MEMORANDUM

TO: Members of the Vermont Bar
FROM: Robert M. Paolini, Esq.
SUBJECT: 2016 Midyear Meeting of the American Bar Association and Meeting of the House of Delegates
DATE: April 1, 2016

REPORT ON THE ABA MIDYEAR MEETING

The 77th Midyear Meeting of the American Bar Association (the “ABA”) was held February 3-8, 2016, at the Manchester Grand Hyatt Hotel, in San Diego, California. A variety of programs were sponsored by committees, sections, divisions, and affiliated organizations. The House of Delegates met on February 8.

The Nominating Committee sponsored a “Coffee with the Candidate” Forum on February 7, 2016. Robert M. Carlson of Montana, candidate for President-Elect for the 2017-18 term gave a speech to the Nominating Committee and to the members of the Association present, followed by a question/answer session.

THE HOUSE OF DELEGATES

The House of Delegates of the American Bar Association (the “House”) met on Monday, February 8, 2016. Patricia Lee Refo of Arizona presided as Chair of the House. The United States Navy Color Guard from the Naval Base San Diego presented the colors. The invocation for the House was delivered by Rabbi Laurie Coskey. The Chair of the House Committee on Credentials and Admissions, Hon. Leslie Miller of Arizona, welcomed the new members of the House and moved that the signed roster be approved as the permanent roster for the meeting of the House. The motion was approved.

Chair Refo welcomed new members of the House and recognized all the lawyers who had served in the House of Delegates for more than 25 years.

Reginald M. Turner of Michigan, Chair of the Committee on Rules and Calendar, provided a report on the Final Calendar for the House. He moved to consider the late-filed report, adopt the final calendar and approve the list of individuals who sought privileges of the floor. All three motions were approved. Mr. Turner noted the deadline for submission of Resolutions with Reports for the 2016 Annual Meeting is Tuesday, May 10, 2016, while the deadline for Informational Reports is Friday, June 3, 2016. He also noted the deadline for removing an item from the consent calendar and, after the deadline had expired, moved the items remaining on the consent calendar. The motion was approved.
Deceased members of the House were named and remembered by a moment of silence. Chair Refo recognized Tracy A. Giles of Virginia to speak in honor of General Earl E. Anderson, former House of Delegates member. Chair Refo also recognized Walter H. White, Jr. of the District of Columbia to speak in honor of Patricia D. Struck of Wisconsin, former member of the House of Delegates, and Alice E. Richmond of Massachusetts to speak in honor of Richard Donahue, former Massachusetts State Delegate and former member of the Board of Governors.

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

Patricia Lee Refo of Arizona, Chair of the House, discussed the procedures for addressing the business and calendar of the House and reminded members where they could find the House Rules of Procedure. She recognized and thanked members of the various House Committees. Chair Refo also recognized the Committee on Rules and Calendar, chaired by Reginald M. Turner Jr. of Michigan and comprised of members Kim J. Askew of Texas, Joseph D. O'Connor of Indiana, Christina Plum of Wisconsin, and Charles J. Vigil of New Mexico, and Committee staff members, Alpha Brady and Rochelle Evans. She introduced the Tellers Committee and reviewed procedures for speaking. Chair Refo announced that key speeches and debates would be publicized and that the ABA Communications and Media Relations Division would be providing updates and reporting on the proceedings of the House via Twitter @ABAesq.

Chair Refo announced that at the 2016 Annual Meeting, the House will elect one member to the Committee on Scope and Correlation of Work ("SCOPE"). The position will be for a five-year term. In addition, the House will elect one additional member to Scope to fill a vacancy for a two-year term. She encouraged those interested in a position to contact members of the Scope Nominating Committee and to submit an application by March 18, 2016.

She noted that the appointments process for President-Elect Linda A. Klein of Georgia is underway. The deadline for submission of applications was February 26, 2016.

Chair Refo recognized the Fund for Justice and Education as the ABA’s charitable arm and urged member support of FJE. She also recognized the importance of the ABA Legal Opportunity Scholarship Fund, which is an FJE project.

Chair Refo spoke in support of Law Day 2016. This year’s theme “Miranda: More than Words”, will explore the procedural protections afforded to all of us by the U.S. Constitution, how these rights are safeguarded by the courts, and why the preservation of these principles is essential to our liberty. Postcards were distributed to members of
the House with the theme and website address. Chair Refo encouraged state and local bar associations across the country to participate in Law Day activities and hopes that all members of the House will encourage this important participation. In addition, Chair Refo announced that ABA Day will be held from April 19-21, 2016 in Washington D.C.

