

MEMORANDUM

TO:

FROM:

SUBJECT: 2019 Annual Meeting of the American Bar Association and Meeting of the House of Delegates

DATE:

REPORT ON THE ABA ANNUAL MEETING

The 141st Annual Meeting of the American Bar Association (the “ABA” or the “Association”) was held August 8-13, 2019, at the Marriott Marquis Hotel, in San Francisco, California. Wide varieties of programs were sponsored by committees, sections, divisions, forums and affiliated organizations. The House of Delegates met for one and a half days. The Meeting of the Membership was held and the Nominating Committee also met.

The Nominating Committee sponsored a “Coffee with the Candidates” Forum on Sunday, August 11, 2019. The following candidates seeking nomination at the 2020 Midyear Meeting gave speeches to the Nominating Committee and to the members of the Association present: Pauline A. Weaver of California, candidate for Secretary for the 2020-2023 term; Barbara J. Howard of Ohio and Rew R. Goodenow of Nevada, candidates for Chair of House of Delegates for the 2020-2022 term; and Reginald M. Turner of Michigan, candidate for President-Elect for the 2020-2021 term.

THE HOUSE OF DELEGATES

The House of Delegates of the American Bar Association (the “House”) met on Monday, August 12, and Tuesday, August 13, 2019. William R. Bay of Missouri presided as Chair of the House of Delegates.

The Travis Air Force Base Honor Guard presented the colors. The invocation for the House was delivered by Sheena R. Hamilton of Missouri. The Chair of the House Committee on Credentials and Admissions, Eileen M. Letts of Illinois, welcomed the new members of the House and moved that the signed roster be approved as the permanent roster for this meeting of the House. The motion was **approved**.

Christina Plum of Wisconsin, Chair of the Committee on Rules and Calendar, provided a report on the Final Calendar for the House. She stated that in an effort to conserve resources, all supplemental materials for the House were sent electronically and posted on the House’s webpage. She moved to adopt the final calendar and approve the list of individuals who sought privileges of the floor. All motions were **approved**. Ms. Plum noted that the deadline for submission of Resolutions with Reports for the 2020 Midyear Meeting is Wednesday, November 20, 2019, while the deadline for Informational Reports is Friday, December 6, 2019.

She also referred to the consent calendar, noting the deadline for removing an item from the consent calendar or from the list of resolutions to be archived. Ms. Plum reminded the House of the treatment of Reports 400A and 400B regarding the archiving of policies.

Ms. Plum noted that in an effort to streamline ceremonial activities in the House, while continuing to respect and acknowledge deceased members of the House, the practice for memorials during the meeting of the House has changed to have remarks regarding former presidents and chairs of the House only.

Later in the day, Ms. Plum moved the items remaining on the consent calendar. The motion was **approved**.

Secretary Mary L. Smith of Illinois moved that the proposed Summary of Action for the House for the 2019 Las Vegas Midyear Meeting be adopted as the official record of the House. The motion was **approved**. Secretary Smith moved that the House adopt the recommendations for the continuation of certain special committees and commissions (Report 177A). The motion was **approved**. Secretary Smith noted the submission of Report No. 177, the Board of Governors Informational Report.

Deceased members of the House were named and remembered by a moment of silence. Memorials were made regarding former presidents Talbot “Sandy” D’Alemberte and S. Shepherd Tate.

For more details of the House meeting, see the following two-part report of the House session. The first part of the report provides a synopsis of the speeches and reports made to the House. The second part provides a summary of the action on the resolutions presented to the House.

I. SPEECHES AND REPORTS MADE TO THE HOUSE OF DELEGATES

Statement by the Chair of the House of Delegates

William R. Bay of Missouri, Chair of the House of Delegates, welcomed the delegates to the House and thanked the ABA Media Relations & Strategic Communications for informing ABA members, the legal community and the general public about developments in the House by providing updates and reporting on the proceedings of the House via Twitter @ABAesq. Chair Bay extended a special welcome to new members of the House and recognized those delegates who have served the House for 25 years or longer.

In his statement to the House, Chair Bay discussed the procedure for addressing the business of the House and reminded members that the House Rules of Procedure could be found on page 49 of the Association’s Constitution and Bylaws. He recognized and thanked members of the various House Committees. Chair Bay also recognized the Committee on Rules and Calendar, chaired by Christina Plum of Wisconsin which also includes members Roula Allouch of Kentucky, Aurora Austriaco of Illinois, William D. Johnston of Delaware, and Tommy D. Preston, Jr. of South Carolina, and Committee staff members, Alpha M. Brady and Janae LeFlore. He introduced the Tellers Committee and its chair Anna Romanskaya of CA

and reviewed procedures for speaking.

Chair Bay recognized the Fund for Justice and Education (“FJE”) as the ABA’s charitable arm and urged member support of FJE. Chair Bay encouraged people to contribute in light of the matching grant offered by Past President Bill Paul up to \$50,000 for the ABA Legal Opportunity Scholarship Fund, which is an FJE project.

Chair Bay highlighted the important policy role of the House, identifying recent successes in the ABA’s work with Congress to support the Legal Services Corporation. He encouraged all members to be active in the ABA Grassroots Action Team and participate in ABA Day in Washington, D.C. on April 23-24, 2020.

Chair Bay noted that the ABA Medal was presented at the General Assembly and congratulated Dale Minami of San Francisco as the recipient of the 2019 ABA Medal.

Statement by the ABA President

Immediately preceding the remarks of President Robert M. Carlson of Montana, the House of Delegates viewed a [3-minute video](#), produced by the ABA Commission on Lawyer Assistance Programs, featuring lawyers who have had mental health and substance abuse issues and urging those who need help to seek it. President Carlson thanked Bree Buchanan and her colleagues for their work in producing the video.

