a decade-long battle, I had no choice but to get a permanent feeding tube in order to save my life. The feeding tube provides my only source of nutrition and constitutes a life-sustaining medical device.

Despite proudly becoming the only known 24/7 tube-fed attorney in the country, I discovered that some attorneys frowned upon me because of my feeding tube. However, eventually I met an attorney named Michele Fuller. Michele saw beyond my disability. She focused on my talents and my accomplishments. Critically, she recognized that I had been battling my health for almost my entire career, thus making my achievements all the more impressive, and she hired me.

I determined that the only way to properly thank her for hiring me after I got my feeding tube
was to nominate her for the Unsung Hero Award. Yet Michele should also be applauded for her relationship with the disability community.

Michele has spent the majority of her career advocating for individuals with disabilities, as well as their caregivers. While her practice is located in Macomb County, she has come to be known as one of the top special needs planners in the country. She has authored numerous articles and books and routinely travels the country speaking to other professionals to educate them about special needs planning.

My fellow colleagues, the 2018 Unsung Hero, Michele Fuller.

(Applause.)

MS. FULLER: Thank you, everyone. My gosh, I don't think that's ever happened in my life. Thank you. And thank you so much, Mollie, for everything you have done and for the heart and the beautiful letter that you wrote on my behalf. That is really exceptional. Thank you so much, and you have really overcome so much in your life, and you are an inspiration, and really you are the unsung hero, if anyone, in this room. So thank you so much. Thank you.

(Applause.)
MS. FULLER: And thank you on behalf of everyone that we work for, that we strive for, for people who have no voice and need us to advocate on their behalf. And I also have to thank -- I have four wonderful children and my wonderful husband, who is one of the leading nationally-recognized attorneys in special needs trust planning based in California, so thank you, honey. He has helped make me a better lawyer, better speaker, and inspired me to be generous and share my knowledge and experience.

So thank you, and thank you to the Representative Assembly for your confidence in me and for selecting me. This is quite a honor. Thank you so much.

(Applause.)

CHAIRPERSON MCGILL: The good news is I didn't break the camera, which is always a positive.

The next item on the agenda is the presentation of the Michael Franck Award, which this year is going to United States District Court Judge Victoria Roberts. I would like to thank, first and foremost, the officers of the Representative Assembly for suggesting that we nominate Judge Roberts for this award, and in particular Aaron Burrell's work on this was instrumental, and I can't thank Aaron enough for
making the suggestion and helping us to get the
Assembly to approve this award, which was, by any
means, a very easy task for us to do.

The Michael Franck Award in pertinent part
requires that this award will be presented to a lawyer
who has made an outstanding contribution to the
improvement of the profession. Judge Victoria Roberts
more than qualifies as a recipient of this award. Her
accomplishments are too numerous to list, and I will
not endeavor to do so at this point, but I am happy to
say that she is a proud graduate of Saint Martin de
Porres High School, which came out of the same
catholic league that I did.

However, as an offer of proof with respect to
the material portions of the requirements of the
Michael Franck Award, specifically that the awardee
has made a contribution to the improvement of the
profession, I submit the following: Judge Roberts has
been a leader or instrumental in the following
programs: The Just the Beginning Foundation, which
exposes minority high school students to the
opportunities in the law.

The Wolverine Bar Association's Judicial
Externship Program, which seeks to increase the
representation of minority law graduates in judicial
clerkships, both in state and federal court.

She has been instrumental in the recent establishment of the University of Detroit Mercy's low income pro se litigant clinic, which provides limited scope representation and legal assistance to pro se nonprisoner litigants in the U.S. District Court in Detroit.

She was elected and served as the first black president of the State Bar of Michigan. She has trained lawyers and judges in Kenya and Malaysia. She has lectured on various complex areas of the law in Serbia, Peru, Thailand, Botswana, Namibia, and Nepal. She has been awarded the State Bar of Michigan's Roberts P. Hudson Award and Champion of Justice Award. All of these points are well taken, unrefuted, and certainly qualify her as a recipient of the Michael Franck Award.

However, in order to get a better understanding of her ethos and pathos, I took an opportunity to interview a couple of her colleagues to get a better sense for who Judge Roberts actually is, and instead of trying to recite those conversations with you, I will give you a snippet of some of the things that I was told about Judge Roberts.

She is humble. She is never driven by
ambition. She works super hard. She is willing to stand for what she believes is right. She has vast capability. She never does things for recognition, but rather the work is the reward. So I am convinced that Judge Robert's passion for the law has, in fact, resulted in an improvement of the profession and has led others to do so, and, in fact, is a significant inspiration for all of the members of the Representative Assembly.

As John Quincy Adams once said, If your actions inspire others to dream more, learn more, do more, and become more, you are a leader.

Certainly Judge Roberts is a leader in improving the profession, and it is with great honor and it is my pleasure to now present her with the Michael Franck Award.

(Applause.)

JUDGE ROBERTS: Good morning, everyone. First I want to say I brought my own cheering section. The past presidents of the State Bar, please stand.

(Applause.)

JUDGE ROBERTS: So I am a part of that illustrious club. They were meeting earlier today and said they were going to come and be here, so I thank you.
In 1987, I had been practicing law for 11 years. I had immersed myself in the Detroit Bar, in the Women Lawyers of Wayne County, and in the Wolverine Bar Association and had just finished my term as president of the Wolverine Bar, and I had said I am done with Bars, with Bar associations. I am never doing anything again related to a bar association, and I went on vacation.

I came back in about a week, and I had three or four messages from then Supreme Court Justice Dennis Archer, and I called him. He said, Well, I tried to reach you, but I couldn't, so I appointed you -- I submitted your name to be appointed as a member of the Board of Commissioners of the State Bar of Michigan.

And I was mad. I was absolutely furious, because I was done, right, with bar stuff, and I went and talked to my managing partner, George Bedrosian. I said, George, can I say no to this? He said, Absolutely not, you cannot stay no, and there it begun, and there became my introduction to Michael Franck, who was then the Executive Director of the State Bar of Michigan, and Michael Franck absolutely, that meeting Michael was absolutely transformative.
He had such a commitment to the State Bar of Michigan. His commitment was to make it the best in the United States. He had such a commitment to professionalism and ethics and to diversity and to reaching out to more and broadening the umbrella of the State Bar so that it included so many people who had not been represented in the State Bar in the past. And so I learned from him.

I learned about the vision of the State Bar, about its obligations, about leadership, and Michael said to me after a few months that you are going to become president of the State Bar of Michigan, and he made it one of his missions, and I cannot thank him enough for guiding me, for shepherding me, and for making it possible for me to accomplish so many of the things that Joe mentioned.

When Joe and Aaron came to tell me that I was getting this award, I was absolutely overwhelmed. I was overcome, I was overjoyed, because Michael has been such a spirit in me and has really inspired so much of the work that I have done, and so I thank all of you for this award. Thank you.

(Applause.)

CHAIRPERSON MCGILL: Our next order of business, calendar item number five, Presentation on
Recent Developments in First Amendment Jurisprudence and Mandatory Bar Associations. I am very pleased to again introduce and welcome our executive director, Janet Welch, to the podium, who is an expert in this area and many others.

EXECUTIVE DIRECTOR WELCH: Thank you, Joe.

Good morning, everyone.

So the good news this morning is that my remarks are not a reversion to the tradition of having the Executive Director speak to the Assembly, even if there is nothing of particular significance to be reported on. Today is the opposite of that.

Today I am speaking to you on what's been going on in First Amendment jurisprudence related to the mandatory Bar, a presentation that has immediate relevance to two items you will consider today, actually -- the resolution to establish a Task Force on the Scope of Operation, Structure, and Governance, and the proposal to support the legalization of marijuana. Even more importantly for you, in whose hands, along with the Board of Commissioners, rests the well-being of this Bar, these developments are directly related to the future of the State Bar of Michigan and all other mandatory bars.

If you went to law school, like I did,
because you were enthralled with constitutional law
and you wanted to make a difference, today is your
lucky day. Buckle up. This is a momentous time to be
a member of the final policy-making body of a
mandatory state bar.

On Monday of this week, the U.S.
Supreme Court considered at its Long Conference
whether to hear a case challenging the State Bar of
North Dakota. That case asked the Court to overturn
Keller V State Bar of California, the 1992 case that
set the framework for how mandatory bars can co-exist
with the First Amendment. That case is Fleck V Wetch,
and its disposition threatened to up-end the customary
operations of mandatory state bars in the
United States, and in the extreme, to end mandatory
bar membership altogether in the upcoming court
session.

So as of 70 minutes ago we know now that the
Court did not grant cert in the Fleck case or relist
it, but before I go into detail about the
jurisprudence that led up to the North Dakota case and
why, even though the Court denied cert, the challenges
it poses are not going away. It's important to
understand how the mandatory bar itself came into
being, starting -- and I promise you I will move along
quickly -- with the 12th century.

A Law Review article published in 1935, which was the year that the State Bar came into being, described the origins of the Bar this way. In England, the legal profession arose in the 12th and 13th centuries. One of the early glimpses we have of it is in 1292, so that's 77 years after the Magna Carta, when the king, representing the public interest, placed the control of the Bar in the hands of the justices. This delegation of authority was sustained by a long line of statutes in which Parliament conferred the power to the courts, and the courts, by a series of court orders, accepted and exercised it.

The present arrangement indicates a minimum of public control, with the burden to maintain professional standards resting primarily on the Court and profession. So that sounds familiar, fortunately.

The author contrasts this comparatively stable state of affairs with the United States, where he writes, the record is marked by violent swings of the pendulum. At first, in colonial times the Bar was the object of such vigorous popular distrust that the public regulation even reached the point of legislation prohibiting lawyers from practicing.
When the services of the limited profession finally were recognized as essential, which didn't occur until after the Jacksonian era, the courts, in general, exercised control over the Bar, as in England.

For our purposes today, literally today, what's important is that out of this turmoil in the 20th century, 31 states and the District of Columbia, in statute or by the exercise of judicial power, chose the British model of regulation of the legal profession through a mandatory or unified or integrated bar. Pick your term.

So here is where things stand today. Carrie, can you give us the map. Does that look green to you? Any of that look green? No, it looks bluish. All right. The miracle of technology. Oh, they are coming in.

So the white states here -- it's animated, sorry. The white states are the nonunified states, and in those states we need to remember lawyers still have to pay a fee for the right to practice law. There is just no Bar speaking officially for the profession. The colored states are unified. The darker colors are states that were unified by their state supreme court. The others were unified by
statute.

So on the far right around Washington, D.C., those are checkerboard states that have both a unified and voluntary bar. The outlined states -- so the red outlined states deserve a note. In Nebraska, right in the middle there, in 2014 the state supreme court retained mandatory bar membership but segregated dues for licensing functions and made payment to the State Bar for other purposes voluntary. This is what the insiders in the Bar world called the worst of all possible solutions.

In California, just this year -- the professional association functions as the State Bar of California, largely centered around the sections, were spun off into a voluntary California Bar association. So they are beginning to, when that takes full effect, they will begin to look sort of checkerboard, and the self-governing features of the State Bar of California have been shrunk.

In Arizona, which was also outlined -- in Arizona, which has had successive attempts by the legislature in the last few years to deunify the Bar. The state supreme court in January queried the entire Bar by questionnaire about their views on a bifurcated dues model, along the lines of the Nebraska model, but
has not yet released the results.

Finally, five days ago in the state of Washington, a chief justice of the Washington Supreme Court sent a letter to that Bar's Board of Governors, which is a mandatory bar, which said, in part, and I quote, I am writing to advise you that the Court has made several important decisions that affect the Bar. In light of pending lawsuits regarding the legal status of bar associations around the country, as in recent case law, the Court has decided unanimously to undertake a comprehensive review of the structure of the Bar. Because our review will include governance, the Court, by a majority vote, has decided that all boarding action on proposed bylaw amendments should be deferred until further notice from the Court; thus the Court is directing that no action be taken on any proposed bylaw amendments at this time.

So what's going on here? Why those states and not others? Who is next?

So let's look a little closer at the map. The first state to unify was North Dakota in 1921, almost a hundred years ago. So I am usually kind of a crackerjack ace at finding patterns, and I can't find any pattern in this map.

You can't see the date from where you sit,
but the first ten states were in this order: North Dakota, Alabama, Idaho, Nevada, Utah, South Dakota. Back to the south, Mississippi, North Carolina and Kentucky. The next two were Michigan and Oregon. They were close behind the first ten. The last six states to unify were Wisconsin, Georgia, South Carolina, Rhode Island, New Hampshire, and finally Hawaii in 1989.

