

MEMORANDUM

TO:

FROM:

SUBJECT: 2003 Annual Meeting of the American Bar Association and Meeting of the House of Delegates

DATE: September 12, 2003

REPORT ON THE ABA ANNUAL MEETING

The 126th Annual Meeting of the American Bar Association (the "ABA") was held August 6 - 12, 2003, at the Moscone Convention Center in San Francisco, California. A wide variety of programs were sponsored by committees, sections, divisions, and affiliated organizations. The House of Delegates met for a two-day session. The Nominating Committee also met.

The Nominating Committee sponsored a "Meet the Candidates" Forum on Sunday, August 10, 2003. The following candidates seeking nomination at the 2004 Midyear Meeting gave speeches to the Nominating Committee and to the members of the Association present and/or spoke to various delegations and entities throughout the meeting:

President-Elect:	Michael S. Greco Earle F. Lasseter
Chair, House of Delegates:	Don Bivens Stephen N. Zack
Secretary:	Armando Lasa-Ferrer John L. McDonnell, Jr. Cara Lee T. Neville Joseph J. Roszkowski
Treasurer:	Wm. T. Robinson III

The ABA Medal, the Association's highest award, was presented to Talbot D. "Sandy" D'Alemberte of Florida during the House of Delegates meeting on Monday, August 11, 2003.

THE HOUSE OF DELEGATES

The House of Delegates of the American Bar Association (the “House”) met on Monday, August 11, and Tuesday, August 12, 2003. H. Thomas Wells, Jr. of Alabama, presided as Chair of the House.

The Reverend Cecil Williams of the Glide Memorial Church delivered the invocation for the House. The Chair of the House Committee on Credentials and Admissions, Hilarie F. Bass of Florida, welcomed the new members of the House.

Deceased members of the House were named by the Secretary of the Association, Ellen F. Rosenblum of Oregon, and were remembered by a moment of silence. Martha W. Barnett of Florida gave remarks about Chesterfield Smith who passed away in July. President Carlton of North Carolina spoke about Charles Rhyne who also passed away in July. Mr. Smith and Mr. Rhyne both served as presidents of the Association and will be greatly missed.

The House did not use electronic voting in order to conserve ABA resources.

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

H. Thomas Wells, Jr. of Alabama, Chair of House of Delegates began by introducing the members of the Rules and Calendar Committee, the Tellers, and the ABA staff members who make the House operations possible and productive. Mr. Wells encouraged all House members to stay and participate throughout the meeting, as all agenda items, including those scheduled for debate later on the calendar, are equally important. Mr. Wells also encouraged all House members to vote in the Delegate-at-Large election, and to make a charitable contribution to the ABA Fund for Justice and Education (FJE). Mr. Wells then read the following list of House delegations, which made a contribution to FJE such that the delegations had 100 percent participation in FJE giving: Alabama, Alaska, Arkansas, Colorado, Delaware, England, Florida, Georgia, Kansas, Louisiana, Maryland, Mississippi, Montana, Mariana Islands, Massachusetts, New Hampshire, New Mexico, North Dakota, Oklahoma, Oregon, Rhode Island, South Carolina, Tennessee, Vermont, Virginia and Wyoming.

Mr. Wells noted that a new FCC rule requires that the ABA obtain each House member’s consent in order to continue communicating with that member via facsimile. He asked all House members to complete the consent form distributed to them because it costs the ABA less money to communicate via fax than mail.

Statement by the ABA President

ABA President Alfred P. Carlton, Jr. of North Carolina began his remarks by expressing his heartfelt appreciation to his wife and son, both of whom were present. President Carlton said that he can confirm it is a really great time to be a lawyer, and that the state of the American Bar Association is excellent. The ABA has a spectacular history of success, and today it is as healthy and vibrant as ever. In fact, it is the only professional membership group to have membership grow over the last decade. Why? President Carlton said it is because ABA members understand the importance of resource investment and shared sacrifice, without which we could not achieve our expressed policy objectives. President Carlton added that the ABA now faces financial challenges that threaten our commitments to resource investment and shared sacrifice. The ABA's three main resources are (1) human, including our staff, (2) our financial and income base, and (3) our information technology platform. He said that the ABA must continually invest and reinvest in these resources. In addition, President Carlton stated that the ABA must make extraordinary investments at times to eliminate any risks to our mission. Recently, the ABA made extraordinary investments in our information technology platform; now the ABA must make an extraordinary investment in our human resources. With respect to the need for shared sacrifice, President Carlton said that we as ABA members must soften our internal-entity-driven focus and refocus on the ABA's larger mission.

With respect to the state of the profession, President Carlton reported that we have responded to a host of important causes, including the threats to judicial independence and to ethical corporate governance. In addition, we have responded to the war on terrorism. Though the ABA hasn't always agreed with our elected officials, the ABA has made its members' voices heard and will continue to do so. The ABA has also continued to investigate federal judicial nominees; a record number of judges were approved this year. The process is more open now, and the ABA will continue to actively participate. Further, the ABA has weighed in on the issue of judicial pay. Chief Justice Rehnquist outlined the crisis of federal judicial pay, and the ABA has joined him to urge Congress to increase federal judicial pay. President Carlton stated that it is a matter of equity and fairness, and he believes we stand a good chance of succeeding.