President Carlson then spoke about the ABA’s advocacy on behalf of due process and fair treatment for immigrants and asylum seekers. The ABA has urged Congress to approve funding to ensure the appropriate treatment and care of unaccompanied immigrant children in custody. The ABA insisted that the Administration enforce laws and settlements that guarantee minimum standards of care for children, no matter how they arrived in our country. The ABA has called on Congress to establish a separate immigration court system, independent from the Department of Justice. President Carlson visited South Texas twice this year to visit the South Texas Pro Bono Asylum Representation Project (ProBAR). He also applauded the work of the Immigration Justice Project in San Diego and the Children’s Immigration Law Academy in Houston. The ABA has received an outpouring of online donations to support these efforts. These donations have largely come from non-ABA members and non-lawyers. President Carlson thanked the members and staff of the Commission on Immigration for all their work, and the Fund for Justice and Education for their outstanding job in raising funding and visibility for this important work at the border. President Carlson also thanked the American Bar Endowment for its generous donation of \$150,000 to staff a pro bono coordinator position.

President Carlson thanked those who provide disaster legal services to those impacted, including the Young Lawyers Division.

President Carlson urged the bar’s continued support for an independent judiciary, recalling his visit to support judges and lawyers in Poland, where an independent, fair, and impartial judiciary is being undermined. He also pledged continued support for the ABA Committee on the Federal Judiciary, which this year evaluated 137 federal judicial nominees,

more than twice the average.

This year's Law Day theme explored the concept of a fair and independent news media. Law Day is essential, as is ABA Legal Fact Check, to promote accurate information about our democracy. President Carlson explained that we must continue to keep alive the flame of public awareness of how democratic institutions preserve our liberty and help us pursue justice.

President Carlson focused his efforts on showing why the ABA matters and why the Association is the place to be for every lawyer. We stand for professional excellence and we stand for justice. He thanked the entire House and those from the Office of the President who supported his efforts every day. President Carlson also thanked Corette Black Carlson & Mickelson, his wife Cindy, and his family for all their help and support.

President Carlson concluded by noting concerns when bigotry and hatred emanate from news organizations, candidates for public office, and prominent government officials. We are outraged when threats of violence are directed towards lawyers and judges. But as we mourn those whose lives were tragically ended too soon, we can never forget that violence has had an impact on our staff and volunteers who work in border communities where their race makes them a target. Any one of us can be randomly shot in a public space. Leading medical organizations are working to reduce gun violence as a public threat. We must continue our collaboration with them as we continue our discussion of evidence-based solutions and advocacy from a legal and constitutional perspective. As lawyers, we need to speak out in our communities. Words matter. How we treat each other matters. In our public discourse, we must be aware of our own words and action and talk to each other with mutual respect. President Carlson encouraged everyone to promote civility no matter how ugly our public discourse becomes.

Statement by the Executive Director

Executive Director Jack L. Rives of Illinois referred members of the House of Delegates to his detailed written report. He noted that at last year's Annual Meeting, the House and the Board of Governors took actions to put the ABA on the right path for future growth. Those actions are moving the Association forward with a new value proposition, and the early results are positive.

Any voluntary non-profit association must focus on three things -- increasing dues revenue and non-dues revenues, while reducing expenses. We're only doing well in one out of three of those areas. We have held expenses down. Comparing Fiscal Year (FY) 2015 to FY 2020, our annual general operations budget decreased by more than \$30 million. But we can't cut our way to success. While the ABA has made marginal improvements with non-dues revenue, we must improve our number of dues-paying members.

The new value proposition is moving us in the right direction. We now have a more sensible dues structure, going from 157 different price points for dues to only five. Those in the first five years of practice pay \$75 annually; and a self-declared public interest lawyer will pay \$150 per year no matter how long in practice.

We also have new member benefits. Our Law Practice Division and Solo, Small Firm, and General Practice Division are now available to members at no additional cost. The materials of both Divisions and our Center for Professional Responsibility are available to every member as part of their basic dues. Our online CLE Marketplace currently now has online and on-demand more than 400 courses, and that will grow to 650 courses next year. We've established a paywall so most of the ABA's valuable information is available only to dues-paying members. We're also curating our content better than ever and have begun to use artificial intelligence to push information to members based on their areas of practice and areas of interest.

We're improving the member experience. The ABA Career Center now has more than 10,000 resumes of legal professionals, and more than 3,000 jobs are currently posted. The new website is also critically important to what we do as we move forward. Certainly, we had some unacceptable problems with the website after it launched in October 2018. Those problems have been substantially resolved and will continue to be improved as we move forward.

It's critically important that we effectively get the word out on our new value proposition. At this year's Midyear Meeting, the Board approved a new logo. That can help to get people to check us out, and when they do, they will see the ABA is doing things differently. The Board also approved brand standards, which apply to everything from stationary and business cards to the way our entities are identified. They now all look like they're a part of the ABA. We publish 120 different periodicals and they have been rebranded so they are very clearly identifiable with the ABA. The ABA Journal, our flagship publication, is also being rebranded with a fresh look.

We also must market more effectively than ever before. The ABA recently worked with The Atlantic for sponsored content that showcases how the Association uses technology, and how we help the underprivileged. The Atlantic pushed 11.5 million impressions of the article, and viewers are reading it at a rate that is five times longer than the industry standard. We are also taking greater advantage of online advertising. We're going to have 30 million impressions from now until the end of the year on social media and paid banners. We're going to advertise on search engines such as Google and Bing. The advertising will be keyed when people look for something involving attorneys or the law, and they will be re-targeted as they later utilize the internet. Links will guide them to the ABA membership page.

Just over 100 days into the new value proposition, the initial results are very promising. Last year, we advised the Board of our projections for FY 2020 in three key categories -- dues-paying attorney members, new dues-paying members, and revenues collected. As of the end of July, a three-month period, we're more than 40 percent of the way to goal in each of those categories. Our intent is to surpass our projections by the end of the fiscal year, August 31 next year.

It's important to remember we're not making these changes just to get more members or collect more money.

We're making them so we can fulfill the goals of our great Association and continue the tens of thousands of good deeds we do every year. For example:

- Our Death Penalty Representation Project has represented 345 death row inmates and gotten 102 people off death row.
- We have provided legal representation to more than 20,000 immigrant children who have been separated from their families at the border, which dramatically increases their chances of remaining in this country.
- Resolution 113, which was passed by the House of Delegates three years ago here in San Francisco seeks economic fairness for diverse attorneys. One hundred and five corporations have signed the pledge and more than 400 law firms have committed to take our survey, which will be released next year.
- The American Bar Association Rule of Law Initiative has been in more than 100 countries to advance the rule of law. One example of our results was bringing justice to more than 11,000 survivors of sexual and gender-based abuses across central Africa.
- [Free Legal Answers](#) brings online legal representation to people below the poverty line. In the past two years, 6,200 attorneys from more than 40 jurisdictions have answered 76,000 questions.
- The ABA [Profile of the Legal Profession](#) released two days ago is our latest effort to assure people can look to the ABA for statistics on our profession.