So I am calling your attention to this lack of pattern or coherence because it persists in the way mandatory bars have developed. There are literally 32 different models for the mandatory bar, and the great variations in how mandatory bars function will seriously complicate the creation of a unified front to defend the model of the mandatory bar and its role in attorney regulation. So now let's talk about the constitutional challenges to the mandatory bar as of this moment.

Although the first mandatory bar was created in 1921, the first legal challenge didn't reach the Supreme Court for another 40 years. In that case, Lathrop v Donohue, the second case indicated up there, a six-member majority rejected the claim of a Wisconsin lawyer that he could not constitutionally be compelled to join and financially support a state bar
association that attempted to influence legislation with which he disagreed.

In rejecting the challenge, the Lathrop majority relied on a labor case, Railway Employees V Hanson, which is the first case you see there. Hanson, in turn, had analogized union membership to bar association membership as follows: In rejecting Hanson's claim of abridgement of his rights of freedom of association, the Court concluded there is no more an infringement or impairment of First Amendment rights than there would be in the case of a lawyer, who by state law is required to be a member of an integrated Bar, just because.

A concurring opinion in Lathrop agreed that Hanson, quote, surely laid at rest all doubt that a state may constitutionally condition the right to practice law upon membership in an integrated bar association, a condition fully as justified by state needs as the union shop is by federal needs.

So to summarize, mandatory union dues in Hanson were okay because mandatory bar dues were okay, and then mandatory bar dues were okay in Lathrop because mandatory union dues were okay in Hanson. Let the bootstrapping begin.

The challenges to the mandatory bar were
undeterred by the assertion that all doubt had been
laid to rest about the mandatory bar. New appeals to
the U.S. Supreme Court came from Wisconsin, Florida,
California, and Michigan. Leave was granted in the
mid-eighties in the Florida case, and then the court
decided that leave was improvidently granted.

Finally, in 1990 the court decided the case,
with which we are all familiar, Keller V. State Bar of
California. So Keller is where the state has placed
constitutional restrictions on mandatory bars to rest
as of this moment. Since Keller, the U.S.
Supreme Court has not made any pronouncements about
the mandatory bar, but it has had a lot to say about
unions and mandatory dues. Hold that thought.

As you know, Keller held that mandatory bar
dues may only be used for activities germane to the
purpose for which compelled association is justified;
that is, regulating the legal profession and improving
the quality of legal services, and then only if the
expenditures are necessarily or reasonably incurred
for those purposes.

The Michigan Supreme Court in an
administrative order translated Keller's formulation
of these two permissible subject areas into a list of
topics on which the State Bar may expend mandatory
dues. You have seen that list presented to you when you were asked to decide whether your pronouncement on a public policy matter is Keller permissible.

Like the Lathrop court, the Keller court leaned heavily on the analogy between mandatory bars and unions, stating explicitly, there is a substantial analogy between the relationship of the State Bar and its members on the one hand and the relationship of employee unions and their members on the other.

The case they relied on was a 1975 Michigan case, Abood versus Detroit Federation of Teachers, and although the unanimous Keller court placed restrictions on the State Bar's use of compulsory dues, it, like the Lathrop court, suggested citing Lathrop that the constitutionality of the mandatory bar was beyond doubt.

As of June, that doubt about mandatory bar constitutionality may be creeping back into the conversation as the U.S. Supreme Court in Janus V AFSCME overturned Abood, holding five-four that compelled dues for public sector unions violates the First Amendment right for freedom of association, and therein lies the source of instability of the current state of affairs.
Janus analyzed the state need for a union shop for public employees and finding them wanting. In strong language, Janus applied a strict scrutiny standard for assessing the justification for the imposition of mandatory dues used for public capeesh rather than a rationale basis test.

Whether the state needs justifying a mandatory bar can survive such scrutiny is the question that was raised in Fleck. Here is the bottom line of the Janus majority. Quote, the First Amendment is violated when money is taken from nonconsenting employees for a public-sector union. Employees must choose to support the union before anything is taken from them.

Accordingly, neither an agency fee nor any other form of payment to a public-sector union may be deducted from an employee, nor may any other attempt be made to collect such a payment, unless the employee affirmatively consents to pay.

How exactly Janus' conclusions apply to mandatory bars is anyone's guess. Justice Alito's majority is silent about Keller, but the Kagan dissent is not. She says that Abood is embedded in the law in a way not many decisions are and references Keller as an example, which brings us back to Fleck and the
State Bar of North Dakota.

Although Keller affirmed the validity of the integrated bar in general, it explicitly sidesteps the issue of freedom of association highlighted in Janus. That is the issue that is front and center in Fleck and any Fleck successors.

Keller addressed the question of a bar association's constitutional use of mandatory dues. What about advocacy that is not supported by compulsory dues. If the R.A. takes the position that a single member does not want to be associated with, even if the Bar spends no money advocating that position, is that enough to violate the First Amendment? The Janus decision invites that question.

An amicus brief filed in the Janus case by 24 past presidents of the District of Columbia Bar, an integrated bar, argued that overturning Abood likely would, quote, spawn additional time-consuming and expensive lawsuits by bar members who do not want to pay their mandatory bar dues, unquote.

Such lawsuits, the past president said, would severely restrict this country's 32 mandatory bars from their critical work serving the state's interest in regulating the legal profession and improving the quality of legal services.
Their prediction is already coming to pass. The first challenge post-Janus citing Janus came from a member of the Oregon State Bar Association on August 29th. Two days later, a Washington state lawyer amended a lawsuit already before the 9th Circuit against the Bar on other grounds to include Janus-based arguments.

So here are my thoughts on where I think we stand as of literally this moment. If we are going to survive as a mandatory bar, we must resolve an identity crisis we have had since we were created as a mandatory bar. Our mission statement, as entrenched in Court Rule, has not changed in 84 years. There it is. State Bar of Michigan shall, under these rules, aid in promoting improvements in the administration of justice and advancements in jurisprudence, in improving relations between the legal profession and the public, and in promoting the interest of the legal profession in this State.

Are we an entity of the state serving the interests of the public, or are we an association of lawyers serving the interests of our members? We are both, but the second mission is always subordinate to the first, and that is something that even the first leaders of the State Bar of Michigan knew. Otherwise,
we are simply what our critics have taken to calling mandatory bars, a glorified trade association, and usually they use a different adjective than "glorified".

Our first priority in the face of this constitutional challenge, I think, is to distinguish ourselves from unions. We are not a union. We are not a public employee union. Lawyers are not employees of the state. We are not professional union members, and we are not members of just any profession. We are, each and every one of us, regardless of how we are using our law license, officers of the court. We are members of the one profession whose activity carries out a public function created by the state, exclusive to the state, but not paid for by the state.

We have all heard the most frequent complaint about the State Bar. I don't get anything for my dues. Have you heard that? I hear it on a regular basis. That's a question that reveals that the member thinks the mission of the State Bar is only to promote the interests of the legal profession, the interests of each member. And our standard answer is to respond as if that's true. We took up a long list of services and products that benefit our members in their
practices, benefits that often deliver savings far in excess of annual dues, which is a wonderful thing. The e-journal, the Bar Journal, Casemaker, advocacy for the Michigan Supreme Court and the legislature, et cetera, et cetera.

But the more honest and powerful answer is this, what members of the unified bar get from the State Bar of Michigan is the ability to hold ourselves out as officers of the court and to have a say in how the profession is regulated. That the mandatory bar can also serve the interests of our members more cost effectively because we are unified and have a predictable stream of revenue is a happy byproduct of our status as a unified bar, not a reason for it.

So, a mandatory bar does not exist for its members' benefit. It is not a union, nor is it a glorified trade association. A mandatory bar is a dynamic repository of the collective expertise of the officers of the court about the justice system they have sworn an oath to. Mandatory state bars are an efficient vehicle for all of us as officers of the court to carry out our duty to maintain and improve that system at no expense to the public.

That's the raw rationale for a mandatory bar, this unique and ancient bargain between the state and
the legal profession in which lawyers collectively
shoulder and finance a portion of their responsibility
for their role in the justice system. It's often
described as lawyer self-regulation or lawyer
self-government, which actually overstates our
authority, but is, nonetheless, unique and
immeasurably valuable. The alternative is being
licensed by the state as any other profession.

So let there be no mistake about our unique
status, which I think is the key to preserving the
mandatory bar. We are a mandatory bar because, and
only because, in the view of the government, it serves
a public interest for lawyers to be members of the
State Bar, and serving the public interest as a
mandatory bar is a mission worth fighting for and a
fight we are well prepared for.

The State Bar of Michigan has long been a
leader in advancing the cause of justice for the
public we serve, and Michael Franck was an enormous
advocate for that. In recent times we are also known
for forging a vision for serving the public even
better in the 21st century, so I look forward to
waging that fight for you and with you for the public.
Thank you.

(Applause.)
CHAIRPERSON MCGILL: Thank you very much, Janet, for those well-informed and well-thought-out comments.

Our next item is reflected in tab number six, the item six on our calendar, which is the consideration of a proposal on Task Force on State Bar Scope of Operation, Structure, and Governance, and I will just indicate that this particular item is the product of much work that has taken place between the officers of the Representative Assembly and the Executive Committee of the Board of Commissioners. This originated from a retreat that we called for with the Board of Commissioners leadership to help to delineate lines of communication and lines of authority between the Board of Commissioners and the Representative Assembly, which, from my humble observation, were, at a minimum, somewhat confused, so as a result of that initial retreat, which took place in January, and the work that has taken place since then over these many, several months, we have what's reflected in tab number six, and at this time I would like to call to the podium incoming State Bar of Michigan President Jennifer Grieco and our Vice Chair, Richard Cunningham.

MS. GRIECO: Thank you. Good morning,
everyone. How are you?

I am here to speak to you on the proposal on the Task Force on the State Bar Scope of Operation, Structure, and Governance that you have in your materials. As we just heard from Janet, the State Bar strives to improve justice, advancements in jurisprudence, and relations between the legal profession and the public. To achieve these important goals, the State Bar of Michigan must be responsive, effective, and nimble. Not only has the constitutional landscape in which we operate changed over the last 84 years, changes in technology, access to information, and the practice of law have evolved at a rapid pace, and the State Bar has struggled with responding to these changes under its current governance structure, which was designed in 1935 and modernized in 1972 with the addition of the Representative Assembly to more fully represent our expanding membership.

Our governance was put in place before the development of the internet and daily reliance on e-mail and cell phones. Indeed even the practice of law has changed significantly with increasing specialization within the profession and development of legal tools, like Westlaw, Legal Zoom, e-filing,
et cetera.

The State Bar's ability to effectively achieve its mission in the 21st Century has been a topic of discussion among State Bar of Michigan members and leadership, as noted by Joe. Joe McGill discussed with Janet Welch how to, in his words, reinvigorate the R.A. Janet had observed that every one of the R.A.'s dedicated and talented chairpersons during her tenure has pursued the exact same objective, generally focusing on conference calls and strategy for the R.A. to work harder by increasing communication to Bar members so we can generate more meaningful proposals for you all to consider. She suggested that it might be time to dig deeper into State Bar governance and policy development as a whole, and especially if we look at closely what is the core mission of the State Bar of Michigan.

That conversation, as noted, resulted in several meetings of the officers of the Board of Commissioners and the R.A., as well as two of your recent chairs, Dan Quick and Fred Herrmann. This great group brainstormed on ways to improve public policy decision-making, but over time too many things became apparent. One, in order to effectively address big picture State Bar governance issues, we needed
more stakeholders, more voices were needed, including
leaders from sections, committees, local and affinity
bars, and we needed more expertise on restructuring
options for an organization as large and as complex as
the State Bar of Michigan.

This summer your survey results, our
respondents told us we were definitely moving in the
right direction, that you want to engage more
effectively in public policy, and that you are open to
change. And in a second Rick Cunningham will discuss
some of those survey results with you.

So this resolution here today is the first
step in a serious effort to bring the State Bar of
governance into the 21st Century. Yesterday the Board
of Commissioners unanimously supported the resolution,
the same resolution that is in your materials, and so
I am here to ask the Representative Assembly to do the
same today. Thank you.

(Applause.)