President Carlton also addressed the issue of state judiciaries. He noted that House members would be voting on Report 103 concerning the 21st Century Judiciary. President Carlton described this report as a blueprint for the best practices to maintain the independence of state judges.

President Carlton emphasized that professional independence is also important, and that the ABA has stood up against multi-jurisdictional practices. Now, post Enron, Tyco, and other corporate failures and corruption, there is a new view about how we should fulfill our roles. He said that we as ABA members must resist efforts to erode our professional independence, and he urged House members to adopt the two resolutions before the House on this topic.

Finally, with respect to the issue of access to justice, President Carlton noted that the ABA had won the battle to preserve the Legal Services Corporation (“LSC”). For the first time, we are seeing increases in Congressional appropriations for LSC. Nonetheless, much remains to be done, and the ABA must continue to address the lack of capacity to serve all needs. Every client needs a lawyer, and we need to stand tall for that principle. President Carlton reiterated that it is a great time to be an American lawyer. He said that he is proud to be a lawyer, and that he knows the members of the House and the ABA at large are proud, too.

ABA Medal Presentation

President Carlton presented the ABA Medal, the Association’s highest award, to Talbot D. “Sandy” D’Alemberte of Florida. Mr. D’Alemberte thanked his wife, Patsy, who agreed to marry him on the eve of his assuming the post of ABA President. He also expressed his gratitude to Chesterfield Smith, Martha Barnett, and others who nominated him for this prestigious award. Mr. D’Alemberte said that he is proud to be a member of the Florida Bar because of all the pro bono work it does. He noted that the Florida Bar reported more than 2 million hours of pro bono work last year.

With respect to his ABA involvement, Mr. D’Alemberte observed that it was Chesterfield Smith who urged him to become actively involved in the ABA. At the time, Mr. D’Alemberte stated, he viewed the ABA as a somewhat backward organization, but he was nonetheless persuaded to become involved. He has thoroughly enjoyed his involvement over the years, beginning with the Commission on Federal Election Reform to his work with the Commission on Women in the Profession, the Standing Committee on Legal Education, the Central and East European Law Initiative (CEELI), and other ABA entities. Mr. D’Alemberte remarked that he was fortunate to have worked with Jack Curtin, who encouraged Mr. D’Alemberte to push CEELI. He said that CEELI is important by any measure. It has built an international reputation. It demonstrates the commitment of American lawyers to pro bono; it is the single largest pro bono project within the ABA. It is responsible for very important work helping to transform countries that have not known the rule of law. CEELI volunteers have had an opportunity to be a part of history. In fact, Mr. D’Alemberte stated, all of us in the ABA have had that opportunity as we have addressed so many issues of critical importance. Mr. D’Alemberte urged the ABA to join with Supreme Court Justice Anthony Kennedy and look closely at the criminal justice system.

In closing, Mr. D’Alemberte again thanked Patsy, Chesterfield Smith, and his father, who was the only lawyer who practiced in Chattahoochee, Florida. He observed that his father always said that lawyers were about more than making money, and that his father would be pleased today to see all of the wonderful work of this great association.

Statement by the Treasurer

The Treasurer, Allan J. Joseph of California, referred the House to his detailed written report, and then reported on the technology initiative overrun. Mr. Joseph thanked the members of the ABA committee who took the time to address the issue. He stated that the ABA retained independent counsel to review and evaluate the ABA's internal investigation, and that such independent counsel estimated it would have cost the ABA about \$2 million to have independent counsel conduct the investigation that had been conducted internally. The ABA committee was thorough, and they did not leave out any facts, unpleasant though they may be. Mr. Joseph stated that the net overrun is \$7.4 million. He noted that it is a lot of money, and that the ABA could use it. However, it is not the ABA's major financial problem. Mr. Joseph added that everyone on the ABA committee was surprised at the internal control lapses; the ABA should have identified the lapses much earlier. He said that the ABA staff, the Board of Governors, and the committee are working to strengthen the internal controls. Mr. Joseph also stated that the technology advisor reports that the ABA has a very good platform for achieving our technology goals.

Mr. Joseph then noted that his Treasurer's report is in a different format than usual; it is in a question and answer format in an effort to identify and respond to key issues. As to question 1, Mr. Joseph stated that the ABA staff did a good job in bringing in a balanced budget. The ABA's balance sheet is solid. Liquid assets are significantly less than a few years ago, but the ABA has a strong base. The ABA just cannot allow liquid assets to decline further.

