AGENDA

AMERICAN BAR ASSOCIATION

BOARD OF GOVERNORS

The Ritz-Carlton Denver
Denver, Colorado
June 20-22, 2018

MEETINGS OF THE BOARD AND BOARD COMMITTEES

Thursday, June 21, 2018

Finance Committee 7:30 a.m. – 12:00 p.m.
Salon 1, Plaza Level

Member Services Committee 9:00 a.m. – 12:00 p.m.
Salon 2, Plaza Level

Profession, Public Service and Diversity Committee 9:00 a.m. – 12:00 p.m.
Fremont, Plaza Level

Board of Governors and Board Nominees Luncheon 12:00 p.m. – 1:30 p.m.
Plaza Level Terrace

Board of Governors Meeting 1:30 p.m. – 5:00 p.m.
Salons 3-4, Plaza Level

Friday, June 22, 2018

Board of Governors Meeting 8:30 a.m. – 4:00 p.m.
Salons 3-4, Plaza Level

Board of Governors and Board Nominees Luncheon 12:00 p.m. – 1:30 p.m.
Plaza Level Terrace

Board of Governors Meeting Reconvenes 1:30 p.m.
OTHER MEETINGS – JUNE 2018 BOARD MEETINGS

**Wednesday, June 20, 2018**

Board Nominees Orientation  
Salon 1, Plaza Level  
8:30 a.m. – 5:00 p.m.

Board Nominee Luncheon  
Fremont, Plaza Level  
12:00 p.m. – 1:30 p.m.

Executive Committee Meeting  
Douglas, Plaza Level  
2:00 p.m. – 3:00 p.m.

Subcommittee on Investments Meeting  
Salon 2, Plaza Level  
2:00 p.m. – 5:00 p.m.

Board Governance Committee Meeting  
Boardroom, Plaza Level  
3:00 p.m. – 4:00 p.m.

Strategic Planning Working Group  
Cameron, Plaza Level  
4:00 p.m. – 5:00 p.m.
THURSDAY, JUNE 21, 2018
1:30 p.m. – 5:00 p.m.

PRESENTATION REGARDING MEMBERSHIP MODEL

Tracy A. Giles, Chair, Standing Committee on Membership
Jack L. Rives, ABA Executive Director
James Dimos, ABA Deputy Executive Director
Michael Kreisberg, ABA Chief Membership Officer
Bob Domenz, Chief Executive Officer, Avenue

FRIDAY, JUNE 22, 2018

1. REPORT OF OFFICERS

8:30 a.m. – 9:30 a.m.

1.1 President
BASS

1.2 President-Elect
CARLSON

1.3 Chair of the House of Delegates
ENIX-ROSS

1.4 Immediate Past President
KLEIN

1.5 Secretary
SMITH

a.* Approval of Board Minutes
i. February 1-2, 2018
ii. April 10, 2018

b. Executive Committee Minutes
i. January 31, 2018
ii. February 15, 2018
iii. March 5, 2018
iv. March 27, 2018
v. April 24, 2018

c. Blanket Authority Report

d.* Fund for Justice and Education
(Board sitting as members of the Board of the Fund for Justice and Education)
i. Approval of Minutes
ii. Final Acceptance of Grant Awards

* Board action required.
1.6 Treasurer

1.7 Executive Director

2. MATTERS FOR DIRECT BOARD ACTION

2.1 FY2019 Appeals

9:30 a.m. – 10:45 a.m.

2.2* Consideration Regarding New Membership Model

10:45 a.m. – 11:45 a.m.

2.3 Presentation Regarding Strategic Plan

11:45 a.m. – 12:00 p.m.

2.4 Report from National Judicial College

1:30 p.m. – 1:45 p.m.

2.5* Consent Calendar and Reports from Committee Chairs

1:45 p.m. – 2:00 p.m.

2.6 Sexual Harassment Video

2:00 p.m. – 2:15 p.m.
2.7 Presentation Regarding New ABA Website
2:15 p.m. – 2:45 p.m.

2.8 Presentation by Section of Legal Education
Maureen O’Rourke, Chair, Section of Legal Education
Barry Currier, Managing Director, Accreditation and Legal Education
2:45 p.m. – 3:15 p.m.

2.9 Presentation Regarding Board Governance Survey Responses
Linda L. Randell, Chair, Board Governance Committee
3:15 p.m. – 3:30 p.m.

2.10 Report Regarding ABA Journal
Kathleen J. Hopkins, Chair, ABA Journal Board of Editors
3:30 p.m. – 3:45 p.m.

INFORMATIONAL REPORTS

2.25 ABA Journal Board of Editors Report of Proceedings

3.30 Membership Report
(Separate Distribution)
AGENDAS OF BOARD COMMITTEES

3. MEMBER SERVICES

a) Matters for Review by the Board

3.1 Requests for Bylaw Amendments
   a. Section of Intellectual Property Law
   b. Section of Public Contract Law
   c. Section of Legal Education and Admissions to the Bar

3.2 Request from Section of Dispute Resolution to Create Ombuds Day

3.3 Request from Communications and Media Relations to Create Proactive Messaging Projects

3.4 Request from Tort Trial and Insurance Practice Section to Renew Technical Commenting Authority

3.5 Request from Young Lawyers Division to Create Talkspace Member Benefit

3.6 Request from Standing Committee on Meetings and Travel to Hold 2023 Midyear Meeting in New Orleans, Louisiana

3.7 Request from President-Elect Robert M. Carlson to Amend Jurisdictional Statement of Executive Committee and Executive Compensation Committee

3.8 Request from Standing Committee on Publishing Oversight To Extend Deadline Regarding Editorial Policies

b) Matters for Committee Consideration Only

3.20 Approval of Minutes
   February 1, 2018

3.30 Membership Report

(c) Informational Only

(Separate Distribution)
AGENDAS OF BOARD COMMITTEES

4. PROFESSION, PUBLIC SERVICE AND DIVERSITY

a) Matters for Review by the Board

4.1 Nominations
   a. ABA Journal Board of Editors (ABA Journal - 3)
   b. American Bar Endowment (Office of the President and American Bar Endowment - 3)
   c. Standing Committee on Audit (Office of the President - 3)
   d. Green Growth Knowledge Platform (Section of International Law)
   e. International Aircraft Registry Advisory Board (Business Law Section)
   f. National Judicial College (ABA Board of Governors and ABA Judicial Division)
   g. Union Internationale des Avocats (Section of International Law)

4.2 Awards
   a. Council for Diversity in the Educational Pipeline and Judicial Division
   b. Section of State and Local Government Law

4.3 Consideration of ABA Medal
   Special Order 9:30 a.m.
   (Executive Session)

4.4 Requests from Fund for Justice and Education
   a. Amend Program Support Fund and Endowment Policy Finance
   b. Approve New Program Support Fund for Section of Family Law
   c. Update and Recommendations on Current Program Support Funds
   d. Create Projects/Programs

4.5 Requests from ABA Rule of Law Initiative
   a. Updated List of Approved Countries of Operation, Donors and Thematic Program Areas
   b. Memoranda of Understandings
   c. Updated Resolution on Overseas ABA Rule of Law Initiative Office Registration in Republic of Uzbekistan
   d. Participate in U.N. Convention Against Corruption Coalition e-Platform

4.6 Special Committee on Hispanic Legal Rights and Responsibilities – Status of Fundraising Ability and Membership Focus
b) **Matters of Independent Jurisdiction**

4.15 Requests for Co-Sponsorship
a. Section of International Law
b. Standing Committee on Public Education
   (and Request to Seek Outside Funding)
c. Commission on Disability Rights
d. National Conference of the Administrative Law Judiciary
e. Judicial Division (3)
f. National Conference of Federal Trial Judges
g. Standing Committee on Legal Aid and Indigent Defendants
h. ABA Rule of Law Initiative
i. Forum on Communications Law
   (and Request to Seek Outside Funding)
j. Section of Intellectual Property Law
k. Section of Dispute Resolution

c) **Matters for Committee Consideration Only**

4.20 Approval of the Minutes
February 1, 2018

4.21 ABA Enterprise Fund Projects – FY2018 Second Quarter Reports

4.22 Report from Chair of Committee on Scope and Correlation of Work

d) **Informational Only**

3.30 Membership Report

4.30 Informational Report on Action Taken Since Last Meeting

4.31 FY2018 Profession, Public Service and Diversity Committee
   a. Committee Roster
   b. Chart of Committee Assignments of Entities Overseen
5. **FINANCE COMMITTEE**

   a) **Matters for Review by the Board**

4.4 Request from Fund for Justice and Education
   a. Amend Program Support Fund and Endowment Policy *Profession, Public Service and Diversity*

5.1 Budget Appeals

5.2 Request from Solo, Small Firm and General Practice Division to Contribute Funds to National Judicial College

5.3 Request from Forum on Construction Law to Contribute Funds to ACE Mentor

5.4 Request from Fund for Justice and Education to Extend Budget Line Item for Legal Opportunity Scholarship Fund

5.5 Request from Section of Litigation to Amend Fundraising Terms for Benjamin R. Civiletti Endowment

5.6 Requests from Standing Committee on Audit
   a. FY2019 Internal Audit Plan
   b. Internal Audit Policy Statement

5.7 Report of Investments Subcommittee and Request to Revise Investment Policy

5.8 FY2019 Proposed Budget, Consolidated and Capital/Budget Appeals/Sections, Divisions, Forums Financial Trends Update

5.9 Request from Law Student Division for Partial Reimbursement for ABA 2018 Annual Meeting

5.10 Request for Reconstitution of A-E-F-C Pension Plan Administration Committee

b) **Matters for Committee Consideration Only**

5.20 Approval of Minutes:
   a. Finance Committee
      February 1, 2018
   b. FJE Approval of Minutes
      February 1, 2018
5.21 Treasurer’s Report

5.22 2nd Quarter FYTD Variance to Budget Report
   a. Chief Financial Officer
   b. General Counsel
   c. Deputy Executive Director Group

5.23 Grant Awards/Modifications Report

c) Informational Only

3.30 Membership Report

(Separate Distribution)
My activities since the last report from the Midyear Meeting are as follows:

**February 7-8  San Francisco, CA**
- Host Managing Partner Forum, Greenburg Traurig office
- Remarks at Ark Group's 11th Annual Women Legal Conference

**February 9  Miami, FL**
- Keynote remarks at University of Miami Law Review's 2018 Symposium on emerging technology
- Interview with *Global Legal Post* reporter Catherine Baksi regarding women's lawyer and homeless initiative

**February 13  Miami, FL**
- Call to discuss April Board of Governors meeting
- Call with Meetings & Travel regarding 2018 Annual Meeting
- Call to discuss Immigration Issues

**February 14-15  Charlotte, NC**
- Keynote remarks at World Affairs Council of Charlotte
- "Charlotte Talks" live interview on WFAE
- Remarks at UNC Charlotte International Speakers Forum
- WACC dinner

**February 16  Miami, FL**
- Call regarding *Washington Post* article and other press issues

**February 19-21  Washington, D.C.**
- Standing Committee on the Federal Judiciary meeting
- Dinner with Judge Margaret McKeown
- ROLI Board Meeting
- Panelist at Pro Bono Institute Annual Conference joint opening lunch

February 22-24  Savannah, GA
- ABE Board Meeting
- ABE reception and dinner

February 25-28  Tel Aviv, Israel
- Keynote remarks at Israeli Bar Association Meeting, sponsored by Section of International Law
- Roundtable with ABA Litigation Section Chair Koji Fukumura
- Interview for the Israeli Bar magazine and meeting with Efi Nave, president of the Israel Bar Association
- Remarks at Radzyner Law School
- Lunch with Israel's Ministry of Justice, Ayelet Shaked, Ilan Mor, Yair Hirsch, Pinchas Wolfo
- Remarks at Tel Aviv University School of Law
- Meet with Niv Polani, ACCI president

March 1
- Conference call with Betsy Andersen regarding ROLI
- Call with Andrea Sinner regarding Legal Ed
- Call regarding GRIT and Growth Mindset

Houston, TX
March 2
- Keynote on Sexual Harassment

March 3  Washington, D.C.
- Gridiron Club and Foundation Dinner

Miami, FL
March 5
- Interview with Media Planet regarding women lawyers
- Executive Committee conference call
- Meeting with Christiane Taubira, former Justice Minister of France and member of French and European parliaments
- Call with Sen. Sheldon Whitehouse

March 7-8  Chicago, IL
- CLE in the City Meeting
- Remarks at ABA TechShow
- Lunch with Andrea Sinner, Bob Carlson, Bethany Myles, Ira Pilchen
- Meeting with Avenue Marketing
- Remarks at ABA Grit Project
- Meeting and working lunch with Bob Carlson and Judy Perry Martinez
- Remarks at Law Practice Division Executive Committee meeting
March 12

Miami, FL
- Interview with American Lawyer reporter Meghan Tribe regarding #MeToo / #TimesUp movements

March 13-16

Chicago, IL
- Remarks at Bar Leaders Institute
- Host Managing Partner Forum
- Meetings with Jack Rives, Stephanie Scharf, Bob Carlson, Jim Dimos, Alpha Brady, ABA staff
- Women of Color Research Project meeting
- ABA / National Affinity Bar Associations Presidents-Elect dinner
- Lunch with Marty Balogh
- Video interview with Julie Brown for Alaskan Bar Association
- Photo session with ABA officers and reception

