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 Portside Ballroom, Cobo Center, Detroit, Michigan, on Thursday, September 28, 2017, at the hour of 10:15 a.m.

AT HEADTABLE:

FRED K. HERRMANN, Chairperson
JOSEPH P. MCGILL, Vice-Chairperson
RICHARD L. CUNNINGHAM, Clerk
JANET WELCH, Executive Director
HON. JOHN CHMURA, Parliamentarian
# Representative Assembly 9-28-17

## Calendar Items

<table>
<thead>
<tr>
<th>Item</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Call to order</td>
<td>3</td>
</tr>
<tr>
<td>Certification of quorum</td>
<td>3</td>
</tr>
<tr>
<td>Adoption of proposed calendar</td>
<td>4</td>
</tr>
<tr>
<td>Approval of 4-22-17 Summary of Proceedings</td>
<td>4</td>
</tr>
<tr>
<td>Chair's Report - Recognition to Assembly members completing their terms of service and Committee Chairs</td>
<td>4</td>
</tr>
<tr>
<td>Filling of vacancies</td>
<td>6</td>
</tr>
<tr>
<td>Presentation of Unsung Hero Award to F. Martin Tieber</td>
<td>7</td>
</tr>
<tr>
<td>Presentation of Michael Franck Award to Mark L. Teicher</td>
<td>19</td>
</tr>
<tr>
<td>Consideration of Proposed Amendment to MCR 3.993</td>
<td>26</td>
</tr>
<tr>
<td>Presentation on Dues by Janet K. Welch, Executive Director, and Jim Horsch, Director of Finance &amp; Administration</td>
<td>33</td>
</tr>
<tr>
<td>Presentation on Civil Discovery by Daniel D. Quick</td>
<td>41</td>
</tr>
<tr>
<td>Nomination and Election of Assembly Clerk</td>
<td>51</td>
</tr>
<tr>
<td>Introduction of Hon. Michael J. Riordan by Chair Fred K. Herrmann</td>
<td>53</td>
</tr>
<tr>
<td>Swearing in of Joseph P. McGill as 2017-2018 Chair</td>
<td>54</td>
</tr>
<tr>
<td>Adjournment</td>
<td>58</td>
</tr>
</tbody>
</table>
Detroit, Michigan  
Thursday, September 28, 2017  
10:17 a.m.

RECORD

CHAIRPERSON HERRMANN:  Good morning, everyone. Thanks for joining us. I would like to call the meeting to order at this time.

Mr. Cunningham, would you certify that a quorum is present, please.

CLERK CUNNINGHAM:  Mr. Chairman, a quorum is present.

CHAIRPERSON HERRMANN: Thank you. We have a quorum.

At this time we would like to adopt the proposed calendar. From the Rules and Calendar Committee, Mr. Antkoviak, will you proceed.

MR. ANTKOVIAK: Good morning. Matthew Antkoviak, 48th circuit, member of the Rules and Calendar Committee. At this time I would move for the adoption of the proposed calendar.

CHAIRPERSON HERRMANN: Do we have a second?

VOICE: Support.

CHAIRPERSON HERRMANN: Any discussion?

All in favor say aye.

Opposed.
Motion is approved.

At this time we would like to approve the April 22nd, 2017 Summary of Proceedings of the Representative Assembly. Ms. Kakish, are you present?

May I have a motion from the floor, please, to approve the Summary of Proceedings from the April 22nd meeting.

VOICE: So moved.

CHAIRPERSON HERRMANN: Second?

VOICE: Second.

CHAIRPERSON HERRMANN: All in favor say aye.

Any opposed.

Motion passes.

The chair's report today is brief. It's just a thank you, a sincere thank you to everyone in this room and everyone I have served with in the Representative Assembly over the past ten years. It has been a distinct personal and professional privilege to be a member of this body and to see the good work that has been done here and to be a part of it. So thank you, all.

In particular, we would like to recognize our members completing their terms of service at today's meeting, and we are posting our members up here on the powerpoint. We would love to thank you personally and
individually, but in the interest of time, we have identified you here, and, in addition, those completing their terms of service are identified today by this jar of candy in front of them. We are doing this at the outset, because in the past we have had people leave at the end and never have the opportunity to have fellow members thank them.

So please note your people with a candy jar. Get a piece of candy and thank them for their service in the RA. So thank you all. It was very much appreciated.

(Applause.)

CHAIRPERSON HERRMANN: In addition, I would like to thank our committee chairs this year. They have also received tokens of appreciation from us and bags on their table, so if you would take the time to please see your committee chairs and thank them for their service, and that extends to the members of those committees who provided great service this year to the Representative Assembly.

(Applause.)

CHAIRPERSON HERRMANN: The next thing I would like to report is a note of success. Oftentimes we deal with issues on the floor here at the Assembly that don't necessarily move any further than the body,
but one in particular has, and that's limited scope representation rules that we considered in a prior meeting. They have been approved by the Supreme Court essentially without amendments and minor tweaks. That was really an heroic effort by the entire State Bar, including this Assembly, to approve those rules.

We have advanced the ball into the future on behalf of our members of the Bar, as well as the public, with those rules, so you can be very proud of your participation in that process. I just wanted to let you know that happened as well.

(Applause.)

CHAIRPERSON HERRMANN: And at this time we would like to fill our vacancies for this meeting. Maureen VanHoven, would you please present on our vacancies.

MS. VANHOVEN: At this time our new members who are filling vacancies for us are identified on our list, and I would like to move for their admission.

VOICE: So moved.

MS. VANHOVEN: All in favor say aye.

All opposed, same sign.

Thank you. I would like to just briefly note that Rule 6, Section 6, and it is on the memorandum, states that if we have any vacancies, the first
opportunity for nomination is to come from other members of that circuit, so especially like Kent and Oakland and our multi-seat circuits, you have some vacancies, so if you would during the next few months take the opportunity to reach out to some people to see if they would like to join our body, it would be greatly appreciated so we can get a few more people involved. And, personally, you know, think outside the box, maybe reach out to some of our newer members of the Bar so that they can get their feet wet and kind of see what we are all about here. Thank you.

CHAIRPERSON HERRMANN: The new members who have been appointed for this session, if you haven't yet, you can take your seats in your respective circuits. Thank you for joining us.

At this time, we would like to begin our Representative Assembly awards presentation, and we will begin with the presentation of our Unsung Hero Award to F. Martin Tieber. The presenter is Ms. Mary Chartier-Mittendorf, and I would ask Mary to join us at the podium at this time.

We are already slightly ahead of schedule, so I beg your patience. Staff is assuming we have our award presenters present, and we do.

If you are like me, you surely notice that
our meeting this year involves vast expanses of real
estate, so we will be patient as everyone arrives.

Mary Chartier-Mittendorf, would you please
join us.