**Statement by the ABA Secretary**

Mary T. Torres of New Mexico, Secretary of the Association, moved approval of the House of Delegates Summary of Action from the 2015 Annual Meeting, which was approved by the House. On behalf of the Board of Governors, Secretary Torres presented House Report Nos. 177, 177A and 177B, the Board’s Informational, Transmittal and Legislative Priorities reports.

**Statement by the ABA President**

In her remarks to the House, President Paulette Brown of New Jersey stated it was her pleasure to be with the ABA family. She was thankful for the opportunity for all attendees to gather as professionals. She stated she had asked the ABA to be social engineers for justice and members did not disappoint. She said members have taken numerous steps to focus on the ABA’s four goals, particularly those that build on the ABA’s commitment to defend liberty and deliver justice.

President Brown shared details of the important progress the ABA has made toward achieving those goals. She has surpassed her Main Street ABA goal of traveling to at least two states per month, making sure all lawyers, judges and law students across the country know the ABA is there for them. Her current goal is to reach all 50 states. She has been given the opportunity to delve into the remarkable work of many of the ABA entities, both large and small. She has met amazing people who remind her that lawyers have skills that can make a difference in the lives of not only our communities, but also of the nation. She has been reminded of the great progress that our nation has made on the important issues of justice.

She has had many memorable experiences: crossing the Edmund Pettus Bridge in Selma, Alabama, in commemoration of the 60th anniversary of the Montgomery Bus Boycott; participating in a symposium in Charleston, South Carolina, on the impact of gun violence on public health; making a pro bono public service announcement for the Alabama Bar Association; handing out 50-year service pins in Montana; and having the privilege of attending meetings and programs across our country. She was “over the moon” by the ABA’s response to the inaugural “And Justice for All: An ABA Day of Service.” Events were held in 44 states, Washington, D.C., Puerto Rico, and six countries. Tens of thousands of lawyers provided pro bono legal services for those who could not afford it. The ABA showed the world that a law degree is more than just a piece of paper – it is power and that power was put to great use.

She has visited more than 20 Boys & Girls Clubs across the country, bringing with her the ABA’s young lawyers and law students. It is important for our youth to see the diversity of the ABA and to expose them to what is possible. Our young people hold such hope for the future. They are yearning to do something important with their lives; they just need windows with which they can see these opportunities. Young lawyers
have also been instrumental in developing the Young Lawyer Toolkit. The first phase of the Toolkit was unveiled at this meeting and the second piece will be ready in August. It is available to all lawyers and will be a living resource – current, adaptable, and growing with responsible resources.

President Brown is especially proud of the ABA Diversity and Inclusion 360 Commission’s efforts to work toward a more diverse and inclusive profession and a greater recognition of the role implicit bias plays in the delivery of justice. This is one of the most important goals at this time in our nation’s history. Among the work of the Commission is a searchable database being built that provides resources for young people from kindergarten through law school. Conversation has begun that will lead to a promising military pipeline project. The ABA is also working on expanding economic opportunities for all attorneys -- of all races and ethnicities, women, those with various forms of ability, and members of the LGBT community.

She presented a training video for judges from the Commission on implicit bias. The Commission is also creating implicit bias training materials for prosecutors and public defenders. President Brown hopes these materials will be distributed nationwide.

She said that the ABA knows it would not be the voice of the legal profession without its members and that there has been great progress on her groundbreaking effort, ABA Everyday. She said that ABA Everyday is a way of thanking everyone who makes this great association what it is today and showcasing the value of what the ABA offers. She quoted Margaret Mead: “Never doubt that a small group of thoughtful, committed citizens can change the world; Indeed, it’s the only thing that ever has.” President Brown is very proud of the ABA and looks forward to the remainder of her term.

**Remarks by the President of the Conference of Chief Justices**

The Honorable David L. Gilbertson, Chief Justice of the Supreme Court of South Dakota, thanked everyone for the warm welcome. He is the president of the Conference of Chief Justices (CCJ) and is the seventh CCJ president to address the House of Delegates in this capacity. President Brown met with the chief justices in Monterey and gave an address to that assembly. Chief Justice Gilbertson stated that the two organizations possess outstanding common interests and it makes each stronger and more effective in continuing this communication at the highest levels between the ABA, the preeminent voice of the nation’s lawyers, and the CCJ, the preeminent voice of the state judiciaries. This relationship is important because the health of the entire legal system of the United States depends on a strong state judiciary.