March 16-17

Washington, D.C.
- Meeting with Bethany Myles
- Conference call with Bobbi Liebenberg and Stephanie Scharf
- American Civil Trial Bar roundtable meeting
- Reception and dinner

March 19-20

New York, NY
- Remarks at 62nd Annual United Nations Commission on the Status of Women Sessions / Conferences program

March 21

Miami, FL
- Interview with Chicago Daily Law Bulletin regarding Law Day theme
- Interview with Elizabeth Olson regarding sexual harassment
- Conference call with Jack Rives
- Conference call regarding Gender Fairness Committee
- Working Group on Lawyer Well-Being update conference call

March 22

Miami, FL
- Interview with The Daily Record reporter Anamika Roy regarding sexual harassment

March 22-23

Santa Clara, CA
- Keynote remarks at Santa Clara University School of Law Symposium on Law Leadership
- Dinner with deans and panelists

March 24

Des Moines, IA
- Lunch with Iowa State Bar President and President-Elect and Law School deans
- Remarks at Drake Law School Iowa Supreme Court dinner
March 25-26  
**Denver, CO**  
- Working Group to Advance Attorney Well-Being conference call  
- Keynote remarks at Women Leaders Forum retreat

March 27  
**Executive Committee conference call**

**Miami, FL**  
- Conference call with Committee Chairs

March 29  
**Executive Committee conference call**  
- Conference call with Committee on Human Rights regarding Poland  
- Conference call with CMR  
- Taught UM law school class on Implicit Bias

March 30  
**Miami, FL**  
- Conference call with Stephanie Scharf  
- Conference call with Jack Rives  
- Conference call with Bill Ide and Marcel Buscesu regarding the Conference Board of Chief Legal Officers Council Meeting  
- Conference call Andrea Sinner regarding Legal Ed  
- Conference call with Bill O’Dowd and Leslie Dart regarding #MeToo movement issues

April 2  
**Los Angeles, CA**  
- Conference call with Marty Balogh and Katy Englehart  
- Conference call regarding Sexual Harassment Plenary at Annual  
- Conference call regarding #MeToo #TimesUp movement  
- Conference call with William Garcia regarding task-based billing codes project update

April 3  
**Los Angeles, CA**  
- Conference call with Avenue Marketing  
- Lunch with Alan Braverman (Disney Studios)  
- Managing Partner Forum

April 4  
**Stanford, CA**  
- Keynote remarks at Santa Clara University High Tech Law Symposium  
- VIP CodeX Dinner for Speakers

April 5  
**Stanford, CA**  
- Keynote speaker at CodeXFuture of Law Conference  
- Meeting with Deborah Rhode regarding future Legal Ed  
- Remarks (and then joined panel) on Google and Tipping Point Community Open Discussion about Homeless Youth Advocacy

April 6  
**Washington, D.C.**  
- Remarks at 20th Annual ABA Section of Dispute Resolution Spring Conference
• Remarks at "Negotiating the Government, Part 2" plenary with Sen. Tim Kaine
• Managing Partners Forum

April 9-11

**Washington, D.C.**

• ABA Day
• Avenue Marketing meeting
• Meeting with Sen. Sheldon Whitehouse and ABA delegation
• LSC Board and event participants dinner
• Meeting with Commission on Future of Legal Education Director Andrea Sinner
• ABA Board of Governors meeting
• Remarks at LSC Forum on Access to Justice
• Dinner with Gene Vance and Bob Carlson
• Meeting with Senate Leader Mitch McConnell
• NJ delegation meeting with House Appropriation Chairman Rodney Frelinghuysen
• Meeting with Sen. Chuck Grassley
• Justice Awards reception and dinner

April 12-13

**Miami, FL**

• Keynote before Council of Chief Legal Officers
• Keynote at The Way Forward for Legal Education Conference, hosted by Florida International University College of Law
• UN Day Delegation Briefing conference call

April 13-14

**Orlando, FL**

• Remarks at Disney homeless youth event and launch of Homeless Youth Handbook
• Remarks at Business Law Section Spring Council meeting

April 16-18

**Washington, D.C.**

• ROLI Spring Board Meeting and conference
• Conference call with Avenue Marketing
• ROLI Board dinner
• Conference call with affinity bars
• Remarks: ROLI Program: "When People Flee: Rule of Law and Forced Migration"
• Meeting with Marjorie Clifton regarding harassment
• Meeting with Kristi Gaines and Tom Susman regarding prep for Senate Judiciary subcommittee
• Lunch with Judge Ashley Tabaddor, president of the National Association of Immigration Judges
• Senate Testimony on Hill- “Strengthening and Reforming America’s Immigration Court System”

April 19-21

**Madrid, Spain**

• ABA conference call with Board Committee chairs and Jack Rives
• Remarks at X Madrid meeting – “The Role of the Legal Profession in Legislative Reforms”

April 23
New York, NY
• ABA Day at the UN
• Dinner with Bob Carlson and New York State Bar President-Elect Michael Miller
• Managing Partners Forum

April 24
New York, NY
• CLE in the City meeting
• Executive Committee conference call

April 24
Houston, TX
• Interview with Brenda Sapino Jeffreys of Texas Lawyer regarding women’s initiative
• Remarks at Houston Bar Association Gender Fairness Celebration

April 25-26
Washington, D.C.
• Remarks at Lawyer Well-Being Workshop
• Interview with ABC News Radio anchor Cheri Preston regarding ABA Law Day
• Remarks at Legal Professional Liability Conference regarding Lawyer Well-Being, New Responsibilities for Impaired Lawyers for Law Firms, and LPL Insurers
• Conference call with Bill Garcia regarding ABA Working Group on ABA Task Codes
• Conference call with Janae LeFlore of ABA Internal Audit

April 30-May 1
Washington, D.C.
• Attend Standing Committee on Amicus Briefs meeting
• Amicus Briefs Committee dinner
• Law Day remarks at student dialogue program
• Lunch with Bob Carlson, U.S. Circuit Judge Bernice Donald, Harvard Senior Fellow Alberto Mora
• Leon Jaworski Public Program, reception and dinner

May 2
New York, NY
Remarks at Out Leadership’s 8th Annual U.S. Senior Leader Summit

May 3
Ponte Vedra Beach, FL
Eleventh Circuit Judicial Conference

May 4
Miami, FL
• Law 360 interview regarding LGBTQ issues
• Conference call with Andrea Sinner regarding Legal Ed – updates and conference in Boston in late May
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<tr>
<th>Date</th>
<th>Location</th>
<th>Event Description</th>
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<tr>
<td>May 4-9</td>
<td>Jakarta, Indonesia</td>
<td>Section of International Law / International Legal Exchange (ILEX) meetings</td>
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<td>May 11</td>
<td>San Diego, CA</td>
<td>Remarks at Equal Justice Conference, co-sponsored by the Standing Committee on Pro Bono and Public Service and NLADA</td>
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<td>Interview with <em>San Diego Daily Transcript / Los Angeles Daily Journal</em> reporter Lyle Moran regarding legal education</td>
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<td>May 14</td>
<td>New York, NY</td>
<td>Conference call with Cindy Cooper (Reporter writing article for Perspectives for Women’s Commission)</td>
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<td>Remarks at Regulatory Compliance Association Women’s Summit</td>
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<td>May 15</td>
<td>New York, NY</td>
<td>Keynote remarks at P3 Conference (via video)</td>
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<td>Conference calls with Alpha Brady</td>
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<td>Conference call with Marty Balogh and Faye Brooks regarding Annual Meeting</td>
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<td>May 17</td>
<td>Miami, FL</td>
<td>Interview – <em>Law 360</em> with reporter Ed Beeson</td>
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<td>Call with Terry Harell and Tracy Kepler regarding Lawyer Well-Being HOD Resolution at Annual Meeting</td>
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<td>May 18</td>
<td>Orlando, FL</td>
<td>Conference Call Commission on Women in the Profession</td>
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<td>Remarks at Orlando Federal Bar Women’s Program</td>
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<td>May 20-21</td>
<td>Washington, D.C.</td>
<td>Remarks at American Law Institute 95th Annual Meeting</td>
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<td>May 22-23</td>
<td>Vancouver, WA</td>
<td>Pew Civil Justice Innovation Project Kick-Off</td>
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<td>ABA Executive Committee conference call</td>
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<td>May 24-26</td>
<td>Oslo, Norway</td>
<td>13th Annual IBA Bar Leaders’ Conference</td>
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<td>May 27-30</td>
<td>Warsaw, Poland</td>
<td>Remarks at Warsaw Bar Association</td>
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<td>Meeting with association of Polish judges</td>
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<td>Meeting with Supreme Court judges</td>
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<td>Meeting with Deputy Chief of Mission at the U.S. Embassy</td>
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May 31  
**Cambridge, MA**  
- Commission on the Future of Legal Education Conference

**My upcoming meetings and activities scheduled to date:**

**June 4-10**  
**Paris, France**  
- Pre-Paris Sessions Normandy trip
- Celebration of the 70th Anniversary of the signing of the Universal Declaration of Human Rights

**June 11-13**  
**Copenhagen, Denmark**  
- SIL Life Sciences Conference

**June 13-14**  
**Lexington, KY**  
- Remarks at Kentucky Bar Association Convention

**June 15**  
**Orlando, FL**  
- Keynote before State of Florida Bar Association Convention regarding sexual harassment

**June 18-22**  
**Denver, CO**  
- Board of Governors meeting
- Managing Partners Forum
- ABA Nominees dinner

**June 25-26**  
**Miami, FL**  
- Collaborative Bar Leadership Academy

**June 27-29**  
**Chicago, IL**  
- Summit on Achieving Long-Term Careers for Women in Law

**Puerto Rico / Virgin Islands**  
**July 1-3**  
- FEMA observation trip with YLD

**July 17**  
**Washington, D.C.**  
- Silver Gavel Awards for Media and the Arts

**July 22-29**  
**Singapore**

**Approximate percentage spent in travel budget as of May 18: 90%**
TO: Board of Governors
FROM: Robert M. Carlson
DATE: May 18, 2018
SUBJECT: Report of the President-Elect

My activities since the last report from the Midyear Meeting are as follows:

February 8-9  San Diego, CA
- Meeting with ABA Immigration Justice Project Director Adela Mason
- Legal Orientation Program session
- Tour of the Otay Mesa Immigration Court
- ABA Immigration Justice Project staff meeting
- Taxation Section Council meeting and welcome reception

February 12  Missoula, MT
- Remarks at ABA/General Practice-Solo’s 2018 Law Student Outreach Program

February 15  Executive Committee conference call

February 22-24  Savannah, GA
- American Bar Endowment meeting

February 25-28  Las Vegas, NV
- 2019 Midyear Meeting site visit

March 5  Executive Committee conference call

March 6-9  Chicago, IL
- Remarks regarding ABA Blueprint at ABA TechShow
- Law Practice Division Executive Committee meeting and dinner
- Welcome remarks at "Examining State Restrictions on 14th Amendment Rights" panel, co-sponsored by ABA Coalition on Racial and Ethnic Justice
- Avenue Marketing meeting
- Commission on Immigration Chair Mary Meg McCarthy meeting
- Alpha Brady meeting
- Hilarie Bass and Commission on the Future of Legal Education
  Director Andrea Sinner meeting
- Division for Legal Services Staff Counsel Jason Vail meeting
- Law Practice Division Chair-Elect Katy Goshtasbi and Director Zach Brambach meeting
- Hilarie Bass and Judy Perry Martinez meeting

March 14-16  Chicago, IL
- Bar Leadership Institute
- Meetings with Hilarie Bass, Jack Rives, Jim Dimos, Northwestern University Law Dean Daniel Rodriguez, and Ajay Mehrotra and Becky Sandefur of the American Bar Foundation

March 19-20  Chicago, IL
- Presidential Appointments Committee conference calls

March 21-25  Santa Barbara, CA
- Remarks at Western States Bar Conference

March 27  Executive Committee conference call

April 3-6  Chicago, IL
- Presidential Appointments Committee Meeting
- Conference call with Avenue Marketing
- Meeting with Mary Smith and Alpha Brady
- Videotaping of welcome remarks for the Native American Bar Association Annual Meeting

April 7  Washington, D.C.
- Judge at National Appellate Advocacy Competition, sponsored by the ABA Law Student Division
- Remarks at competition awards luncheon

April 9-13  Washington, D.C.
- ABA Day
- Avenue Marketing meeting
- Meeting with Commission on Future of Legal Education director Andrea Sinner
- ABA leadership and GAO meeting with Sen. Sheldon Whitehouse
- Fund for Justice and Education meeting, reception and dinner
- Board of Governors meeting and lunch
- MT delegation meeting with Sen. Steve Daines
- MT delegation meeting with Sen. Jon Tester
- ABA leadership and IA delegation meeting with Sen. Chuck Grassley
- Justice Awards reception and dinner
- Meeting with VA delegation and staff to House Judiciary Chairman Bob Goodlatte
- Section of Antitrust dinner
- Standing Committee on Lawyer Referral Programs meeting
- ABA Day at the UN delegation briefing conference call
April 16-18  Washington, D.C.
  - ROLI Spring Board Conference
  - Board of Directors meeting and dinner
  - ROLI Annual Rule of Law Conference – When People Flee: Rule of Law and Forced Migration