MS. CHARTIER-MITTENDORF: Sure. Thank you.

Boy, I am out of breath from walking all this
distance, so give me a minute.

It's such an honor to present this award
today to Marty Tieber, so for those of you who don't
know Marty, I could talk about his accomplishments all
day long. He is a nationally-recognized appellate
lawyer. He helped start the Michigan Innocence
Project, and he was the Lansing director of the State
Appellate Defender's Office. All those things you can
read about, but today I want to tell you a little
story about Marty, and in order for you to really know
who Marty Tieber is, I need to tell you the story of
Dennis Tomasik.

In 2007, Dennis Tomasik was convicted of two
counts of criminal sexual conduct in the first degree.
For those of you who don't know, those are life
offenses in the state of Michigan.

Marty Tieber and his son, Chris Tieber, who
also is an amazing appellate lawyer, stepped in after
they were recruited by Dennis Tomasik's wife, Kim, to
handle Dennis' appeal. Now, Dennis' first lawyer as it related to the appeal became a judge, so Marty and Chris actually had to step in after the first brief was filed.

They fought for nine years to get Mr. Tomasik's convictions reversed. For those of you who know anything about Michigan's appellate process, you know that it is remarkable for the Michigan Supreme Court to look at those convictions and say, You deserve a new trial.

Now, I was part of the trial team who handled the second trial, and so let me tell you a little bit about what that second jury heard because of the work of Marty and Chris Tieber that the first jury never heard about. They heard that the allegation was made by a troubled teenager who, days after he was kicked out of school for stealing, who had been arrested for a felony, who was being drug tested by his parents, and who was on his ninth therapist, spoke to a counselor who indirectly asked him if anything had ever happened to him as a child which would cause the way he was acting, and, remarkably, this teenager said, I was molested as a child.

Now, he said he was molested by a neighbor whose name he couldn't remember, but after the parents
and the therapist got involved, he subsequently remembered the name of Dennis Tomasik, because he said, I used to be best friends with his son. That started the nightmare for Dennis that went on until 2017 of this year.

Through the course of the first trial, no one ever interviewed dozens of witnesses who could have exonerated Dennis. At the second trial, the jury heard from 22 new witnesses who had never even been interviewed the first time around by Dennis' retained trial counsel. Many of these people had been tracked down by Chris and Marty Tieber, and then a number of them were tracked down by us as well. These where people who worked with Dennis and said he couldn't have been home after school molesting a neighbor boy, because he was at work.

Work records were introduced at the second trial and in the appellate process that were never introduced in the first trial that definitively placed him at his place of business 30 miles away.

The problem is that when you are fighting an appeal, appellate courts say, well, this is the record, right, this is what the first lawyer did. Maybe it's strategy, maybe he made these reasonable decisions. Marty and Chris Tieber were able to prove
that these weren't reasonable decisions. It's not reasonable for a jury not to hear the man was at work when he supposedly was at his home molesting a neighbor boy.

The other thing that Marty and Chris Tieber did is they tracked down counseling and school records. We were able to call these counselors and teachers at the second trial, and they told us some very disturbing things. This teenager had a history of lying, and when he would get in trouble, he liked to lie to get another adult in trouble. Teachers said repeatedly that he distorted reality, and they were so concerned about him because he didn't seem to be able to tell truth from fiction.

During the first trial and throughout the appellate process until he got to the Michigan Supreme Court, courts had said those records were not relevant. Marty and Chris Tieber were able to show they were indeed relevant when a man was fighting for his life. Not only did the jury hear from co-workers, supervisors, neighborhood children who said this young man did not play at their household, they also were able to see this young man's very inconsistent story and the fabrications that he had made over the years to try and get himself out of trouble.
I could talk to you ad nauseum about this case, because we lived and breathed it for 12 months to try and exonerate Mr. Tomasik, but none of this would have been possible without the work of Chris and Marty Tieber. I cannot tell you how much work they put into this case.

Normally when I get a trial lawyer's file or appellate lawyer's file, it's a mishmash of documents skewed in every assorted way. Chris and Marty had everything tabbed. They had witnesses we needed to talk to. They had evidence we needed to introduce. It was a litigator's dream. If only I could get a file from two lawyers who were so well organized and so dedicated to their clients all the time, honestly, I could spend half my time on vacation.

Not only were they committed through the nine years that they fought for the Tomasiks, the predominant amount of that time they worked pro bono, but when the second trial was going on, they were accessible to us at the drop of a hat. One time Marty was actually riding his bicycle when I called to ask him a strategy question, and he stopped and he laid his bicycle down under a bridge in Minnesota, and he answered our questions.

This is a man I cannot even say enough
wonderful words about. I could talk about him all
afternoon until you actually pulled me off the stage
because, while this award is supposed to be for unsung
heroes, I think that every criminal defense litigator
in the state of Michigan knows that Marty Tieber is a
hero, and I am so thrilled that you recognize that he
is a hero.

I want to acknowledge, not just is Marty
getting this award today, but his son, Chris Tieber,
is here as well, who was an amazing part of that
appellate victory, who actually argued the case in the
Michigan Supreme Court. There is the trial team who
is here from the second trial, but even more
importantly than that I think is Dennis Tomasik, who
is here with his wife, Kim. He is in the back with
Marty and Chris and the trial team. After having
spent nine years in prison, this man is out and is
with his family, and I think that deserves a round of
applause.

(Appause.)

MS. CHARTIER-MITTENDORF: I just want to say
just a few last words. Recognize that nine years in
prison is nine years away from your life, nine years
away from your family. When Dennis was released, he
didn't even recognize his own daughter, because he had
made the decision he didn't want his children to have
to go through the indignities of prison visits.

So think about that. He missed nine years of
his children's life. His son got married. They both
graduated from high school. They are amazing,
productive, wonderful children, and that is thanks to
the work of Dennis and Kim. He missed nine years with
his wife, who every single night while he was away
would go through the trial documents and police
reports and put together graphs and charts and notes,
because she knew that some day someone would listen
and would exonerate her husband.

It was nine years away from his job. It was
nine years away from his family and friends. It was
nine years away from his life. And think of where you
were nine years ago and imagine being locked in a cell
for crimes that you didn't do.

Throughout all of this, Dennis never
waivered. He was innocent. He always said he was
innocent, and he never waivered. He took the stand in
the second trial and unequivocally told that jury he
was innocent. The jury was out for 19 minutes before
they came back with a not guilty verdict, and the only
reason it took 19 minutes they said is because they
all had to go to the bathroom.
They were so convinced he was innocent that during the closing arguments many of the jurors were crying. I received e-mails that night from jurors, many of them thanking us for the work that we did, and I wanted to make sure that they knew that the only way we could do our work was because of the work of the Tiebers. But the jurors say they never would have left that jury room with a guilty verdict. They didn't have to fight with another juror though, because all of them were so convinced in Dennis' innocence.