In a survey by the state courts to measure the public’s perception of the court system, it revealed the courts remain the most trusted branch of government. However, it also revealed consistent concerns about customer service, inefficiency, and bias that are undermining the public’s confidence in the courts and are leading them to look for alternative means of resolving disputes. In order for the state courts to meet the public’s expectations for improvement, they must operate fairly and equitably with access for all.
Chief Justice Gilbertson addressed four vital issues facing the state courts which the CCJ is working diligently to improve: (1) the cost of delayed justice; (2) the misuse of court fees; (3) racial and ethnic fairness; and (4) the shortage of attorneys practicing in rural areas. The first issue is civil justice. The CCJ formed a Civil Justice Improvements Committee. It completed a study of civil litigation and state courts focusing on cost and delay, both of which hinder access. The findings are for a dramatically changed picture of current civil caseloads compared to the caseloads of two decades ago and to perceptions held by many civil trial lawyers and judges. Even though commercial disputes are the major focus of today’s headlines, three quarters of all civil caseloads are judgments for $5,200 or less. Many of the cases were resolved without a contested trial on merits with at least one party self-represented in more than three quarters of the cases. Across the country, the lawyers and court leaders are developing a variety of informed efforts to address and to improve the civil justice system. California, New Jersey, Pennsylvania, Texas, Colorado, Iowa and South Dakota have implemented new ideas for improvement for civil justice.

Secondly, Chief Justice Gilbertson revealed there is a rising crescendo of complaints about funding municipal governments through court fines. The CCJ and the Conference of State Court Administrators (COSCA) have long taken the position that court functions should be funded by the general operating funds of the states in order that the judiciary can fulfill its obligation of upholding the Constitution and protecting the individual rights of all citizens. The CCJ and COSCA voted to launch a national task force to review current practices, authorities, and operations related to the use of financial sanctions, fines, fees, and bail bonds. The task force will work with the support of the State Justice Institute to draft model statutes and written policies for setting, collecting, and waiving court-imposed sanctions; to compile and create best practices for setting, processing, and codifying the collection of fines, fees, and bail bonds; and to review and revise guidelines for the selection, tenure, and oversight of the municipal court judges including reviewing and updating the state Codes of Judicial Conduct to ensure their applicability to all judges.

The third vital issue is racial and ethnic fairness. Chief Justice Gilbertson stated the CCJ, the National Consortium on Racial and Ethnic Fairness in the Courts and the National Center for State Courts in partnership with the State Justice Institute have embarked on a national initiative entitled “Community Engagement in the State Courts” which is building an engagement strategy aimed at general engagement and bridging the gap between communities of color and the courts. President Brown is serving on this advisory board. The approach for this initiative involves a two-way dialogue that brings community leaders to the courts to establish a meaningful relationship built on trust, respect, and understanding. Out of these dialogues tools and resources will develop that assist state court leaders in engaging marginalized and disenfranchised communities to ensure equal access to justice for all.

Addressing his fourth point, Chief Justice Gilbertson talked about the issue of the availability of attorneys to people in the rural areas of this country. It is of great personal interest to him as he is the Chief Justice of South Dakota and is a lifelong resident of a rural county. This problem exists for virtually every state as they all have rural counties. The front of the United States Supreme Court proclaims “Equal Justice Under Law”.

This declaration was made without qualification. While much attention has been paid in the area of economic status and person classifications, scant attention has been paid to the issue of geography. Rural areas are fast becoming seas of justice denied. To do nothing to reverse this course is a guarantee to increased failure of the legal system in rural areas until it ceases to function. South Dakota has passed a law that will refund to a lawyer who agrees to practice in a rural area for five years the cost of that lawyer’s legal education at in-state tuition rates. In just two years it has proven successful with 17 counties contracted for participation in the program. Other states are investigating alternatives which, hopefully, will also bear fruit.

In conclusion, Chief Justice Gilbertson stated the ABA and the CCJ have called in the strongest of terms for more and better resources to be directed to the administration of justice in our state courts. The institutional support of the ABA is critical in defending the role of state courts in our system of justice. He and his colleagues are grateful for the staunch alliance of the ABA and they appreciate the countless initiatives undertaken by the state and local bar associations who support the state courts. He reminded the members that they are perfectly positioned with the opportunity to make a difference. He urged them to go the extra mile by working in their communities and their state legislatures. He looks forward to working with the ABA on these important challenges.

Statement by the ABA Treasurer

The Treasurer, G. Nicholas Casey, Jr. of West Virginia, referred members of the House of Delegates to the written report, which reflects the performance of the Association.