In conclusion, Executor Director Rives was pleased to report that the ABA is not simply talking about problems or about possible solutions. New programs have been approved and we are moving ahead. This is a very exciting time of change. The things we will do in the next several years will shape not just our Association but our profession. This is a great time, this is the right time, to be a member of the ABA.

SCOPE Nominating Committee

W. Andrew Gowder, Jr., incoming Chair of the Committee on Scope and Correlation of Work ("SCOPE"), nominated Harry S. Johnson of Maryland, to serve on the Committee on Scope for a 5-year term, beginning at the conclusion of the 2019 Annual Meeting. Mr. Gowder then moved to close the nominations. The motion was **approved**. Later that day, the House elected Mr. Johnson to serve on SCOPE.

Presentation by the American Bar Endowment

Chair Bay recognized Carolyn Lamm of Washington D.C., Past President of the Association and Vice President of the American Bar Endowment (ABE) to report to the House of Delegates on the importance of the American Bar Endowment and the revenue generated

by its insurance offerings. Ms. Lamm was joined by David S. Houghton, President of the American Bar Foundation (ABF), Ajay K. Mehrotra, Director of the American Bar Foundation, Michelle A. Behnke, ABA Treasurer, and Jack L. Rives, Executive Director of the ABA, for the presentation of checks. Ms. Lamm presented a check for 3.2 million to both the ABF and FJE.

Passing of the President's Gavel and Statement by President-Elect

ABA President Robert M. Carlson of Montana introduced and passed the gavel to President-Elect Judy Perry Martinez of Louisiana. Ms. Martinez was sworn in as President of the American Bar Association by Louisiana Supreme Court Chief Justice Bernette Joshua Johnson.

After recognizing President Carlson for his leadership and all the ABA's past presidents for their commitment to the Association, Ms. Martinez thanked her husband, her children, and her extended family for their support. She also thanked both her law firm, Simon, Peragine, Smith & Redfearn, and her former employer, Northrop Grumman for their support.

President Martinez said our nation makes room for immigrants not because we must, but because we can. She expressed support for the many activities the ABA conducts to promote due process and humane treatment for immigrants and asylum seekers, including the Pro Bono Asylum Representation Project in South Texas where she and President-Elect Patricia Lee Refo will provide services later this month.

President Martinez noted that the ABA's four goals are intertwined. We serve our members as we improve and advocate for our profession. We improve our profession as we work to eliminate bias and enhance diversity. Our focus on diversity is essential to promoting the rule of law by making our profession more responsive to our clients and opening our eyes to, and driving strategies to overcome, systemic injustice. And by promoting the rule of law, we provide a vital benefit to our members who see the legal profession as a calling and share our passion for justice and liberty.

To promote the rule of law, President Martinez pledged to continue to speak out to protect the judiciary from unwarranted and personal attacks. She also announced a 19th Amendment centennial celebration effort, chaired by Judge Margaret McKeown, marking America's largest-ever expansion of the vote. In the fall, the ABA will launch a rule of law-themed social media campaign.

President Martinez lauded efforts to introduce membership to more lawyers, make it easier to join and renew, bring them more educational programs tailored to their needs, and offer opportunities for connection, involvement, and leadership. Newly appointed ABA state membership chairs will further these efforts.

President Martinez said the ABA is prepared to act on the authority of its more than 20 policies on gun safety adopted over the last 50 years. She also called on lawyers to understand fully the depth and breadth of the racial divides that limit the contributions of our profession and plague our country, and to be more inclusive of those in the LGBTQ and disability communities. President Martinez's goal is for all who see themselves as having the potential to contribute to

our profession and to the greater good through the practice of law to have no doubt that the profession can be theirs through hard work, competency, discipline, and integrity.

President Martinez said we must not be an insular profession, removed from the people we serve. We are a people's profession that is at its best defending liberty and pursuing justice when we listen to what consumers of justice need. We must listen to what consumers of justice need and explore innovations in technology and our regulatory framework, she added.

Noting the pending centennial of the ABA Standing Committee on Legal Aid and Indigent Defendants, President Martinez pledged support for legal aid and pro bono as a collaboration between the ABA and state and local bar associations. She also noted that the theme of this year's National Pro Bono Celebration will be legal services for domestic violence survivors.

President Martinez observed that our colleagues, our country, and the world look to the ABA to lead with knowledge of the law and respect for the principles on which the nation was founded. Our finest moments, she said, have been when we have used our voice and resources for causes about which we can act with authority and which we can influence with impact.

Resolution and Impact Review Committee Presentation

Chair Bay recognized Kathryn Grant Madigan of New York, Chair of the Resolution and Impact Review Committee, who presented a video from the Young Lawyers Division on access to lactation rooms in courthouses.

Statement by the Treasurer

ABA Treasurer Michelle A. Behnke of Wisconsin gave the House the year to date results for Fiscal Year 2019, an update on the pension obligation, and a snapshot of the budget the Board of Governors just adopted for Fiscal Year 2020.

Year to date, the Association has a surplus of \$3.5 million. On the revenue side, we budgeted revenue at \$178.2 million but the actual revenue is \$167.5 million. General operations, sections, and grants were under budget. On the expense side, we continued strong expense management and show a positive variance to budget of \$16.7 million. General operations expense variability came from lower fringe benefits and lower legal expenses this year. We have two areas we have to continue to monitor from now until the end of the fiscal year: our dues and grants. We may see the surplus shrink a bit.

Below the line items also are important. We are using investment income both to support our operations and to support implementation of the new membership model. We have investment income of \$10.9 million, but we spent more than that supporting operations and the new membership model, leaving it negative \$4.3 million. That effects our net assets by decreasing them by \$1.7 million.