I say all this because Marty Tieber is getting the award today, and while Dennis' story is tragic, it's not unique. As a criminal defense lawyer, there are a lot more Dennis Tomasiks in our prison system. What Dennis, Chris, and Marty had to deal with through the appellate process, quite frankly, was a court system that believed that Dennis was guilty, not innocent, even during that first trial. Comments made by the trial court, I mean no disrespect to this, in my opinion showed a bias that shouldn't exist. It's the same for the detectives and same for the prosecutor's office. Both the Tiebers and our trial team begged that prosecutor's office not to retry Dennis when we were able to show that he was
innocent. They did so anyway because the comment was how will it look if we don't retry him? Well, it's going to look like you believe that this man is innocent.

The reason I say all of this is because our battle isn't over. Currently we filed under the Wrongful Imprisonment Compensation Act for Dennis to get the $50,000 a year that the legislature has indicated that he is entitled to. We are gearing up for another fight in that regard. So today when we honor Marty Tieber, I ask all of you, when you read about someone in the newspaper or you hear about someone that is accused of a crime, please take that pause and recognize and remember this story, that for nine years an innocent man sat in a cell because so many people didn't believe in him, but I am thrilled today we can honor a man who did believe in him, and he is the only reason that Dennis Tomasik is free today. Marty Tieber. Thank you.

(Standing applause.)

MR. TIEBER: This is really an amazing honor, and Chris Tieber and I want to thank Mary and all of you on the Representative Assembly for what you have done here in terms of this type of recognition, but in reality -- and I know Mary and I had ten minutes
together, and I think she only used up a couple, right?

She said pretty much everything I was going to say, but the main thing I wanted to say -- and by the way, thank you for doing my high school year book photo. The main thing I wanted to say was echoing what Mary has put forward, that the real unsung heroes in this matter are Kim and Dennis Tomasik. Imagine being plucked out of your life as a hard working tool and die engineer with two wonderful children and a loving and devoted wife right by your side and being thrown into prison for something that not only you didn't do but that never, ever even happened at all, and being in prison for nine years for something that never, ever happened at all. And I think that the message, and Mary did indicate this too, the message is we all have to be vigilant.

So many people that I have met during my 47 years of doing criminal appellate defense work, you really don't understand that you can go to prison for all of your life or for long periods of time based on the words coming out of someone's mouth, and that's it, and if it's not for the vigilance of the Bar, these kinds of wrongful convictions can happen more and more often. We all have to be aware of this, and
we all have to be vigilant, and a criminal defense bar
has to be really, really entrusted with doing a very,
very strong and dedicated job and doing the work that
needs to be done.

And that work was done by Mary and her team.
Takura, her partner, and Kim and Lizzie and Tony, her
staff. The five of them are probably one of the most
amazing criminal defense trial groups I have ever seen
in the years I have been practicing, and they did at
that second trial what was not done at the first. The
first trial was a simple walk-through where nothing
was presented to that jury, and that's what we have to
be aware of. That can occur, and we have to guard
against it.

So I think, again, the unsung heros are
Dennis and Kim, and it's so wonderful that they are
here today. I also want to, again, recognize the work
that was done by Mary, Takura, and her firm, and I
also want to thank Chris Tieber, who did an amazing
job when the Supreme Court finally at the end of this
eight-year direct appeal process, which is a record in
Michigan for sure, did the full briefing and the oral
argument in the Michigan Supreme Court that ultimately
resulted in the granting of a new trial that Mary
ended up taking home.
So, again, thank you all very much. It's so much appreciated. Take care.

(Applause.)

CHAIRPERSON HERRMANN: Congratulations, Marty. That is a phenomenal tale of justice. Thank you, all.

At this time we would like to present the Michael Franck Award, which will be received by Mark L. Teicher, and presenting will be Ms. Julie Beth Teicher, if I may call her to the podium at this time.

MS. TEICHER: Good morning. I am so pleased to introduce the winner of this year's Michael Franck Award, Mark Teicher. I nominated Mark for this award, and yes, I am his wife, but I am also an attorney. We have been practicing since 1982, but it's not because of our relationship that I nominated Mark. Over the years since Mark began practicing law, Mark has truly committed himself to the improvement of the practice of law in the state of Michigan.

Mark graduated from the University of Detroit School of Law in 1982. In 1986 he was first elected to the Representative Assembly. He has been a member of the Representative Assembly for most of the 35 years he has been practicing. In addition, Mark has served in different capacities on the Client
Protection Fund and the Attorney Discipline Board. He has internalized the requirements that attorneys must look out for the profession as a whole, and where an attorney has done something wrong or does something which damages the profession, appropriate action should be taken and victims should have a remedy.

Mark brings equal passion to his law practice. He represents his clients with knowledge, integrity, and respect, but that is not all that Mark is about. Mark has made a significant commitment to the protection of Michigan land and waterways. About 13 years ago Mark joined the board of the Portage, Base & Whitewood Property Owners Association, an association of lake property owners on five lakes of the Huron River chain in Washtenaw and Livingston Counties. Mark's presence on the board was instrumental in creating a sea change, signaling the change of board members to people who were interested in being good stewards of the lake, rivers, streams, and watershed and working to protect them. Mark has been president of the association for five years. As I say, it's a volunteer job that he can't get rid of.

Under Mark's leadership, the association was instrumental as a spearhead in getting Washtenaw County to establish a special assessment district to
deal with invasive weeds in the lakes, rivers, and streams. It's a unique special assessment district which covers property in two counties and five townships. This was accomplished because of Mark's persistence, commitment, and his ability to build relationships. As a compliment to his work locally, Mark also shares his skills statewide as a board member of the Michigan Lake and Stream Association.

Mark is also an amazing husband, father, and grandfather. We are very fortunate to have two really wonderful kids. Our son, Perry, is an attorney in New York whose practice focuses on impact finance, and our daughter, Sarah, is an artist and musician who lives in Chicago with her husband and young son.

Mark is a person who makes relationships and values those relationships. He likes to connect people and to be connected to people. If there ever were an embodiment of the phrase people person, I think it's Mark. This can be seen in the many connections he has made over the years, the variety of organizations he has been involved in, and his success in those organizations. These traits contribute to why he is an excellent lawyer and a great person overall.

I am always amazed at the energy Mark brings
to his work and his volunteer work and his continued
commitment to making sure that those who practice law
in the state of Michigan do so with the highest
ethical standards, integrity, knowledge, and respect
for the practice and their clients. It really was my
pleasure as a fellow member of the Bar to nominate
Mark for this award.

(Applause.)

MR. TEICHER: So first I need to thank my
wife, but you need to thank her also, because,
although I didn't read her speech, she read mine and
said, Cut it in half, it's too long. So I am going to
go back to law school and apply IRAP (sp), which we
all learned, and some of us use.