Mr. Casey explained these were trying times financially for the Association. In fiscal year 2015 revenue was $200.6 million, which was down $3.8 million from the previous year. In the same period, the ABA had expenses of $215.4 million. The result was a net loss of $14.8 million. The loss was due primarily to revenues being below budget, particularly in the areas of dues revenue and meetings and travel revenue. Although 2015 showed a deficit, the expenses of $215.4 million were actually $800,000.00 under budget, so expenses were being controlled.

Mr. Casey explained the ABA has a revenue problem. Most revenue is from dues. As older lawyers are easing out of the practice, fewer law students are entering the schools, thus fewer lawyers are entering the practice. With a membership model built on dues revenue, this change in demographics is going to continue to impact the ABA. The ABA has various initiatives for non-dues revenue. Although these initiatives are showing some success, they are not producing revenue at the same pace the ABA is expected to lose dues revenue as a result of declining dues paying members.

As of December 30, 2015 the ABA’s total assets were in excess of $300 million. This is down approximately $14 million from August 31, 2015 due to market conditions. While these substantial assets enable the Association to deal with operating losses, an operating loss such as the 2015 loss of $14.4 million, is just not sustainable over time. In the past, ABA revenue was bolstered by significant investment returns. As investment returns have flattened, however, so has gross revenue. Additionally, the
assets are subject to certain liabilities, particularly the pension plan, which remains a substantial obligation of the Association. Annual pension contributions are based on variables, including trailing interest rates and market values of investments. Future projections vary widely from $1.7 million in one year to $17.2 million the next year. This variability is something that has plagued the ABA and continuing efforts are being made to stabilize the annual pension costs.

The current fiscal year 2016 budget year looks better than fiscal year 2015. Lower revenues were budgeted and expenses were adjusted accordingly. Treasurer Casey indicated we are doing better this year because we have lowered our revenue budget projections. We budgeted for no increase in dues and instead used actual dues collected for the prior year. With reduced revenue projections, we need to continue to aggressively work to control expenses.”

Although there are financial challenges, the ABA has great strengths, including its assets but, more important, it’s 3,500 different entities doing many good things with many great volunteers.

In order to continue to meet the ABA’s mission within the reality of our finances Mr. Casey encouraged ABA members to look for opportunities within the ABA to consolidate efforts to do good works while, at the same time, reducing expenses. He stated “we urge all members to collaborate and manage operations effectively and, when possible, consolidate efforts and so we can operate efficiently while we still fulfill our mission.”

**Statement by the ABA Executive Director**

In an inspirational address, Jack L. Rives of Illinois, Executive Director and Chief Operating Officer of the American Bar Association, focused his presentation on the theme “One Point/One Word: Membership.”

By the end of the fiscal year 2015, the ABA had a record number of members – almost 417,000. However, the number of dues paying members has gone down every year for the past ten years. So what is the problem? It comes down to the value proposition for membership. What is the ABA doing to show attorneys in this country why they should be members of the ABA? What are the benefits of membership? Does it make them a better lawyer? Does it help the profession? Why should they pay ABA dues?

As background, Mr. Rives explained that in 1971, there were about 150,000 lawyers in the ABA as compared to about 340,000 total lawyers in the profession. By 1990, there were about 350,000 lawyer members of the ABA. That number has stayed fairly constant through the years. In 1977, the ABA membership represented about 50% of the lawyers in the U.S. Now, there are 1.3 million lawyers and participation in the ABA is about 27%. One relevant fact: The average lawyer’s age is now 49 compared to 39 in 1980. And 41% of the ABA members have been lawyers for more than 30 years. And Millennials and younger attorneys are not joiners. Why? They do not believe they’re receiving value from membership, or it’s too expensive, or they are not finding business connections or mentorship opportunities.
Since 2010, LSAT applications have declined by 41%. First year students in the fall of 2015 were part of the smallest beginning class since 1973, which represents a decline of some 15,000 (29%) in the past five years. These numbers signal a significant problem for the ABA. And through last year, the number of law student members has been declining, down to less than 20% of all students. Why should students join the Association? Does the ABA help them become a better student? Does it help them get started in the profession?

At last year’s Midyear meeting, the Board of Governors approved free memberships for law students. Of course, even when you give something away, it has to provide value or it won’t be accepted. The ABA created a special, mobile-friendly website for law students. We initiated a blog specifically for students, focusing on such issues as how to get through law school and get started in a legal career. And we developed podcasts that address matters of interest to students. Such benefits had an impact: In 2014, the ABA recruited just under 10,000 new student members from April through December. Under the new program in 2015, the ABA recruited 42,000 new students over the same time period. In fiscal year 2017, the ABA will offer a law student premium model that provides an array of additional benefits to students who pay $25 annually.