We have net assets of \$174.1 million. Our pension obligation decreased by \$13.6 million. It is valued once a year, on August 31st. Our pension obligation is very interest rate sensitive. (The lower the interest rate, the higher the pension obligation.) The pension liability

may increase based on a recent Fed rate decrease, and that could increase our pension liability between now and the end of the fiscal year.

Turning to the budget for Fiscal Year 2020, the Board of Governors approved a budget that provides for \$85.4 million of general operations revenue and \$212.9 million overall. Our general operations dues number is budgeted at \$42.9 million. That is a number that reflects the re-pricing of our dues. Sections will have an additional \$10.2 million in dues revenue. There also is \$16.4 million of investment revenue slated to be used in this budget. This includes \$5.4 million to support general operations and \$11 million to support the new membership model. On the expense side, \$85.4 million is on the general operations side, and the consolidated number is \$219.7 million. At this stage, section budgets are not yet finalized, so the budget is not yet fully balanced. It may not be a balanced budget because sections don't uniformly have a plan for how investment income will support their operations. With the re-pricing, for the first time our dues will not be our largest source of revenue in our budget. Grants for the first time will exceed dues revenue.

In closing, Treasurer Behnke said her focus has been on clearly communicating the information available so that others can take action and work to make sure that we are moving towards sustainable financial decisions. We have reduced expenses by over \$30 million over the last several years. We're budgeting earlier. We started our process in the fall last year, so that people could have information in time to plan accordingly. Grants show that others recognize the Association's expertise and quality of work. They allow the Association to continue that great work and not make decisions to terminate activities or slash budgets. Many of the expenses associated with the new membership model, such as content curation, will be ongoing expenses. We will need to get that incorporated into the budget. We revised the spending policy. We recognize that our investments are a resource, but if we spend them all there will be nothing in the bank. We've incorporated a more robust review of stewardship on program support funds. We're working to look for holistic changes that will help this association deploy its resources strategically and strengthen our financial position.

Election of Officers and Members of the Board of Governors

On behalf of the Nominating Committee, Justice Adrienne Nelson of Oregon, Chair of the Steering Committee of the Nominating Committee, reported on the nominations for officers of the Association and members of the Board of Governors. The House of Delegates elected the following persons for the terms noted:

OFFICERS OF THE ASSOCIATION

President-Elect for 2019-2020 Term

Patricia Lee Refo of Arizona

Treasurer for 2020-2023 term (to serve as Treasurer-elect for 2019-2020)

Kevin L. Shepherd of Maryland

MEMBERS OF THE BOARD OF GOVERNORS (2019-2022 Term)

District Members

District 7: William K. Weisenberg of Ohio
District 8: Laura Bellegie Sharp of Texas
District 10: Patrick G. Goetzinger of South Dakota
District 11: Beverly J. Quail of Colorado
District 13: Charles J. Vigil of New Mexico
District 18: Christine Hayes Hickey of Indiana

Section Members-at-Large

Section of Science & Technology Law

Bonnie E. Fought of California

Tort Trial & Insurance Practice Section

Michael W. Drumke of Illinois

Solo, Small Firm & General Practice Division

James M. Durant II of Illinois

Law Student Division

Michaela Posner of California

Goal III LGBT Member-at-Large

James J.S. (Jim) Holmes of California

Goal III Woman Member-at-Large

Lynn M. Allingham of Alaska

It was noted that the Association's Constitution provides that the President-Elect automatically becomes the President at the conclusion of the Annual Meeting and Judy Perry Martinez of Louisiana will assume that office.

Remarks by President-Elect Nominee

Incoming President-Elect-Patricia Lee Refo of Arizona noted the 400th Anniversary of Virginia's first elected legislature in relating the relevance of lawyers in America. Of the 55 signers of the Declaration of Independence, nearly half were trained lawyers. 31 members of the Constitutional Convention were trained lawyers. President-Elect Refo recognized Cindy Carlson and Immediate Past President Carlson for their time, energy, and steady hand in guiding our Association.

For the next twelve months, President-Elect Refo will focus on supporting President Martinez' efforts and initiatives and stressed that she will work diligently in support of President

Martinez and the work of the Association. President-Elect Refo will accompany President Martinez to the border later this month to do pro bono work.

The rule of law means that the law must devise and maintain systems to advise all persons of their rights. Lawyers are the guardians of democracy.

President-Elect Refo is energized and enthusiastic about the future of the Association. Our 3,500 entitles are working on topics of broad interest across the profession and specialized areas of concern for individual practitioners. We will continue to fight for the rule of the law and protect the independence of the judiciary from every and any threat.

President-Elect Refo challenged everyone in the House to recruit one new member of the Association between the Annual Meeting and Midyear Meeting. Making our new membership value proposition is the personal job of every single one of us. President-Elect Nominee Refo thanked her family and her law firm, Snell & Wilmer, for supporting her service to the profession.

Remarks by Chairman of the Board of Directors of the Legal Services Corporation

John G. Levi, Chairman of the Board of Directors of Legal Services Corporation (LSC), thanked President Carlson for being such a tremendous partner of LSC. He said the LSC was fortunate to have had such strong leadership from the Association during this period. He frequently refers to the Association as LSC's indispensable ally. On behalf of the 10,009 lawyers and staff who go to work every day at LSC's 132 offices around the country and assist 2 million people each year, Mr. Levi thanked the House and the Association.

Mr. Levi also thanked the LSC Board for its work during this important time of transition. This past Friday, LSC completed work on a far-reaching report on the opioid epidemic. The report recognizes that civil legal aid providers are in a unique position to address the legal issues facing low income people suffering from opioid addiction. Next week, LSC will release the wide-ranging report dealing with national disasters. On November 11, 2019, the 100th Anniversary of Veterans Day, LSC will convene a Veteran's Day Summit. One million civil legal problems did not receive the legal assistance required to address their needs because of a lack of resources. LSC conducted a new intake census, and it suggests that the level of unmet legal need continues unabated. 42% of the legal problems presented by qualified individuals receive no service of any kind and only 27% of the eligible problems were fully served.