What's the issue? The issue is why did
Teicher get this award? The rule is, an attorney who
has made an outstanding contribution to the
improvement of the legal profession named in honor and
memory of Michael Franck. Luckily, since I have been
involved with the Representative Assembly so long, I
got to meet Michael Franck and had some early meetings
with him when I was on the Representative Assembly.

So how many years? About 31 years I have
been generally on the Representative Assembly of its
47 years. For those of you who don't think this
Assembly is important, let me do a little recap of some of the issues I remember that I thought were important before the Representative Assembly.

Representative Assembly voted opposition to the U.S. Department of Justice's partial abrogation of attorney-client privilege. Amendments to the Michigan Rules of Professional Conduct, the Michigan Rules of Civil Procedure, issues relative to the governor's judicial appointment procedures, campaign finance, federal judicial compensation, evidence rules, indigent representation, discovery, changes in the state of our demographics, appellate delay, legal aid. Way back when, should e-filing be allowed? This seemed to be a very terrible thing. That was a big discussion topic. Unauthorized practice of law, taxes on legal services, pro bono representation, issues of jury instructions, trust account overdraft notification, specialized dockets, provisions to the Uniform Arbitration Act, Michigan Campaign Finance Law, issues of consent judgment, subpoenas, solo attorneys having to hire and appoint inventory attorneys, expert testimony, solicitation of clients, transcript issues, and increasing bar dues.

So the Representative Assembly has historically done issues like that, so I would thank
everyone who is voluntarily here serving as a
Representative Assembly member. It's important.

Also being on the Representative Assembly so
long, it has been a pleasure to be able to listen and
meet wonderful speakers from Supreme Court justices to
presidents of the State Bar, back to George Roumell,
Ed Bradley, Wallace Riley, Julia Darlow, and then more
recent people.

Another thing that I have been involved in is
the Client Protection Fund Committee since 2006. So
what is that? That is the committee that holds
hearings and gives money back to clients where the
attorneys have stolen or, we will say politely,
misappropriated their money.

Since I have been involved with that fund in
2006, about $4,700,000 has been reimbursed to clients
over about 525 claims. There was one former attorney
who misappropriated, thus far, $1,147,286.80 from
innocent clients who he victimized. It is a very
important entity. From the Client Protection Fund
staff I want to thank the years that they put up with
me -- Danon Goodrum-Garland, Alecia Ruswinckel, Karen
Spohn, and Robin Lawnichak.

The other point that I have been involved in
over the years is being a hearing officer for the
Attorney Discipline Board being a panelist. This was very eye opening, because as a panelist, there are three attorneys on the panel to hear for our attorneys who are being prosecuted by the Attorney Grievance Commission. The terrible things that some of our brother and sister lawyers do, it really opened my eyes to what was happening.

When I became the chair panelist, it opened my eyes because the panel does a trial, and as the chairperson panelist, you would act as the trial judge, so I got a new appreciation of trial court judges, because not only do you really have to stay sharply awake in hearings, but we have to rule on evidence and have to rule on motions, and had to write the opinions on generally taking attorney licenses away or suspending them.

So the lessons that I would pass on to anyone who is new here or anyone who is not a member but here is, number one, don't steal money from your clients. Number two is tell people just get involved in some way, whether or not it's to sit on the Representative Assembly, whether or not it's to sit on a committee, whatever it the might be. In other words, thank you to Julia and thank you to the Representative Assembly.

(Applause.)
CHAIRPERSON HERRMANN: This is truly remarkable evidence of the good in our profession. Please, would you all stand and join me in recognizing our award recipients.

(Standing applause.)

CHAIRPERSON HERRMANN: At this time we will move to consideration of a proposed amendment to MCR 3.993. Our proponent and presenter is the Honorable Angela Sherigan, and I would ask her to join us at the podium at this time. Thank you.

MS. SHERIGAN: Good morning. I am Angela Sherigan. I am here on behalf of the Indian Law Committee.

First of all, thank you very much. If I am talking too fast, I am all revved up on coffee, and I am speaking a little quickly this morning.

What we are asking the Representative Assembly to do this morning is to consider our proposed change to Michigan Court Rule 3. -- see, I told you I am all jittery this morning -- 3.993. 3.993 involves appeals to the Court of Appeals, direct appeals.

As Indian practitioners, it has come to the attention of the Indian Law Committee that Court of Appeals cases as of right that are provided by the
Indian Child Welfare Act, which is a federal statute, as well as the Michigan Indian Family Preservation Act, are not being taken up by Court of Appeals as a direct appeal. Oftentimes litigants have to put in an appeal of request.

The Court Rule seems to be limited, and there seems to be a misunderstanding within the Court of Appeals and the Supreme Court that a lot of the cases involving Indian children removals are not being followed. Specifically, we would like to expand the rule so that it clarifies the types of orders that are appealable as of right under the Indian Child Welfare Act and the Michigan Indian Family Preservation Act. This would clarify to the Court of Appeals which ones are appealable as a matter of right.

We did provide a bit of background in the proposal that we are submitting to you in which the Court of Appeals itself suggests that the Supreme Court consider an adoption of an amendment to this rule, specifically because what is happening is by the time that it finally gets up to the Court of Appeals so much has happened that the Indian child who is supposed to be protected under these two statutes is going back and forth in between foster care, and the parents of this child are not getting to see their
child as required by law.

Specifically, that case was In Re: McCarrick versus Lamoreaux, and they specifically stated, quote, permitting a parent to appeal a removal order as a matter of right may be one vehicle to minimize the likelihood of this unfortunate circumstance.

This was a case where Indian children were removed from their Indian mother, and she immediately filed an appeal with the Court of Appeals. The Court of Appeals denied the appeal initially, because they said that this was not a dispositional order and under Michigan Court Rule 3.993 they could not hear it. That, in fact, was incorrect to some extent. To the extent that the Court Rule is very limited, that was correct, but to the extent that the Indian Child Welfare Act and the Michigan Indian Family Preservation Act allows for direct appeals, this creates somewhat of a problem.

The biggest problem is, one, it doesn't follow the law. The Court Rule is not consistent with the law. Secondly, what the Indian Child Welfare Act and the Michigan Indian Family Preservation Act requires the violations of that is complete invalidation, so what happens is once it finally does get to the Court of Appeals, it's invalidated, you
start all over. It's not where you start just at that point, you start the whole case over. What this does is keep the children languishing in either foster care or some other type of a placement, and it keeps the parents away from their child, breaking that bond.

Because of this, we have proposed changes that specifically state what is appealable as of right, and it is consistent with ICWA and the Michigan Indian Family Preservation Act.

We are asking you to support this and to put forth a resolution calling for amendment to the Michigan Court of Appeals to broaden and clarify the scope of direct appeals and an order for violations of those specific acts. The Indian Law Committee is dedicated to this and will continue to move forward, but we certainly would like your support. Thank you.