Mr. Joseph reported that the ABA pension plan is being examined because of rapidly increasing costs. He stated that the ABA has not put any cash into the plan for the last 17 years because of good earnings on investments. He directed the House members' attention to page 4 of his report and, in particular, the general revenue column, which reflects that pension costs have averaged about \$1 million per year, but that costs going forward for the next five years will be significantly higher. Mr. Joseph stated that the ABA is not seeking to solve other problems by making changes to the pension plan. It is only trying to prevent expenses from exceeding revenues in any year. He said that the only realistic way to achieve the needed savings is to reduce staff costs. The Board of Governors has not yet made a decision on the pension plan issue. President Carlton has comprised a unique committee of volunteers and ABA staff members to address this issue. The ABA's counsel has advised that there is no other organization that has involved staff members in this way, in an issue such as this one. Whatever happens, the ABA will be providing a significant pension benefit to its staff.

With respect to both the technology initiative overrun and the pension plan, neither the ABA Executive Director nor the Board of Governors were aware of the issues until they reached problem proportions. Individual Board of Governors members identified some of the issues. Part of the problem is that financial planning assumed an increase in the financial markets and the ABA's investments, and no plan was in place if the market declined.

Mr. Joseph added that the ABA has a whole new reporting regime, which will help the Board of Governors make decisions in the future. In addition, the ABA has some terrific new support in the form of a new Chief Financial Officer Janet Gibbs. Mr. Joseph expressed his appreciation to ABA Executive Director Robert Stein for his service as acting CFO in the interim. Mr. Joseph also thanked Caroline Chen and Finance Committee Chair Bill Robinson.

Mr. Joseph stated that the ABA now has the tools to make the necessary policy decisions, and the staff to do it, so he expects improvements. However, he stated, that is not going to be enough. The ABA has to change program areas as well. He believes that the ABA is attempting to do too much with too many entities with too few resources. The ABA cannot cut around the edges any more. Every ABA entity does good work, but tough choices must be made.

In closing, Mr. Joseph thanked everyone for the help and support he has received. He stated that he looks forward to serving the ABA as Treasurer for another two years.

Statement by the Executive Director

Robert A. Stein of Illinois, Executive Director and Chief Operating Officer of the ABA, directed House members' attention to his written report in the agenda materials. He added that some of the challenges the ABA is facing have been addressed in the past several months, and a stronger foundation is being established to support the ABA into the future. Some senior management changes have been made. Two national searches have resulted in the hiring of new CFO Janet Gibbs and new Chief Information Officer Gordon Kerr. Mr. Kerr will be joining the ABA shortly after this meeting. With respect to membership, Mr. Stein reported that the ABA is in a posture to exceed a record high in lawyer members, law student members, and associates. With respect to the ABA's finances, Mr. Stein noted that the ABA is facing serious financial challenges; however, the ABA is working through these challenges. The Board of Governors approved a budget of over \$94 million this year, and Mr. Stein said he feels the ABA is well positioned for continued growth and strength.

Passing of the Gavel – Remarks by President-Elect Archer

Chair H. Thomas Wells, Jr. recognized President Carlton for purposes of passing the gavel to President-Elect Dennis W. Archer of Michigan. President-Elect Archer began by thanking outgoing President A.P. Carlton of Raleigh, N.C., and his wife, Blair, for the wonderful leadership they have provided and the class and grace with which they have led our association. President-Elect Archer also recognized his wife of 36 years, Trudy DunCombe Archer, his sons, one daughter-in-law, and others who have provided him with so much support. He also expressed his appreciation to the following: his law firm, Dickinson Wright, represented by John Krsul and others present; Justice Charles Levin with

whom he served on the Michigan Supreme Court; the late Chesterfield Smith, who in 1971 invited the NBA to join the ABA; Harry Hathaway and John Krsul, who encouraged him to attend his first ABA Annual Meeting in San Francisco; the ABA staff members; and several others. In addition, President-Elect Archer thanked all of the past presidents of the ABA and ABA President-Elect Nominee Robert Grey for walking him down the aisle.

President-Elect Archer stated that today marks a new beginning of a new chapter. We sweep aside the past. Our association's leadership is now open to every lawyer, regardless of race or any other characteristic. President-Elect Archer noted that he has had a busy and productive year, having made several commencement speeches, testified before Congress, participated in meetings at the White House, attended judicial conferences, and much more. He said that he has learned much more about the ways in which lawyers serve the public through their practices and pro bono efforts, and he is very proud. The collective work of lawyers and judges has been inspiring and has renewed his faith in our profession. He also commented on the depth of the ABA's experience and the commitment of its staff. President-Elect Archer said that there is not an important issue that the ABA is not working on, and that the ABA's work – our work – matters to our clients, staff, communities, government, and country.

President-Elect Archer stated that the ABA will examine the issues raised by Supreme Court Justice Anthony Kennedy in his speech at the ABA's Opening Assembly, that is, state and federal mandatory minimums and sentencing guidelines, and will seek to restore to judges more discretion. The ABA will also assess prisons, the pardon process, and related issues.