Mr. Levi said that in almost 75% of the civil cases in state court, one or both parties are unrepresented. Represented parties have substantially higher rates of success. When tenants represent themselves, they are evicted nearly 50% of the time. But when they are represented, they stay in their home 90% of the time. While LSC is so grateful to the members of the bar who helped grantees with 68,000 cases, Mr. Levi suggests it is time to explore how properly-trained non-lawyers may be able to assist. Even if Congress met LSC's budget request of 593 million, that still would be less in adjusted inflation dollars than the level of support during the Reagan administration. This chronic underfunding of civil legal aid is much more than just another Washington battle over discretionary spending. There should be nothing discretionary about equal justice. It is not charity.

It takes ingenuity, energy, dedication, and a galvanizing effort to live up to our nation's promise of equal access to justice.

"The extension of legal services to the poor is only a means of a more universal end. One we both share. The establishment of the rule of law." This crisis is happening on our watch, and we must now solve it in our time with your help.

II. RESOLUTIONS VOTED ON BY THE HOUSE

A brief summary of the action taken on resolutions brought before the House follows. The resolutions are categorized by topic areas and the number of the resolution is noted in brackets.

[10A] On behalf of the New York State Bar Association, Henry Greenberg of New York moved Resolution 10A encouraging online providers of legal documents to adopt the *ABA Best Practice Guidelines for Online Legal Document Providers*. Board of Governors Member Mark Alcott of New York spoke in support of the resolution. The resolution was **approved**.

[10B] On behalf of the Colorado Bar Association, John M. Vaught of Colorado moved Resolution 10B urging Congress, state, local, territorial, and tribal legislatures to enact legislation and appropriate adequate funding to ensure equal access to justice for Americans living in rural communities by assuring proper broadband access is provided throughout the United States. Henry Greenberg of New York spoke in favor of the resolution. W. Terry Ruckriegle of Colorado also spoke in favor of the resolution. Past President Laurel Bellows of Illinois moved to call the previous question. The motion passed. The resolution was **approved**.

[10C] On behalf of the Maricopa County Bar Association, Charles William Wirken of Arizona, Delegate of Maricopa County Bar Association, moved Resolution 10C urging all private and public universities and colleges to uphold the principles of free expression on university and college campuses to promote freedom of debate and thought, and to protect that freedom when others attempt to restrict it. The resolution was **approved as revised**.

[11-1] Association Member Edward Haskins Jacob of the Virgin Islands presented and Secretary Mary L. Smith of Illinois moved Report 11-1 amending §1.2 of the Constitution to include the following language as one of the purposes of the Association: "to defend the right to life of all innocent human beings, including all those conceived but not yet born." Carlos A. Rodriguez-Vidal of Puerto Rico, Chair of the Standing Committee on Constitution and Bylaws, reported that the Committee reviewed the resolution and found that it was inconsistent with §1.2 of the ABA Constitution. Stephen J. Curley of Connecticut moved to postpone indefinitely. Richard Leaf of Louisiana spoke in opposition to the motion to postpone indefinitely. Adriane J. Dudley of the Virgin Islands Bar Association spoke in favor of the motion. Mr. Jacob spoke in opposition to the motion to postpone. The resolution was **postponed indefinitely**.

[11-2] Anthony Ciolli of the Virgin Islands Bar Association moved Resolution 11-2 amending §6.2(a)(1) of the Association's Constitution to provide the U.S. Virgin Islands with a State Delegate, who pursuant to the existing language of §9.2, would automatically serve as a member of the Nominating Committee. Carlos A. Rodriguez-Vidal of Puerto Rico, Chair of the

Standing Committee on Constitution and Bylaws, reported that the Committee reviewed the resolution and approved it as to form, but took no position on the substance of the proposal. Palmer G. Vance II of Kentucky spoke in opposition to the resolution. Adriane Dudley of the Virgin Islands Bar Association spoke in favor of the resolution. Section of Taxation Delegate Richard Lipton of Illinois spoke in opposition to the resolution. Former ABA President Dennis Archer of Michigan spoke in favor of the resolution. Former ABA President H. Thomas Wells, Jr. of Alabama spoke in opposition to the resolution. Former ABA President Paulette Brown of New Jersey spoke in favor of the resolution. Tracy Giles, Virginia State Delegate, spoke in opposition to the resolution. Board of Governors member Andrew James Demetriou of California moved to call the previous question. The motion passed. The motion was **not approved**, with 223 people voting yes, and 223 people voting no.

[11-3] Anthony Ciolli of the Virgin Islands Bar Association moved Resolution 11-3 amending §6.4(a) to allow individuals who meet a state's definition of young lawyer to serve as a young lawyer member of the House of Delegates for that state. Carlos A. Rodriguez-Vidal of Puerto Rico, Chair of the Standing Committee on Constitution and Bylaws, reported that the Committee reviewed the motion and approved it as to form, but took no position on the substance of the proposal. The motion was **approved**.

[11-4] Immediate Past Chair of the Law Student Division Negeen Sadeghi-Movahed of Maryland moved Resolution 11-4 amending §6.7(b) to allow the Law Student Division to increase their number of delegates in the House of Delegates from 3 to 6 delegates. Carlos A. Rodriguez-Vidal of Puerto Rico, Chair of the Standing Committee on Constitution and Bylaws, reported that the Committee reviewed the resolution and approved it as to form, but took no position on the substance of the proposal. Section of Taxation Delegate Richard Lipton of Illinois spoke in opposition to the motion. Kareem Aref of California spoke in favor of the motion. Board of Governors Member Matthew Wallace of New York spoke in favor of the motion. Christopher Jennison of Maryland spoke in favor of the motion. Past President Laurel Bellows of Illinois spoke in favor of the resolution. The motion was **approved**.

[11-5] Paula Frederick of Georgia withdrew Resolution 11-5, which would have amended §6.8 to include the Electric Cooperative Bar Association (ECBA) as an affiliated organization of the American Bar Association (ABA) and be represented in the ABA House of Delegates accordingly. The motion was **withdrawn**.

[11-6] The House **approved by consent** Resolution 11-6 amending §31.7 to sunset the Standing Committee on Governmental Affairs.