April 19-20  Chicago, IL
  - Judicial Division Leadership Spring Planning meeting sessions
  - Judicial Clerkship Program students and judges luncheon, and remarks at JCP
  - Judicial Division Leadership and JCP reception

April 23  New York, NY
  - ABA Day at the UN
  - Dinner with Hilarie Bass and New York State Bar President-Elect Michael Miller, Vice President Hank Greenberg and New York County Bar Association President Mike McNamara

April 24  Executive Committee conference call

April 25  Washington, D.C.
  - Remarks at National Workshop on the Advancement of Attorney Well-Being

April 26-27  Jackson, WY
  - Remarks at Wyoming State Bar Young Lawyers Division Rocky Mountain Regional Summit
  - “What's It Like To Be an Attorney?” Public Service Project; welcome reception

April 28  Phoenix, AZ
  - SCOPE Meeting

May 1  Washington, D.C.
  - Law Day remarks at student dialogue program
  - Lunch with Hilarie Bass, Center for Human Rights Chair Bernice Donald, Harvard Senior Fellow Alberto Mora
  - Leon Jaworski Public Program, reception and dinner

May 2-4  Los Angeles, CA
  - Remarks at TIPS Section conference and council meeting
  - TIPS reception and gala

May 5  San Diego, CA
  - Litigation Annual Meeting / Leadership Conference
  - Remarks at plenary session

May 7  Appointments Committee wrap-up conference call
May 9-10  Louisville, KY
• Remarks at Young Lawyers Division Spring Meeting

May 11  Kansas City, MO
• Memorial Services for Board of Governors member Joe B. Whisler

May 12  San Diego, CA
• Remarks at National Meeting of State Access to Justice Commission Chairs
• Meeting with California Lawyers Association President Heather Rosing and Board Chair Jim Hill

May 14 -16  Washington, D.C.
• Meeting with Uzbekistan Minister of Justice Ruslanbek Davletov, Betsy Andersen, Tom Susman, Sasha Belenkaya, Andrea Grote, Bob Horowitz, Kevin Scruggs and Rick Stoddard (U.S. Department of State)

Chicago, IL
• Meeting with Jack Rives
• Meeting with Alpha Brady
• Appointments follow-up
• Meeting with U.S. District Judge Virginia Kendall concerning human trafficking issues
• Meeting with Public Education concerning 2019 Law Day
• Business Law Section - Business Bar Leaders Conference remarks, reception and dinner

May 21-23  Vancouver, WA
• Pew Civil Justice Innovation Project Kick-Off

May 31-June 2  Medora, ND
• Jackrabbit Bar Conference

June 5-11  Paris, France
• Pre-Paris Sessions Normandy trip
• Celebration of 70th Anniversary of Signing of Universal Declaration of Human Rights

June 13-17  Lexington, KY
• ABE Meeting

June 19-23  Denver, CO
• Board of Governors Meeting
• Journal Board of Editors Meeting
My upcoming meetings and activities scheduled to date:

June 24-26 Miami, FL
  • Collaborative Bar Leadership Academy

June 28 Chicago, IL
  • Summit on Long-Term Careers for Women in Law

July 12-14 Chicago, IL
  • State Bar of Nevada Annual Meeting

July 25-28 Sun Valley, ID
  • State Bar of Utah Annual Convention

Approximate percentage spent in travel budget as of May 18: 62%
MEMORANDUM

To: Members of the Board of Governors
From: Deborah Enix-Ross, Chair of the House of Delegates
Subject: Report of the Chair of the House of Delegates
Date: May 15, 2018

My activities since my December 2017 report include:

### ACTIVITIES AND EVENTS

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<thead>
<tr>
<th>Date</th>
<th>Event</th>
<th>Location</th>
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<tbody>
<tr>
<td>January 2-4</td>
<td>ABA Journal Board of Editors</td>
<td>Ft. Lauderdale</td>
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<tr>
<td>January 31-February 2</td>
<td>Board of Governors Meeting</td>
<td>Vancouver</td>
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<tr>
<td>February 3-4</td>
<td>House of Delegates Committee Meetings</td>
<td>Vancouver</td>
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<td>February 5</td>
<td>House of Delegates Meeting</td>
<td>Vancouver</td>
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<tr>
<td>February 15</td>
<td>Board of Governors Executive Committee</td>
<td>Telephonic</td>
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<tr>
<td>February 20</td>
<td>ABE Nominating Committee</td>
<td>Telephonic</td>
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<tr>
<td>March 5</td>
<td>Board of Governors Executive Committee</td>
<td>Telephonic</td>
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<tr>
<td>March 15-16</td>
<td>Bar Leaders Institute</td>
<td>Chicago</td>
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<td>March 27</td>
<td>Board of Governors Executive Committee</td>
<td>Telephonic</td>
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<tr>
<td>April 10</td>
<td>Board of Governors Meeting</td>
<td>Washington, DC</td>
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<td>April 11-12</td>
<td>ABA Day on the Hill</td>
<td>Washington, DC</td>
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<td>April 27-28</td>
<td>SCOPE Meeting and SOPE Nominating Committee</td>
<td>Phoenix</td>
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<tr>
<td>May 8</td>
<td>Review of BOG Committee Jurisdiction</td>
<td>Telephonic</td>
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<tr>
<td>Date</td>
<td>Event Description</td>
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<tr>
<td>May 17</td>
<td>SCOPE Nominating Committee</td>
<td>Telephonic</td>
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<tr>
<td>May 21-22</td>
<td>Rules and Calendar Meeting</td>
<td>Chicago</td>
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<td>May 23</td>
<td>Board of Governors Executive Committee</td>
<td>Telephonic</td>
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<tr>
<td>June 7-10</td>
<td>ABA Paris Sessions</td>
<td>Paris</td>
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<td>June 22-24</td>
<td>Board of Governors Meeting</td>
<td>Denver</td>
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<td>August 1-3</td>
<td>Board of Governors Meeting</td>
<td>Chicago</td>
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<tr>
<td>August 4-5</td>
<td>House of Delegates Committee Meetings</td>
<td>Chicago</td>
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<tr>
<td>August 6-7</td>
<td>House of Delegates Meeting</td>
<td>Chicago</td>
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</table>
TO: Board of Governors  
FROM: Linda A. Klein  
DATE: May 18, 2018  
SUBJECT: Report of the Immediate Past President

My activities since the last report from the Midyear Meeting are as follows:

February 14  
Atlanta, GA  
- Center for Military and Veteran Access to Justice fundraising call

February 16  
Atlanta, GA  
- Center for Military and Veteran Access to Justice fundraising call

February 20  
Atlanta, GA  
- Center for Military and Veteran Access to Justice fundraising call

February 23  
Atlanta, GA  
- Meeting with new President of Morehouse College and Dean of Emory School of Business

February 26  
Atlanta, GA  
- Savvillis Studley advisory board meeting  
- Received contribution for Center for Military and Veteran Access to Justice

March 1  
Atlanta, GA  
- Center for Military and Veteran Access to Justice fundraising call

March 2  
Atlanta, GA  
- Legal Services Corp. Leaders Council call
<table>
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<tr>
<th>Date</th>
<th>Location, State</th>
<th>Event Description</th>
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<tbody>
<tr>
<td>March 5</td>
<td>Atlanta, GA</td>
<td>Center for Military and Veteran Access to Justice fundraising call</td>
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<tr>
<td>March 6</td>
<td>Atlanta, GA</td>
<td>Center for Military and Veteran Access to Justice fundraising call</td>
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<tr>
<td>March 7-10</td>
<td>Atlanta, GA</td>
<td>Institute for Conflict Prevention and Resolution meeting</td>
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<td>March 9</td>
<td>Atlanta, GA</td>
<td>Call with Texas bar leaders helping veterans</td>
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<tr>
<td>March 14-15</td>
<td>San Francisco, CA</td>
<td>Summit on Legal Innovation and Disruption (SOLID) Legal Conference</td>
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<td>March 19</td>
<td>Atlanta, GA</td>
<td>Medal of Honor Society Leadership call regarding fundraising</td>
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<tr>
<td>March 21</td>
<td>Atlanta, GA</td>
<td>On Board meeting of Board of Directors</td>
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<tr>
<td>March 26</td>
<td>Atlanta, GA</td>
<td>Meeting with Norman Zoller, retired 11th Circuit Clerk and leader of State Bar veterans projects</td>
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<tr>
<td>March 27</td>
<td>Atlanta, GA</td>
<td>Center for Military and Veteran Access to Justice fundraising call</td>
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<tr>
<td>March 28</td>
<td>Atlanta, GA</td>
<td>Next-Gen Models of Business of Law working group call</td>
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<tr>
<td>March 30</td>
<td>Atlanta, GA</td>
<td>Center for Military and Veteran Access to Justice fundraising call</td>
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<tr>
<td>April 2</td>
<td>Atlanta, GA</td>
<td>American Corporate Partners call regarding veterans assistance</td>
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April 9-11  Washington, D.C.

- Meeting with Lorie Masters, Cory Amron, Mary Smith et. al regarding Me Too (recruited new ABA member)
- Meeting with Butch Tate, special advisor, Commission on Veterans Legal Services
- Legal Services Corporation (LSC) Leaders Council luncheon
- Forum on Increasing Access to Justice
- Board of Governors meeting
- LSC Supreme Court reception
- ABA Day in Washington dessert reception
- GA delegation meeting with Sen. Johnny Isakson
- GA delegation meeting with Rep. Sam Graves
- GA delegation meeting with Rep. Rob Woodall
- GA delegation meeting with Rep. Chris Collins
- GA delegation meeting with Rep. Drew Ferguson
- GA Delegation Meeting with Drew Robinson, counsel to Sen. David Perdue
- Justice Awards reception and dinner

April 12-13  New Orleans, LA

- Forum on Construction Law annual meeting
- Dinner with President-Elect nominee Judy Perry Martinez

April 16  Atlanta, GA

- Finance Committee call
- American Corporate Partners call regarding veterans assistance

April 17  Atlanta, GA

- Medal of Honor Society call regarding veterans fundraising

April 19  Atlanta, GA

- Hugh Gloster health equity event

April 20  Atlanta, GA

- Lunch with Dean Malcolm Morris, John Marshall School of Law

April 23  Atlanta, GA

- Conference call regarding Immigration Justice
April 24
Atlanta, GA
- Remarks at Truancy Intervention Project Volunteer Appreciation luncheon

April 25
Atlanta, GA
- Buckhead Coalition Executive Committee meeting with City Council President Felicia Moore
- Dinner and lecture on Immigration in American History, Federal Reserve Bank

April 30
Atlanta, GA
- Meeting with Professor Ewa Gmurzyńska from University of Warsaw

May 1
Atlanta, GA
- Center for Military and Veteran Access to Justice fundraising call

May 7
Atlanta, GA
- Dinner with Dorian Denburg, past president of National Association of Women Lawyers

May 10
Atlanta, GA
- Next-Gen Models of Business of Law working group call

May 11
Atlanta, GA
- Dr. Freda Lewis Hall discussion of health equity at Metro Atlanta Chamber of Commerce

May 15
Washington, D.C.
- Veterans Legal Services Initiative Commissioner Meeting

May 19
Atlanta, GA
- John Marshall Law School Commencement Address

May 21
Washington, D.C.
- American Law Institute
- Burton Awards Gala
June 5-10  Paris, France
- Pre-Paris Sessions Normandy trip
- Celebration of the 70th Anniversary of the signing of the Universal Declaration of Human Rights
- Remarks on access to justice panel

My upcoming meetings and activities scheduled to date:

June 21  Denver, CO
- Panelist on "What Corporate Legal Departments Can Do to Promote Women and Minority Lawyers" at Duke University conference on "Standards and Best Practices for Increasing Diversity in Mass Tort and Class Action Leadership Appointments"

June 26  Warsaw, Poland
- Remarks and panel moderator at U.S. Conference on the Rule of Law, sponsored by Center for American Law Studies, a joint program of the Faculty of Law and Administration of the University of Warsaw, Emory University School of Law and Georgia State University College of Law

July 12  Atlanta, GA
- Remarks at Business Community Network

Approximate percentage spent in travel budget as of May 18: 28%

Executive Director Jack L. Rives and the following management staff also attended: Elizabeth Andersen, Martin D. Balogh, Alpha M. Brady, Holly Cook, Barry Currier, James Dimos, H. Maria Enright, Robert Horowitz, Michael Kreisberg, Janae LeFlore, William K. Phelan, Jarisse J. Sanborn, Carol Stevens, and Thomas M. Susman.

President Bass called the meeting to order and welcomed the members of the Board and Association staff.