VICE CHAIR CUNNINGHAM: Hello, I am Rick
Cunningham from the 3rd circuit. I am speaking as a
proponent as to the resolution.

Frankly, the world is changing, and we are
going to have to change with it. You have heard some
discussion this morning about the need for that
change. Well, I will tell you what we are considering here is the most important issue you are going to face this week. The most important. Who says it's the most important? Well, Janet was telling us why it's important. Jennifer was telling us why it's important. But who is the one that really told us that it's important? You.

Thanks to the leadership of the Bar, there was a survey done as to how you feel about this issue of governance. Out of 120 people, we got responses from 79. Now, any of you who have done surveys know that's phenomenal, 79 people responding. It is a matter of importance.

The survey is going to provide the very valuable guidance to a task force, if you approve that task force, but there are some things that were mentioned that I would like to tell you about today, because I think that's important, and it shows how important you believe this issue to be. It is clear that R.A. members want to be more substantially engaged in meaningful public policy, including generating public policy items. That's what you want.

Over 97 percent, 97 percent of the survey responders thought it was either very important or important for the R.A. to provide input on legislative
and policy matters, and maybe so that diverse views can be considered before the State Bar takes a position. Ninety-seven percent thought it was very important or important to provide input.

There is also a finding from that survey, a realization from that survey that there is confusion as to how the State Bar of Michigan is run and the relationship between us, the R.A., and the Board of Commissioners. There were comments, I think, that were very enlightening. Clear lines of responsibility are needed. I wish I knew more about the governance of the Bar. That's a comment coming from an R.A. member. I wish I knew more about governance of the Bar. The governance structure is unwieldy, and it is clunky, a recognition that we've got to change. The world is changing around us.

We know from the survey the members are interested in utilizing technology. They want to become more engaged. They want to meet more often. They want to make timely and responsive public policy decisions. And members still find these in-person meetings to be valuable. Eighty-seven percent of the survey responders thought it was very important or important to meet in person to discuss proposed legislation and policy proposals.
So we are asking the R.A. to support the formation of a task force to examine our current structure to look at things and the way they are really working and to make changes or recommend changes to the structure. We want to be more effective, we want to be more efficient, and we need to change in light of some of the ongoing issues that we must face as a mandatory bar.

This group, this task force, will make potential recommendations for governance, but it's going to come back to you. The task force will be reporting to the Bar leadership and to the Representative Assembly, so it's not delegating away any responsibility. It's just allowing them to perform this function, to come and bring it back to you. I urge you to support this proposal. Thank you.

(Appause.)

CHAIRPERSON MCGILL: Having heard all that, I will accept a motion to approve the proposal as drafted and reflected in tab number six of our materials. Is there such a motion?

VOICE: So move.

CHAIRPERSON MCGILL: Is there support?

VOICE: Support.

CHAIRPERSON MCGILL: Having heard a motion
and support, I will open up discussion with respect to the proposal reflected in tab six.

Hearing none, I will ask the clerk, Mr. Burrell, to let us know if we are ready to open the vote.

CLERK BURRELL: Voting is open. A for yes, B for no, C for abstain.

CHAIRPERSON MCGILL: Last call.

CLERK BURRELL: Voting is closed. The results of the vote, Mr. Chair, 97 yes, 4 no, 3 abstentions.

CHAIRPERSON MCGILL: The motion passes. Thank you very much, and congratulations. You are definitely going to be in for an interesting ride on all of these issues.

The next calendar item is with respect to a proposal to amend our Permanent Rules of Procedure under the Assembly Review provision of the rules, and I will call to the podium Mr. Nicholas Ohanesian.

MR. OHANESIAN: Thank you, everybody. My name is Nick Ohanesian. I am a representative from the 17th circuit. I also serve as the chair of the Assembly Review Committee. The proposal you have in front of you today is a group effort by the Assembly Review Committee. The members of this committee are
John Blakeslee of the 13th circuit; Mark Holsomback of
the 9th circuit; Diana Langdon, the 12th circuit; and
Jill Nylander of the 7th circuit. I would also like
to acknowledge the valuable assistance of the Drafting
Committee in refining this proposal.

The purposes of this amendment to the
Permanent Rules of Procedure of the Representative
Assembly and the recommendations of the Board of
Commissioners is to amend the bylaws of the State Bar.
The purpose is to fill a gap in the ability of this
organization to perform business.

As it stands right now, our only opportunity
to execute votes and to, therefore, conduct business
is twice a year at our meetings. The purpose of the
amendment is to enable us to conduct business in
between those meetings under appropriate
circumstances.

Briefly, to summarize the way the proposal is
designed to work, upon application of the Board of
Commissioners or a member of the R.A. to the Committee
on Rules and Calendar, the committee shall consider
the appropriateness of the proposal for a virtual
meeting and a vote. Upon a majority vote of the
committee, notice gets sent out to all the members of
the R.A. and an internet-based discussion forum shall
be convened that is open to view by all members of the
Bar, with posting privileges limited to members of the
Representative Assembly. No less than 21 days -- the
minimum of 21 days from the date of the notice a vote
shall be conducted with the majority of the members of
the R.A. or a two-thirds majority of the members of
the R.A. needed for passage. Otherwise, we follow the
same rules we would normally follow in a regular R.A.
meeting.

The main purpose here is in situations where,
for example, to explain where I think this is going to
come into play, where we get asked to weigh in on
something -- let's say on November 1st the Michigan
Supreme Court asks for our input on something, as it
currently stands, we wouldn't actually be able to
weigh in and cast a formal vote until the next meeting
in April. This would allow us a way to get around
that problem. This allows us to carry out, continuing
what we talked about in terms of you have already
heard from making us more agile. It allows us to
actually have a vote and have a say in policy matters
in between meetings as it currently stands right now.
If we don't do that, somebody else is going to have to
do that. Some other body in this organization is
going to have to do that or else, you know, we don't
matter. If we are not weighing in, we are not giving appropriate guidance.

And so with that, if anyone has any questions. Also, concurrent with the recommending changes to the proposal, there is also a recommendation from the Board of Commissioners to alter, to add a section which would allow us to actually conduct our business in a virtual fashion, subject to our own rules. The reason for that proposal, that recommendation to the Board of Commissioners, is that, as it stands right now, the bylaws are silent on the Representative Assembly's ability to do that, and since the Board of Commissioners already has a specific provision allowing them to conduct the votes in between meetings, we thought it would be most appropriate, having conferred with the appropriate people, that it would probably be the best way to actually get this done would be to actually have an amendment to the bylaws to make sure everything is squared away.

With that, I can get off the stage as quick as possible. If anyone has questions.

CHAIRPERSON MCGILL: Having heard Mr. Ohanesian's proposal, is there a motion to approve the first action item under tab number 7?
VOICE: Support.

CHAIRPERSON MCGILL: There is support. Is there a motion?

VOICE: So moved.

CHAIRPERSON MCGILL: Is there support?

VOICE: Support.

CHAIRPERSON MCGILL: Having had a motion and hearing support, is there any discussion with respect to the first action item, which is the proposed changes to the Rules of Permanent Procedure?

MS. JOHNSON: Mr. Chairman, Elizabeth Johnson of the 3rd circuit. I would like to thank the committee for its hard work, but I am very much against this proposal to change our bylaws on virtual meetings.

This is a very important body. We are the final policy-making body of the State Bar of Michigan. We are a representative body. We have the ability to meet, not just twice, but multiple times. I do not believe that there is a need to fill a gap. In past times when there have been important things that needed to be addressed, we have met as a body in a special meeting.

As shown by the recent survey, 86 percent of you feel that a face-to-face meeting is important. I
have seen many, many years as a member of the 3rd
circuit and as chairperson of this group where
face-to-face discussions have influenced my decisions
and decisions of other members. It is important that
we have the opportunity to meet face to face, to hear
discussions from other people, to actually see
expressions on people's faces to trust the validity of
their discussions.

We are the final policy-making body of this
very important State Bar of Michigan. We should not
rely just on virtual meetings, and I urge this group
to vote no on this proposal, especially in light of
the work the Task Force is going to be doing in the
future. I think our work is too important to delegate
it to something that we are not sure of. We have the
ability within our bylaws to meet more often if we
need to, and I think we should not change it. Thank
you.

MR. OHANESIAN: The principal issue here is
cost, because if we are going to convene -- every time
we convene a meeting, there is a built-in cost for us
in terms of bringing people here, in terms of
reimbursement rates, and I understand for many of us
this is a short hop. For other people, it's a longer
drive. This does -- and while I agree that this does
not provide the same face-to-face quality that we have in this meeting we have here, this does provide a forum to allow for debate, response, and to allow participation in a conversation about what needs to be done. So that's what I can say. Go ahead.

CHAIRPERSON MCGILL: I would just add, with all due respect to Member Johnson, and thank you very much for your comments, our rules only provide for the allowance of one special meeting, and the proposal, as it's drafted, is an enhancement of our ability to meet. So that means then you will be meeting, generally speaking, twice a year, we will have those face-to-face meetings, but undergirding that, supplementing that, will be really the constant, hopefully constant debate and back and forth that takes place on the internet every day that we are, by our rules, denied access to.

Member Mason.

MR. MASON: Good morning. Gerry Mason from the 31st circuit, and I am rise in support of the motion. This makes the Representative Assembly more relevant, more efficient, faster. It will increase and improve communication and relevant communication among its members.

Secondly, this is just -- in reality, we just
made a sort of a technology update to how the
State Bar of Michigan is going to do business in a
previous motion, and this really almost dovetails on
that.

We are still going to have our two meetings a
year, I am assuming, and that can even make those
meetings more relevant, because with the meaningful
dialogue throughout the year as needed, the
face-to-face meetings will become important, and be
even more important perhaps.

I would also note, just as a matter of
logistics, I drove three hours one way from
Port Huron, and the lady sitting next to me from 32nd
came down from Gogebic in the Upper Peninsula, so this
is a pretty good idea as far as we are concerned, and
it's also environmentally friendly. Thank you.

MR. ROTENBERG: Steven Rotenberg from the 6th
circuit, and I have objections to the proposal. Used
to have three meetings a year. I have been a member
off and on for about 20 years with the Representative
Assembly, and we have gotten rid of one of them, and
everybody was afraid it would cause problems with our
ability to function, and, surprisingly enough, we
actually functioned reasonably well, because we have
had meetings in these 20 years that I have been here
that we had very little on the agenda, and some of it -- I remember a couple cases it was total
day-gazing where we just did awards, which weren't the greatest because we're really here to legislate after a fashion.

Again, in my 20 years of experience, I don't think we have ever had a need for anything that I can recall coming up where there was a special meeting. Perhaps there has, but I can't articulate a single example of any time that I am aware of that one was needed, and that just might be because I am unaware, but I just can't recall it coming up, and there have been times when we have been asked, and again I forget, because it was years ago -- once I remember we were asked to do something and we were a very dynamic organization and we pushed back where we were asked basically to rubber stamp something, and we were told that the Board of Commissioners would like our vote on this, because they are going to enact that way anyhow. So we are an effective body.

One of the problems we have with these virtual meetings, and I have attended quite a few of them, is there is no esprit de corps, there is no face time. I know people, or at least am acquainted with people from across the state because of this body, and
professionally it's helped me. Personally it's great, because it's nice to have other opinions, because otherwise all I do is I would know people from the two circuits that I practice in, the 6th, where I have my main office, the 38th where I live and have a secondary office.

The other question I have is, although we are here to legislate, I don't like this moving super fast. I like us to be -- would prefer that we be cautious, so why do we ever need to act so fast, generally?

And the other question I have is do we have a slippery slope where we wind up doing skype meetings or Citrix meetings as opposed to doing this, because this narrows what -- you're going to say costs now. Sure, this costs tens of thousands of dollars to have these meetings. We have them twice a year. They are important, but if we start doing them electronically, I think the interest will go away.

Just like our votes before we had the push-button voting, it used to be more raucous. They were inefficient, but they had some passion to them that would be missing in an otherwise somewhat dispassionate body, because we rarely get riled up about anything.
So I would object to it, because I don't see
the need to do this, because it just hasn't come up,
as far as I know. Thank you.

CHAIRPERSON MCGILL: Thank you very much for
your comments.

Mr. Ohanesian just reminded me in the
individual role that the officers serve, and we're
serving on the Board of Commissioners and serving on
the Representative Assembly, we have had sort of the
experience of both sides of the coin where the Board
of Commissioners is much more active in dealing with
issues, particularly the committee work that takes
place, between their face-to-face meetings, and I can
indicate that much of that work is done through
internet-based tools, and I would also indicate that
perhaps it is a rhetorical question, why do we need to
meet again? Is there a need for a special meeting?