Mr. Rives highlighted the benefits of ABA membership. The ABA’s 3,500 entities provide value in innumerable ways. Certain benefits for attorneys can be provided only by a national professional association. The ABA advances individual lawyers in their careers, and it also advances the profession.

Proving the Association can recruit and retain members, Mr. Rives noted that at the end of fiscal year 2010, ABA was at its lowest point in many years, down to about 386,000 members. By 2011, the ABA had 391,000 members, and each year since has increased the number of members, to fiscal year 2015’s record high of almost 417,000.

Mr. Rives emphasized the need to increase our number of dues paying members. He challenged members to be proactive in this area. They can talk to their colleagues about the benefits of ABA membership. They can explain their personal story of the rewards of ABA participation. They can help recruit student members at their alma maters and at nearby law schools. And they can do much more. He concluded by reminding Delegates of the focus on one word: Membership!

Report of the Nominating Committee

The Nominating Committee met on Sunday, February 7, 2016. On behalf of the Committee, Randall D. Noel of Tennessee, Chair of the Steering Committee of the Nominating Committee, reported on the following nominations for the terms indicated:

Officers of the Association

Michele A. Behnke of Wisconsin
Secretary for 2017-2020 (to serve as Secretary-elect in 2016-2017 in 2016-2017)
Mary L. Smith of Illinois

Chair of the House of Delegates for 2016-2018
Deborah Enix-Ross of New York

President-Elect for 2016-2017
Hilarie Bass of Florida

**Members of the Board of Governors for the 2016-2019 Term**

**District Members**
District 7: J. Timothy Eaton of Illinois
District 8: A. Joshua Markus of Florida
District 10: David S. Houghton of Nebraska
District 11: Hon. Leslie Miller of Arizona
District 13: Mary Ann Foley of Alaska
District 18: Paula E. Boggs of Washington

**Section Members-at-Large**

Criminal Justice Section (one-year term for 2016-2017)
William N. Shepherd of Florida

Government and Public Sector Lawyers Division
 Darcee S. Siegel of Florida

Section of Public Utility, Communication and Transportation Law (two-year term for 2016-2018)
Linda L. Randell of Connecticut

Section of Real Property, Trust and Estate Law
Kevin L. Shepherd of Maryland

Section of State and Local Government Law
Benjamin E. Griffith of Mississippi

**Goal III Members-at-Large**

Goal III Woman Member-at-Large
Lorelie S. Masters of the District of Columbia

Goal III Disability Member-at-Large
Scott C. LaBarre of Colorado
Remarks by ABA President-Elect Nominee

President-Elect Nominee Hilarie Bass of Florida stated she was honored to accept the recommendation of the Nominating Committee to serve as the ABA President-Elect for the year 2016. She stated she has had the privilege of serving in this House since she was a Young Lawyer and has many vivid memories of phenomenal debates about issues of real concern to her and the lawyers of this country. President-Elect Bass has served in many capacities in the ABA and, through it all, her membership in the ABA has made her proud – proud to be a lawyer, proud to be a member of the organized bar fighting to make our justice system more accessible to all, and proud to be a member of the House debating resolutions that would eventually become the policy of the ABA.

In her address to the House of Delegates, President-Elect Nominee Bass stated the members of the House and the ABA have much to be proud of. Congress is currently debating a criminal justice reform package and the United Nations is currently debating a proposal to cover over 100 million street children with the UN Convention of the Rights of the Child – both coming from the work of the ABA. There are more than 300 domestic violence courts and over 2,900 drug courts across the country that are an outgrowth of the work of the ABA and its various committees.

She went on to say the ABA realizes there is much work left to do. At this time of great transformation in the legal profession, the ABA must continue to provide leadership even when the challenges are great the answers are not always clear. She is greatly humbled that she will be given the opportunity to lead the ABA in the great work that it will continue to accomplish in the future.

She is looking forward to collaborating with all members of the ABA to identify and address the constantly evolving challenges to our justice system, including our diversity, our methods of educating and training law students, the ethics of our profession, and the role of the Rule of Law in the United States and throughout the world. To be successful at addressing these issues, we will need to work together knowing that the sum of our parts as an organization has the potential to add real value to our profession, our justice system and our democracy.