1. **REPORTS OF OFFICERS AND THE EXECUTIVE DIRECTOR**

1.1 The Board received the written report of President Bass. She welcomed new Board member Mark H. Alcott. She thanked the members of the Board for their dedication and hard work regarding the realignment project and reported that the realignment project will be discussed further at a later time. She stated that the Board is critical to the future of the ABA, and tough decisions must be made. With the many alternative sources of information available today, questions often arise about the factual basis for news and political claims. To address this important need, the ABA has launched ABA Legal Fact Check. This service provides reliable, nonpartisan information to the public and news media addressing a wide range of legal topics. To date, the ABA Legal Fact Check has received 18 postings and over 30,000 hits. President Bass reported that she attended the ABA International Summit on the Legal Rights of Street-Connected Children and Youth in Sao Paulo, Brazil, and a resolution will be submitted to the House of Delegates for consideration. The Young Lawyers Division Committee on Disaster Relief and Preparedness has been doing incredible work to aid victims of natural disasters in Texas, Puerto Rico, and California. She and President-Elect Carlson visited Vietnam with the Rule of Law Initiative and signed a Memorandum of Understanding with the Vietnam Bar Association. The ABA was asked by the Prime Minister to offer training for Vietnamese lawyers. All members of the Board will be required to complete online sexual harassment training by June 2018. It was suggested that the Board also complete implicit bias training that was required by a previous Board vote. The Board
1.2 President-Elect Carlson referred the Board to his written report of activities. He stated that he and President Bass are working together to create a continuum of leadership going forward. The leadership needs to deliver a clear and concise message. The four goals of the ABA are at the forefront of everything the ABA does. In November, he visited the Texas Bar Association and toured the U.S./Mexico border, the Port Isabel Detention Center, shelters for unaccompanied immigrant children, and border patrol stations. It was a moving experience, and he commended the lawyer volunteers working to protect the rule of law and to assist children. He is focusing on enhancing ABA Blueprint, the ABA’s website devoted to helping young lawyers and solo practitioners find the products and services their law firms need and connecting them to experts that can help. He reported that the deadline to file requests for presidential appointments was February 23, 2018. He encouraged the Board members to follow and retweet President Bass (#ABAPres) and him (#abapres_elect) on Twitter.

1.3 Chair of the House of Delegates (“House”) Deborah Enix-Ross referred the Board to her written report of activities. She informed the Board that the House will meet for one day only beginning at 9:00 a.m. on Monday, February 5, 2018. She requested that the Board members attend the Spirit of Excellence luncheon to be held Saturday. There are thirty-three resolutions. Resolutions 105, and 108E should generate lively debate. Three late resolutions were filed: 300, 301, and 302. Remarks by the ABA president is special ordered for 10:30 a.m. and the Executive Director for 11:30 a.m. Following the lunch break, the House will hear from Judy Perry Martinez, President-Elect Nominee, and from Michelle E. Behnke, Treasurer. The House will conclude its business no later than 5:30 p.m.

1.4 The Board received the written report of Immediate Past President Klein. She stated that the summit on Achieving Long-Term Careers for Women in Law, held at the Harvard Law School in November 2017, and supported by the Commission on Women in the Profession, was spectacular. She reported that the number of homeless veterans has increased this year and that she continues to raise money for veterans legal services. Legal Checkup for Veterans, a free website, is part of the initiative to improve legal services for veterans. She informed the Board that the Commission on Veterans Legal Affairs will meet with all coordinating groups in the ABA that are involved with fundraising for Veterans’ initiatives. The ABA and the Jones Day Law Firm has launched a pilot of VetLex, a website designed for easy access to veterans and caregivers which will be available across the United States.

1.5a Mary L. Smith, ABA Secretary, presented for approval the minutes of the Board’s October 19-20, 2017 meeting of the Board of Governors held in Miami, Florida.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Board approved the minutes of the Board’s October 19-20, 2017 meeting of the Board of Governors held in Miami, Florida.

1.5b The Board received the minutes of the Executive Committee’s meetings on October 18, November 3 (email ballot), November 13 and 21, December 11 and December 21, 2017 (email ballot).
1.5c The Secretary presented and the Board received the Report on the Exercise of Blanket Authority that summarized the requests for blanket authority received since the Board’s meeting in October 2017.

1.5d Fund for Justice and Education

The Board, sitting as members of the Board of the American Bar Association Fund for Justice and Education (“ABA/FJE”) performed the following: a) approved the minutes of the October 20, 2017 meeting of the ABA/FJE Board as presented, and b) accepted the ABA/FJE restricted grants and contributions received or awarded through September 30, 2017, and not previously reported, as requested by the Association’s Financial Services Division.

1.5e Request for Adoption of Memorial Resolutions for Board Member Joe B. Whisler and Former Board Member Jack F. Dunbar

The Board passed a memorial resolution recognizing Board member Joe B. Whisler of Kansas City, Missouri, who passed away on December 27, 2017. Joe began serving in the ABA House of Delegates in 2006 as a delegate from the Missouri Bar, was elected as the State Delegate from Missouri for two terms, until he resigned when he was elected to serve on the Board of Governors in 2015. He is survived by his wife, Kathleen, one daughter, and two grandchildren.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

BE IT RESOLVED, THEREFORE, That the Board of Governors of the American Bar Association, meeting on the second day of February, 2018, in Vancouver, Canada, recognizes the accomplishments, standards and achievements of Joe B. Whisler and extends its deepest sympathy to his family.

The Board passed a memorial resolution recognizing former Board member Jack F. Dunbar of Oxford, Mississippi who passed away on December 20, 2017. Jack served as the Mississippi State Bar delegate in 1983 and 1999 to 2001. He was elected as the Mississippi State Delegate for three terms – 1987 to 1995. He served on the Board of Governors from 1995 to 1997. Jack is survived by his wife Patsy Englehard, three sons, seven grandchildren, and his three loving dogs.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

BE IT RESOLVED, THEREFORE, That the Board of Governors of the American Bar Association, meeting on the second day of February, 2018, in Vancouver, Canada, recognizes the accomplishments, standards and achievements of Jack F. Dunbar and extends its deepest sympathy to his family.

1.6 The Board received the written report of ABA Treasurer Michelle A. Behnke. Ms. Behnke reported the following: a) The fiscal year-end financial statement audit, including the Single Audit on Government Grants, was successful. The ABA received a clean (unqualified) opinion from its auditor, Grant Thornton. The auditor proposed no audit adjustments or identified any report or control weaknesses. b) The year-end pension adjustment both increased the ABA’s net assets and reduced its pension liability by $12.2 million, and, along with the ABA’s strong investment performance, resulted in a positive change in consolidated net assets of $17.1 million. c) Consolidated operating revenue
through December 31, 2017 was $60.8 million, which was $2.5 million below budget. Revenue budget variances are primarily due to unfavorability in Sections of $1.2 million, Grants of $0.9 million and General Operations of $0.5 million. Unfavorability in Section revenue is driven by Meeting Fees ($0.6 million), Advertising ($0.3 million), and Gifts, Contributions and Sponsorships ($0.3 million) and is more than offset by favorable Section expenses. d) Consolidated operating expenses are $3.1 million favorable to prior year. Compared to prior year, all segments show favorability. e) Consolidated operating revenue through December 31, 2017 was $60.8 million, consolidated operating expenses were $65.4 million, resulting in a deficit of $4.6 million. Despite the operating deficit of $4.6 million, the ABA realized a positive net asset change of $5.7 million since FY2017 fiscal year end due to strong investment performance. f) The ABA has assets of $340.0 million, but significant liabilities totaling $162.2 million, leaving total net assets of $177.8 million. The good news is that the ABA’s Long-Term Investment balance, the largest asset on the balance sheet, increased by $4.2 million compared to August 31, 2017. g) In FY2018, it is projected that the pension net liability will decrease by approximately $30 million because of the December 2017 $20 million loan and the expected increase in interest rates. Treasurer Behnke and the Finance Committee will continue to monitor and evaluate this liability. h) Committees of the Board were created to review the ABA’s cost structure and propose potential structural changes or elimination of activities. As a part of this process, President Bass asked Executive Director Rives and senior staff to also review cost savings opportunities and incorporate the Committees’ findings into the final proposal, which will be presented and discussed at the special April Board meeting together with the reorganization and realignment. Treasurer Behnke reminded the Board that they are members of the Board of the Fund for Justice and Education. Through the generosity of its donors, the ABA Fund for Justice and Education (FJE) serves as the link between the ABA’s commitment to public service and its ability to produce programs that improve the lives of those the ABA is entrusted to serve. She encouraged the Board members to donate to the FJE.

1.7 The Board received the written report of ABA Executive Director Jack L. Rives. Mr. Rives discussed staff pay raises. This year, all employees received a 2% pay increase. A staff task force on Compensation was created, an online survey sent, and discussions were held at townhall meetings in Chicago and Washington, DC, regarding staff pay raises. The ABA will be changing its practice of across the board pay raises to a performance-based system rated on a scale from 1 to 5, where no more than 25% of the employees could be eligible for the highest pay increase. Regarding the Chicago building space reduction, which will provide savings of $17 million over 7 years, he reported that 350 staff had been moved to temporary locations when the ABA gave up two floors and the lobby area. The new work spaces should be completed by March 9, 2018 and the staff relocated shortly thereafter.

2. MATTERS FOR DIRECT BOARD ACTION

2.1 Discussion Regarding New Membership Model

The Board received reports regarding the new membership model from Bob Domenz, Chief Executive Officer of Avenue, Tracy A. Giles, Chair, Standing Committee on Membership, Jack L. Rives, Executive Director, James Dimos, Deputy Executive Director, and Michael Kreisberg, Chief Membership Officer.

It was reported that the ABA is using two conjoint studies (2009 and 2017) to develop a membership model to include a new product bundle, a new pricing structure, and new price points. Basic economics suggest that lowering prices raise volume. The ABA must find a
way to reverse membership and revenue decline. Avenue and the ABA are completing the end of the research phase and will soon enter the strategy phase. ABA partnered with Dr. Pierre Dubé in 2009 and 2017 to run conjoint studies to determine the optimal bundle and pricing strategy. Studies suggested a membership bundle containing a mix of free CLE, unlimited e-content, and 2 sections included in the cost of membership would perform best in-market. After discussion, ABA and Dr. Dubé recommended a new dues structure. If dues-paying membership numbers remain flat, the current pricing model projects a $24 million loss. To achieve neutral revenue, the ABA would need to nearly double the number of dues-paying members. Achieving this magnitude of an increase is an enormous goal for any company and would require significant time/investment to try and achieve. Further analysis and financial modeling is needed to determine final pricing structure and ensure the ABA avoids “revenue giveaway” amongst its core dues-paying members. Avenue did a survey between January 3-18, 2018 that generated 15,256 responses. A percentage of current members renew their annual membership without thinking about it (i.e., they are on payment autopilot). Retention should be emphasized over the dues rate for the 20+ year attorneys. It may be more difficult than anticipated to generate new membership from the 10-19 year attorneys. By comparison, solo practitioner members were significantly more price sensitive. The 1-9 year attorneys were the most price sensitive segment surveyed. The response to the new membership bundle was less enthusiastic than expected and there was low interest in additional sections – regardless of cost. CLEs are a consistent and important need, but it is a commodity. The things that the ABA must do are as follows:

1. Simplify pricing structure  
2. Create a robust product bundle as possible (CLE, content and Sections)  
3. Set aggressive pricing and acquisition strategy for 0-4’s  
4. Create a stronger engagement program for law student members  
5. Manage the ABA’s message - brand awareness and perception campaign  
6. Stop random acts of branding (i.e., One brand, One voice)  
7. Proactively help members extract value from their membership

Over the next 90 days, the ABA and Avenue will complete research phase activities (large firm leadership interviews, small firm focus group); fully analyze ABA membership/financial data to understand who the loyal paying members are, and what price they are paying for membership today; complete financial modeling to understand and evaluate different pricing scenarios; and develop a marketing plan including brand strategy and member retention and acquisition strategies, including budgets and timeline for achieving new member goals.

2.2 Executive Session

The Board met in executive session and discussed a defalcation issue, realignment/reorganization, and executive compensation.

2.3 House Reports

The Board discussed, but did not take action on the following two Resolutions with Reports submitted by the Criminal Justice Section and the National Conference of Commissioners on Uniform State Laws for consideration by the House of Delegates at the 2018 Midyear Meeting:
a. **Resolution No. 108E (Primary Sponsor: Criminal Justice Section)** Urges Congress to enact legislation protecting Deferred Action for Childhood Arrivals recipients and other undocumented immigrants who were brought to the United States as children and who meet age, residency, educational and other qualifications as set forth by the U.S. Citizenship and Immigration Service.

It was noted that Resolution No. 108E urges Congress to act appropriately in enacting legislation to address those who have benefitted from the Deferred Action for Childhood Arrivals, to allow them to continue to live their lives and contribute to American society, but also to consider a more lenient approach to the criminal based exclusion grounds to avoid an overly harsh consequence for minor criminal behavior.

b. **Resolution No. 112A: (Primary Sponsor: National Conference of Commissioners on Uniform State Laws):** Approves the Revised Uniform Unclaimed Property 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.

Regarding Resolution No. 112A, it was reported that the Section of Business Law had concerns regarding some of the suggested revisions to the Revised Uniform Unclaimed Property Act.