President-Elect Archer observed that the rule of law is fragile in many countries, and when called upon, the ABA must aid countries that seek our assistance to restore justice and democracy. He said that these are challenging times. We're living under the shadow of terrorism. Those who put their lives on the line to uphold the rule of law – JAG Corps members and their families who have law school loans should be included in our law student loan forgiveness program. President-Elect Archer said that the ABA will also make a plea to the National Governors Association to waive state residency requirements on tuition costs for military members.

President-Elect Archer commented on the challenge to find balance between security and liberty. He stated that we must be careful not to trample values in our rush to preserve them.

President-Elect Archer reported that during his tenure as ABA President, the ABA will sponsor a Diversity Conference in October 2003 in Washington, D.C., and a National Women's Summit in May 2004. He added that he has appointed a commission charged with orchestrating a celebration of the 50th anniversary of *Brown v. Board of Education*. President-Elect Archer also said that he has asked the ABA, the National Bar Association, the Hispanic National Bar Association, and other national bar associations that care deeply about affirmative action and diversity to choose a city, meet at the same time, and come

together and collectively review what has been accomplished in the last 10 years and see what we will be able to accomplish to make a color-blind society.

President-Elect Archer observed that our work is our strength, and our strength comes from the ABA members who work tirelessly to make our world a better place. He encouraged all House members to go out and bring one more person into the ABA to increase our membership.

In closing, President-Elect Archer remarked that lots of his family members are lawyers, and that he is proud to be a lawyer. He reiterated his thanks to his law firm and to the members of the House of Delegates.

Scope Nominating Committee

On behalf of the Scope Nominating Committee, Alan S. Kopit of Ohio, Chair of the Committee on Scope and Correlation of Work, nominated the Honorable Christel E. Marquardt of Kansas for a five-year term as a member of the Committee on Scope and Correlation of Work. Thereafter, nominations were closed and the election was scheduled for the afternoon of August 11, 2003. Judge Marquardt was subsequently elected.

Delegate-at-Large Election Results

Secretary Rosenblum reported the results of the Delegates-at-Large Election as follows: Hilarie F. Bass of Florida (District 7), Tom Bolt of the U.S. Virgin Islands, John H. Pickering of the District of Columbia (District 4), Richard J. Podell of Wisconsin (District 9), Llewelyn G. Pritchard of Washington (District 18), and Seth Rosner of New York (District 15) were elected to three-year terms. Pamela A. Bresnahan of Maryland (District 18) was elected to an unexpired one-year term, occasioned by the death of Leonard L. Loeb of Wisconsin.

Election of Officers and Members of the Board of Governors

The Chair of the Steering Committee of the Nominating Committee, C. Timothy Hopkins of Idaho, moved the election of the following officer of the Association and members of the Board of Governors for the terms indicated. The House unanimously elected these individuals.

Officer of the Association

President-Elect (2003-04)

Robert J. Grey, Jr. of Virginia

Members of the Board of Governors (2003-06)

District Members

District 3: Roberta D. Liebenberg of Pennsylvania
District 5: Wade H. Baxley of Alabama
District 9: Daniel W. Hildebrand of Wisconsin
District 14: Pauline A. Weaver of California
District 15: M. Catherine Richardson of New York
District 16: Bruce M. Stargatt of Delaware
District 17: Burnham H. Greeley of Hawaii

Section Members-at-Large

Section of Antitrust Law

Phillip A. Proger of Washington, D.C.

Section of Labor and Employment Law

Charles A. Powell III of Alabama

Judicial Member-at-Large

Judge Norma L. Shapiro of Pennsylvania

Minority Member-at-Large

Pauline A. Schneider of Washington, D.C.

Young Lawyer Member-at-Large

O'Kelly E. McWilliams III of Virginia

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 Dennis W. Archer of Michigan will assume that office.

Remarks by Incoming President-Elect Grey

Robert J. Grey, Jr. of Virginia, Incoming President-Elect, began by thanking Pauline Schneider, a member of the Board of Governors, who once remarked that it would be very nice if they were someday practicing together. Now, they are partners at Hunton & Williams. He said that he is very proud to be a part of the firm, that it is committed to pro bono and diversity, and that such commitment has been unwavering and unparalleled. He also noted that he has had the opportunity to work closely with a young partner there, and he remarked that ABA members would be seeing a lot of her this year because he thinks it is critically important to involve young lawyers in what the ABA does. He introduced her as Lori Elliott. Incoming President-Elect Grey also recognized Rachel Patrick, who helped him and Dennis Archer understand the meaning of bar service; Sandy Cloud, who said it is time

to work on the important issues of the day; and several others. In addition, he recognized the individuals he described as the lights of his life, Katherine Cabell, who has given him great support and love, her two beautiful daughters, and her very energetic mother.