I can tell that when we considered the
discovery rule proposal at our last meeting, just
receiving that 70- or 80-page plus proposal before it
was circulated to the members of the Representative
Assembly, the first reaction I had was special
meeting. We need a special meeting, because this body
is going to tear that proposal apart, it's going to go
through it line by line, and I can tell you, with all
due respect to the State Bar and State Bar staff, I encountered significant headwind in trying to get that special meeting to take place, primarily due to costs, but due to other issues with respect to travel and other issues that the Representative Assembly might be dealing with at the April meeting.

So cost is certainly an issue, travel is an issue. Allowing this body to do things that every one of us does in our own practice in communicating electronically and deciding issues, certainly it seems like a no brainer to me.

Vince.

MR. ROMANO: Thank you. Vince Romano, 3rd circuit. I rise, I believe, in favor of the matter. I think Joe has mentioned very relevant points. I have seen too many circumstances in my years with this group that by the time we get to an issue, it's aged, you know, and we are not being very current in dealing with it. Or I have seen the reverse where we have come to the conclusion that some kind of a special meeting is necessary, so it's referred to a committee or whatever. By the time it gets back to us, it's further delayed. So I think that this gets us over that shortcoming. And I don't think anybody is trying to replace our live meetings
with, you know, a series of vertical meetings. I think we will use them wisely, as necessary.

I do have one question though. I note the comment that there is no staffing or fiscal impact, none known. It strikes me that there probably is some staffing and fiscal impact. I don't know that it's overwhelming, but certainly something is there. What are the mechanics involved in trying to put this together? Thank you.

CHAIRPERSON MCGILL: That's a great question, Vince, and I can also tell you that in working with Nick and his committee and putting this proposal together, we did have many discussions with Peter Cunningham, Katie Hennessey, and Janet. Quite frankly, the back and forth of the State Bar staff with respect to what is this going to cost us, and we actually modified the proposal so that we could make sure that the cost impact was negligible or nonexistent. So as it stands right now, as the proposal is written and supported, we don't see any major cost with respect to software, hardware, setting up satellite locations for video conferencing, all the different things that may go along with having these virtual meetings. Those issues were considered, and that was the conclusion that we came to.
MR. LARKY: Sheldon Larky, 6th circuit.

Before I preface my remarks, I am going to ask the floor to help me. Would all of you who are on an i-Phone, an i-Pad, a computer, raise your hand right now. My God. So we are so all electronic here, and we are communicating with our offices. We are playing games -- sorry, nobody is playing games. So what did you just tell me? You just told me that we are in an electronic age.

As much -- I am one of these old guys, by the way. I think I am one of the longest-serving members here. I see a few of my brothers and sisters that have been here. I think I have been on the Assembly close to 40 years on or off, and I love being here. I loved physically the four meetings a year that we first had. I loved the three meetings a year. I love the two meetings a year. It gives me the opportunity to look at each of you and to network with all of you and to see my brothers and sisters from around the state. But we are in a different world now. I am an old-timer. I am an old fart now.

CHAIRPERSON MCGILL: No, you're not.

MR. LARKY: I am at that point in my life where -- you know, it took me a few years to learn how to turn on and off a computer, but now our whole world
is computerized, and as much as I like networking in person, I realize that this is the thing to come. This is efficient, and I am going to vote yes for this. Thank you.

CHAIRPERSON MCGILL: Thank you for your comments.

MS. REBECK: Chelsea Rebeck, 6th circuit. I think that the concept of this is great. I think that it may be a little premature, given that we just voted on implementing the task force, and I would like to see this done after we know the mechanics and maybe have this as something that the task force works on. It's a pretty big change, and I have seen these things go really well and really bad, and I am one of the younger ones here that is pretty proficient with technology, and this still gives me a little bit of pause before we know exactly how it's going to work.

CHAIRPERSON MCGILL: If I could just address that. Thank you very much for your comments. It's anticipated that the task force and it's work will take some time, probably in the range of 18 months or so before actual material recommendations are put forth, both to this body and to the Board of Commissioners, so it's not as though a delay to the next meeting in April is realistic if we go down that
path. My belief is that the issue is tee'd up. It's long overdue, and it should be considered now.

MR. GREELEY: Patrick Greeley from the 25th circuit in the Upper Peninsula. It took us about six to seven hours to get down here, stay the night. We then have to come here for the day, drive back end of the day, and that's two full days out of our schedule, which we can do when we have months to prepare for it, but as attorneys, we are all very busy, and here, if we have a special meeting that's scheduled for 21 days, I am not going to be able to come. Twenty-one days from now, my schedule is booked. I can't make time to come down here and vote for our district, our circuit, and that's going to be a problem with the entire U.P. For me, six hours. Gogebic is probably nine hours, 600 miles. Cost-wise, that's almost a thousand dollars with mileage, hotel, food. And I think it's better to be prepared.

One comment was we haven't had a need for a special meeting in the past, but it's a bit of a red herring. Just because we haven't had a need for it doesn't mean we won't have a need for it in the future. I would much rather be prepared and be able to address needs that come up very promptly and in a prompt manner so that we can be at the forefront of
the legislative body, we can respond to the needs that are very time sensitive. So I am in support of it.

MR. KOROI: Mark Koroi from the 3rd circuit. Just want to put my two cents. One thing I notice from looking over the people that run every year for the Representative Assembly, and one thing I notice is that there are so many vacancies in the Upper Peninsula, and the areas of the typical meetings are in the Detroit area, Lansing, and Grand Rapids. Might be convenient for people like us to be there, those from metro Detroit. What about the people from up north, the Upper Peninsula. They are shut out of these proceedings because of the distance. Like the preceding member who spoke has indicated, if there is a special meeting and there is really no way he can, as a practical matter, get down here in 21 days because it's like a two-day effort for him just to come down for this meeting, and I think if it's implemented under strict conditions, I think it can be fair, but I think there needs to be more discussion while we are looking into this so we have to balance.

I think it's a good idea. On the other hand, it's got to be done in a way in which it will recognize some of the comments, and I would use those comments. We are basically a public body, and to meet
face to face and discuss these face to face with each other, you can't take that away by using this virtual method without losing something in translation. So I think there is pros and cons with both of them. We should look at those further before we implement.

Thank you.

MR. OHANESIAN: I would like to comment about the issue of procedural protection. One of the things that we did in the subtle change of how the voting changes, the notice to vote has to be by a majority of the members of the Assembly as opposed to by a majority of the people present. That's a difference from how we normally conduct business. That's something that was discussed. We batted back and forth in how to deal with this, because this deals with -- this makes sure that we are going to have to have a -- this means there is going to have to be a majority, an absolute majority of the membership to pass anything, and that was done to specifically make sure that we had a wide -- because this is a rep -- this will be a virtual meeting as opposed to a face-to-face meeting. It does create a higher burden for us to move anything, and I think that's well, I think that's a good idea, based on considering the issues. So these are very -- in fact, this was not
in the first. We put a higher burden, a higher
threshold to pass it. You can get anything done. I
think that it helps to balance that concern out.

CHAIRPERSON MCGILL: I would also add, to
address Member Koroi's comments, I guess the
application and the enforcement of our Permanent Rules
of Procedure with respect to many different issues,
the meetings, and even right down to absences and
whether they are excused/nonexcused are things that
are carefully considered by the officers of the
Representative Assembly. So in my view, I don't see
virtual meetings being called willy-nilly without any
deliberation, so I appreciate the comment from
Member Koroi. I don't believe it's a huge concern,
but it's certainly a valid comment.

MS. PAYNE: I am Erica Payne. I am also from
the 25th circuit in Marquette. I would echo the
comments that Pat Greeley made, but I also wanted to
make a few additional points. I have been on the
Representative Assembly for about two years, and I see
our leadership dying to get us involved more, and this
seems to be the tool to promote that.

Also, I think that this is also something
that promotes diversity within the Representative
Assembly. Geographic diversity is very important to
get different ideas, and so we should be furthering that.

In addition to representing the 25th circuit, I am on the Executive Council for Young Lawyers, and from that perspective this is also important, and I think going to the cost of it. In the Upper Peninsula what we are seeing is lot of our older attorneys retiring, which means a lot of young attorneys are taking over those rural areas, and it is extremely costly to them to have to take two to three days when they are hanging a shingle to try to come down to a meeting.

So I think that meeting in person is important, but if we have more tools in our tool box to make us come together virtually, that's great. Thank you.

CHAIRPERSON MCGILL: Thank you. Ms. Warnez.

MS. WARNEZ: Dana Warnez, 16th circuit. I stand before you as a member of the R.A., past chair of the R.A., elected member of the Board of Commissioners, and the current Treasurer of the State Bar of Michigan. I have been on, just like Joe has said, I have been for a long time on both sides of the R.A. issues and commissioner issues, and there shouldn't be that division between R.A. issues and
commissioner issues, and that's primarily the
dysfunction that happens based on how our current
governance works. And that's like our Vice Chair,
Rick Cunningham, just said, it's so urgent, the most
important -- the Task Force was our most and is our
most important issue here today, and we also heard
from Rick Cunningham that this body wants clear
delineation of what its purpose is supposed to do. My
sister, Kim Cahill, told me all the time, if there is
not a meeting agenda and you don't know why you are
going there, why are you having a meeting?

So I am really concerned, at least partially
here, to know that we are going to move, not just to
meet for the virtue of meeting but for a meeting to be
effective, the meeting to be efficient, effective. I
want the R.A. -- in my dreams I would want the R.A.
to be as effective as it possibly could be, as
efficient as it possibly could be, and this makes it
easier to me, but I don't know the delineation. I
know this rule and all the rules don't allow the
Task Force input. Tell us which way we are going to
go.

So I echo Ms. Rebeck's comments about this
being premature. I think it would be important to let
consultants and all the stakeholders, like Jennifer
Grieco told us today, that need to come to the table come to the table and have a larger discussion to know what's really going to be the very best and the most efficient. So I would, rather than say no, I do not want to say that I am opposed to this rule at all, but if we need to table it for some reason, that may be a really efficient way for the body and the whole -- the whole, unified State Bar, not the R.A., not just the commissioners, but the whole State Bar to have a chance to figure this out.

So I would make a motion to table this for the purpose of letting the Task Force do its work.

VOICE: Support.

CHAIRPERSON MCGILL: Is there a second to the motion?

VOICE: Second.

CHAIRPERSON MCGILL: The debate is open to table the motion on this proposal.

Hearing none, Mr. Clerk, can you open the voting.

CLERK BURRELL: The voting is open. A for yes, B for no, C for abstention.

VOICE: Call the question, please.

CHAIRPERSON MCGILL: The question is, and the motion is, to table the vote with respect to the first
resolution in tab number 7 concerning the creation of a change to the Rules of Permanent Procedure with respect to virtual meetings and an internet-based debate forum. And just a clarification on the motion, is the motion to table it to the next meeting?

MS. WARNEZ: Yes.

CHAIRPERSON MCGILL: So the motion is to table to the next meeting, which would be in April. So voting is open. A for yes, B for no, C for abstention.

Last call.

The voting is closed.

CLERK BURRELL: The result of the vote, Mr. Chair, 40 yes, 61 no, 3 abstentions.

CHAIRPERSON MCGILL: The motion to table the proposal has failed. Is there any further discussion or debate with respect to the proposal which is reflected in tab number 7?

MR. BULSON: Dave Bulson, from the Upper Peninsula, 50th circuit. I just have really a question about this. If this proposal is adopted, in theory could we have every meeting by virtual attendance, in theory?

MR. OHANESIAN: I didn't see -- I mean --

MR. BULSON: Seems like that's a yes or a no
question.

CHAIRPERSON MCGILL: My answer would be no. This rule doesn't touch the, I don't believe, it doesn't touch the portion of the rule that deals with when our two regularly scheduled meetings are supposed to take place. I could be corrected though, certainly.

MR. BULSON: If you are not sure, you probably should say you are not sure instead of saying you could be corrected.

CHAIRPERSON MCGILL: I will say I am not sure, and I will turn it back to you. What do you got?