### 2.4 Website Update from Code & Theory

The Board received a report from Michael Treff, President of Code and Theory, David DiCamillo, Director of Operations, and Lanya Olmstead, User Experience Design. The Code and Theory team provided a sneak preview of its work-in-progress on the new website, slated to launch in the next few months. The project goals are as follows: a responsive website design; to educate new visitors; to give entities their own space; a robust logged-in experience; to suggest content and tagging; and to improve search capability. The website has been built to adhere to Web Content Accessibility Guidelines (WCAG AA) standards to ensure that everyone can enjoy the site and access information as needed. Some of the features of WCAG AA include: the ability to tab through the site using screen readers for those with low vision; a focus on color contrast to ensure those with color issues can easily read content; and 100% compliance that all assets include alt tags and descriptions. MyABA will be a more personalized log-in experience based on what the ABA knows about the member, groups he/she belongs to, and topics followed. It is anticipated that the new website will be rolled out in Spring of 2018.

### 2.5 Reports from Committee Chairs

**Profession, Public Service and Diversity**

Chair Hon. Ramona G. See reported that the Profession, Public Service and Diversity Committee (Committee) had recommended approval of the request from the ABA Fund for Justice and Education to approve a Revised Program Support Fund and Endowment Policy (Exhibit 4.2). It was noted that the Finance Committee requested that this item be withdrawn to allow review by the entities that have Program Support Funds, therefore, the request was subsequently withdrawn. The Committee recommended approval of all the other requests received.
Chair Ilene Knable Gotts informed the Board that the Finance Committee recommended approval of the following requests: Section of Antitrust Law to co-sponsor and contribute funds for the International Competition Network’s Training on Demand Project for FY2018-2020; Section of Environment, Energy, and Resources to co-sponsor with Pace Law School the Jeffrey G. Miller Pace National Environmental Law Moot Court Competition and contribute Section funds; Family Law Section to make a contribution to the Jean Crowe Advocacy Center; Standing Committee on Audit’s report regarding acceptance and approval of Audited Financial Statements; a revised Investment Policy; and Standing Committee on Audit for Board endorsement of bylaw amendment.

Member Services

Chair Andrew J. Markus reported that the Committee recommended approval of the following requests: bylaw amendments from six entities; two requests to enter Memoranda of Understandings; the Board meeting dates for 2018-2019; the creation of a Task Force to Coordinate ABA Educational Outreach in Response to the new Tax Legislation and a Working Group on Hate Speech and the Internet and to Seek Outside Funding; and a “placeholder” to amend the Constitution and Bylaws regarding the new membership model.

2.6 Consent Calendar

The Board approved the Consent Calendar (except 4.2) as presented by the Secretary. Action on all items contained on the Consent Calendar is set forth below in items 3 through 5 relating to the reports of the Board Committees.

2.7 Report Regarding Fund for Justice and Education

The Board received a report from Tom Bolt, Board Liaison to the Fund for Justice and Education (FJE) regarding the Resource Development Initiative approved in 2013 by the Board. The FJE submitted a proposal to the Board to raise a total of $9,701,128 over a 4-year period, beginning in FY2014. FJE requested additional resources to accomplish the work and two new positions were added to the FJE staff at that time. Due to its initial success, two additional positions were added in FY2017. This became known as the Resource Development Initiative (RDI). The FJE is focused on increasing revenue through more robust fundraising efforts where it seeks both unrestricted funds to support the breadth of ABA charitable work and where the FJE office collaborates with entities to raise restricted funds for their work. The RDI had set a cumulative four-year fundraising revenue goal of just over $9.7 million, which represented just over $3.7 million more than was raised during the FY2013 baseline year. By the completion of the RDI, just over $10.3 million had been raised, exceeding the target by $600,000 and producing a return on investment over the life of the RDI of 143%. The official RDI is concluded; however, fundraising to support charitable initiatives is more important than ever. Therefore, the FJE has set an assertive goal for fundraising in FY2018 of $3.6 million, an increase of 10% over FY2017.

2.8 Report Regarding ABA Pathway to the Profession Project

The Board received a report from Robert T. Gonzales, Chair, ABA Pathway to the Profession Project (Project), regarding the Project. Former President Paulette Brown requested that the Board of Governors (Board) create the ABA Diversity & Inclusion 360 Commission (360
The 360 Commission had a one-year mission, to review and design tools, policies, and solutions to move the ABA and the profession forward in a significant way regarding diversity and inclusion issues. Toward this end, the 360 Commission requested the ABA’s eight core Goal III entities to collaboratively develop and coalesce around transformative initiatives that would significantly move the needle forward with respect to diversity and inclusion in the legal profession. The result was the ABA Pathway to the Profession Project (Project), a bold, cohesive compilation of three diversity and inclusion initiatives: National Pre-Law Project; Metrics-Driven Bias Interrupters Project; and the Digital Justice Project. Given that the 360 Commission would sunset in August 2016, the Board provided the financial support needed to move forward with the Pathway Project. In FY2016-2017, the Goal III entities formed an internal ad hoc Goal III Working Group (Working Group), comprised of volunteer leaders and staff from each of the Goal III entities, and subcommittees were created to work on each project. Mr. Gonzales referred the Board to his written report regarding the development and implementation of their respective initiatives.

2.9 Request from Standing Committee on Governmental Affairs to Create ABA Political Action Committee

Thomas M. Susman, Associate Executive Director, ABA Governmental Affairs Office, stated that the ABA Standing Committee on Governmental Affairs recommended the establishment of the American Bar Association Political Action Committee (ABA PAC). New laws, shifting political landscapes, dramatically downward staffing trends, current procedural realities, and the rise of electronic interaction in lieu of face-to-face encounters have diminished avenues for an organization and its leaders to maintain and enhance relationships with policymakers. These changes have magnified the value of a political action committee. The ABA PAC would be organized as a separate segregated fund – a nonprofit political organization separate and apart from the ABA – organized under applicable federal election laws. The Committee recommends that the ABA PAC be governed and administered by a diverse and balanced Board and officers appointed by ABA presidents in a system approved by the Board of Governors. Representatives from the Board of Governors and the House of Delegates could be included. Support from ABA leadership, including financial support, will be important, as the ABA PAC’s goal will be to obtain sufficient voluntary ABA PAC contributions to make at least $150,000 in contributions to federal candidates and political party committees every (two-year) election cycle. The Committee also recommended specific approaches to the ABA PAC’s operations. To maintain the impartiality valued in ABA advocacy and expertise, the ABA PAC would contribute equally to candidates and committees of the two major political parties. This will address the competitive disadvantage that the ABA realizes (compared with other similarly situated associations) from not having a ABA PAC. The impartial advice and unbiased assessments for which the ABA’s expertise is valued will continue and would not be tainted as partisan through the 50-50 equilibrium of contributions to the two major parties. The past 15-20 years have brought about enormous changes for governmental affairs advocacy, and the ABA must adjust accordingly. Through ABA members’ voluntary donations to the ABA PAC, the ABA can help ensure that the voices of the association’s membership are heard on Capitol Hill. Further discussions will be held and the Board is not requested to act on this request during this meeting.
INFORMATIONAL REPORTS

2.5 Informational Report from the Center for Innovation

The American Bar Association Center for Innovation (Center) submitted a written report. The Center catalyzes innovations through people, process and technology to achieve systemic improvements in the effectiveness, accessibility and affordability of legal information and services. The Center advances its mission through five directed strategies: collection, analysis and dissemination of research and data about legal services delivery; connecting stakeholders to galvanize innovation; encouraging and supporting the replication and scaling of promising innovations; fostering innovation through education; and piloting promising approaches. To date, the Center has raised $974,250.

3.30 Membership Report

The Standing Committee on Membership submitted a written report. As of January, 2018, the ABA’s overall membership count stood at 424,385, which is 1.5% higher than it was at the same time last year. The ABA also continues to gain traction among law students in both the free and paid categories, as well as in its Full School Enrollment Program. The other group membership programs continue to grow especially among large law firms. This effort has been bolstered by President Bass’ series of Managing Partner Forums. Many other efforts, such as the New Member Welcome Stream and the redesign of the website, are well along and will begin having a positive impact on membership. However, among lawyers, membership is down by 3.8%. Lower law school enrollments, combined with fewer people taking and passing the bar, continues to have a negative effect on our pipeline of young members. The number of dues-paying lawyer members has fallen for more than a decade and as of the end of December 2017 stood at 164,891. This impacts our dues collections, which are down year-over-year by $1.46 million. Collections as of January 19, 2018 were at $52.02 million. The Standing Committee on Membership (SCOM) has been working to create and refine a new membership model internally called OneABA, that addresses the long-term declines in membership. It simplifies the ABA’s complex dues structure and adds more value by moving the ABA from an á la carte membership to a bundled ABA membership that includes entity memberships, free CLE, and e-Content. Helping the ABA shape the membership model of the future is the OneABA Working Group (Working Group), made up of members and liaisons of SCOM, Section Officers Conference appointees, ABA staff, and ABA leaders. An in-person meeting was held December 14, 2017. More than 60 ABA leaders and staff participated in the meeting to discuss and finalize elements of the new membership model and finalize elements of the proposal for Board consideration.

MEMBER SERVICES

A. MATTERS FOR REVIEW BY THE BOARD

3.1 Requests to Amend Bylaws

a. Section of Antitrust Law

The Section of Antitrust Law requested approval to amend its bylaws to: 1) establish procedures to address the anomaly created when the Chair-Elect or Vice Chair are not able to succeed to the Chair position as scheduled; 2) simplify the provision relating to Officer terms; and 3) provide a streamlined and efficient process for approval of unbudgeted
expenses, expected expense overruns, and budget shortfalls. These bylaw revisions were approved by the Section of Antitrust Law Council on December 1, 2017.

The Member Services Committee recommended approval of the request.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Board approved the request of the Section of Antitrust Law to amend its bylaws to: 1) establish procedures to address the anomaly created when the Chair-Elect or Vice Chair are not able to succeed to the Chair position as scheduled; 2) simplify the provision relating to Officer terms; and 3) provide a streamlined and efficient process for approval of unbudgeted expenses, expected expense overruns, and budget shortfalls.

b. Section of International Law

The Section of International Law (Section) requested approval to amend its bylaws to:

1) incorporate the ABA Business Conduct Standards into the Bylaws;
2) add the position of Alternate Delegate, nominated by the Section's Nominating Committee and elected at a Section Business Meeting as a nonvoting member and serves when a Section Delegate is unable to attend a meeting of the Association's House of Delegates;
3) provide for the Chair-Elect to perform the duties of Chair for the remainder of the Chair's term (or in the case of disability for the duration of the disability) "upon death, resignation or removal of the Chair for good cause as determined by the Administration Committee";
4) provide for the Vice Chair to perform the duties of Chair-Elect for the remainder of the Chair-Elect's term (or in the case of disability for the duration of the disability) "upon death, resignation or removal of the Chair-Elect for good cause as determined by the Administration Committee";
5) provide for the Vice Chair to step in for the Chair in the event of the death, resignation or removal of both Chair and Chair-Elect per the amendments described above and clarify that Associates who are elected to the Council will have the right to vote and to rename the “Strategic Planning Committee” to “Executive Committee” to more accurately reflect the role of the Committee;
6) clarify the purpose and composition of its Task Forces, and Working and Interest Groups; and
7) avoid Conflicts of Interest when a member of the Nominating Committee who is nominated for a position being filled by the Nominating Committee is recused and excluded from the deliberations and vote on that position.

The Section's Administration Committee approved these amendments on December 20, 2017, and are subject to approval by the Section’s membership meeting on February 2, 2018.

The Member Services Committee recommended approval of the request.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Board approved the request of the Section of International Law to amend its bylaws to:
1) incorporate the ABA Business Conduct Standards into the Bylaws;
2) add the position of Alternate Delegate, nominated by the Section's Nominating Committee and elected at a Section Business Meeting as a nonvoting member and serves when a Section Delegate is unable to attend a meeting of the Association's House of Delegates;
3) provide for the Chair-Elect to perform the duties of Chair for the remainder of the Chair's term (or in the case of disability for the duration of the disability) "upon death, resignation or removal of the Chair for good cause as determined by the Administration Committee";
4) provide for the Vice Chair to perform the duties of Chair-Elect for the remainder of the Chair-Elect's term (or in the case of disability for the duration of the disability) "upon death, resignation or removal of the Chair-Elect for good cause as determined by the Administration Committee";
5) provide for the Vice Chair to step in for the Chair in the event of the death, resignation or removal of both Chair and Chair-Elect per the amendments described above and clarify that Associates who are elected to the Council will have the right to vote and to rename the “Strategic Planning Committee” to “Executive Committee” to more accurately reflect the role of the Committee;
6) clarify the purpose and composition of its Task Forces, and Working and Interest Groups; and
7) avoid Conflicts of Interest when a member of the Nominating Committee who is nominated for a position being filled by the Nominating Committee is recused and excluded from the deliberations and vote on that position.

c. Young Lawyers Division

The Young Lawyers Division requested approval to amend its bylaws to provide for a non-voting delegate/liaison appointed by the chief uniformed legal officer (or designee) of each of the United States' Armed Forces to represent the respective Service in an official capacity in accordance with the Department of Defense Joint Ethics Regulation and to provide that all Young Lawyer Division (YLD) Emerging Leaders will automatically be ABA YLD Assembly Delegates. These amendments were approved by the Young Lawyers Division Assembly at the 2017 ABA Annual Meeting.