Incoming President-Elect Grey stated that long ago a house was built. Its structure spans two centuries, and it is a testament to the genius of its architect. Its corner stones are due process, the attorney-client privilege, an independent judiciary, and other core values of the profession. He said that today, as members of the House of Delegates, we labor to strengthen the house of justice so that it may stand strong against the changing tides. We understand repairs must be made on occasion, and our work is never done. He said that we have made progress under the leadership of President Carlton, and that we will continue to do so under the leadership of President-Elect Archer.

He stated that one of the foundations of the house that requires attention is the jury system. Jurors must have access to necessary resources and be treated with the same respect as judges and lawyers. We must consider jury composition, culture, and other issues. Incoming President-Elect Grey stated that he will need our ideas, support, and commitment.

And while we work on the foundation of the house of justice, Incoming President-Elect Grey stated, we must remember that the house also has a door. There must be access to that house. He said that we in the ABA have struggled to keep this door – a door that was closed to too many for too long – open. When it was recognized that all men are created equal, the door opened. When Margaret Brent said women are created equal, the door swung wider still. And when the Supreme Court announced its decision in Brown v. Board of Education, everyone was allowed to enter through the front door. And, he stated, because of the tireless efforts of so many ABA members, people like he and President-Elect Archer were allowed to pass through that door. Incoming President-Elect Grey said that now it's our turn to stand at the door. When some say the door has been opened too wide, we will say not wide enough. We have to uplift those who have been downcast; we must defend those who we may even dislike or despise. For by doing so, we stand in the footsteps of giants. Many times, it is a difficult place to stand, but it is always a place of honor.

Incoming President-Elect Grey noted that the ABA had just honored Sandy D'Alemberte for opening doors when he created CEELI. Mr. D'Alemberte did not stand alone; we stand with him. And, he added, today, Air Force Colonel Will Gunn stands at the door. Colonel Gunn has been named chief defense counsel for the detainees at Guantanamo Bay. Colonel Gunn stated that while it will be a difficult job, it is an important job and his team will see that these are fair proceedings. Colonel Gunn does not stand alone; we stand with him. No one should doubt his patriotism or commitment to his country. Nor should anyone doubt ours.

Incoming President-Elect Grey stated that practicing law is not about a popularity contest; it is about doing right. Someday, we will stand in the house of justice, and we will be judged by justice and mercy. Until that day, let us use our hearts and hands and make

sure that our house reflects justice and mercy. He said that he will labor with ABA members and for ABA members every day. Together, he stated, we will keep the ABA in center of the doorway. Together, we will hold the door open. We won't yield, rest, relent; indeed, we will not move so that all who seek justice may enter.

Closing Business

At the conclusion of the meeting of the House on Tuesday, August 12, after various thank you's and reminders about the 2004 San Antonio Midyear Meeting, Chair Wells recognized Don Bivens of Arizona, who then moved that the House adjourn *sine die*.

II. RECOMMENDATIONS VOTED ON BY THE HOUSE

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

ABA CONSTITUTION AND BYLAWS

[11-1] Secretary Rosenblum moved Report 11-1 because the sponsor, Edward H. Jacobs of the U.S. Virgin Islands, is not a member of the House of Delegates. Mr. Jacobs was recognized to present 11-1, which proposed an amendment to §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." R. Kinnan Golemon of Texas moved to postpone indefinitely consideration of the proposal. The House approved the motion to **postpone indefinitely**.

[11-2] Thomas M. Fitzpatrick of Washington moved Report 11-2, which proposed an amendment to §6.5(a) of the Constitution to provide that, of the six Delegates-at-Large elected to the House, no two shall be accredited to the same state, territory or possession. The House **approved** the proposal.

[11-3] George H. Cain of Connecticut moved Report 11-3, which proposed an amendment to §21.6 of the Bylaws to retain special membership discounts for older lawyers. The proposal was **approved by a vote of 217 to 194**.

[11-4] Robert M. Carlson of Montana moved Report 11-4, which proposed an amendment to §31.7 of the Bylaws to revise the jurisdictional statement of the Standing Committee on Bar Activities and Services to increase the size of the standing committee. The House **approved** the proposal.

ABA CONSTITUTION AND BYLAWS (cont.)

[11-5] The House **approved** the proposal to amend §31.7 of the Bylaws to change the name of the Standing Committee on Continuing Education of the Bar to the Standing Committee on Continuing Legal Education.

[11-6] The House **approved** the proposal to amend §31.7 of the Bylaws to revise the jurisdictional statement and change the name of the Standing Committee on Legal Assistants to the Standing Committee on Paralegals.

[11-7] The House **approved** the proposal to amend §31.7 of the Bylaws to create a Standing Committee on Governmental Affairs.

[11-8] Miles J. Zaremski of Illinois moved Report 11-8, which proposed an amendment to §31.7 of the Bylaws to create a Standing Committee on Medical Professional Liability. The House **approved** the proposal.

ADMINISTRATIVE LAW

[110] On behalf of the Section of Administrative Law and Regulatory Practice, Judith S. Kaleta of Washington, D.C. **withdrew** Report 110 adopting revisions to the *Standards for the Establishment and Operation of Ombudsman Offices*, dated August 2003.