President-Elect Nominee Bass thanked the many people who she has worked with over the past 30 years in this Association from whom she has learned so much. She expressed gratitude to the members of the Florida delegation, the members of her law firm, to the Young Lawyers Division, to the Litigation Section, and to her family members present who have supported her and the goals she has pursued. She also thanked the many friends she has made over the years, stating “these people have been the greatest gift from my participation in the ABA.” She will continue to rely on them.

In conclusion, President-Elect Nominee Bass expressed gratitude to the members of the House of Delegates and to the Nominating Committee for having the confidence in her to serve in the President-Elect role. She will work hard and be vigilant in ensuring that the great work of the ABA continues – whatever the obstacles. She looks forward to “working with all of the members to advance the goals of this wonderful organization.”
II. RESOLUTIONS VOTED ON BY THE HOUSE

A brief summary of the action taken on resolutions brought before the House follows. The resolution numbers are noted in brackets.

ADMINISTRATIVE LAW

[106A] On behalf of the Section of Administrative Law and Regulatory Practice, Ronald M. Levin of Missouri withdrew Resolution 106A urging Congress to amend 5 U.S.C. §552(a)(1) of the Freedom of Information Act (FOIA) to require that when a standard drafted by a private organization is exempted from Federal Register publication because it has been “incorporated by reference” (IBR) into a substantive rule of general applicability, the rulemaking agency must ensure meaningful free public availability of the incorporated text.

[106B] On behalf of the Section of Administrative Law and Regulatory Practice, Ronald M. Levin of Missouri moved Resolution 106B urging Congress to amend the rulemaking provisions of the Administrative Procedure Act. The resolution was approved.

CIVIL RIGHTS

[10B] On behalf of the New Jersey State Bar Association, Thomas H. Prol of New Jersey moved Resolution 10B supporting constitutional equality for women, urging the extension of legal rights, privileges and responsibilities to all persons, regardless of sex, and reaffirming support of and affirmatively act toward the goal of the ratification of the Equal Rights Amendment to the U.S. Constitution. Robert L. Weinberg of the District of Columbia spoke in support of the resolution. The resolution was approved.

COURTS

[110] On behalf of the Young Lawyers Division, Andrew Schpak of Oregon moved Resolution 110 urging the United States Supreme Court to record and make available video recordings of its oral arguments. Myra L. McKenzie-Harris of Arkansas spoke in support of the resolution. Robert L. Weinberg of the District of Columbia spoke in opposition to the resolution. The resolution was approved.

CRIMINAL JUSTICE

[10A] On behalf of the New York County Lawyers Association, Carol Ann Sigmund of New York moved Resolution 10A urging the Department of Justice and the Federal Bureau of Prisons to amend their policies with respect to monitoring emails between attorneys and their incarcerated clients to permit attorneys and their incarcerated clients to communicate confidentially via email and thereby maintain the attorney-client privilege. The resolution was approved.

[102] On behalf of the Criminal Justice Section, Matthew F. Redle of Wyoming moved Revised Resolution 102 urging legislatures to review all statutes criminalizing consensual noncommercial sexual conduct, in private and between persons who have the legal capacity to consent, and, to repeal or amend such statutes to criminalize only
sexual acts that are nonconsensual, commercial, public, or that involve individuals who lack the legal capacity to consent. The resolution was approved as revised.

**DISPUTE RESOLUTION**

[100] On behalf of the Section of Dispute Resolution, James J. Alfini of Texas moved Revised Resolution 100 urging lawyers and all interested parties to increase the use of alternative dispute resolution (ADR) processes to resolve health care disputes. The resolution was approved as revised.

**DIVERSITY AND INCLUSION**

[107] On behalf of the Commission on Diversity and Inclusion 360, Eileen M. Letts of Illinois moved Resolution 107 encouraging all state, territorial and tribal courts, bar associations and other licensing and regulatory authorities, that have mandatory or minimum continuing legal education requirements (MCLE) to modify their rules to include as a separate credit, programs regarding diversity and inclusion for the legal profession of all persons regardless of race, ethnicity, gender, sexual orientation, gender identity or disabilities, and programs regarding the elimination of bias. The resolution was approved.

[116] On behalf of the Commission on Women in the Profession, Michele Coleman Mayes of New York moved Resolution 16 urging public companies in the United States to diversify their boards to more closely reflect the diversity of society and the workforce in the United States. The resolution was approved.

**FAMILY LAW**

[112A] On behalf of the Section of Family Law, Marshall J. Wolf of Ohio moved Resolution 112A adopting the ABA Model Act Governing Assisted Reproductive Technology Agencies (ART), dated February 2016, which provides model licensing legislation governing ART agencies and recommends consideration and adoption of the Model Act by appropriate governmental agencies and legislatures. The resolution was approved.