CHAIRPERSON HERRMANN: Before we move to motion on this issue, I would like to remind everyone that this will be an electronic vote using your clickers, and just as a reminder for those of you who haven't used them yet, one or A is yes, two or B is no, and three or C is an abstain vote. Any questions?

When we move to voting on this, when we get to that point, you simply press your button. We will say that voting is open, then you can press your
appropriate buttons. We will give you a warning that voting is about to close, please complete your voting. We will close the voting, and our clerk will report the results.

At this time, do I have a motion to approve the amendment to MCR 3.993 as presented in your materials?

VOICE: So moved.

CHAIRPERSON HERRMANN: Do I have a second?

VOICE: Second.

CHAIRPERSON HERRMANN: Any discussion? If there is discussion, please move to the microphone, identify yourself and the circuit you represent, and then you may proceed.

MS. JOHNSON: Elizabeth Johnson, the 3rd circuit. I have a point of clarification under Subsection D. I believe in the second line it should be the Michigan Indian Family Preservation Act, not the Michigan Indian Child Preservation Act, and I would ask that our motion be amended to have the correct name of the act.

CHAIRPERSON HERRMANN: I am sorry, did you mention Subsection D?

CHAIRPERSON HERRMANN: 4. Thank you. Can we accept that as a friendly amendment to the language?

JUDGE CHMURA: Yes, that's just an administrative thing.

CHAIRPERSON HERRMANN: We will accept that as an administrative correction.

Would you kindly repeat the language that you would like inserted so we can ensure that we get it accurately into our record.

MS. JOHNSON: On Subsection 4 in the second line, I would like the word "child" changed to "family" so that the name is the Michigan Indian Family Preservation Act. The federal law is different. The Michigan has family.

CHAIRPERSON HERRMANN: Thank you very much. Any other discussion?

MR. ROMANO: Vince Romano, 3rd circuit.

These I am sure are just a couple typos. If you go down here under 3.993(4), go down to (c), there is a couple of's needed there. Removal "of" a child from a home, or continuance "of" an out-of-home placement. Again in (f), termination "of" parental. I mean, there are just a couple of of's missing.

CHAIRPERSON HERRMANN: Thank you. If we can take these one at a time.
MR. ROMANO: This is under (4)(c), the very first line, removal "of" a child.

CHAIRPERSON HERRMANN: I believe that's (e), is that correct, rather than (c)?

MR. ROMANO: That's correct, (b). (4)(b) -- (e). No, that's just (4). It's (4)(a), (b), (c), (d).

CHAIRPERSON HERRMANN: It's (4)(e).

MR. ROMANO: There you go, removal "of" a child, and in the next line, placement into foster care or continuance "of" an out-of-home placement. And then you have got (f) already, termination "of" parental rights.

CHAIRPERSON HERRMANN: We will make those administrative corrections. Thank you.

Any further discussion? All right. Discussion is closed. At this point we will move to our vote.

CLERK CUNNINGHAM: The voting is now open.

CHAIRPERSON HERRMANN: Voting is now open. Again, all in favor press one, opposed press two, abstentions press three.

VOICE: When they are blinking, are votes in?

CHAIRPERSON HERRMANN: Yes, once you press the button. You can change your vote also before
voting is closed by pressing again. Hopefully you
won't need to do that, and I will give you a warning
before we close.

CLERK CUNNINGHAM: We will close voting in
ten seconds. Voting is now closed.

CHAIRPERSON HERRMANN: Report of the votes,
Mr. Clerk.

CLERK CUNNINGHAM: The ayes 67, the nays
three, the abstentions one.

CHAIRPERSON HERRMANN: The motion passes.
Thank you very much.

At this point we'll have a presentation on
dues. This is an informational session. It will be
provided by Janet Welch, Executive Director of the
State Bar, and James Horsch, Director of Finance and
Administration. Again, we are not seeking any
position from the Assembly today. It is informational
for you to digest and to report to your constituents
and to keep in mind as we move forward on the issue.

Janet.

EXECUTIVE DIRECTOR WELCH: Good morning,
everyone. My presentation on dues you have all been
waiting for.

I would like to, before I turn the microphone
over to Jim, who will run through the presentation,
this was precipitated, the presentation was precipitated by the order of the Michigan Supreme Court increasing the dues portion, the discipline portion of your dues, but in a sense it's always appropriate to, I think, speak to you about the state of dues and the revenues that are coming in through dues, because under your job description as RA members, job one is dues on the Michigan Supreme Court Rules concerning the State Bar of Michigan and the role of the Representative Assembly.

So before I turn this over to Jim to describe the effect of that change on the big picture of dues, I would like to say that the Bar crossed an important line into the future in this dues cycle by moving the dues process out of the postal system online. We had a very spectacularly successful beta launch, and then we stumbled out of the gate a bit when we opened the process for paying dues online last week.

So to any of you who tried to pay last week and have encountered difficulties, you have my apologies. For those of you who haven't yet paid, may I recommend that you wait until Monday, because we are trying to get all of the glitches out of the system right now, and you might pass that on to your fellow members.
The bulk of the members that we have talked
to who have encountered difficulties have been very
understanding, not a hundred percent, but the bulk of
them have, and we are devoting all kinds of resources
to making sure that the convenience that we are
attempting to put into the system for paying dues
works for everyone going forward.

That said, I think the important thing to
understand in the dues, going back, is that this body
makes exclusive, they have the exclusive authority to
make recommendations to the Supreme Court concerning
the State Bar portion of the dues. The Court, since
the early '90s, I am sure some people in this room
remember the early '90s, has taken over exclusively to
themselves the initiation of what the amount is for
the discipline portion of the dues. The members don't
really see a distinction between the discipline
portion and the Bar portion of the dues, so the Bar
and you are sort of blamed or get credit for whatever
the total amount is. So that's one reason why we
think this is a timely presentation to you, and I will
turn it over to Jim, who will show you all the ins and
outs quickly of the implications of the increase from
the Supreme Court.

MR. HORSCH: Thank you, Janet. We can go to
the next slide, Carrie. Thank you.

This pie chart shows what your dues will look like on this billing year, which starts on October 1st, 2017, for the next fiscal year. $180 of your dues payment of $300 will go to the State Bar for its programs and services. $105 goes to the Attorney Discipline System, and $15 goes to help fund the Client Protection Fund for some of the claims that you just heard the previous speaker talk about.

As Janet just indicated, there is a $15 increase this year, from $285 a year to $300 a year, and in that order from the Supreme Court that Janet spoke of, next year, fiscal year 18-19, there will be another increase of $15, restoring the dues to the level that they had been previously to $315.