BOARD OF GOVERNORS RECOMMENDATION AND REPORT WITH RECOMMENDATION ON ARCHIVING

[177A] It was noted that the Consortium on Legal Services and the Public was erroneously added to the list of entities to be sunset and should have been included on the list of special committees and commissions to be continued. The House **approved** the continuation of Special Committees and Commissions as listed in the Board of Governors Transmittal Report to the House of Delegates, with the noted change.

[400] The House **approved as revised** the recommendation that certain Association policies that pertain to public issues and are 10 years old or older be archived. It was noted that two policies had been returned to the list of active policies: No. 24 (Qualified Medicare Beneficiary Program); and No. 58 (Immigration and Nationality Act).

CORPORATE RESPONSIBILITY

[119A] On behalf of the Task Force on Corporate Responsibility, James H. Cheek III of Tennessee moved Report 119A amending Rule 1.6(b) of the *ABA Model Rules of Professional Conduct* to permit the lawyer to reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary and to amend the related Comment to Rule 1.6. There were several amendments proposed to the recommendation, which all subsequently failed. The recommendation was **approved by a vote of 218 to 201**.

[119B] On behalf of the Task Force on Corporate Responsibility, James H. Cheek III of Tennessee moved Report 119B amending Rule 1.13 of the *ABA Model Rules of Professional Conduct* to require the lawyer for an organizational client to report certain violations of law to higher organizational authority in certain circumstances unless reasonably believed not to be necessarily in the best interest of the organization. John Bouma of Arizona presented an amendment to the recommendation, which the proponents accepted as a friendly amendment. Additional amendments were submitted by Larry Fox and Robert Juceam, which both failed. The recommendation was **approved as amended by a vote of 239 to 147**.

[119C] On behalf of the Task Force on Corporate Responsibility, James H. Cheek III of Tennessee moved Report 119C adopting corporate governance policies and related governance practices which involve structural and procedural reforms designed to enhance the independence and resources of outside directors or public corporation, increase the flow of material information and analysis to those directors, and enhance the ability of the lawyers representing public corporations to exercise and bear independent professional judgment. The recommendation was **approved**.

CRIMINAL JUSTICE

[10A] On behalf of the New York County Lawyers' Association, Eugene Nathanson **withdrew** Report 10A urging law enforcement officials to videotape the entirety of all interrogations of crime suspects held at police precincts, courthouses, detention centers and other places where suspects are held for questioning and urging state and territorial legislatures to enact rules of criminal procedure for this practice.

[101A] On behalf of the Criminal Justice Section, Neal R. Sonnett of Florida moved revised Report 101A adopting the black letter *ABA Criminal Justice Standards on Collateral Sanctions and Discretionary Disqualification of Convicted Persons* dated August 2003, as an addition to the Third Edition American Bar Association Standards, which address issues related to legal disabilities that flow from a criminal conviction over and above the sentence imposed by the court. The recommendation was **approved as revised**.

CRIMINAL JUSTICE (cont.)

[101B] On behalf of the Criminal Justice Section, Stephen A. Saltzburg of Washington, D.C. moved Report 101B urging state, local and territorial bar associations, judges, prosecutors, defenders and police to address disparate treatment of racial and ethnic minority youth in the justice system and encouraging state and local bar associations and law enforcement to instill public confidence in the fairness of the justice system by ensuring the fair treatment of all youth. The recommendation was **approved**.

ELECTION LAW

[115] On behalf of the Standing Committee on Election Law, James Baird of Illinois moved Report 115 adopting *Model Statutory Language on Provisional Balloting and Commentary*, dated August 2003, which provides specific guidance to states that must draft provisional balloting statutes according to the Help America Vote Act of 2002. The recommendation was **approved**.

ENEMY COMBATANTS

[301] On behalf of the Task Force on Enemy Combatants, Neal R. Sonnett of Florida moved Report 301 which calls upon Congress and the Executive Branch to ensure that all defendants in any military commission trials that may take place have the opportunity to receive the zealous and effective assistance of Civilian Defense Counsel. The recommendation was **approved**.

ENVIRONMENTAL LAW

[108] On behalf of the Standing Committee on Environmental Law, R. Kinnan Goleman of Texas moved Report 108 adopting the internationally accepted definition of sustainable development and encouraging governments, businesses and other entities to promote sustainable development as well as to adopt and implement legal and policy incentives to support and encourage sustainable development. The recommendation was **approved**.

[109] On behalf of the Section of Environment, Energy and Resources, R. Kinnan Goleman of Texas moved Report 109 urging Congress and the Administration to elevate protection of the environment of the United States to its highest level by enacting legislation elevating the U.S. Environmental Protection Agency to Cabinet-level status. The recommendation was **approved**.