The Member Services Committee recommended approval of the request.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Board approved the request of the Young Lawyers Division to amend its bylaws to provide for a non-voting delegate/liaison appointed by the chief uniformed legal officer (or designee) of each of the United States' Armed Forces to represent the respective Service in an official capacity in accordance with the Department of Defense Joint Ethics Regulation and to provide that all Young Lawyer Division (YLD) Emerging Leaders will automatically be ABA YLD Assembly Delegates.
d. Section of Administrative Law and Regulatory Practice

The Section of Administrative Law and Regulatory Practice requested approval to amend its bylaws to eliminate the requirement that at least one member of the Nominating Committee not have served as either an Officer or Council Member of the Section. The intent is that the Section Chair may still appoint someone who meets this requirement, however he/she would not be obligated to do so if someone cannot be found who meets this requirement. The amendment was approved by the Council of the Section of Administrative Law and Regulatory Practice on August 12, 2017.

The Member Services Committee recommended approval of the request.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Board approved the request of the Section of Administrative Law and Regulatory Practice to amend its bylaws to eliminate the requirement that at least one member of the Nominating Committee not have served as either an Officer or Council Member of the Section.

e. Tort Trial and Insurance Practice Section

The Tort Trial and Insurance Practice Section requested approval to amend its bylaws as follows:

1) to correct various inconsistencies and typos;
2) to give the Section the flexibility to collect dues “...on an annual basis in accordance with the dues policy of the Association and/or the Section Council”;
3) to permit the Annual Meeting of the Section to be held at another meeting/time/location so long as appropriate notice of the election, no less than 45 days, is given to the members of the Section. (The Section assures that it will continue to meet at the ABA Annual Meeting.);
4) to clarify the procedure for replacing an elected official of the Section should they be unable to serve or the Council deem them unable or unfit to serve;
5) to reduce the term of the Secretary from two years to one year;
6) to clarify the powers of the Chair;
7) to change the title “Financial Officer” to “Finance Office”; and
8) to eliminate the limitation on the period of time a representative of the Judicial Division may serve as Liaison to TIPS.

These bylaw amendments were approved by the Section Council on December 7, 2017.

The Member Services Committee recommended approval of all amendments except Article III, Section 1 (3 above), which would permit the Annual Meeting of the Section to be held at another meeting/time/location so long as appropriate notice of the election, no less than 45 days, is given to the members of the Section.
UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Board approved the request of the Tort Trial and Insurance Practice Section to amend its bylaws as follows, but declined to approve the amendment to Article III, Section 1 (3 above), which would permit the Annual Meeting of the Section to be held at another meeting/time/location so long as appropriate notice of the election, no less than 45 days, is given to the members of the Section):

1) to correct various inconsistencies and typos;
2) to give the Section the flexibility to collect dues “...on an annual basis in accordance with the dues policy of the Association and/or the Section Council”;  
4) to clarify the procedure for replacing an elected official of the Section should they be unable to serve or the Council deem them unable or unfit to serve;
5) to reduce the term of the Secretary from two years to one year;
6) to clarify the powers of the Chair;
7) to change the title “Financial Officer” to “Finance Office”; and
8) to eliminate the limitation on the period of time a representative of the Judicial Division may serve as Liaison to TIPS.

The Board declined to approve the request to amend Article III, Section 1 which would permit the Annual Meeting of the Section to be held at another meeting/time/location so long as appropriate notice of the election, no less than 45 days, is given to the members of the Section.

3.2 Request from Section of International Law to Enter Into Friendship Agreements

The Section of International Law (Section) requested approval of a template for Friendship Agreements that it intends to use for a model agreement to enter into with several international bars, including the Lithuanian Bar Association, the Estonian Bar Association, the Latvian Bar Association, the Danish Bar Association, the Finnish Bar Association, the Swedish Bar Association, the Norway Bar Association, and the Jamaican Bar Association. Its mission is to “advance the professional excellence of our worldwide membership; bridge the U.S. and non-U.S. legal communities; help members serve the international needs of their clients; promote diverse international substantive expertise; and strengthen the rule of law.” The Section may consider entering into Friendship Agreements with other international bars in the future subject to approval by the Board of Governors.

The Member Services Committee recommended deferral of the request from the Section of International Law to create a template to enter into Friendship Agreements with several international bars, including the Lithuanian Bar Association, the Estonian Bar Association, the Latvian Bar Association, the Danish Bar Association, the Finnish Bar Association, the Swedish Bar Association, the Norway Bar Association, and the Jamaican Bar Association. Member Services suggested that the Section confer with the Office of General Counsel regarding a template for these agreements. The Section should not bring the template for Board’s approval, but continue to request Board approval of these agreements.
UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Board deferred the request of the Section of International Law to create a template for Friendship Agreements to use as a model agreement to enter into agreements with a number of international bars.

3.3 Request from President Bass to Create a Task Force to Coordinate ABA Educational Outreach in Response to the New Tax Legislation

President Bass requested approval to create a Task Force to Coordinate the ABA’s Educational Outreach in Response to the New Tax Legislation (Task Force) for members regarding the tax legislation signed into law on December 22, 2017. The Task Force will coordinate educational events regarding the new tax law planned by various ABA sections to maximize the impact of ABA resources and efforts and to prevent redundancy. The new tax law will present opportunities for ABA sections to work together, and the Task Force will help identify these opportunities.

The Task Force will be comprised of one representative from each of the following six sections: the Section of Taxation, the Section of Real Property, Trust and Estate Law, the Section of Business Law, the Section of International Law, the Section of Health Law, and the Section of Family Law. The representative from the Taxation Section will serve as chair of the Task Force. The Taxation Section will provide lead staff support. The sections represented on the Task Force will cover any expenses; no additional general revenue funding is requested or required. The Task Force will sunset at the close of the 2019 Annual Meeting.

The Member Services Committee recommended approval of the request.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Board approved the request of President Bass to create a Task Force to Coordinate the ABA’s Educational Outreach in Response to the New Tax Legislation (Task Force) to address the tax legislation signed into law on December 22, 2017. The Task Force will be comprised of one representative from each of the following six sections: the Section of Taxation, the Section of Real Property, Trust and Estate Law, the Section of Business Law, the Section of International Law, the Section of Health Law, and the Section of Family Law. The representative from the Taxation Section will serve as chair of the Task Force. The Taxation Section will provide lead staff support. The sections represented on the Task Force will cover any expenses; no additional general revenue funding is requested or required. The Task Force will sunset at the close of the 2019 Annual Meeting.

3.4 Request from the Ethics Review Committee to Amend the Business Conduct Standards

The Ethics Review Committee requested approval to amend the Business Conduct Standards (BCS). In June 2017, the Board authorized the creation of an Ethics Review Committee comprised of three current members of the Board of Governors to screen and act on less serious member complaints which did not warrant full Board review. In addressing an active complaint, the Office of General Counsel subsequently helped to define a more
The proposal summary is as follows: After the Ethics Review Committee acts on a complaint, making findings and imposing an appropriate disciplinary sanction, the member will be given an opportunity to appeal the action to the Executive Committee. The Executive Committee will conduct a de novo review and may affirm, modify or reverse the Ethics Review Committee’s action in whole or in part. The Executive Committee’s decision is final and not appealable. Each of the President, the Executive Director, the Ethics Review Committee or the Executive Committee also has the option to refer the complaint immediately to the full Board for review if the nature or seriousness of the complaint is deemed to warrant that expanded review.

The Member Services Committee recommended approval of the request.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Board approved the request of the Ethics Review Committee to amend the Business Conduct Standards (BCS), as follows:

The Ethics Office will investigate each report as thoroughly, impartially and confidentially as practicable. All individuals must cooperate in investigations and be truthful. Obstructing or undermining investigations, withholding or destroying information or providing misleading information related to possible illegal or unethical conduct are violations of the BCS. When an investigation has been completed, the Ethics Office shall prepare a report of its findings and make recommendations for appropriate action. This report is provided to the Executive Director for final decision and action as appropriate. In appropriate cases, the Ethics Office, in consultation with the Chair of the Standing Committee on Audit and with proper recusals, will determine whether to retain outside counsel to investigate matters concerning elected ABA Officers (President, President-Elect, Chair of the House of Delegates, Secretary and Treasurer) or senior executives (the Executive Director, Chief Financial Officer or General Counsel).

If an investigation involves, in whole or in part, a Member (including ABA Officers and members of the Board of Governors), the Executive Director shall forward the report finding(s) and recommendation(s) to the Ethics Review Committee of the Board of Governors for review and action. The Ethics Review Committee shall evaluate the report of investigation and determine whether the complaint merits immediate referral to the full Board of Governors. If it does not refer the matter to the full Board, the Ethics Review Committee is responsible for final decision and action on the complaint. A Member may appeal the action of the Ethics Review Committee to the Executive Committee of the Board of Governors. The Executive Committee may itself act on the appeal or refer it to the full Board for action. The Member may present written matters to the Ethics Review Committee and, on appeal, to the Executive Committee, but there is no right to a personal presentation. The Executive Committee is not bound by the decisions or actions of the Ethics Review Committee and may affirm, modify, reverse or rescind its findings or actions. The decision of the Executive Committee is final and not appealable except in the case the Executive Committee determines a more severe sanction should be imposed on the Member, in which case the Member may appeal that sanction decision to the full Board which will act only to affirm or deny that
increased sanction. Notwithstanding the above, either the Executive Director or President may immediately refer the matter to the full Board for action if the complaint warrants such review.

If the complaint is referred to the full Board, the Executive Director, assisted by the Ethics Office, shall make the necessary arrangements for presentation to the Board of Governors after recusal of any Officer or Governor for whom the matter presents a conflict of interest. The presentation shall be conducted in executive session, at which time the Member who is the subject of the report shall be given a reasonable opportunity to be present (with counsel if s/he so elects) and to be heard in his/her own defense. The Board of Governors shall determine what action will be taken which, on a finding of good cause, may include censure or suspension or removal from membership. The Board is not bound by the findings or decisions of either the Ethics Review Committee or Executive Committee. The decision by the Board is final and not appealable.

3.5 Request from President-Elect Carlson to Approve Board Meeting Dates for 2018-2019

President-Elect Carlson requested approval to conduct the November 8-9, 2018, as a teleconference as historically the agenda is lighter than at other meetings and will result in a substantial cost savings to the Association, and the June 6-7, 2019, at the Doubletree Hilton Missoula Edgewater Hotel in Missoula, Montana.

The Member Services Committee recommended approval of the request.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Board approved the request of President-Elect Carlson to conduct the November 8-9, 2018, as a teleconference as historically the agenda is lighter than at other meetings and will result in a substantial cost savings to the Association, and the June 6-7, 2019, in Missoula, Montana.

3.6 Request from Standing Committee on Membership to Amend the Constitution and Bylaws Regarding New Membership Model

The Standing Committee on Membership (SCOM) requested approval for authority to file “placeholder” Constitution and Bylaws amendments. While the Board has yet to decide on a new membership model, for the House of Delegates to consider these potential proposals at the 2018 Annual Meeting in Chicago, any amendments must be submitted by March 9, 2018, to meet the Constitution and Bylaws deadline. The “placeholder amendments” address all Constitution or Bylaws amendments that would be impacted by a new membership model. It also includes language to reinstitute the Board’s authority to make minor adjustments to the dues categories consistent with changes to the Consumer Price Index after three years from the adoption of the proposed amendment. As a “placeholder,” it is submitted with the understanding that it may be withdrawn or amended to conform with final decisions made by the Board.

The Member Services Committee recommended approval of the request.
UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Board approved the request of the Standing Committee on Membership for authority to file “placeholder” Constitution and Bylaws amendments. The “placeholder amendments” address all Constitution or Bylaws amendments that would be impacted by a new membership model. It also includes language to reinstitute the Board’s authority to make minor adjustments to the dues categories consistent with changes to the Consumer Price Index after three years from the adoption of the proposed amendment. As a “placeholder,” it is submitted with the understanding that it may be withdrawn or amended to conform with final decisions made by the Board.

3.7 Request from President Bass to Create Working Group on Hate Speech and the Internet and to Seek Outside Funding

President Bass requested approval to Create a Working Group on Hate Speech and the Internet (Working Group) and to seek outside funding. The Working Group will address hate speech online. The Working Group would have a chair and up to 15 members. The Litigation Section, Criminal Justice Section, ABA Rule of Law Initiative, Section of International Law, Forum on Communications Law, Civil Rights & Social Justice, Science and Technology Law and the Standing Committee on Law and National Security would be invited to have representatives on the Working Group. The Working Group would also include representatives from major internet platform companies. The Working Group is in the process of reaching out to internet providers and this effort would only go forward if there is interest on their part to participate. As an initial step, the Working Group would host a meeting to develop a proposed set of principles. In the spring, a summit would be convened to introduce the draft principles to a broader set of stakeholders and obtain their feedback. From the final principles document, an agreement would be produced for signature by as many internet platforms as possible, and a roll out press event would introduce the agreement to an even wider audience. The Litigation Section would provide staffing for the summit. Each of the ABA entities represented on the Working Group would be asked to provide modest funding to help cover expenses, which should be minimal since most of the work would be done via conference call. Participants in the spring summit would be expected to fund their own travel, and internet companies working with the ABA on the project would be asked to cover meals, meeting rental and A/V costs for the summit. No general revenue is requested or required.