[112B] On behalf of the Section of Family Law, Anita M. Ventrelli of Illinois moved Resolution 112B urging the United States Department of State to seek specific negotiations regarding a possible Hague Convention on private international law concerning children, including international surrogacy arrangements. The resolution was approved.

**HEALTH LAW**

[300] On behalf of the Health Law Section, J. Anthony Patterson, Jr. of Montana moved Resolution 300 urging Congress to enact legislation to encompass services provided by advanced practice providers within the locum tenens exception to the prohibition on reassignment of Medicare billing privileges. The resolution was approved.
INTELLECTUAL PROPERTY LAW

[108A] On behalf of the Section of Intellectual Property Law, Joseph M. Potenza of the District of Columbia moved Resolution 108A opposing intellectual property laws and agency and court interpretations of intellectual property laws that impose the payment of the government’s attorney fees on a party challenging a decision of the United States Patent and Trademark Office in federal district court, unless the statute in question explicitly directs the courts to award attorney fees. The resolution was approved.

[108B] On behalf of the Section of Intellectual Property Law, William L. LaFuze of Texas moved Resolution 108B supporting interpretation and application of the statutory six-year patent damages period (35 U.S.C. §286) as limiting availability of the judicially created laches defense as a bar to legal damages for patent infringement. The resolution was approved.

[108C] On behalf of the Section of Intellectual Property Law, Susan B. Montgomery of Georgia withdrew Resolution 108C supporting the traditional rule that the first sale of patented goods (as opposed to a mere license) by U.S. patent owners or their licensees triggers the defense of patent exhaustion with respect to an allegation of patent infringement related to those goods.

INTERNATIONAL LAW

[103] On behalf of the Section of International Law, Steven M. Richman of New Jersey moved Revised Resolution 103 amending the black letter of Rule 5.5 of the ABA Model Rules of Professional Conduct and the ABA Model Rule for Registration of In-House Counsel, to include language specifying that the court of highest appellate jurisdiction may, in its discretion, allow foreign in-house lawyers who do not meet the ABA definition of foreign lawyer because they cannot be “members of the bar” to be able to practice as in-house counsel in the U.S. and to be so registered. The resolution was approved as revised.

LEGAL EDUCATION

[109] On behalf of the Law Student Division, Christopher S. Jennison of Maryland moved Resolution 109 urging the bar admission authorities in each state and territory to adopt expeditiously the Uniform Bar Examination in their respective jurisdictions. Alice E. Richmond of Massachusetts moved an amendment. Allen Orr Jr. of the District of Columbia spoke in support of the amendment. Robert S. Peck of the District of Columbia, Jennifer Busby of Alabama and Darin B. Scheer of Wyoming spoke in opposition to the amendment. The amendment was not approved. Michael S. Greco of Massachusetts spoke in support of the resolution. Benjamin E. Griffith of Mississippi and Carol Ann Sigmond of New York spoke in opposition to the resolution. The resolution was approved.

[117] On behalf of the National Native American Bar Association, Mary L. Smith of Illinois moved Resolution 117 urging bar admission authorities to consider the impact on minority applicants in deciding whether to adopt the Uniform Bar Examination (UBE) in their jurisdiction and to consider including subjects not included on the UBE, particularly
Indian Law in each state or territory with sizable American Indian populations or trust land. The resolution was approved.

**LEGAL SERVICES**

[105] On behalf of the Commission on the Future of Legal Services, Judy Perry Martinez of Louisiana moved Revised Resolution 105 adopting the *ABA Model Regulatory Objectives for the Provision of Legal Services*, dated February 2016, and urging that each state’s highest court, and those of each territory and tribe, be guided by the Model Regulatory Objectives when they assess the court’s existing regulatory framework and any other regulation they may choose to develop concerning non-traditional legal service providers. William C. Hubbard of South Carolina and Lucian T. Pera of Tennessee spoke in support of the revised resolution. David P. Miranda of New York, Lawrence J. Fox of Pennsylvania and Marjorie A. O’Connell of the District of Columbia spoke in opposition to the resolution. William T. Robinson, III of Kentucky moved to postpone indefinitely consideration of the resolution. Laura B. Sharp of Texas spoke in support of the motion to postpone. Ramon A. Abadin of Florida and H. Thomas Wells, Jr. of Alabama spoke in opposition to the motion to postpone. The motion to postpone indefinitely was not approved by a vote of 191 to 276. William K. Weisenberg of Ohio moved an amendment. Judy Perry Martinez of Louisiana spoke in support of the amendment. The amendment was approved. Sharon Stern Gerstman of New York moved a second amendment. Marshall J Wolf of Ohio and Dennis J. Drasco of New Jersey spoke in support of the second amendment. Andrew Perlman of Massachusetts, Lucian T. Pera of Tennessee and John T. Berry of Florida, spoke in opposition to the second amendment. The second amendment was not approved. Robert J. Grey, Jr. of Virginia presented closing remarks. The resolution was approved as revised and amended.