[11-7] The House **approved by consent** Report 11-7 amending §31.7 to sunset the Standing Committee on the American Judicial System.

[11-8] The House **approved by consent** Report 11-8 amending §31.7 to change the number of members from 15 to 12 for the Standing Committee on Public Education and from 12 to 8 for the Advisory Commission to the Standing Committee.

[11-9] Scott LaBarre of Colorado moved Resolution 11-9 amending §§ 33.1 and 33.2 to change the language in order to normalize the work of the Board of Editors, and the appointed volunteer

members to be able to provide their perspectives and guidance regarding the Journal. Carlos A. Rodriguez-Vidal of Puerto Rico, Chair of the Standing Committee on Constitution and Bylaws, reported that the Committee reviewed the resolution and approved it as to form, but took no position on the substance of the proposal. Alice E. Richmond of Massachusetts spoke in favor of the resolution. The motion was **approved**.

[100A] On behalf of the National Conference of the Administrative Law Judiciary, Judge Dean Metry of Texas moved Resolution 100A encouraging state, local and territorial jurisdictions that do not presently have a central panel system to establish this proved model of state administrative law adjudications. The resolution was **adopted as revised**.

[100B] On behalf of the National Conference of the Administrative Law Judiciary, Judge Dean Metry of Texas moved Resolution 100B encouraging federal, state, and local governments to take all measures to maximize the ability of all Administrative Adjudicators to render decisions, freely, fairly, and independent of agency interference. The resolution was **adopted as revised**.

[101] On behalf of the National Association of Criminal Defense Lawyers, Cynthia E. Hujar Orr of Texas moved Resolution 101 urging Congress to make the ameliorative provisions of the First Step Act retroactive and urges the President and Attorney General to take action to implement the provisions of the Act. Chair of the National Association of Defense Lawyers Nina Ginsberg of Virginia spoke in favor of the resolution. The resolution was **adopted as revised**.

[102] On behalf of the Law Student Division, Board of Governors Member Matthew Wallace of New York moved Resolution 102 urging state, territorial, tribal courts and law schools to explore the feasibility of implementing a "Pro Bono Scholars"-style program in their respective jurisdictions to allow law students, in the final semester of their third year of law school, to obtain a full-time, externship placement providing supervised pro bono services and to allow these scholars to take the February Bar examination (if offered) during their final semester of law school. Law Student Division Chair Johnny Nguyen spoke in favor of the resolution. The resolution was **adopted**.

[103A] On behalf of the Commission on Law and Aging, Chair of the Commission on Law and Aging Louraine C. Arkfeld of Arizona moved Resolution 103A urging Congress to repeal the statutory exclusion of dental care and dentures from Medicare and expressly add coverage of comprehensive dental and oral health services to the Medicare program. The resolution was **adopted**.

[103B] On behalf of the Commission on Law and Aging, Chair of the Commission on Law and Aging Louraine C. Arkfeld of Arizona moved Resolution 103B urging all lawyers who provide estate planning services to include counseling for advance care planning that comports with eight principles that were developed through the John A. Hartford Foundation funded project. The resolution was **adopted as revised**.

[104] On behalf of the Criminal Justice Section, Stephen Saltzburg of Washington D.C moved Resolution 104 urging Congress to enact legislation to resolve the current stalemate between state and federal law over marijuana regulation and to update federal marijuana policy. The

resolution was **adopted**.

[105] On behalf of the Standing Committee on Gun Violence, Monte E. Frank of Connecticut moved Resolution 105 urging state, local, territorial, and tribal governments to enact statutes, rules or regulations and judges to promulgate policies to limit the possession of firearms in courthouses and judicial centers to only those persons necessary to ensure security. The resolution was **adopted**.

[106] On behalf of the Commission on Women in the Profession, Stephanie Scharf of Illinois moved Resolution 106 urging all legal employers to implement and maintain policies and practices to close the compensation gap between similarly situated male and female lawyers. Washington State Delegate Paula Boggs rose to confirm that entities that employ lawyers are included within the scope of this resolution. Past President Hilarie Bass spoke in favor of the resolution. Palmer Gene Vance II of Kentucky spoke in favor of the resolution. Estelle Rogers of California moved to amend the resolution so that it read that the ABA “urges all legal employers to implement...” The motion to amend failed. Josephine Bahn of Washington D.C. spoke in favor of the resolution. Past President Laurel Bellows of Illinois moved to amend the resolution so that it reads “urges all employers of legal professionals to implement...” Michael Reed of Maryland moved to table the resolution until a time certain at 5:15pm. The motion passed. Ms. Rogers moved to withdraw her proposed amendment. Ms. Scharf moved to amend the resolution to read that the ABA “urges all employers of lawyers to...” The motion to amend passed. The resolution was **adopted as amended**.

[107] On behalf of the Standing Committee on Professional Regulation, Paula Frederick of Georgia moved Resolution 107 urging each state’s highest court, and those of each territory and tribe, to study and adopt jurisdictionally appropriate proactive management-based regulatory (PMBR) programs to enhance compliance with applicable rules of professional conduct and supplement existing disciplinary enforcement mechanisms. Emil Ali of Oregon spoke in favor of the resolution. The resolution was **adopted**.

[108] The House **approved by consent** Report 108 granting reaccreditation to the Child Welfare Law program of the National Association of Counsel for Children, and the Family Trial Law and Criminal Trial Law programs of the National Board of Trial Advocacy.

[109] On behalf of the Young Lawyers Division, Anna Romanskaya of California withdrew Resolution 109 seeking to ensure that children who live in poverty, high crime communities, or experience race based trauma, or related stress, receive the in-school service support needed to maintain or restore good health. The resolution was **withdrawn**.

[110A] On behalf of the Intellectual Property Law Section, Susan B. Montgomery of Massachusetts moved Resolution 110A supporting legislation creating the establishment of a Copyright Small Claims Program, with authority to adjudicate copyright small claims as a lower-cost, less-time-consuming alternative to federal court litigation of copyright claims. The resolution was **adopted**.