The Member Services Committee recommended approval of the request.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Board approved the request of President Bass to Create a Working Group on Hate Speech and the Internet (Working Group) and to seek outside funding, with the understanding that no ABA general revenue is requested or required. The Working Group would have a chair and up to 15 members. The Litigation Section, Criminal Justice Section, ABA Rule of Law Initiative, Section of International Law, Forum on Communications Law, Civil Rights & Social Justice, Science and Technology Law and the Standing Committee on Law and National Security would be invited to have representatives on the Working Group. The Working Group would also include representatives from major
internet platform companies. The Litigation Section would provide staffing and each of the ABA entities represented on the Working Group would be asked to provide modest funding to help cover expenses.

3.8 Request from Section of Intellectual Property Law to Enter Into Cooperating Agreement with the Fédération Internationale en Propriété Intellectuelle

The Section of Intellectual Property Law (Section) requested approval to enter into a Memorandum of Understanding (MOU) with the Fédération Internationale des Conseils en Propriété Intellectuelle for a three-year term from the date of signature in 2018 until 2021. The purpose of the MOU is to coordinate efforts and activities to increase member awareness and promote professional cooperation. These activities include meeting attendance and participation, program development for meetings and exchange of publications. The agreement provides for liaison between the two organizations and a mutual invitation to the respective organizations’ heads to attend the other’s major annual conference as a distinguished guest. The agreement is a renewal of a previous three-year agreement that expired in 2017.

The Member Services Committee recommended approval of the request.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Board approved the request of the Section of Intellectual Property Law (Section) to enter into a Memorandum of Understanding (MOU) with the Fédération Internationale des Conseils en Propriété Intellectuelle for a three-year term from the date of signature in 2018 until 2021, subject to review and approval of the MOU by the Office of the General Counsel and a signed copy filed with the Division for Policy and Planning.

PROFESSION, PUBLIC SERVICE AND DIVERSITY

A. MATTERS FOR REVIEW BY THE BOARD

4.1 Nominations

a. American Intellectual Property Law Education Foundation

i. The Section of Intellectual Property Law requested approval to continue its institutional membership in and co-sponsorship of the American Intellectual Property Law Education Foundation for five years beginning in 2018 and ending in 2023.

The Profession, Public Service and Diversity Committee recommended approval of the request.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Board approved the request of the Section of Intellectual Property Law to continue its institutional membership in and co-sponsorship of the American Intellectual Property Law Education Foundation for five years beginning in 2018 and ending in 2023.
ii. The Section of Intellectual Property Law requested the re-election of William L. LaFuze of Houston, Texas, as the ABA representative to the American Intellectual Property Law Education Foundation for a second three-year term beginning July 1, 2018, and expiring on June 30, 2021.

The Profession, Public Service and Diversity Committee recommended approval of the request.

**UPON MOTION DULY MADE, SECONDED AND CARRIED:**

The Board re-elected William L. LaFuze of Houston, Texas, as the ABA representative to the American Intellectual Property Law Education Foundation for a second three-year term beginning July 1, 2018, and expiring June 30, 2021.

b. Intellectual Property Constituency

The Section of Intellectual Property Law requested the election of James Bikoff of Washington, D.C., as the ABA representative to the Intellectual Property Constituency for a three-year term beginning July 1, 2018, and expiring June 30, 2021.

The Profession, Public Service and Diversity Committee recommended approval of the request.

**UPON MOTION DULY MADE, SECONDED AND CARRIED:**

The Board elected James Bikoff of Washington, D.C., as the ABA representative to the Intellectual Property Constituency for a three-year term beginning July 1, 2018, and expiring June 30, 2021.

c. Industry Trade Advisory Committee on Services and Financial Industries

The Section of International Law requested the re-election of Timothy Charles Brightbill of Washington, D.C., as the ABA representative to the Industry Trade Advisory Committee on Services and Financial Industries for a two-year term expiring in February 2020.

The Profession, Public Service and Diversity Committee recommended approval of the request, with the understanding that, because the current representative has served in this position since 2007, the Section of International Law shall submit the names of new members to serve in this position at the conclusion of this term.

**UPON MOTION DULY MADE, SECONDED AND CARRIED:**

The Board re-elected Timothy Charles Brightbill of Washington, D.C., as the ABA representative to the Industry Trade Advisory Committee on Services and Financial Industries for a two-year term expiring in February 2020, with the understanding that, because the current representative has served in this position since 2007, the Section of International Law shall submit the names of new members to serve in this position at the conclusion of this term.
4.2 Request from ABA Fund for Justice and Education to Approve Revised Program Support Fund and Endowment Policy

The ABA Fund for Justice and Education (FJE) requested approval for the newly revised Program Support Fund (PSF) and Endowment Policy which includes a more robust role for the FJE as a partner to the Board of Governors. The FJE will more effectively monitor these accounts for timely use of funds and adherence to donor intent, as well as ensure that our 501(c)(3) tax status is maintained and that ABA/FJE can continue to raise charitable dollars.

The three main changes to the policy are:

1) The inclusion of endowments into the PSF policy. This allows one policy to address the overlapping need for monitoring of the accounts and review of their annual usage.
2) A defined role for the FJE in the monitoring and compliance of the policy. This includes regular review of the accounts, an annual educational series for leaders and entity staff, and suggested recommendation to the Profession, Public Service, and Diversity Committee and Finance Committee if an entity is out of compliance with the policy.
3) Suggested actions the Committees may recommend to the Board if an entity is not in compliance with the policy. Recommendations will be based upon the analysis conducted by the FJE of each PSF and endowment after conversations with each entity that is not in compliance with the policy.

The Profession, Public Service and Diversity Committee recommended approval of the request. The Finance Committee recommended that the request be withdrawn to allow review by the entities that have Program Support Funds, which was subsequently withdrawn.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Board deferred action on the request of the ABA Fund for Justice and Education (FJE) for approval of the newly revised Program Support Fund and Endowment Policy which includes a more robust role for the FJE as a partner to the Board of Governors, to allow review by the entities that have Program Support Funds.

4.3 Requests from Rule of Law Initiative

a. Memoranda of Understandings:
   i. Ground Truth Solutions

The Rule of Law Initiative (ROLI) requested approval to enter into a Memorandum of Understanding (MOU) with Ground Truth Solutions to conduct joint research and evaluation activities of the ABA Rule of Law Initiative’s (ROLI) work providing legal protection services. Ground Truth Solutions is an Austrian nongovernmental organization that provides the humanitarian sector with direct feedback from people affected by crisis.

The Profession, Public Service and Diversity Committee recommended approval of the request.
UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Board approved the request of the Rule of Law Initiative to enter into a Memorandum of Understanding with Ground Truth Solutions to conduct joint research and evaluation activities of ABA Rule of Law Initiative’s work providing legal protection services, subject to review and approval of the Memorandum of Understanding by the Office of the General Counsel and a signed copy filed with the Division for Policy and Planning.

ii. Prince Sultan University

ABA Rule of Law Initiative’s (ROLI) requested approval to enter into a cooperation agreement with Prince Sultan University (PSU). PSU is a leading law school in Saudi Arabia, widely known for its beginnings as a women’s law school that has become co-ed. ROLI would like to collaborate on course design and development with PSU paying ROLI for the costs of implementing workshops and trainings.

The Profession, Public Service and Diversity Committee recommended approval of the request.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Board approved the request of the Rule of Law Initiative to enter into a Memorandum of Understanding with Prince Sultan University Law School (PSU) to collaborate on course design and development with PSU paying ROLI for the costs of implementing workshops and trainings, subject to review and approval of the Memorandum of Understanding by the Office of the General Counsel and a signed copy filed with the Division for Policy and Planning.

b. Amendment to List of Approved Countries of Operation and Registration, Donors and Thematic Program Areas

The Rule of Law Initiative requested approval to amend the list of Approved Countries of Operation and Registration, Donors and Thematic Program Areas to add GSMA, the industry association of mobile operators, as a donor.

The Profession, Public Service and Diversity Committee recommended approval of the request.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Board approved the request from the Rule of Law Initiative to amend the list of Approved Countries of Operation and Registration, Donors and Thematic Program Areas to add GSMA, the industry association of mobile operators, as a donor.
4.4 Request from Center for Human Rights for Approval of Memorandum of Understanding with the International Senior Lawyers Department

The Center for Human Rights requested approval to enter into a Memorandum of Understanding (MOU) with the International Senior Lawyers Department (ISLP). ISLP is a US-based non-profit organization that provides pro bono legal assistance to governments and civil society organizations in developing countries, leveraging global legal resources in alignment with client needs to support just, accountable and inclusive development. The purpose of the MOU is to formalize the relationship between the two entities when it comes to volunteers conducting joint trial observations on behalf of both entities.

The Profession, Public Service and Diversity Committee recommended approval of the request and recommended that the Center consider involving the ABA Senior Lawyers Division. Involvement of the Senior Lawyers Division will be suggested by the Center for Human Rights to the International Senior Lawyers Department.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Board approved the request of the Center for Human Rights (Center) to enter into a Memorandum of Understanding (MOU) with the International Senior Lawyers Department. The purpose of the MOU is to formalize the relationship between the two entities when it comes to volunteers conducting joint trial observations on behalf of both entities. In addition, the Board recommended that the Center consider involving the ABA Senior Lawyers Division. Involvement of the Senior Lawyers Division will be suggested by the Center to the International Senior Lawyers Department.

4.5 Request from Commission on Law and Aging to Enter Into Agreement Regarding Mind Your Loved Ones App

The Commission on Law and Aging (Commission) requested approval to enter into an agreement regarding Mind Your Loved Ones app. In 2014, the Commission, with Board approval, entered into a contract to develop and promote a smart device app that served as an online depository of health care directives with the name My Health Care Wishes. Due to the low volume and limited resources, the Commission discontinued the annual support and the app was shut down. Recently, a New York elder law attorney and app developer acquired the rights to the app, upgraded it and renamed it Mind Your Loved Ones. The attorney has asked the ABA to resume its relationship, though under different terms. The app continues to not only allow users to store advance directives as well as critical medical and insurance information but also highlights the importance of advance directives. The app would be available for an annual subscription of $3.99 per year to individuals and marketed to large firms to consider purchasing the app in bulk to provide to clients. The ABA has been offered a royalty on sales and for use of the ABA logo. The agreement would also allow the attorney selective use of ABA mailing lists, within the constraints of ABA policy.

The Profession, Public Service and Diversity Committee recommended approval of the request, subject to review and approval of the Agreement by the Office of the General Counsel and the Executive Director.
UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Board approved the request of the Commission on Law and Aging to enter into an agreement regarding Mind Your Loved Ones app, subject to review and approval of the Agreement by the Office of the General Counsel and the Executive Director.

4.6 Discussion with Standing Committee on Governmental Affairs Regarding Creation of an ABA Political Action Committee

The Board received a report from the Standing Committee on Governmental Affairs (Standing Committee) regarding the establishment of an ABA Political Action Committee. The Standing Committee requested the Board of Governors to consider establishing an ABA Political Action Committee (PAC) that would be organized as a separate segregated fund – a nonprofit political organization separate and apart from the ABA – organized under applicable federal election laws. Challenges continue to evolve in communicating effectively with federal policymakers. Control of Congress shifts back and forth between political parties. Senators and Representatives increasingly rely upon staff who rapidly turn over. Legislative staff increasingly rely upon email and social media, eschewing in-person discussion. A PAC is a means to overcome these obstacles by helping to improve direct, personal access to legislators. Increased access facilitates better explanation of ABA policy goals. The Committee recommended that the PAC be governed and administered by a diverse and balanced Board and officers appointed by ABA presidents in a system approved by the Board of Governors. Representatives from the Board of Governors and the House of Delegates could be included. Support from ABA leadership, including financial support, will be important, as the PAC’s goal will be to obtain sufficient voluntary PAC contributions to make at least $150,000 in contributions to federal candidates and political party committees every (two-year) election cycle. To maintain the impartiality valued in ABA advocacy and expertise, the PAC would contribute equally to candidates and committees of the two major political parties. The Committee will continue to refine the proposal to be presented to the Board of Governors for approval at a future meeting. (Also see 2.9)

4.7 Request to Consider and Evaluate Reinstating the Enterprise Fund in FY2019

The Profession, Public Service and Diversity Committee (Committee) requested to discuss the reinstatement of the Enterprise Fund in FY2019. In October 2006, the Board established the ABA Enterprise Fund to provide $500,000 in competitive awards to ABA Sections, Divisions, Forums, Committees, Commissions, and other entities to undertake innovative, collaborative projects that advance the Mission and Goals of the Association. Because of the financial challenges the Association had experienced, the Board sought to encourage greater collaboration and coordination among the many diverse entities of the ABA by providing seed money for innovative projects. Since its inception, 132 proposals have been submitted to the Enterprise Fund requesting a total of $10,059,612. The Enterprise Fund has provided seed money to 35 projects totaling $2,615,524. Due to the financial challenges faced by the ABA, the Enterprise Fund was not funded in FY2011 and FY2012. However, at its August 2011 meeting, the Board approved the request of the Program, Evaluation and Planning Committee to reserve $350,000 in funding for the ABA Enterprise Fund beginning with the FY2013 budget year and on an annual basis thereafter. When a decision was made
This request was withdrawn.