The next slide shows the various categories of the dues. You can be active, active with 50 years of service. If you are in that category, you won't pay the State Bar portion of the dues. If you are inactive or emeritus, you do not practice law, and there are certain requirements for each one of those categories. We also have an active duty military waiver, but we do not have any other dues discounts or waivers available other than the ones here.

If you go to the next slide, this particular
slide goes back to 1970, and you can see back then
dues were only $60 a year. Each maybe seven or
eight-year period the dues were raised, and you can
see the various increments up to a hundred then 150,
200, 260, and in 2003 the Supreme Court ordered for
the 2003-2004 year an increase for both the discipline
portion and the State Bar portion, and they also
instituted a Client Protection Fund fee that we have
today. So at that point it was $315, and then since
then the Supreme Court lowered the discipline portion
of the fee by $10 and then again by $20 because they
were accumulating too large of a fund balance, and the
reason that they are restoring the dues for the
Attorney Discipline System back up to the amount it
was prior in two increments of $15 each per year is
because their fund balance was getting to a point
where it would be deficit fund balance if they didn't
restore the dues.

Now, the next slide shows a picture since the
last dues increase in 2003, and so actually it stayed
at $315, except for the years where the discipline
portion was decreased, and so over that time frame you
would have saved $80 in dues payments over that time
as a result of that.

Now, one thing I want to point out, if we
would have escalated dues on the rate of inflation, 
the dues this year would be $420 rather than 300, and 
the State Bar has been able to operate its programs 
and services so that we have not only been able to 
work within the rate of inflation but add programs as 
well. So you can see the dues as compared to 
inflation since the rate increase, since the last dues 
increase. We are not planning in our financial models 
the need to have another dues increase in the next 
several years.

If you go to the next slide, this is a slide 
that we showed you, I think, a couple of meetings ago 
when Janet and I made this presentation. We have 
updated it to show the $300 level of the dues for the 
State Bar, and so you can see when you compare it to 
all mandatory Bars, all mandatory state Bars, 
basically the State Bar is 23 percent lower than the 
average, and 76 percent of the mandatory Bars have 
higher required dues and fees than the State Bar, so 
we feel pretty good there still.

This compares to all states who impose fees, 
regulatory fees. These are all the required fees to 
practice law in these states, and the State Bar still 
fares fairly well, 14 percent lower than the average, 
and 59 percent of the U.S. jurisdictions have higher
required dues and than the State Bar.

If we look at inactive membership, inactive membership is a status that you can go to for up to three years without having to be recertified by the Board of Law Examiners and have your dues fees $202.50.

When we compare ourselves to the mandatory Bars that have an inactive member category, we are kind of on the higher side, and this hasn't changed too much since the time that we showed you this, but it has gone up the scale a little bit. Inactive dues of the State Bar are about 45 percent higher than average, and 77 percent of the mandatory Bars with these fees are lower than the State Bar's.

Finally, if you go to the next slide, which shows the inactive dues as a percentage of the active dues, the State Bar is actually the highest at 68 percent. So our inactive dues as a percentage of the active dues is actually at the top of the list when you compare it to all other mandatory bars with the inactive category.

So we wanted to just show you the position hasn't changed quite a bit, but it has gotten a little bit higher, especially on the inactive slide.

The last slide I do want to mention, Janet
alluded to it, is two issues. One is the State Bar has formed a Board of Commissioner's work group, and they met for the first time in August, and they are meeting again on Monday of next week, and they are actually reviewing the process for suspensions for nonpayment of dues and late fees and will be making recommendations as appropriate. We suspend for nonpayment of dues about 500 members per year. A lot of those come back, but we are trying to explore what's going on with those folks that get suspended. Some may get suspended more than once in their career, and so the group is looking at that.

We also take in about $220,000 in late fees, people who wait until after November 30th to pay, and they get charged a $50 late fee. So, even though it brings in revenue to the Bar, it's something that we want to make sure that members are aware of that if they want to save 50 bucks, they should pay it before November 30th.

As Janet mentioned, we are transitioning from paper dues invoices to electronic dues, and next year we will be further automating the dues process to capture as much as we can online, while still allowing people to pay by check or online by credit card, or hopefully next year by check as well. That concludes
what we were going to say.

CHAIRPERSON HERRMANN: Thank you very much, Jim and Janet. It's always good to keep our dues structure in context as we move forward.

At this time I would invite former Chair of the Assembly, Dan Quick, to join us, and Dan will be providing us with an update on the work his group is undertaking regarding the amendments to the Civil Discovery Rules. Dan.

MR. QUICK: Good morning, everybody.

VOICES: Good morning.

MR QUICK: Come on, we've got more coffee in here than that.

It is my great honor to return to the Representative Assembly. My comrade, Aaron Burrell, is running for Clerk, and I had half a mind to throw my hat in the ring, just to make things interesting, but you will be in great hands with Aaron. I am very glad for him and for you.

I am here today as chair of the Bar Special Committee that was tasked with the job of looking at the Court Rule that governs discovery in civil litigation, and I want to give you an overview today and an introduction, if you will. You each have before you the long form version of the proposed rule
changes, as well as a draft of a report that summarizes the history of our efforts and the approach that we attempted to take. It is draft, and it will remain draft for some time. I will walk you through the plan from here until the April Representative Assembly meeting.

As any litigator knows, and, frankly, as well as nonlitigator knows, discovery is perhaps the most universally loathed aspect of our civil litigation prospect. Ask the parties, ask the judges, ask the lawyers. It is not very popular, and it has been identified for some time by the courts, by the Supreme Court, by think tanks that deal with these matters as a major problem that needs to be fixed.

The issues for civil discovery though in Michigan and even in the federal system are not necessarily purely a volume problem, by which I mean it's not simply a function of having a bunch more cases in the pipeline and, hence, a lot more discovery. In fact, in the federal system, and certainly in our state system, case filings are down. The courts have done a very good job in terms of reducing the time to disposition on an average basis. E-discovery is bugaboo and does cause plenty of problems in certain cases, but it's not the entirety
of the issue, and one might make take the position
that the existing Court Rules, whether it's under
protective order provisions or otherwise, already have
adequate means to deal with whatever the problems
might be.

   Well, that's not really been the lesson that
we might take from both federal and state efforts in
this area. What they have focused upon is that civil
discovery tends to spiral out of control when two
things happen, when the court is not paying attention,
either through lack of resources or lack of
involvement, and in a disproportionately small number
of cases. In other words, you have a few monster
cases that end up mucking up the whole and taking up a
lot of motion time and a lot of judicial resources and
a lot of party resources, and so what are some of the
principles that have, or some of consequences of this
that have been noted?

   First of all, it's really an access to
justice issue. The ante to bring a piece of civil
litigation now in our court system is so high because
of the potential costs of discovery that, frankly,
litigants are removing themselves from the court
system. We have seen this for many years in the trend
towards arbitration. Cost was certainly one of the
factors pushing cases into that pipeline, but it has
other undeniable effects, which includes the fact that
we see less and less trials in our system, which
really undermines the entire process, the jury system,
of course, being the bedrock of our civil justice
system.