FAMILY LAW

[116A] On behalf of the Section of Family Law, Lynne Gold-Bikin of Pennsylvania **withdrew** Report 116A protecting the rights of any live-born human clones by supporting law and policy that establishes a presumption that a live-born human clone is legally a separate and distinct person from its progenitor and that a live-born human clone is a human being and has legal parents.

[116B] On behalf of the Section of Family Law, Timothy B. Walker of Colorado moved Report 116B adopting *Standards of Practice for Lawyers Representing Children in Custody Cases*, dated August 2003, which clarify that a lawyer remains a lawyer whether representing a child or a child's best interests. The recommendation was **approved**.

HOMELESSNESS AND POVERTY

[121] On behalf of the Commission on Homelessness and Poverty, Robert M. Carlson of Montana moved Report 121 opposing legislation to repeal the federal Section 8 low-income housing voucher program or similar legislative proposals that would eliminate the present funding structure based on actual costs for the number of vouchers used and replace it with a state-administered block grant system and urging state, local and territorial bar associations to promote a better understanding of the Section 8 low-income housing voucher program. The recommendation was **approved**.

INDIVIDUAL RIGHTS AND RESPONSIBILITIES

[102] Secretary Rosenblum moved Report 102 because the sponsor, Darrell J. Stutes of Louisiana, is not a member of the House of Delegates. Mr. Stutes was recognized to present Report 102 supporting the enactment and implementation of just laws by government to secure to each and every child growing in the womb of the mother, the unalienable life and liberty right to live until natural death. L. Stanley Chauvin of Kentucky moved to postpone the recommendation indefinitely. The House approved the motion to **postpone indefinitely**.

[112A] On behalf of the Section of Individual Rights and Responsibilities, C. Elisia Frazier of Indiana moved Report 112A supporting state and territorial laws and court decisions that permit the establishment of legal parent-child relationships through joint adoptions and second-parent adoptions by unmarried persons who are functioning as a child's parents when such adoptions are in the best interests of the child. The recommendation was **approved**.

[112B] On behalf of the Section of Individual Rights and Responsibilities, C. Elisia Frazier of Indiana moved Report 112B opposing efforts to repeal the sunset provision of the USA PATRIOT Act of 2001 and urging Congress to conduct a thorough review of the implementation of the powers granted to the Executive Branch under the Act before considering any extension or expansion of surveillance authority under the Act. The recommendation was **approved**.

INTERNATIONAL LAW

[111] On behalf of the Section of International Law and Practice, Gerold W. Libby of California moved Report 111 supporting the prompt signature, ratification and implementation of The Hague Convention on the Law Applicable to Certain Rights in Respect of Securities Held with an Intermediary by the United States and by other countries. The recommendation was **approved**.

JUDICIAL COMPENSATION

[105A] On behalf of the Standing Committee on Judicial Independence, Paul T. Moxley of Utah moved Report 105A recommending that the American Bar Association reaffirm its support for adequate levels of compensation for state judges in order to attract and retain the best-qualified persons to serve on the judiciary and encouraging state, local and territorial bar associations to take a leadership role in promoting adequate compensation for state judges. The recommendation was **approved**.

JUDICIAL INDEPENDENCE

[103] On behalf of the Commission on the 21st Century Judiciary, Stephen N. Zack of Florida moved revised Report 103 adopting the *Principles and Conclusions of the Commission on the 21st Century Judiciary*, dated August 2003, to ensure judicial independence, accountability and efficiency and urging all state, local and territorial bar associations to ensure the integrity of state and territorial judiciaries by promoting the implementation of the Principles and Conclusions. The recommendation was **approved as revised**.

[104] The House **approved** the recommendation submitted by the Judicial Division urging judges, courts and judicial organizations to undertake outreach activities to the public by making it part of a judge's function to further the public's understanding of the American system of justice.

[105B] On behalf of the Standing Committee on Judicial Independence, Marvin L. Karp of Ohio moved Report 105B amending the *ABA Model Code of Judicial Conduct* in light of recent First Amendment challenges to judicial campaign speech restrictions. The recommendation was **approved**.

LAW AND AGING

[107] On behalf of the Commission on Law and Aging, John H. Pickering of the District of Columbia moved Report 107 recommending specific reforms in the Medicare claims adjudication process to assure that Medicare beneficiaries are afforded due process throughout all levels of the claims and appeals process. Hervey Levin of Texas proposed an amendment; the amendment failed. The recommendation was **approved**.

LAW AND NATIONAL SECURITY

[122] On behalf of the Standing Committee on Law and National Security, Suzanne E. Spaulding of Virginia moved Report 121 opposing the pursuit in the courts of one nation of war crimes charges against the uniformed military personnel or government officials of another nation where there is no international consensus that the conduct alleged, even if proven, would constitute a war crime justifying universal jurisdiction under international law, and where such other nation possesses and has demonstrated a willingness to employ a bona fide procedure to investigate and prosecute war crimes within its own system of justice. William Hannay of Illinois made a motion to postpone indefinitely consideration of the recommendation. The House approved the motion to **postpone indefinitely by a vote of 114 to 105**.