MR. BULSON: Well, it does seem that in theory any business of the Representative Assembly can be conducted according to its calendar or by special order. The special order of Section 2.7 says virtual meetings. So that would be my concern. If, in fact, that is what this does, in theory, conduct all meetings by virtual attendance, then I wouldn't be in favor of it, but I do think that all the points have been made about people traveling long distances and how inconvenient that is for the law practice. Instead of just a workday, like a Thursday instead of on a Saturday are well taken, and the idea of being
nimble -- virtual attendance allows us to be nimble. So that's why there is good things on both sides of this, but if this will eliminate, in theory, attendance at the -- I see you guys are checking the rules, and that's great. But maybe you will have some other comment on that.

So anyway, if it in theory would eliminate the two regularly scheduled meetings, then I wouldn't be in favor of it, but if it was changed to make sure those were preserved, then that seems like a good idea, to be nimble and help people like me to come from a long way away.

MR. OHANESIAN: I think we can clarify that we are not sure to no, because Michigan Supreme Court requires us to meet twice a year, first. Secondly --

MR. BULSON: Is that rules --

MR. OHANESIAN: At least that's the Rules of the Michigan Supreme Court, which governs us.

Second, I make the observation in --

MR. BULSON: Excuse me. I'm sorry to interrupt you, but when you say it requires us to meet. Isn't a virtual meeting a meeting?

MR. OHANESIAN: Not the way I understand it. Let me raise one other point then, the qualifying language. If you look at 2.7(a), the rule, the
Committee on Rules, in order to decide an issue is appropriate for a virtual meeting, has to determine -- has to be decided before the next meeting. That acts to exclude a lot of things. We don't have to decide before that. I don't see how -- you know, my implication, my intent was, the intent was when we wrote this that it was not to supplant our general meetings, and second, I think that implies you are going to have to have regular meetings, because, by virtue, there are going to be issues that you cannot, that the Rules Committee cannot say have to decided before the next meeting. I mean, that's my answer.

MR. BULSON: Would there be a way to tweak this, to preserve the face-to-face meetings twice a year? I think that would allay a lot of the concerns that people have expressed on both sides of the equation.

I will add one more thing while you guys are looking that up. If we add that, I can vote in favor of it, but if we can't add, this could have the effect of having all meeting attendance be virtual, then I would have to vote against it as it's currently stated, because I would want that other assurance.

MR. OHANESIAN: Another assurance for you then. Limitation, except for as specifically arises
under Section 2.7, the Permanent Rules of Procedure, shall be applicable virtually in the same manner as rules of the Representative Assembly. It's a limitation clause. I don't think that that -- I think that also covers that issue.

CHAIRPERSON MCGILL: At this point we are going to suspend debate.

MR. BULSON: Thank you.

CHAIRPERSON MCGILL: We are going to be going to lunch, but Janet Welch has an announcement for us.

EXECUTIVE DIRECTOR WELCH: My remarks are in the nature of correcting the record for what I told you this morning. This is what happens when you amend on the fly, because you are checking your e-mail and what's on the internet about granting cert.

So Fleck was not on the deny list, it was not on the relist list, but apparently there is going to be another tranche of decisions about the 600 cases that were considered on Monday. Fleck is still on that list, so stay tuned. There is a possibility that may be relisted or sent back to the 8th circuit. Everything else I said stands. It's a correction.

CHAIRPERSON MCGILL: Thank you very much, Janet. We do have to suspend debate. We need to go over to the Inaugural Luncheon, which is in
Ballroom B. Please leave your clickers at the table.

We are recessing, not suspending. Thank you very much, Judge.

Please leave your clickers at your seat. We will begin promptly at 2 p.m.

I have been instructed to remind you that you need to turn in your reimbursement form for your travel expenses by October 3rd, and there will be no exceptions. Have a great lunch.

(Proceedings adjourned 12:02 p.m.–2:30 p.m.)

CHAIRPERSON MCGILL: I'd like to reconvene the meeting and continuation of the discussion or debate with respect to the items contained in the proposal that's under tab seven of your materials.

There were a couple of members that I believe wanted to speak on this just before we broke for lunch. Yes.

MS. GREEN: Cassandra Green from the 29th circuit, and just before lunch I had the opportunity, obviously, with the rest of you to listen to kind of the pros and the cons. I am actually in support of it. At lunchtime I had an opportunity to sit next to someone who might as well live in Wisconsin for all I know, but I don't know where she is at. It's, you know, a nine-hour drive, but more so -- you know, when
I initially joined to be a part of the Representative Assembly, it wasn't about me and what my thoughts were. We are a small Bar in Clinton County there. We actually have two of us on the 29th, and we share with Clinton and Gratiot County, but it was more about for me to be able to have the opportunity to do what my constituents wanted.

Sometimes it's not necessarily -- I may agree with one thing, but I do give my constituents those opportunities. When we get these packets, we send an e-mail out to people and say, What are your thoughts? Because, really, I am just representing that community, my other fellow brothers and sisters in the Bar in my area. To have the opportunity -- I heard some people say, you know, it's a 21-day and, you know, to do stuff. I am already booking. I'm six or eight court dates in November already, two or three in December, so I pick out really far in advance as well, but to have that opportunity to make those special meetings and to do them by, you know, e-mail or any type of virtual meetings, I would be absolutely in support of, because not only that, it does still give me that opportunity to reach out to my constituents.

What I am doing when I do that, I am doing it virtually anyway, because we don't have many Bar
meetings. Because we are so small, we have four a
year. I know other counties have them monthly, maybe
even more that. But that is the way that we are
going, in fact, and, again, I don't think anybody up
here, and I don't think it's the intention of the
commission to take away the two in-person meetings
that we are doing a year. So I would ask people to
consider that and definitely fall in line in support
of this to allow us to do it by virtual meeting.

MR. ROMANO: Vince Romano, 3rd circuit. I
rise to propose an amendment to this proposal that I
think might help us along by way of ensuring -- I
think part of the issue here has to do with us not
wanting to lose these regular in-person meetings that
we have, so I propose this amendment.

I add the following language to
Section 2.7(f). This would be an addition. Would
read as follows: Nothing in this section shall modify
the requirement of the Representative Assembly to
conduct a minimum of two in-person meetings per year
as specified in Michigan Supreme Court Rule 6.7.

Would you like that read again?

CHAIRPERSON MCGILL: Member Romano, could you
certify to the membership that your proposed amendment
has previously been submitted to the clerk of the
Representative Assembly in writing.

MR. ROMANO: Yes.

CHAIRPERSON MCGILL: Yes, it has?

MR. ROMANO: Yes, I certify that.

CHAIRPERSON MCGILL: Is there a second to the motion?

VOICE: Support.

CHAIRPERSON MCGILL: Any debate? Any discussion with respect to Member Romano's proposed change to this proposal?

Hearing none, I will ask the clerk to open voting on this proposed amendment.

VICE CHAIR CUNNINGHAM: Let's wait just a moment to get it typed. There she is.

CHAIRPERSON MCGILL: My apologies.

MR. ROMANO: That conforms with the language that I have proposed.

CHAIRPERSON MCGILL: Thank you very much.

MR. ABEL: Good afternoon. Matt Abel, 3rd circuit.

Mr. Romano, I am wondering if you would accept a friendly amendment to just put a period after the word "year," a minimum of two in-person meetings per year. That way, if the court changes the rule, we still have two meetings per year.
MR. ROMANO: I'll accept that amendment.

CHAIRPERSON MCGILL: Any further discussion, debate before we open voting on this proposed amendment?

Hearing none, ask the clerk to open voting, please. Remember A for yes, B for no, C for abstain.

CLERK BURRELL: The voting is open.

CHAIRPERSON MCGILL: Last call.

Please close the voting.

CLERK BURRELL: The result of the vote, Mr. Chair, 79 yes, 14 no, zero abstentions.

CHAIRPERSON MCGILL: Thank you very much. So as modified by the amendment just approved by the Assembly, is there any further discussion or debate with respect to the first resolution of this material in tab seven of your booklet?

Hearing none, I will ask the clerk to open voting.

CLERK BURRELL: On the first question?

CHAIRPERSON MCGILL: On the first resolution.

CLERK BURRELL: The voting on the first resolution is open.

CHAIRPERSON MCGILL: Last call.

Please close the voting.

CLERK BURRELL: The result of the vote,
Mr. Chair, 80 yes, 13 no, zero abstentions.

CHAIRPERSON MCGILL: Thank you very much.

Moving on to the second resolution contained under this tab.

MR. OHANESIAN: Just as a reminder, the second matter that we are voting on is to recommend to the Board of Commissioners that the language of the bylaws be modified, essentially conforming language to allow us to engage in the procedure that we just approved on the vote, the 80 to 13 vote.

CHAIRPERSON MCGILL: Is there a motion to approve this resolution?

VOICE: So moved.

CHAIRPERSON MCGILL: Is there a second?

VOICE: Support.

CHAIRPERSON MCGILL: Having a motion and support, is there any discussion or debate with respect to the second resolution?

Hearing none, I ask the clerk to open voting on the second resolution, please.

CLERK BURRELL: Voting is open.

CHAIRPERSON MCGILL: Last call.

Please close the voting.

CLERK BURRELL: The result of the vote, Mr. Chair, 88 yes, 7 no, zero abstentions.
CHAIRPERSON MCGILL: Thank you very much. Thank you very much, Mr. Ohanesian, and congratulations.

Moving on now to the 8th item on our calendar, the Drafting Committee proposal, which will be presented by Member Daniel Ferris.

MR. FERRIS: Good afternoon. I am Dan Ferris with Kerr Russell in Detroit representing the 3rd circuit, and I have for you today a proposal addressing the jurisdiction of the Drafting Committee. I think this may be the shortest of the proposals today. It involves six words total, but with that said, we welcome any comments.

The idea here is to change the rules to better reflect what the Drafting Committee actually does. As it's currently stated, our task is to review as to phraseology, and during a discussion among the Drafting Committee members, we were all scratching our heads to try to understand what "phraseology" means exactly, and so we thought it was better to be more precise and try to describe our task in terms of structural organization, grammar, and punctuation, because we really do engage in all those things when we review, and the word "phraseology" didn't seem to encompass all of those things.
CHAIRPERSON MCGILL: Thank you very much. Is there a motion to approve?

VOICE: So moved.

VOICE: Support.

CHAIRPERSON MCGILL: Any debate or discussion with respect to this resolution?

MR. ROTENBERG: Steven Rotenberg, 6th circuit, and I was looking at this the other day. Unfortunately, I didn't write down the dictionaries I referred to with this, but "phraseology" isn't as vague as you might think. Phraseology was, the definition that I found, is a noun meaning mode of expression, expression, especially a characteristic of a particular speaker or writer. And I got to thinking about words such as "usage" or "idiom," and I would suggest that the word "phraseology," we might want to replace it with the word "diction," which has the definition of the choice and use of words in a speech or writing, because it would seem that without that you would have difficulty if we were using, let's say, "phraseology" versus "diction," you would have difficulty under that rule substituting that word if that better reflected the meaning, at least with my understanding of your use of structure, organization, and grammar.
I wouldn't want -- I know we don't want the Drafting Committee to have too much leeway with changing documents that are presented to them, but that might be a useful tool for them, because you don't want to have silly fights over can you change the word, you know, the word "fructose" to "sugar" or whatever, if that's what you really mean. I am just concerned about hamstringing.

So I would, and I hope I am doing this right, because I rarely make motions. I would move to add -- to replace the word "phraseology" with the word "diction" and add it to the list of words that are in there, if you wish to make this amendment.

CHAIRPERSON MCGILL: Is there a second to that motion?

VOICE: Second.

CHAIRPERSON MCGILL: The motion has been made and it's been seconded. And, as soon as Ms. Sharlow puts it in, we will open the debate.

Now that it's in, is there any discussion or debate with respect to the member's proposed change? Hearing none, I will ask the clerk to open voting on the amendment only.

CLERK BURRELL: Voting is open.

CHAIRPERSON MCGILL: Last call.
Please close the vote.

CLERK BURRELL: The result of the vote, Mr. Chair, 66 yes, 23 no, three abstentions.

CHAIRPERSON MCGILL: Is there any further discussion or debate with respect to the primary proposal, which is the modification of the 7.4 Drafting Rule, as amended?

Hearing none, I will ask the clerk to open the voting on that amendment.

CLERK BURRELL: Voting is open.

CHAIRPERSON MCGILL: Last call.

Please close the voting.

CLERK BURRELL: The result of the vote, Mr. Chair, 94 yes, one no, one abstention.