So the first major body to take this on was
in the federal courts, and I just want to walk you
through this. There is more detail in your materials,
but you get a sense of the care that was taken and the
breadth of perspectives that were sought to be
attracted in order to try to improve the system.

They all started back in 2007 with a survey,
and you can read the results there on the screen or in
your materials, but it confirmed what everybody
already knew in the sense that discovery was a major
problem that needed to be fixed and simply leaving it
to the existing pool regime and the existing case
hands and tools was going to be inadequate.

This led to a very famous conference at
Duke University in 2010 wherein academia, judges,
lawyers came together to brainstorm over how to fix
the system. The basic principles established there
some five years later found themselves into the
revisions to the federal rules, and they are listed on
the screen.

Basically it's active and early case management by courts where necessary. It's introducing the concept in a more formal fashion of proportionality into the scope of discovery. It's insisting upon greater cooperation among counsel and litigants in the discovery process, instead of it being a free-for-all, and increase the rules in terms of preservation/spoliation of electronic evidence to try to bring some order to the chaos that is e-discovery.

Other aspects of the federal rule changes you can see here, and so some of these are minor tweaks in terms -- well, it may be minor tweaks in isolation, but eliminating boilerplate objections on discovery responses, but taken as a whole the mission was to make the process faster, better, and less expensive.

The impact of the changes has been pretty dramatic, all things considered. Active case management of the federal courts is more or less now the norm. As a generalization, I think that the attitude is that the mentality of civil discovery has changed from its a free-for-all to beat the snot out of one another into a regulated process, not only simply because of more role by the judge, but a higher
emphasis on the fact that our professional obligation requires us to bring a sense of proportionality to the discovery process, and I will circle back to that in a moment.

This had an immediate effect on the state judicial systems. Even in Michigan, where we don't have any rule revisions yet, you have seen the business courts really eagerly take to these ideas, and many of the business courts, including my own Oakland County Circuit Court, have established default protocols for business court cases that adopt many of the principles of the federal rule changes, including concept of proportionality, early case management, presumptive limits on some of our most loved discovery mechanisms, like interrogatories, document requests, and depositions, and a number of other efforts to streamline the process.

So that brings us to the state of Michigan. As you all know, the 21st Century Practice Task Force took in a broad number of issues in our state, but one of them was to, in principle, was to look at civil discovery and to see if we can't do better than we have.

So if you want to revise state discovery rules, you need to look not only at the federal courts
but what the other states have done. Those core principles are on your screen and echo some of what I have already touched upon.

I think it's worth noting here that Michigan Court Rule 1.105, which was adopted from Federal Rule Number 1, provides that the rules must be construed to serve the just, speedy, and economical determination of every action. That is a core principle. It's why it's in Rule 1 of the Federal Rules and early in the Michigan Court Rules, but it's not a principle that in my experience has really actively guided either the parties or the courts in terms of how they try to shepherd cases through the system.

The federal rule changes, the state rule changes that are taking place in a few handful of states are making that principle key to the way we do business and what's being demanded of the litigants.

Which brings us to the committee that I had the honor of chairing and have the continued honor of chairing. It's made up of a very broad swath of lawyers and judges from throughout the state, from all sizes of firms, all areas of geography, judges from all levels of the court system. We made an effort upfront to reach out to various stakeholder groups and solicit volunteers, many of whom in turn came to serve
on subcommittees. The federal process took something like eight years. We have taken a little bit less time in generating our first draft, which you now have before you.

I just want to touch on a few of the principles in that draft, and these are outlined starting at page five of the report, draft report that you have in your materials.

The first one is for us to not fix things that aren't broken, and by that I mean we are working within the context of the existing Michigan Court Rules. We are attempting to do as least amount of violence as possible to the existing rules. We are very much adopting party autonomy, meaning that if parties agree on how to proceed with some aspect of discovery, the rules are geared to allow that to happen, of course subject to overall case management, and then, of course, to smartly employ case management. Not as a club, not as a bureaucratic burden on how every case gets filed in the court system, as a scalpel more than a sledge hammer, to help steer cases through.

The second is that we have adopted a number of proposed revisions. Some of these echo some of the things we see in the federal courts, such as
introducing the concept of proportionality into the definition of the scope of discovery. It also includes some very, I don't think very onerous at all, concept of initial mandatory disclosures, which are then offset with some presumptive limits on your discovery. So the theory there in part is get the stuff out in the beginning that you know you are going to have to get out anyway, and then let's not waste as much time firing off a bunch of interrogatories in the process, because you are already going to have that together.

More tools for active case management. A number of, and I don't mean this to minimize it, but tweaks of various aspects of court rules, from deposition rules to the subpoena rules to attorney-client privilege governing communications with experts, which is also barred from the federal rules, adopted throughout the civil discovery process. And then last, paying a lot of attention to how the civil discovery rules regime affects discovery in domestic relations actions, probate actions, and juvenile actions, and making changes there as well.

So where do we go from here? This is a draft report. The eagle eyes amongst you undoubtedly will catch both typographical errors, cross reference
errors, which are the devil, I swear -- oh, those
cross references -- as well as, I am sure, we will
have some great ideas on some of the substance.

At this time you are the first, because you
will be the last to see this set of proposed rules,
but we are in the midsts right now of rolling it out
to various stakeholder groups, from the judge groups
to the Bar sections. We will have a public and Bar
comment period. We will take all of your comments.

There is an e-mail set up, and you will get
an e-mail on this. You don't have to write it down,
but if you would like to, it's
civildiscovery@michbar.org. It's going to be the
clearinghouse for all the comments from the public and
from the Bar. We will accept those till sometime
later this year, process all that information,
generate a final draft, and hopefully be back in front
of you seeking your approval as the ultimate final
policy-making body of the Bar at your April 2018
meeting. Notwithstanding the e-mail address I just
rattled off, of course if any of you have comments,
questions about this, feel free to reach out to me as
well.

Thank you very much for your time. It's an
honor to be here.
(Applause.)

CHAIRPERSON HERRMANN: Thank you, Dan Quick. There is some exciting work to do in the future. Appreciate it very much.

At this will time we will move to the nomination of our next Assembly clerk to fill Mr. Cunningham's very able shoes. Pursuant to our rules, we have one packet of nomination materials submitted on behalf of Mr. Aaron Burrell of the 6th circuit. At this time, may I have a formal nomination of Mr. Burrell.

MR. HEATH: Good morning, Mr. Chair, James Heath from the 3rd circuit, member of the Representative Assembly. It is my honor to nominate my friend and colleague, a person whose reputation for hard work in this Assembly, as well as throughout the organized Bar, needs no introduction. Aaron Burrell will make a wonderful clerk, and I move his nomination.