LEGAL EDUCATION

[106] The House **approved** the recommendation submitted by the Standing Committee on Legal Assistants, granting approval, reapproval and extension of the term of approval to several legal assistant education programs, and withdrawing the approval of several programs.

[120] On behalf of the Commission on Domestic Violence, Laura Stein of Pennsylvania moved Report 120 encouraging law schools and law students to promote awareness of domestic violence through law school activities and programs. A friendly amendment to the recommendation was offered by Norman Redlich on behalf of the Section of Legal Education and Admissions to the Bar. The recommendation was **approved as amended**.

[300A] The House **approved** the recommendation submitted by the Section of Legal Education and Admissions to the Bar, concurring with the decision of the Council of the Section of Legal Education and Admissions to the Bar that the University of St. Thomas School of Law in Minneapolis, Minnesota be granted provisional approval.

[300B] On behalf of the Section of Legal Education and Admissions to the Bar, Jose Garcia Pedrosa of Florida moved Report No. 300B concurring in the action of the Council of the Section of Legal Education and Admissions to the Bar in adopting the additions and revisions to the Standards for Approval of Law Schools, the Interpretations of the Standards and the Rules of Procedure dated August 2003. The recommendation was **approved**.

[300C] On behalf of the Section of Legal Education and Admissions to the Bar, Jose Garcia Pedrosa of Florida moved Report No. 300C concurring in the action of the Council of the Section of Legal Education and Admissions to the Bar in adopting the additions and revisions to the Standards for Approval of Law Schools, the Interpretations of the Standards, and the Rules of Procedure related to the Accreditation Process dated August 2003. The recommendation was **approved**.

LOAN REPAYMENT AND FORGIVENESS

[113] The House **approved** the recommendation submitted by the Commission on Loan Repayment and Forgiveness, reaffirming encouragement of law schools, state, local and territorial bar associations and foundations, IOLTA programs, public service employers and federal, state and territorial lawmakers to establish programs, such as loan repayment assistance or forgiveness programs and public service scholarships, to enable law graduates to accept and remain in lower-paying government and public service legal employment.

MEDICAL PROFESSIONAL LIABILITY

[114] Report 114 as submitted by the Committee on Scope and Correlation of Work, recommended that the Special Committee on Medical Professional Liability be discontinued at the conclusion of the 2003 Annual Meeting and that the work of the committee be subsumed into the Section of Health Law. Chair Wells ruled consideration of Report 114 **moot based on approval of Report 11-8.**

PROFESSIONAL RESPONSIBILITY

[10B] On behalf of the Ohio State Bar Association, Kathleen Burke of Ohio moved revised Report 10B urging each jurisdiction that regulates the practice of law to continue to define what constitutes the practice of law by case law decisions of its highest court or by court rule. The recommendation was **approved as revised.**

[100] On behalf of the Task Force on the Model Definition of the Practice of Law, Lish Whitson of Washington moved Report 100 urging state and territorial jurisdictions to adopt a definition of the practice of law that should include the basic premise that the practice of law is the application of legal principles and judgment to the circumstances or objectives of another person or entity, and that each jurisdiction should determine who may engage in the practice of law and under what circumstances, based upon the potential harm and benefit to the public. The recommendation was **approved.**

RACIAL PRIVACY

[10C] On behalf of the Bar Association of San Francisco, Mark Schickman of California moved Report 10C opposing the text of the “Racial Privacy Initiative” or any similar measure which prohibits any public entity from collecting or sorting any data on the basis of race or ethnicity. W. Scott Welch of Mississippi proposed an amendment. The recommendation was **approved as amended.**

STATE AND LOCAL GOVERNMENT LAW

[117] On behalf of the Section of State and Local Government Law, James Baird of Illinois moved Report 117 supporting increased federal funding to state, local and territorial governments, including public authorities, to enable these “first responders” to prevent terrorist attacks and increase their readiness to respond to any attacks that do occur. The recommendation was **approved by a vote of 142 to 103**.

SWEARING-IN CEREMONIES

[10D] On behalf of the New Jersey State Bar Association, Stephen N. Maskaleris of New Jersey, moved Report 10D urging all state bars to evaluate their current practices and procedures relating to their Swearing-In ceremonies for lawyers newly admitted to the Bar. On a motion made, the House voted to **postpone indefinitely** consideration of the recommendation.

UNMET LEGAL NEEDS OF CHILDREN

[118] On behalf of the Steering Committee on the Unmet Legal Needs of Children, David Perkins of Michigan moved Report 118 encouraging efforts to secure safe, permanent homes for children in need of substitute care by: a) encouraging increased timeliness and efficiency in the placement process by all involved in the child’s placement; b) supporting ongoing continuing legal education concerning best practices for judges, lawyers and social workers; and c) evaluating and improving laws and policies procedures for the Interstate Placement of Children in need of permanency. The recommendation was **approved**.