[110B] On behalf of the Intellectual Property Law Section, Scott F. Partridge of Texas moved Resolution 110B urging Urges federal courts to interpret the clause “where the defendant has

committed acts of infringement and has a regular and established place of business,” in the special venue statute, 28 U.S.C. § 1400(b) when applied to Abbreviated New Drug Application (ANDA) litigation under 35 U.S.C. § 271(e)(2) to mean a district in which the defendant who filed an ANDA application is anticipated to commit acts of infringement. The resolution was **adopted**.

[110C] On behalf of the Intellectual Property Law Section, William L. LaFuze of Texas moved Resolution 110C supporting the principle that a patentee may recover compensatory damages under 35 U.S.C. § 284 for acts abroad that arise from domestic infringement of a patent pursuant to 35 U.S.C. § 271(f). The resolution was **adopted as revised**.

[111] On behalf of the Environment, Energy, and Resources Section, Amy Edwards of Washington D.C. moved Resolution 111 urging the United States Government, state, territorial, and tribal governments to take a leadership role in addressing the issue of climate change and urges Congress to enact and the President to sign appropriate climate change legislation. The resolution was **adopted**.

[112] On behalf of the Science and Technology Law Section, Richard L. Field of New Jersey moved Resolution 112 urging courts and lawyers to address the emerging ethical and legal issues related to the usage of artificial intelligence. Myles Link of Arizona spoke in favor of the resolution. The resolution was **adopted as revised**.

[113A] On behalf of the Center for Human Rights, Lee A. DeHihns III of Georgia moved Resolution 113A urging business enterprises to implement, the guidance set forth in the report, “Shared Space Under Pressure: Business Support for Civic Freedoms and Human Rights Defenders: Guidance for Companies,” published jointly by the Business and Human Rights Resource Centre and the International Service for Human Rights in September 2018. The resolution was **adopted**.

[113B] On behalf of the Center for Human Rights, Judge Bernice Donald of Tennessee moved Resolution 113B urging all governments to prioritize dignity rights in crafting, implementing, and enforcing laws, policies, regulations, and procedures. The resolution was **adopted**.

[113C] On behalf of the Center for Human Rights, Past President Michael S. Greco of Massachusetts moved Resolution 113C urging the United States Government to enforce fully and consistently the Arms Export Control Act and the Foreign Assistance Act, particularly the Human rights provisions thereof. The resolution was **adopted as revised**.

[114] On behalf of the Commission on Domestic and Sexual Violence, Mark Schickman of California moved Resolution 114 urging legislatures and courts to define consent in sexual assault cases as the assent of a person who is competent to give consent to engage in a specific act of sexual penetration, oral sex, or sexual contact, to provide that consent is expressed by words or action in the context of all the circumstances, and to reject any requirement that sexual assault victims have a legal burden of verbal or physical resistance. Neal Sonnett of Florida moved to postpone indefinitely. Camara Nancy O’Malley, who received privileges of the floor, spoke in opposition to the motion. Steven Saltzburg of Washington D.C. spoke in favor of the motion to postpone. Past President Laurel Bellows spoke in opposition

of the motion to postpone. Kim Parker of Kansas, who received privileges of the floor, spoke in favor of the motion to postpone indefinitely. Steven Weiss of Illinois spoke in opposition to the motion to postpone indefinitely. April Frazier of Washington D.C., who received privileges of the floor, spoke in favor of the motion to postpone indefinitely. Marjorie A. O'Connell of Washington D.C. spoke in opposition to the motion to postpone indefinitely. Daniel Schwartz of Connecticut moved to call the previous question. The motion was **postponed indefinitely by a vote of 256-165**.

[115A] On behalf of the Section of Civil Rights and Social Justice, Secretary Mary Smith of moved Resolution 115A urging Congress to ensure that the health care delivered by the Indian Health Service (IHS) is exempt from government shutdowns and federal budget sequestrations on par with the exemptions provided to the Veterans Health Administration. The resolution was **adopted**.

[115B] On behalf of the Section of Civil Rights and Social Justice, Mark Schickman of California moved Resolution 115B urging Congress, states, and territories to enact legislation that would provide stronger remedies and protections against pay discrimination on the basis of sex (including gender and gender identity), race and ethnicity to help overcome the persistent barriers that continue to impede the achievement of pay equity. Robert Gonzales of Maryland offered an amendment to the resolution, adding the words “and for employees with disabilities” to the text of the resolution. The motion to amend **passed**. The resolution was **adopted as amended**.

[115C] On behalf of the Section of Civil Rights and Social Justice, Mark Schickman of California moved Resolution 115C supporting the constitutionality of the Indian Child Welfare Act (ICWA) in the effort to strengthen tribal jurisdiction over their child welfare system, uphold tribal kinship and set standards specific for American Indians/Alaska Natives child and youth placement. Judge Abinanti, Chief Judge of Yurok Tribe spoke in favor of the resolution. The resolution was **adopted**.

[115D] On behalf of the Section of Civil Rights and Social Justice, Mark Schickman of California moved Resolution 115D urging the Department of Justice to retain—as a minimum threshold—existing policy protections, as codified at 28 C.F.R. § 50.10 (2016), that limit federal law enforcement in obtaining information from, or records of, members of the news media, and that limit federal law enforcement in questioning, arresting, or indicting members of the news media. The resolution was **adopted**.

[115E] On behalf of the Section of Civil Rights and Social Justice, Russell Roeca of California moved Resolution 115E urging the United States Congress, and local, state, territorial and tribal governments to enact legislation or regulations that require all law enforcement entities to meet training standards set by the Commission on Police Officer and Standard Training (POST) similar to California’s legislation, AB 2504, Peace Officer Training. The resolution was **adopted**.

[115F] On behalf of the Section of Civil Rights and Social Justice, Estelle Rogers of California moved Resolution 115F urging federal, state, local, territorial, and tribal governments to refrain from imposing upon reproductive healthcare providers’ requirements that are not medically

necessary or have the purpose or effect of burdening women's access to such services. George Jordan of Texas moved to amend the resolution to add the phrase "or appropriate[.]" Andrew Demetriou of California spoke in opposition to the motion to amend. William Horton of Alabama also spoke in opposition to the motion to amend. The motion to amend failed. Andrew Demetriou of California spoke in favor of the resolution. Monte Frank of Connecticut spoke in favor of the resolution. The resolution was **adopted as revised**.