CHAIRPERSON HERRMANN: Thank you, Mr. Heath. Pursuant to our rules, I am also obligated to elicit any nominations from the floor for clerk. Do I have any floor nominations?

Hearing none, we will proceed to the election of Mr. Burrell as the next Assembly Clerk. All in
favor, say aye.

Any opposed?

Mr. Burrell, you are the next Assembly clerk.

Congratulations.

(Applause.)

CHAIRPERSON HERRMANN: That is just fantastic news for this body. Mr. Burrell has been a friend of this Assembly and the Bar for many years, and his contributions have been great, and it does warm my heart to know the Assembly is going to be in very good hands for the next few years. Congratulations.

Before I turn over the floor for the swearing in of our next chair, Joe McGill, I would like to take one moment to again thank everyone here for all of your devotion to the Assembly and its work, and I would like to thank our officers, Joe McGill and Rick Cunningham, for their service this year, and, most importantly, I would again like to thank the State Bar staff. From the floor, honestly you don’t see one one-thousandth of the work that these folks do behind the scenes to make this all possible for us, and we are forever grateful to them for that effort. In particular, I would like to thank Peter Cunningham, Carrie Sharlow, Kay Hennessey for their specific work on the Assembly this year. It's truly been an honor
and a blessing to work with all of them, so thank you. Could I have a round of applause.

(Applause.)

CHAIRPERSON HERRMANN: And at this time I would like to invite the Honorable Michael Riordan to the podium who will do the honors for Mr. McGill's swearing in.

MR. RIORDAN: I just want to say that this is a great honor for me personally. I have known Joe for 30 years now. We walked into UD Law School together, and I have come to know his family very well over the years. If you are ever able to get an invite to the McGill Christmas party, take it. It's a riot. And I just want to say congratulations. I don't know if your mother is here, but she is always very proud of everything that Joe does. His wife, Lauren, who is an attorney, I saw her and young William walking in, and Joe, that is the center of Joe's life, his wife and his family.

Joe comes from a large family. He is one of 11 children, and he is the youngest of that family. It was an Irish Catholic family, so Joe has taken a lot of beatings in his life. So anything you throw at him, he will be able to withstand.

Joe is a leader in the profession. He has
been the president of every organization that I have ever been a member of -- the Irish Lawyers, the Catholic Lawyers, the Michigan Irish, American Chamber of Commerce. He got an award from them. The RA. Joe will bring his work ethic, his passion, his honor to this very important and august body, so without further ado, Joe, raise your right hand, please. Repeat after me.

I do solemnly swear.

MR. MCGILL: I do solemnly swear.

JUDGE RIORDAN: That I will support the Constitution of the United States.

MR. MCGILL: That I will support the Constitution of the United States.

JUDGE RIORDAN: And the Constitution of the State of Michigan.

MR. MCGILL: And the Constitution of the State of Michigan.

JUDGE RIORDAN: And the Supreme Court Rules concerning the State Bar of Michigan.

MR. MCGILL: And the Supreme Court Rules concerning the State Bar of Michigan.

JUDGE RIORDAN: And that I will faithfully discharge the duties of chair of the Representative Assembly.
MR. MCGILL: And that I will faithfully discharge the duties of chair of the Representative Assembly.

JUDGE RIORDAN: That is what they call this. Of the State Bar of Michigan.

MR. MCGILL: Of the State Bar of Michigan.

JUDGE RIORDAN: According to the best of my ability.

MR. MCGILL: According to the best of my ability.

JUDGE RIORDAN: Congratulations, Gil.

(Applause.)

CHAIRPERSON MCGILL: Just a few quick comments before we break for lunch and your final business. Thank you again to Judge Riordan, who I have known since law school for 30 years.

I want to thank the membership for giving me the opportunity to lead you over the next year through what is going to be some pretty substantive issues that we are going to attack. As Dan Quick did indicate, that the April meeting is definitely going to be a work session for sure. And I also want to thank the membership for your commitment and service to the State Bar of Michigan. It is vitally important.
I want to also thank the staff of the State Bar of Michigan and let you all know that they are experts at what they do. They are exceptional, and the State Bar of Michigan is looked at as a model for other State Bars throughout the country, so you are working with a very highly qualified set of individuals. Also like to congratulate Mr. Burrell, and I am looking forward to working with him as well.

On a personal note, I would like to thank my family. As Mike indicated, there is a lot of people to thank. I was going to have them all here and have them bring all their family up as well, but in the interest of time decided not to do that, but I would also like to thank my wife, Lauren, who is also an attorney, and she is here with my son William, who is being very good this morning. That's not going to last, I am sure.

Finally, I would like to thank Fred Herrmann, who I am proud to call my friend, for his countless hours leading the Representative Assembly and for advocating for the Representative Assembly as a body, not only before the Board of Commissioners, but in other arenas. Yesterday I had the honor and the privilege to draft, present a resolution recognizing Fred's service on the Board of Commissioners, which I
won't repeat today, but it is my pleasure to congratulate Fred again on behalf of the Representative Assembly and thank you for your service. And as a result of that, I would like you to please accept this not-so-small plaque of appreciation. Congratulations.

(Applause.)

CHAIRPERSON MCGILL: Fred has waived the opportunity to give his reply argument, so we will move to the final announcements for the meeting. I have been asked to remind everyone to turn in their reimbursement forms. Our fiscal year for the State Bar of Michigan closes very quickly, and we like you to have your reimbursement forms in by October 2nd, which is coming up very quickly. You can see Carrie or Marge or Jeanette if you need copies of those forms.

Please don't forget to return your clickers. That's very important. The inaugural luncheon will be in Ballroom B, and there is an all member reception starting at 4:00 in the Grand Ballroom A.

And also, if you have not filled out your Assembly committee membership interest survey forms, and you can get that online as well, please see Carrie, and we encourage you to volunteer for service
in the various committees of the Representative Assembly.

Our next meeting will be at the Lansing Community College West Campus April 21st, 2018, and I looked forward to seeing you all there and sharing that meeting as well.

If there is no other new business, we will accept a motion for adjournment from the floor.

VOICE: So moved.

CHAIRPERSON MCGILL: Is there a second?

VOICE: Second.

CHAIRPERSON MCGILL: All those in favor.

We are adjourned. Thank you very much, and enjoy the rest of the annual meeting.

(Proceedings concluded at 11:40 a.m.)
STATE OF MICHIGAN)  
COUNTY OF CLINTON)  

I certify that this transcript, consisting of 59 pages, is a complete, true, and correct record of the Proceedings held by the Representative Assembly on Thursday, September 28, 2017.

I also certify that I am not a relative or employee of an attorney for a party or financially interested in the action.

October 16, 2017

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

Notary Public  
Clinton County, Michigan  
My commission expires: 5-28-16.