CHAIRPERSON MCGILL: Thank you very much.

MR. FERRIS: We do have another item of business today from the Drafting Committee, and you may see in front of you, if Carrie could put it up on the screen too, we have a flow chart that shows the proposal submission process. This was Joe's idea and, although making flow charts, you will see, is not specifically within our jurisdiction, I think that Joe proposed the Drafting Committee for this task because, well, I think we are the nerdiest people on the Representative Assembly, and it took a certain amount
of geekiness to get this done. It was a very detail-oriented project, and the person who really deserves all the credit for putting it together is our own Vicki King, and she will be coming up here momentarily to join me.

Vicki is with the 6th circuit and works with the judicial staff attorney for Judge Leo Bowman there. And I have been working with Vicki on the committee for a while, but I had no idea that prior to becoming a lawyer she actually worked in quality assurance testing computer applications, and that made her something of a flow chart extraordinaire, and I think her good work is on display here, and I think that fact may also make her the nerdiest member of the Drafting Committee, which is really saying something.

So what we are going to do here is just quickly walk you through the chart, and I feel like I should be doing a number from School House Rock about how a bill becomes a law, but I promise not to sing for you.

Each box represents the different steps in the process. It's probably easier to look at your paper copy in front of you, because I know the font is pretty small from back there.

First, the proposal has to be submitted, and
this didn't fit on the chart so well, but the specific
people who can submit a proposal, that's set forth in
our rules, and they are a local Bar association, the
Board of Commissioners, Section counsel or committee
of the State Bar, Congress, or any of us here on the
R.A. can submit a proposal.

Moving along. It has to be submitted 42 days
before the meeting, and the reason it must be filed a
good ways in advance is because, as you will see, a
lot has to happen to the proposal before it can be
considered by the R.A., and these things take some
time.

It has to meet certain requirements, and
those are listed next on the chart. It has to contain
written text of the proposed resolution. It has to be
five pages or less, unless permission is granted to
exceed the five pages. And that brings us along.

It has to have a written explanation and a
reason for the resolution as well. I think I missed
that one.

And so that brings us along to our second
page. And there is an option there for the Committee
on Rules and Calendar to potentially dispose of an
item before the R.A. meeting and the proponent agrees
with that, and then the committee reviews the material
to ensure that it complies with all the applicable
rules and provides a clear understanding of the issues
raised and the basis for the recommendation. And if
it does, then the committee refers the material to all
the State Bar committees and sections that have
jurisdiction over the subject matter.

So, Vicki, if you care to join me, sneaking
up behind, and take it from here.

MS. VICKI KING: From that point, which kind
of started this process over on the next page, and I
put waiting, when you are waiting for any of the
responses to come in, and just kind of monitor for
responses and see when they come in.

Once it comes in, they have the same
requirements. It has to be five pages or less, unless
they have permission. If they have permission, then
it moves on. If they didn't, then it's rejected.
They are notified they have to change it.

The Committee on Rules and Calendar will
meet, and they will finalize for the next R.A.
meeting. Must be between 30 to 45 days, and then you
look and make sure the material sets forth the
adequate, relevant information and is either placed on
a calendar for the next meeting and it's brought up to
the Committee on Rules and Calendar, and then we get
our beautiful packets in the mail, or they notify the proponent that it's not going to be on it, and there is an appeal process where they can appeal the decision of the Rules and Calendar Committee, and that finishes it.

MR. FERRIS: We hope you find this as a helpful resource. I know that before we embarked on this, I didn't fully understand the process, so it's been educational for me, and I hope it's educational for you. I hope we can put this on the website so people can see it for future reference too. Thank you.

CHAIRPERSON MCGILL: So the next item on your agenda, or our calendar for today, is the consideration of the resolution on the marijuana legalization. This matter requires a Keller vote, and we will open the floor for any discussion with respect to whether or not the proposal itself is Keller permissible for this body to consider.

With that clarification from Judge Chmura, I will turn the meeting over to Matt.

MR. ABEL: Good afternoon. My name is Matthew Abel. I am from the 3rd circuit, and I am the proponent behind this item, which is for the Assembly to endorse the proposal for the legalization of
marijuana.

It's going to be on the ballot November 6, and for any of those of you who are interested in the actual language, our associate, Sean Myers, down here in the front row, has a stack of these petitions, which he would be happy to provide to anyone who would like it. I suggest you all get a copy, because there is some chance that it will become the law -- I certainly hope so -- to be familiar with it from the get-go.

And so, as I understand it, the procedure here is -- well, first of all, if you have read the materials, you will see that Executive Director Janet Welch and other people from the Bar have opined that this proposal violates Keller in that it's ideological in nature and that it does not fit into any of the categories that are Keller permissible, but before we get to that, I move that we pass this resolution, and I think I am going to need a second or else I am done.

VOICE: Support.

VICE CHAIR CUNNINGHAM: Point of order. Don't we have to have a vote on Keller before we consider the proposal?

JUDGE CHMURA: That is correct. What should happen at this point is there should be a debate on
whether this is permissible under Keller. There are laws -- the rules require that two-thirds majority of the members here approve that this is permissible under Keller. If two-thirds believe this is permissible under Keller, then there would be a vote on the actual proposal.

You now know what the proposal is. It's been motioned and seconded, so at this point there should be a debate on whether or not it's Keller permissible. So, Joe, you can take it from there.

CHAIRPERSON MCGILL: Thank you very much, Judge.

With that being stated, I will open the floor for discussion and/or debate of whether or not the proposal as presented is Keller permissible for this body to even consider. Mr. Jocuns.

MR. JOCUNS: Bernard Jocuns of the 40th circuit -- that's in Lapeer County -- and I would like to address some issues as to why this proposal should be Keller permissible, and there is also a couple of open-ended questions I would like to throw out at the same time.

You know, if you go to ideological type things, and you get stuff like, I don't know, right to vote regarding someone's gender or ethnicity, and this
kind of goes into some of those things as well. But
as far as permissible under Keller, I am thinking of
improvement in functioning of the courts and
availability of legal services to society.

So I was actually talking with an attorney
that I know last night about some of these issues, and
one of them had North Dakota that had come up about a
half dozen times from various rooms in this building
today, and as an example, they actually have a
legalization matter that's on their ballot, and the
interesting thing is that state, they rank 47 out of
all 50 states of people that actually use marijuana
and cannabis, but it ranked second in per capita
prosecutions. Some of the same things that we have
here in the County of Lapeer is that -- or in the
state of Michigan, this also goes to improvement of
the courts.

Another example of that, in my own county, up
until 2010, before there was a Michigan Medical
Marijuana Act that had cases that really went through
the ringer and were tested, there were approximately
120 to 150 marijuana cases that were prosecuted for
90,000 people, and those cases would be from simple
possession to OUID to the maybe one or two
manufactured/delivery felony cases, and in 2010 that
actually jacked things up to right around 300 to 340 cases every year. So that's something that kind of misuses the system to, so to speak.

I know medical marijuana is a completely different issue, but when we have law enforcement within the last two weeks going around the state in their law enforcement uniforms trying to debunk what the proposal is all about, there is no reason that something shouldn't be done in the legal profession right now, and this does have to do with the administration of justice, and, arguably, it has to do with advancing jurisprudence as well. I think this would obviously clear up the courts, because there wouldn't be these little -- maybe I should use my words carefully. There wouldn't be any small-end offenses that may be considered petty that would be clogging up the courts and costing people unnecessary fines.

As you know, there are places in the state, unfortunately, that, instead of having a $200 fine for an infraction being out the door, it's somewhere in the area of $2,500, and it doesn't matter if it's a smaller county or if it's somewhere that's more populated. I believe that this also hits the interests of the legal profession as well and the
public as a whole.

We have to look at moving with the times here. Is this perfect as far as Keller is concerned? No. But I do believe that there is some valid reasons. This clears up the court. And also, in regards to some of the availability of legal services, which actually some of this was talked about at the Inaugural Luncheon there, which is very, very insightful, that we wouldn't have to worry about people that were clogging up the court-appointed fees for really low-end, petty offenses, and, quite frankly, a 21-year old that makes an adult decision shouldn't necessarily have something on their record that doesn't involve operating a motor vehicle, and these are things that would all clear up the court. So I take my comments off right now.

CHAIRPERSON MCGILL: Thank you.

MR. LAVIGNE: Hello, Attorney Thomas Lavigne from the 3rd circuit.

Yes, I would just like to go through some of the Keller permissible factors. The integrity of the legal profession is one matter here. I mean, this is, after all, a victimless crime, and the integrity of the legal profession is a matter that we need to protect. And the public is fed up with these
prosecutions over a plant and a natural resource, and it really has harmed the integrity of the courts, the integrity of our profession to propagate this lie, and so that's one.

The improvement in the functioning of the courts and the adaptability of legal services as well. We need to prioritize our resources. We only have so many resources. Meanwhile, we have crises to solve between the opioid epidemic and violent crime that is not being solved rapidly enough. Something like 90 percent of the marijuana cases get prosecuted, but murder and rape and these things, not many successes, not a lot of follow-up on those. There is rape kits still piling up in the back room.

So a matter of prioritization, and then the relationship between the legal system and the community. These, you know, violent raids on people consuming marijuana has not been good for the relationship between the community and the legal profession. Let's face it. This is a victimless crime. It's an ethical matter that we need to address as a legal profession.

So I suppose back in the day it used to be argued slavery was a matter of political opinion. Well, the racial disparity in the prosecution of
marijuana cases is despicable. Between three times and ten times more likely to be prosecuted if you are a person of color.

So there you have it, and I would promote this not being deemed Keller impermissible.

MR. REISER: John Reiser, 22nd circuit, Ann Arbor. I am urging that we vote no on whether or not this passes the Keller California case. I am asking that we defer to our executive director, Janet Welch, along with the director of governmental relations, Peter Cunningham, and our public policy counsel, Kathryn Hennessey, who I submit know more about these things than we do. As much as everybody else, I love Michigan's natural resources too, maybe not as much as some, and I would point out that on page two at the bottom, regulation and discipline of attorneys, ethics, lawyer competency, integrity of the legal profession.

We have got an adversary system that works well to slugging these out in court, and what we will be slugging out we will probably change in November. I am urging a vote on this, but I am urging that vote be on November 6 at the ballot, which is where it should be.

This isn't the right forum for that.
Clearing up the courts and clogging up the courts, that's different than improving in the functioning of the courts. So when there is something that's put forward that improves the functioning of the courts, without regard to the politics of this, you know, ending marijuana prohibition, pushing a false narrative built on misinformation, I just don't think that this is an appropriate subject for this body to be taking up today. Thank you.

CHAIRPERSON MCGILL: Thank you.

Mr. Cunningham.

VICE CHAIR CUNNINGHAM: Richard Cunningham, 3rd circuit. The issue before us now is not whether marijuana, recreational marijuana, should be legalized. That's not the issue. The issue is is this Keller permissible.

Now, I really welcome this proposal from Matt Abel, because it starts the discussion and the appreciation of what it is really all about, what the Keller decision is all about.

We are not talking here about anything other than what was really discussed in Keller. And the whole concept of this is should an attorney be used to, be forced to use his or her dues to support an issue, a political issue, that she or he doesn't
support. That's what this is all about. Can you imagine the outcry we would hear from a number of people here if it went and found Keller permissible and then the vote was no, and then it came out State Bar opposes medical marijuana -- or opposes the legalization of marijuana? No, there would be a hue and cry, because the mandatory Bar should not be involved in these type of questions.

That's why we have sections. That's why we have sections that have, not mandatory dues, but you can join a section. There is no restriction on Keller on that section. If the Marijuana Section wants to come out and say Marijuana Section supports legalized recreational use, fine. If the Animal Law Section wants to come out and say the Animal Law Section supports recreational marijuana, fine. But to have the mandatory Bar dues used to say that the State Bar of Michigan Representative Assembly supports it is totally wrong and just asking for a lawsuit.

Now, we talk about Keller all the time, but I would like to read to you a provision in Keller. Precisely where the line falls between those State Bar activities in which the officials and members of the Bar are acting essentially as professional advisers to those ultimately charged with regulation of the legal
profession, on the one hand, and those activities having political or illogical coloration which are not reasonably related to the advancement of such goals, on the other hand, will not always be easy to discern. But the extreme ends of the spectrum are clear, compulsory dues may not be expended to endorse or advance a gun control or nuclear weapons freeze initiative. On the other end of the spectrum, petitioners have no valid constitutional objection to their compulsory dues being spent for activities connected with disciplining members of the Bar or proposing.