[113] On behalf of the Standing Committee on Lawyer Referral and Information Service, C. Elisia Frazier of Georgia withdrew Resolution 113 urging courts and legislative bodies to adopt rules or enact legislation to establish an evidentiary privilege for confidential communications between a client and a lawyer referral service for the purpose of retaining a lawyer or obtaining legal advice from a lawyer.

**PARALEGAL EDUCATION**

[101] The House approved by consent Resolution 101 as submitted by the Standing Committee on Paralegals granting approval and reapproval to several paralegal education programs, withdrawing the approval of three programs at the requests of the institutions, and extending the term of approval to several paralegal education programs.

**SPECIALIZATION**

[104] The House approved by consent Resolution 104 as submitted by the Standing Committee on Specialization reaccrediting the Civil Pretrial Practice Law program of the National Board of Trial Advocacy of Wrentham, Massachusetts as a designated specialty certification program for lawyers for an additional five-year term.
TAX LAW

[114] On behalf of the Section of Civil Rights and Social Justice, Marilyn Harbur of Oregon withdrew Resolution 114 urging Congress to enact legislation to make permanent the tax deduction for donation of wholesome food inventory as previously codified in Internal Revenue Code section 170(e)(3)(C).

UNIFORM ACTS

[115A] On behalf of the National Conference of Commissioners on Uniform State Laws, Secretary Mary T Torres of New Mexico moved and Richard T. Cassidy of Vermont presented Resolution 115A approving the Revised Uniform Athlete Agents Act, promulgated by the National Conference of Commissioners on Uniform State Laws, as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein. The resolution was approved.

[115B] The House approved by consent Resolution 115B as submitted by the National Conference of Commissioners on Uniform State Laws approving the Revised Uniform Residential Landlord and Tenant Act, promulgated by the National Conference of Commissioners on Uniform State Laws, as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein.

[115C] The House approved by consent Resolution 115C as submitted by the National Conference of Commissioners on Uniform State Laws approving the Uniform Commercial Real Estate Receivership Act, promulgated by the National Conference of Commissioners on Uniform State Laws, as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein.

[115D] On behalf of the National Conference of Commissioners on Uniform State Laws, Robert A. Stein of Minnesota moved Resolution 115D approving the Uniform Home Foreclosure Procedures Act, promulgated by the National Conference of Commissioners on Uniform State Laws, as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein. The resolution was approved.

[115E] The House approved by consent Resolution 115E as submitted by the National Conference of Commissioners on Uniform State Laws approving the Uniform Recognition and Enforcement of Canadian Domestic-Violence Protection Orders Act, promulgated by the National Conference of Commissioners on Uniform State Laws, as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein.

[115F] The House approved by consent Resolution 115F as submitted by the National Conference of Commissioners on Uniform State Laws approving the Uniform Trust Decanting Act, promulgated by the National Conference of Commissioners on Uniform State Laws, as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein.
YOUTH AT RISK

[111] On behalf of the Commission on Youth at Risk, Vanessa P. Williams of Michigan moved Resolution 111 urging state, local, territorial and tribal child welfare and juvenile justice agencies to provide adequate resources for assessing and treating emotional and behavioral disorders of children in their custody, including psychosocial and clinical interventions, recreational opportunities and supportive services that can reduce the need for prescribing psychotropic drugs. The resolution was approved.

Closing Business

At the conclusion of the meeting of the House of Delegates on Monday, February 8, 2016 following various expressions of gratitude and recognition, the California delegation was recognized to make a presentation to delegates regarding the 2016 Annual Meeting in San Francisco to be held August 4-9, 2016.

Tracy A. Giles of Virginia, moved a resolution in appreciation of the San Diego County Bar and State Bar of California Bar Association for their efforts in hosting the meeting. The resolution was approved.

Chair Patricia Lee Refo recognized Reginald M. Turner Jr. of Michigan who then moved the House adjourn sine die. The motion was approved.