[115G] On behalf of the Section of Civil Rights and Social Justice, Estelle Rogers of California moved to withdraw Resolution 115G urging Congress to amend the Equal Credit Opportunity Act to require documentation and collection of the applicant's race, gender or national origin for non-mortgage credit transactions specifically for vehicle transactions and urges Congress and all state, local, territorial, and tribal legislative bodies and governmental agencies to adopt laws and policies that require an enhanced nondiscrimination compliance system for a vehicle loan. The resolution was **withdrawn**.

[115H] On behalf of the Section of Civil Rights and Social Justice, Estelle Rogers of California moved Resolution 115H urging the United States Government, and Governments around the world to promote the human right to a basic income by increasing the funding, development and implementation of basic income strategies to prevent infringement of this right. The resolution was **adopted**.

[116] On behalf of the Section of Litigation, Eileen M. Letts of Illinois moved Resolution 116 urging courts, as well as their respective bar association, to carefully review their policies on use and admittance of cellphones in courthouses, to ensure meaningful access to our judicial system, balancing the security risks posed by cellphone use with the needs of litigants, and in particular, those who are self-represented or of lower income. The resolution was **adopted**.

[117A] On behalf of the Health Law Section, Robyn Shapiro of Wisconsin moved Resolution 117A urging states, counties, tribal and local governments to enact legislation to ensure that any proceeds they receive from the current opioid litigation be used for remedying the harm resulting from the opioid epidemic. The resolution was **adopted**.

[117B] On behalf of the Health Law Section, William W. Horton of Alabama moved Resolution 117B urging Congress to enact legislation to amend the Ethics in Patient Referrals Act of 1989 (Commonly known as the Start Law) to modernize the law and encourage the adoption of value-based payment arrangements and other coordinated care arrangements that will lower costs to the Medicare program and improve the quality of services to its beneficiaries. The resolution was **adopted**.

[118] The House approved by consent Resolution 118 emphasizing the right of parents and children to family integrity and family unity and the maintenance of family connectedness if a child does need to enter foster care. The resolution was **adopted**.

[119] On behalf of the Task Force on Gatekeeper Regulation and the Profession, Kevin Shepherd of Maryland withdrew Resolution 119 providing that any legislation and related regulations to detect and combat money laundering and terrorist financing must be consistent with the eight fundamental principles outlined in the resolution. The resolution was **withdrawn**.

[120] On behalf of the International Law Section, Steven M. Richman of New Jersey moved Resolution 120 urging the United States and other countries to take measures in response to the crimes committed against the Rohingya by the Burmese military. Sahar Hafeez, who received privileges of the floor, spoke in favor of the resolution. The resolution was **adopted as amended**.

[121A] On behalf of the Commission on Immigration, Mary K. Ryan of Massachusetts moved Resolution 121A recommending that the Executive Office for Immigration Review amend 8 C.F.R. §1003.1(h) and establish, through rulemaking, standards and procedures for the Attorney General certification process. The resolution was **adopted**.

[121B] On behalf of the Commission on Immigration, Mary K. Ryan of Massachusetts moved Resolution 121B recommending that the Executive Office for Immigration Review create a presumption to extend the filing of an appeal to the Board of Immigration Appeals (BIA) for *pro se* applicants. The resolution was **adopted**.

[121C] On behalf of the Commission on Immigration, Jaime Hawk of Washington moved Resolution 121C recommending that the Executive Office for Immigration Review continue the implementation of an integrated, system-wide electronic filing and case management system nationwide, with adequate funding from Congress. The resolution was **adopted**.

[121D] On behalf of the Commission on Immigration, Kevin Curtin of Massachusetts moved Resolution 121D recommending that the Department of Homeland Security (DHS) codify the core requirements of the 2009 Parole Directive into regulation. Mary K. Ryan of Massachusetts spoke in favor of the resolution. The resolution was **adopted**.

[121E] The House **approved by consent** Report 121E recommending that the Circuit Court of Appeals establish or expand *pro bono* programs to provide *pro bono* representation to *pro se* appellants to help efficiently resolve immigration cases.

[121F] On behalf of the Commission on Immigration, Jaime Hawk of Washington moved Resolution 121F recommending that the Executive Office for Immigration Review amend regulations to eliminate the automatic termination of voluntary departure when an applicant petitions for judicial review under 8 C.F.R. §1240.26(i) and also to implement an automatic stay of removal or deportation pending judicial review by the U.S. Circuit Court of Appeals or the pendency of the appeal period. The resolution was **adopted**.

[122] The House **approved by consent** Report 122 granting approval to 3 programs, grants reapproval to 17 paralegal education programs, withdraws the approval of 8 programs at the request of the institutions, and extends the term of approval for 42 paralegal education programs.

[200] On behalf of the Steering Committee of the Nominating Committee, Adrienne Nelson of Oregon moved Resolution 200 revising the *Principles and Guidelines on the Election Process for Officers of the Association*. Peter Langrock of Vermont moved to divide the question. The motion to divide **passed**. Part 5 of the resolution was **adopted**. Mark Alcott of New York spoke

in favor of Part 7 of the resolution. Peter Langrock of Vermont spoke in opposition to Part 7 of the resolution. Edith Osman of Florida spoke in favor of Part 7 of the resolution. Part 7 of the resolution was **adopted as revised**.

[400A] The House **approved by consent** revised Resolution 400A recommending that certain Association policies that pertain to public issues and are 10 years old or older be archived.

[400B] The House **approved by consent** revised Resolution 400B recommending that certain Association policies that pertain to public issues that were adopted in 1999 which were previously considered for archiving but retained, be archived.

Closing Business

Chair Bay recognized Tommy Preston, Jr. of South Carolina, who moved the Host Resolution. The resolution was **approved**.

Chair Bay recognized Kim Askew of Texas to invite and welcome the members of the House of Delegates to the 2020 Annual Meeting in Austin, Texas.

At the conclusion of the meeting of the House of Delegates on Tuesday, August 13, 2019, Chair Bay thanked the staff and the Committees of the House and then recognized Christina Plum of Wisconsin, who then moved the House adjourn *sine die*. The motion was **approved**.