So on the one hand we have clearly admissible evidence allowable upon them, and on the other hand we have you can't use Bar dues to go out and regulate how people spew on nuclear energy or gun control. How is this different than making a gun proposal?

Can you imagine if we had a resolution here that says we support gun control and we had another resolution that says everyone should have guns? This is not the type of thing that should be used under Keller or could be used under Keller, and it also comes from the guy who pays his Bar dues and says, Wait a second, how is it different, this permission for recreational marijuana, how is that different from
gun control or nuclear. It's on that far end, far end
of the spectrum. It's not even a close call. This is
not Keller permissible. Thank you.

CHAIRPERSON MCGILL: Thank you very much.

(Applause.)

MR. ROTENBERG: I would like to thank
Mr. Cunningham for his good words. I would like to
say that I don't believe that this is the place for us
to support or object or pose any opinion as a body.
We all have our individual opinions. Individually, I
support what the provisions of this, but I don't think
that this body should be doing -- should be taking an
opinion one way or the other with it.

But one of the things I was thinking about is
compelled speech is not truly free speech, and if you
go back even before Keller to the 1940s and to
West Virginia Board of Education versus Barnett, which
is a case involving children of Jehovah's Witnesses in
public school objecting to participating in saluting
the flag and of the pledge of allegiance. There is an
awful lot of dicta in there about compelled speech.
Free speech can't really be compelled, because if it's
free, you have to have the ability to opt out.

I freely say in my individual capacity as
Steve Rotenberg, marijuana should probably be
decriminalized. As Representative Assembly Member Rotenberg, I say we shouldn't be really discussing this and having a public statement about it, because the reverse of what Mr. Cunningham said, well, what if we all came out and we said no, then it would just look like we are protecting our business, which also doesn't look like we are protecting the public. So we should just stay out of this regardless of what our feelings are. And thank you.

MR. GILBERT: Dave Gilbert, 37th circuit. I have to agree with Mr. Cunningham. When we want to talk about politics, this is clearly political, and to say that somehow that we are promoting the integrity of the legal profession, you got to remember, it's against the law. It doesn't matter what you do in the state, it's still going to be against the law under federal law. Actually, we are not voting the integrity of our profession. We are actually saying we agree with criminal enterprises on the federal law, so I would have to object.

CHAIRPERSON MCGILL: Thank you.

MR. KOROI: Mark Koroi, 6th circuit. I just want to comment about some of the good comments I have been hearing. The only thing I could possibly see which involves one of the Keller permissible issues is
improved function in courts. I would agree with the proponent of this that the court system is heavily burdened with marijuana cases, and that's the only arguable element I see in this entire resolution is that particular section. That said, I do not believe that it's Keller permissible, because it's couched in, to me, a political issue.

For one, the resolution, for instance, has a clause, Whereas, it is estimated that Michigan could generate between $100 and $200 million in new tax revenue each year from retail marijuana sales. That really doesn't affect the court system. If they want to craft this more carefully and simply limit this particular resolution to how marijuana affects the court system, I don't -- it's a very great issue in the court system with police, with defense lawyers, with prosecutors, given the fact that it costs too much to process these. It's not even worth prosecuting because of the very limited families involved in marijuana possession.

But this resolution goes far beyond that. Actually, I don't think it's going to stand the close test (inaudible) to some of those issues about how marijuana affects the courts. I can say it's possible, the way it's been couched as more of a legal
issue.

I can tell you, my background with drug law goes back to 1991 when we had the Michigan Act being declared constitutional. They would change the law because it discriminated against poor people. I acknowledge that was a legal issue right there. I served over four years on the county substance abuse board, and we had various issues relating to marijuana and other drugs, and it is primarily a political issue, and I think this particular issue, though I agree with Matt Abel, a lot of stuff he says, I believe that the way it's down here, it's not Keller permissible. Thank you.

CHAIRPERSON MCGILL: Thank you very much.

Is there any further discussion, any further comments, any further debate?

MR. ABEL: I don't want to cut anybody off. Matt Abel again from the 3rd circuit. If I can, I believe that there are grounds for this to be Keller permissible, that this will improve the quality of legal services available to the people of the state. Mr. Cunningham used the examples of gun control and nuclear disarmament. Those are not racially biased policies. They are not racially biased in implementation. They are not racially biased in
effect.

What we are dealing with with the marijuana policies is something that is racially biased. It denies people of color equal protection under the law. People of color are 3.3 times more likely to be prosecuted for marijuana offenses than people of the same age who are white. If that's not racially discriminatory, I don't know what is.

Furthermore, this law will bring our legislation into conformity with societal mores; that the policy that we have now turns good people against the police. It is an inefficient and ineffective use of police that has taxed resources. Forty percent of drug arrests in 2017 were for marijuana.

While court congestion itself is not an adequate basis, I believe that promoting equal protection, which is a constitutional right, is an adequate basis.

Finally, last week police and prosecutors in at least five counties around Michigan, some people in this room, participated in a dog-and-pony show, if you will, to educate the public why to vote no on the legalization of marijuana. They were not educating the public about the proposal pros and cons; they were educating the people about why to vote no.
Now, if it's acceptable for the police to do this in uniform with tax resources, then certainly they would argue that it's not ideological, and what's good for the goose is good for the gander. If it's not ideological for the police, then we can decide this. If it is ideological on the part of the police, then they have committed crimes and the prosecutors and everybody else who has been involved in this dog-and-pony show that was held throughout Michigan.

So I understand that this isn't favorable with some of the members of the body. I understand that some people here don't like marijuana, period. I understand that others understand that this policy needs to change and they don't feel that this is the appropriate forum. But regardless, I hope you have become a little more educated about this issue and why this policy is unjust, and I would urge that you vote that this is Keller permissible, and then it would be very strange to make it Keller permissible and then to vote it down. If you believe it's Keller permissible because it denies equal protection, then you must vote to support ending this racist policy. Thank you very much.

CHAIRPERSON MCGILL: Thanks, Matt.

Any further discussion, debate before we call
the question?

Hearing none, I will ask the clerk to open voting on whether or not the legalization of the marijuana proposal espoused by Mr. Abel is Keller permissible only.

CLERK BURRELL: Voting is open.

VICE CHAIR CUNNINGHAM: To clarify, a yes vote means it is Keller permissible, a no vote means it is not Keller permissible and we don't go any further. We don't consider the underlying.

CHAIRPERSON MCGILL: So for clarification purposes, the vote that we are having now is whether or not the proposal itself is Keller permissible. Voting yes indicates that you believe that the proposal is Keller permissible and that we can consider it as a body. Voting no, you believe that it is not Keller permissible and not something that the Representative Assembly should consider as a body and vote on in total.

So A for yes, you believe it's Keller permissible; B for no, you do not believe that it as Keller permissible; or C to abstain.

Voting is open?

CLERK BURRELL: The voting is open.

CHAIRPERSON MCGILL: A for yes, B for no, C
for abstain.

    Last call.

    Please close the vote.

    CLERK BURRELL: The result of the vote, Mr. Chair, 16 yes, 85 no, zero abstentions.

    CHAIRPERSON MCGILL: Thank you very much.

The proposal is not Keller permissible, and, as a result, we move on to the next item on the calendar, which is a proposed change to our Rules of Procedure with respect to the Hearings Committee, which will be presented by Dawn King.

    MS. DAWN KING: Good afternoon. My name is Dawn King. I am from the 6th circuit.

    What we have here is the proposed amendment to the Hearing Committee. The interesting history about the Hearing Committee is when they presented with updating the Rules of Procedure, to better carve out a role for the Hearing Committee, it's infrequently used, and they had to actually go back to 2003 to find a transcript as to what was the role of the Hearing Committee.

    So what we have today is just to further define how we will be handling the hearings. They are pretty infrequent, but, however, hopefully by looking at the language that's on the screen it will have us
furthermore involved in the future in terms of the members. Initially, there were seven committee members of the Hearing Committee, and now it has been expanded to 12. Basically, if we should be called upon to have hearing for any type of issues, of course we will come back and, you know, report it to the Representative Assembly.

At this point it's just pretty straightforward. Just in terms of meetings, if we need one, there is a regular meeting that will be held, and then also if there is not a need for one, we won't have one. If there is a special meeting and that issue comes from a nonmember also for either type of meeting, we actually will be able at some point to have three members for a regular meeting. If we have a hearing, there are two people from circuits that are close geographically to where we could have that hearing, but at some point, as you will see in the second paragraph, special meetings and hearings, we will have three committee members.

With that, I hope you are able to see that and read it, and if you have any questions, I will see if I can answer it.

CHAIRPERSON MCGILL: Is there a motion to approve the proposal?
VOICE: So moved.

CHAIRPERSON MCGILL: Is there a second?

VOICE: Support.

CHAIRPERSON MCGILL: I will open the floor to discussion and debate with respect to the proposal and any questions that you might have for Ms. King. Hearing none, I will ask the clerk to open voting on the proposal.

CLERK BURRELL: Voting is open.

CHAIRPERSON MCGILL: One or A for yes, 2 or B for no, C or 3 for abstention.

Last call.

Please close the vote.

CLERK BURRELL: The result of the vote, Mr. Chair, 88 yes, two no, zero abstentions.

CHAIRPERSON MCGILL: Thank you very much.

The next item on the agenda is item number 12, which is a proposed amendment to the Rules and Calendar Committee, which will be presented by Mr. Philip Moilanen.

MR. MOILANEN: Good afternoon. The Rules Committee recommends that we make a slight addition, actually it's a deletion, to the current Rule 4.6 to delete some words at the end requiring that the written motion or amendment be submitted before it is
seconded. The current problem, as we almost encountered earlier today was when you have an amendment that's going to be more than six words long it has to be submitted in writing. We don't have a problem with that, but we never would have gotten to it if somehow we hadn't gotten past the words that changed earlier in the amendment to the earlier proposal.

So the thought is that as an amendment is made, often we are figuring out exactly what it should say as we are talking about it. The Clerk and the Chair can control the length of that thing, but it might be written on the screen while we are talking about it before it is seconded, and this would permit that to happen, so we are recommending that rule change.

CHAIRPERSON MCGILL: Is there a motion to accept the proposed rule change?

VOICE: Support.

CHAIRPERSON MCGILL: Is there a second?

VOICE: Yes.

CHAIRPERSON MCGILL: The motion is made and seconded. Is there any discussion or debate?

Hearing none, I will ask the clerk to open voting on the issue.
CLERK BURRELL: Voting is open.

CHAIRPERSON MCGILL: Last call.

Please close the voting.

CLERK BURRELL: The result of the vote, Mr. Chair, 93 yes, one no, one abstention.

CHAIRPERSON MCGILL: Thank you very much.

The next item on the agenda is item number 13, and I would like to indicate to the body that through the course of the past year, and more particularly with respect to the last five months worth of work, the leadership and myself have worked very closely with the various committees that are established by the Representative Assembly, and in particular the chairs of those various committees, Hearings, Standing, Rules and Calendar, et cetera.

We worked diligently with respect to these proposed changes that you just all voted on. That involved multiple teleconferences and multiple individual discussions with the chairs, and then the chairs reaching out to their committee members and having discussions with them and working through these issues, working through the rules and how they can be streamlined. And you can see, for example, just in the flow chart that Dan Ferris and his group put together, how complicated and complex some of these
issues are.

So given the effort and work that all of the committees did, I want to provide the chairs of each of those committees the opportunity to address the Assembly, and by and large all the chairs have.

Item 13 is Dave Gilbert's opportunity to address the Assembly with respect to the work that he has done with the Special Issues Committee over the past year and, most importantly, last five months.

MR. GILBERT: Dave Gilbert, 37th circuit. The Special Issues Committee includes myself, John Chau from the 6th circuit. Shauna Dunnings from the 30th circuit; Peter Falkenstein from the 22nd circuit; Diane Hutcherson from the 3rd circuit; R. Timothy Kohler the 16th circuit; and E. Thomas McCarthy, Jr. from the 17th circuit.

They gave me five minutes to talk to you, but most everything I was going to talk to you about has already been taken care of in item number 6, the Task Force. One issue that came up with us when we were tasked to get feedback from the members of this Assembly regarding pending rule changes was the lack of the number of people actually responding.

One thing we had to do was get feedback from our members regarding the proposed civil discovery
Court Rule changes that we dealt with earlier this year. Out of the 120-some odd people of our Assembly we got responses from people that were interested in helping us, 43 people were willing to help, and we ended up only getting responses from 10 people, 12 people, and the reason for not actually filing a response was that they didn't think they were qualified or they were confused as to whether or not they should be giving their opinion because it wasn't an area of the law that they followed.

I am hoping that the Task Force recommendation that we adopted in item 6 will actually help with that confusion in the future. Other than that, we had good feedback on all the other issues we dealt with. Thank you.

CHAIRPERSON MCGILL: Thank you very much, Dave.

Moving along to item number 14. At this point in time I would like to call the tellers to the front of the room. This is the point at which we will hear nominations for the office of clerk for the next Bar year, and we will accept nominations from the floor, if there are any. The two nominees are David Gilbert and Bernie Jocuns.

MR. JORDAN: My name is James Jordan from the
37th circuit. It's my honor and privilege to nominate David Gilbert of the 37th circuit for the position of Assembly clerk.

MR. MYERS: Sean Myers from the 3rd circuit. I would like to nominate Bernard Jocuns from the 48th circuit to the clerk's position.

CHAIRPERSON MCGILL: Do we have a nomination from the floor?

VOICE: Yes.

MR. BRENNAN: My name is James Brennan from the 6th circuit. It is my honor and privilege to nominate Chelsea Rebeck for the position of clerk. Chelsea has been on the Board of Commissioners and Finance Committee and Audit Committee for the last four years. She has been on the Diversity and Inclusion Committee for the last two years. She is a member of the Representative Assembly. In addition to being a CPA, MBA, she has an LLM in taxation. She is a professor of Walsh College, sole practitioner in Southfield, besides being a wife and mother. She manages it all. It's my privilege to nominate her for the position of clerk.

VOICE: Second.

CHAIRPERSON MCGILL: Thanks very much.

At this point in time, I will open the mike
to the nominees to come and speak and address the Assembly.

MS. REBECK: Judge Brennan, thank you so much for your nomination. I am very honored to be nominated. I have worked on the Finance Committee and the Audit Committee for the Board of Commissioners for the past four years. I am the only non-Board of Commissioners member that has served on those committees, and the Bar is very important to me. The work that we do here is very important to me, and I am very honored also to be on the Representative Assembly, and I have been encouraged by quite a few of the Board of Commissioners members to start taking a leadership role, and here I am.

CHAIRPERSON MCGILL: Thank you very much. Mr. Jocuns or Mr. Gilbert.

MR. GILBERT: I am David Gilbert, 37th circuit. I have been practicing law since 1988. In that period of time I have been assistant prosecutor. I have been elected prosecutor, I have been a defense attorney, I have been a corporate attorney, I have been a business attorney, and I have done divorce. I think I have done everything except medical malpractice, administrative law things.

In the Bar association, I have been a
Representative Assembly member for the 37th circuit court. I have also been for the 5th circuit court when I lived in Barry County and worked in Barry County, but in that time I have been on the Representative Assembly, I have been the chair of the Special Issues Committee two different times for two different circuits, and I would like to do more for the Bar and the Representative Assembly.

My resume is in the back of the program. I am not going to go through everything I have done, but I have been chair of the Criminal Law Section. I have been on different boards, and I have chaired different things, including the Boy Scouts. I have been around for quite a long time, and I would ask for your support.

CHAIRPERSON MCGILL: Thank you very much.

MR. JOCUNS: I am Bernard Jocuns. I am from Lapeer, and, in case you all don't know, that's right here. Actually borders six counties, really the hub of the state. Anyway, for my relevance, I saw a couple younger members and a couple older members within the last couple years do some things that I thought were really important that made the State Bar look like they are not on top of the food chain, and that's something that really has kind of motivated me
to do some things, like the Marijuana Law Section, which a couple of my peers helped start. Now I think we are up over 800 members.

But the things that I really found important were like the equal access to justice. I mean, that's something that should be a no-brainer and just giving back a little bit to a profession that seems to be a little bit crazy sometimes, and from what's going on in the world, this is something that people should have a little bit of faith in.

And, you know, again we were at the Inaugural Luncheon next door. I think Jennifer Grieco said it was 80 percent of people that are considered middle class cannot afford representation, and, regardless if it's a family law matter, criminal matter or business matter, that has an adverse impact.

And, anyway, at the end of the day I would like to take this energy and bring it into the Representative Assembly. I am also president of the Lapeer County Bar Association. I was recently appointed to represent my brother and sister Veterans at the Veterans Board at Lapeer County, so thank you all, and please support me.

CHAIRPERSON MCGILL: Thank you very much.

So at this point in time you have the ballots
in front of you.

VOICE: They don't have ballots.

CHAIRPERSON MCGILL: You are being distributed ballots. I stand corrected. You will need to write in Chelsea's name as the 3rd candidate.

VOICE: What's Chelsea's last name?

CHAIRPERSON MCGILL: So Chelsea's last name is spelled R-e-b-e-c-k.

VOICE: Can you put that on the screen?

CHAIRPERSON MCGILL: Can we get that on the screen? Carrie is running around right now.

So when you vote, please indicate, and the tellers will come by and collect your votes. For those that have completed, make sure you fold your ballot over so it's a secret, and ballots are still being distributed.

So the tellers will be tabulating the votes in the back. Our parliamentarian, Judge Chmura, indicated to me if there is a candidate that has not received the majority of the votes that the lowest vote-getter will be removed from the ballot, removed from our consideration, and we will go through the process again until we have a vote by majority of the vote, or if no candidate has received at least 50 percent of the votes.
Has everyone had an opportunity to turn their card in to the tellers? Looks like they have.

Marge Bossenbery suggested we turn in our clickers right now so we don't walk out of the building, which I have done on multiple occasions.

I have got good news and bad news. The good news is the democratic process in the Representative Assembly is alive and well. The bad news is we do not have a majority winner. I would like to thank and commend Member Jocuns for his willingness to be nominated and speak to us about being the clerk, but the two members that are the highest vote-getters are Chelsea Rebeck and David Gilbert. What that means is, we are going to do the same thing all over again. So they will be distributing ballots out to you shortly, and we will go through the process again.

(Voting for Clerk.)

CHAIRPERSON MCGILL: The next item that we have on our agenda is item number 15, which is the recognition of the retiring members of the Assembly and the committee chairs. So you can see the list of the names of the folks that are leaving service of the Representative Assembly, and I have been told not to read the names, but I would like to ask everyone that's leaving the Assembly if you could just rise for
a second so we can give you a round of applause.

(Applause.)

CHAIRPERSON MCGILL: Thank you very much for your service. I can tell you from personal experience that it is hard work.

The next item under the same heading is the recognition of our committee chairs, and I have already spoken and told you about all the work that these folks have done, but I too would like to ask them to rise and be recognized.

(Applause.)

CHAIRPERSON MCGILL: And I am proud to say Committee Chair Michael C. Brown has gone from regular attorney to where he gets to wear that magic black robe now, so congratulations Judge Brown.

(Applause.)

CHAIRPERSON MCGILL: The next item on the agenda is item number 16, and it is my great pleasure and honor to introduce Judge Melissa L. Pope. Now, Judge Pope is the Chief Judge of the Nottawaseppi Huron Band of the Potawatomi Tribal Court. She has also served as Chief Justice of the Little River Band of the Ottawa Indians Court of Appeals. She is an adjunct faculty member of the University of Detroit Mercy School of Law teaching American Indian law.
She has served on various committees in the tribal courts, one of which was the Intertribal Technical Work Group on Special Domestic Violence and Criminal Justice. That work led to the issuance of the granting of a grant to establish a victims services department and a domestic violence victims advocate position.

Her State Bar of Michigan involvement includes leadership on the Access to Justice Policy Committee and the American Indian Law Committee, and most importantly she is the daughter of our incoming Chair, Rick Cunningham, and please welcome Judge Pope.

MS. POPE: I am very honored to be here today, not only as a very proud daughter, but also as a very proud tribal judge. I am grateful to my father for the tremendous advocacy he has done over the years in changing hearts, actually within the legal profession, and then the advocacy for many of you and our State Bar of Michigan staff to recognize tribal courts and the contributions that we make, not only to the sovereign nations that they represent, but also to the states in which they reside.

There has been phenomenal work done across the different jurisdictions, including our Tribal State Biracial Judicial Forum, in which we are
learning how to support each other, respect each
other, advocate for each other, and really celebrate
each other's sovereignty, all with the focus,
especially on Michigan's children, but all Michigan
residents.

So I say mIgwe'c, which means thank you, for
allowing me to be the one that swears in my dad, and I
say mIgwe'c to him for always being a beacon of what
we should aspire to as attorneys, as judges, and as
people. MIgwe'c.

(Applause.)

JUDGE POPE: Raise your right hand and repeat
after me. I, say your name.

VICE CHAIR CUNNINGHAM: I, Richard
Cunningham --

JUDGE POPE: Do solemnly swear --

VICE CHAIR CUNNINGHAM: -- do solemnly
swear --

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

VICE CHAIR CUNNINGHAM: -- that I will
support the Constitution of the United States --

JUDGE POPE: -- and the Constitution of the
State of Michigan --

VICE CHAIR CUNNINGHAM: -- and the
Constitution of the State of Michigan --

JUDGE POPE: -- and the Supreme Court Rules --

VICE CHAIR CUNNINGHAM: -- and the Supreme Court Rules --

JUDGE POPE: -- concerning the State Bar of Michigan --

VICE CHAIR CUNNINGHAM: -- concerning the State Bar of Michigan --

JUDGE POPE: -- and that I will faithfully discharge --

VICE CHAIR CUNNINGHAM: -- and that I will faithfully discharge --

JUDGE POPE: -- the duties of Chair of the Representative Assembly --

VICE CHAIR CUNNINGHAM: -- the duties of Chair of the Representative Assembly --

JUDGE POPE: -- of the State Bar of Michigan --

VICE CHAIR CUNNINGHAM: -- of the State Bar of Michigan --

JUDGE POPE: -- according to the best of my ability --

VICE CHAIR CUNNINGHAM: -- according to the best of my ability --
JUDGE POPE: -- and by all that I hold sacred.

VICE CHAIR CUNNINGHAM: -- and by all that I hold sacred.

(Applause.)

CHAIRPERSON MCGILL: The results are in. I would like to thank Prosecutor David Gilbert for his willingness to serve and congratulate Member Chelsea Rebeck as our new clerk of the Representative Assembly.

(Applause.)

CHAIRPERSON MCGILL: Second to the last item on the agenda is presentation of the recognition to the immediate past Assembly chair.

VICE CHAIR CUNNINGHAM: We are all aware and we have all heard many, many times how nice guys finish last. Joe McGill belies that adage. Joe's leadership is equal only by his humanity and his decency. So to a very, very decent man for a very, very good year of leadership, I present this plaque on behalf of the Representative Assembly.

(Applause.)

CHAIRPERSON MCGILL: Thank you very much, and I want to respect your time, and I will be brief. I want to thank the officers, Rick Cunningham and Aaron
Burrell, for all their hard work this past year. I also want to thank our Committee chairs, which we have already recognized.

In particular, I want to thank all of you members of the Representative Assembly who the have given me the opportunity to lead and grow professionally from your expertise. None of this would have been possible without the efforts of all of the members of the State Bar staff, but in particular our liaisons, Carrie Sharlow, Peter Cunningham, and Katie Hennessey. Also Janet Welch and Marge Bossenbery. The State Bar of Michigan would come to a screeching halt if we didn't have their services.

This past year I can tell you has been the most challenging for me professionally and personally, and I do, again, appreciate the opportunity to have led you. I am confident that the changes that we have enacted just this afternoon will give you, the members of the Representative Assembly, the tools that you need to bring this organization into the 21st Century and to create a nimble and responsive group of professionals that are committed to the improvement of the practice of law in the state of Michigan. Thank you all very much.

(Appplause.)
VICE CHAIR CUNNINGHAM: Move for adjournment.

CHAIRPERSON MCGILL: And with that, I will accept a motion to adjourn. We are adjourned. Get to do this one last time.

(Proceedings concluded at 3:42 p.m.)

STATE OF MICHIGAN )
) COUNTY OF CLINTON )

I certify that this transcript, consisting of 115 pages, is a complete, true, and correct transcript of the proceedings had by the Representative Assembly on Thursday, September 27, 2018.

October 15, 2018

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