4.8 Request from ABA Center for Innovation to Enter Into Memorandum of Understanding with the Legal Services Corporation

The Center for Innovation (Center) requested approval to enter into Memorandum of Understanding (MOU) with the Legal Services Corporation. The MOU outlines the responsibilities of the Center and the Legal Services Corporation for the Social Entrepreneurship Initiative, that was approved by the ABA Board of Governors at the 2017 Annual Meeting. This initiative will match legal technology companies with local legal aid offices to provide free technology to those service providers to assist them in their work.

The Profession, Public Service and Diversity Committee recommended approval of the request, subject to review and approval of the Memorandum of Understanding by the Office of the General Counsel and a signed copy filed with the Division for Policy and Planning.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Board approved the request of the Center for Innovation (Center) to enter into Memorandum of Understanding (MOU) with the Legal Services Corporation (LSC) that will outline the responsibilities of the LSC for the Social Entrepreneurship Initiative to match legal technology companies with local legal aid offices to provide free technology to those service providers to assist them in their work, subject to review and approval of the Memorandum of Understanding by the Office of the General Counsel and a signed copy filed with the Division for Policy and Planning.

MATTERS OF INDEPENDENT JURISDICTION

4.15 Requests for Co-sponsorships

The Profession, Public Service and Diversity Committee approved co-sponsorship requests from the following entities. No additional ABA general revenue is requested or required for the co-sponsorships at this time.

The Finance Committee approved 4.15a and 4.15h.

a. Section of Antitrust Law: to renew its co-sponsorship of the International Competition Network’s Training on Demand Project for FY2018-2020. The mission of the project is to create comprehensive curriculum of training materials to serve as a virtual university competition law and practice for competition agency officials, especially those from developing countries. At its 2017 Spring Meeting, the Section of Antitrust Law Council approved funding for this project from its Section budget in the amount of $25,000 per year for FY2018-2020.

b. Young Lawyers Division: to co-sponsor with the University of South Carolina School of Law, the University of South Carolina Center on Professionalism, and the National Legal
Mentoring consortium, a National Mentoring Conference in Columbia, South Carolina to be held April 12 – 14, 2018, at the University of South Carolina School of Law. The conference is an excellent opportunity for the Young Lawyers Division to support mentoring in the legal profession and to engage with thought-leaders on the importance of mentoring, as well as to help shape best practices and identify successful mentoring programs and strategies that could benefit our members.

c. **Rule of Law Initiative (2):**

i. to co-sponsor with the United Nations Office on Drugs and Crime (UNODC) trainings or workshops on alternatives to detention in Bahrain. These events would be co-branded with both ABA and UNODC’s logos (in addition to that of ROLI donor, the US government). Both UNODC and ABA ROLI are implementing projects aimed at training Bahraini stakeholders on best practices and tools for implementing alternatives to incarceration, following the July 2017 passage of an alternatives to detention law in Bahrain.

ii. to co-sponsor with the George Washington University Elliot School of International Affairs ROLI’s day-long conference “When People Flee: Rule of Law and Forced Migration” scheduled to take place on April 17, 2018, at the George Washington University Elliot School of International Affairs. This Conference will elaborate the relationship between rule of law and forced migration and identify effective rule of law responses bringing together leading scholars, development professionals and policy-makers for a day-long exploration and exchange of lessons learned. Both the ABA ROLI and the George Washington University Elliot School of International Affairs logos would appear on all program materials and both organizations would distribute invitations to the event to their contacts.

d. **Section of Science & Technology Law:** to co-sponsor with the Health Information and Management Systems Society (HIMSS18) the Annual Conference & Exhibition from March 5–9, 2018, in Las Vegas, Nevada, which brings together 45,000+ professionals from around the world for five days of education, innovation and collaboration to help uncover the promise of health information and technology. Since 2013, the ABA Board of Governors has approved Section of Science & Technology’s participation as a co-sponsor of HIMSS events including its Annual Meetings and Health Summits. The section contributes valuable perspectives and expertise on science and technology issues through its Healthcare Technology and Medical Devices Committees and eleven committees in its Security, Privacy and Information Law Division.

e. **Commission on Homelessness and Poverty:** to co-sponsor with the California Administrative Office of the Courts, a three-day national summit on Homeless Courts and the role of the criminal justice system in addressing homelessness to be held June 28-30, 2018, in San Diego, California, in association with San Diego’s annual Stand Down event for homeless veterans.

f. **ABA Representatives and Observers to the United Nations:** to co-sponsor with the Medical Women’s International Association and Dr. Padmini Murthy, a Senior Fellow at the Public Private Alliance Foundation, a program entitled “Sexual Violence, Funding and Technology During Armed Conflict: The Next Step.” The program will
be held in New York City in conjunction with the Commission on the Status of Women 62nd Forum to be held from March 12-23, 2018.

g. **Section of Environment, Energy, and Resources**: to co-sponsor and financially support with up to $7,000, the Jeffrey G. Miller Pace National Environmental Law Moot Court Competition with Pace Law School for the 2018, 2019, and 2020 years which is scheduled for February 22-24, 2018. The Jeffrey G. Miller Pace National Environmental Law Moot Court Competition is recognized as the preeminent environmental law moot court competition in the United States and tests skills in appellate brief writing and oral advocacy involving issues drawn from real cases, providing experience in environmental litigation first hand.

h. **Section of Public Contract Law and Forum on Construction Law**: to co-sponsor a two-hour panel workshop on Federal Regulation at the Associated General Contractors of America (AGC) upcoming Federal Contractors Conference to be held on May 1-3, 2018, in Washington, D.C. The Section will pay a $7,500 sponsorship fee for the 2-hour workshop panel spot which will be sponsored by a couple of member firms and a contractor of the Section and Forum. The $7,500 sponsorship could be waived if 15 Section and/or Forum members register for the AGC conference.

**FINANCE**

**A. MATTERS FOR REVIEW BY THE BOARD**

5.1 **Request from the Section of Family Law to Make Contribution to Jean Crowe Advocacy Center**

The Section of Family Law (Section) requested approval to make a contribution of $1,000, derived from Section funds, to Jean Crowe Advocacy Center (Center). The Section will hold its 2018 Spring CLE Conference in Nashville, Tennessee on May 9-12, 2018. The Center aids survivors of domestic violence as they navigate through the criminal and civil court systems in Davidson County, Tennessee.

The Finance Committee recommended approval of the request.

**UPON MOTION DULY MADE, SECONDED AND CARRIED:**

The Board approved the request of the Section of Family Law (Section) to make a contribution of $1,000, derived from Section funds, to Jean Crowe Advocacy Center (Center).

5.2 **Request from Standing Committee on Audit Regarding Acceptance and Approval of Audited Financial Statements**

The Finance Committee recommended that the American Bar Association consolidated financial statements, details of consolidation and other information for the years ended August 31, 2017 and 2016 with the report of the independent auditor (Financial Statements) in the form presented to the Finance Committee be submitted to the Board with the recommendation that the Board of Governors approve and accept the Financial Statements. Further, the Finance Committee recommended that the Single Audit Reports for the
American Bar Association for the year ended August 31, 2017 with the reports of the independent auditor in the form presented to the Finance Committee (Single Audit Report) be submitted to the Board with the recommendation that the Board approve and accept the Single Audit Reports.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Board approved and accepted the American Bar Association consolidated financial statements, details of consolidation and other information for the years ended August 31, 2017 and 2016, with the report of the independent auditor (Financial Statements), in the form submitted to the Board of Governors.

Further, the Board approved and accepted the Single Audit Reports for the American Bar Association for the year ended August 31, 2017, with the reports of the independent auditor (Single Audit Reports), in the form submitted to the Board of Governors.

The Board approved the requests with the understanding the Standing Committee on Audit will not have a formal review with the external auditors until February 3, 2018 after the Finance and Board of Governors have met. Furthermore, the Standing Committee on Audit will inform the Board and Finance Committee if any changes are required after their review.

5.3 Revised Investment Policy

This request was withdrawn and will be considered at the June 2018 Board meeting.

5.4 Gift Awards/Modification Report (Board Acceptance)

The Finance Committee requested that the Board accept the Fund for Justice and Education restricted grants and contributions received or awarded through December 31, 2017, and not previously reported, as requested by the Association’s Financial Services Division.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Board accepted the Fund for Justice and Education restricted grants and contributions received or awarded through December 31, 2017, and not previously reported, as requested by the Association’s Financial Services Division.

5.6 Request from Standing Committee on Audit for Endorsement of Bylaw Amendment

The ABA Standing Committee on Audit (Committee) will propose that the House of Delegates amend Section 31.7 of the ABA Constitution and Bylaws (C&B) at the 2018 Annual Meeting to more completely and accurately reflect the Committee’s duties as they have been assigned by the Board of Governors. Currently, Section 31.7 requires the Audit Committee to:

(1) recommend the selection, retention, and compensation of the Association’s independent auditors for approval by the Board of Governors;
ascertain that the Association’s auditors are independent from the Association and its management and are ultimately accountable to the Board of Governors;

review for the Association and all organizations required to be consolidated with the Association under generally accepted accounting principles (a) the results of the annual external audits of all financial statements and records; (b) the reports of independent auditors on the applicable financial statements; (c) any matters required to be communicated to the Committee by the independent auditors under generally accepted auditing standards and the disclosure requirements of the Independence Standards Board; (d) the system of internal controls; (e) the independent auditors’ letter of recommendations; and (f) the Association management’s responses to the letter of recommendations;

review the internal audit function of the Association including (a) the independence and authority of its reporting obligations; (b) the proposed internal audit plan for each fiscal year; and (c) all reports issued by the internal audit department; and

receive, investigate when necessary, and cause response to be made to inquiries or complaints by any member or employee of the Association concerning financial operations of the Association.

The Committee's currently authorized responsibilities, as outlined above, are primarily limited to oversight of matters related to the financial operations of the Association. However, the need for additional oversight of internal controls, risk management, and staff/member conduct as it may implicate or impact such matters has required the Committee to perform functions outside of its originally defined scope. Although the Committee has been acting in this unofficially “expanded” capacity for many years, specific authority to do so has not been formally reflected in the Constitution and Bylaws of the Association.

Consequently, the Committee will propose that Section 31.7 of the Constitution and Bylaws be amended to include a sixth responsibility and requested the Board to endorse this request. The amendment is proposed to read as follows:

The Audit Committee shall:

... (6) assist the Board of Governors in fulfilling its oversight responsibility relating to (i) the integrity of the Association's financial statements and financial reporting process and the effectiveness of the Association's system of internal accounting and financial controls; (ii) the evaluation of management's processes to identify, assess and manage the Association's enterprise risk issues; (iii) the administration of the Association's Business Conduct Standards, compliance process and activities through the Association's Ethics Office; and (if) such other matters as may be delegated to it by the Board of Governors from time to time."

The Finance Committee agreed with the proposed amendments and recommended that the Board of Governors similarly support the amendments and that the amendments be approved by the House of Delegates at the 2018 Annual Meeting.
UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Board supported the amendments to Section 31.7 of the Constitution and Bylaws as follows:

... (6) assist the Board of Governors in fulfilling its oversight responsibility relating to (i) the integrity of the Association's financial statements and financial reporting process and the effectiveness of the Association's system of internal accounting and financial controls; ii) the evaluation of management's processes to identify, assess and manage the Association's enterprise risk issues; (iii) the administration of the Association's Business Conduct Standards, compliance process and activities through the Association’s Ethics Office; and (iv) such other matters as may be delegated to it by the Board of Governors from time to time."

In addition, the Board recommended that the amendments be approved by the House of Delegates at the 2018 Annual Meeting.

There being no further business to come before the Board, the meeting was adjourned.

Respectfully submitted,

Mary L. Smith
Secretary

President Bass called the meeting to order and welcomed the members of the Board and Association staff. She informed the Board that the meeting would include updates regarding the Voluntary Separation Incentive Program (VIP) and staff reorganization, a presentation by Avenue, and an overview regarding the new Membership Model. She reminded the Board that the ABA cannot continue to fund all the activities that it has historically; Association resources must be expended more effectively in those areas that are most important to our members, the profession, and society. The ABA needs to examine its internal operations to best serve its members and to increase its value proposition. It was noted that the Board would not discuss allocation of funds regarding the new membership model but action would be taken to get a sense of the Board regarding the new pricing structure.

1. **Report from Executive Director Rives**

Mr. Rives referred the Board to his written report regarding staff reorganization to support the ABA restructuring.

a. **Voluntary Separation Incentive Program**

In February 2018, the Board approved funding for VIP. Senior Management met with eligible staff, conducted two Town Hall meetings, and held a celebration of service. The VIP offered a package of 15 months of salary for employees with 20 years of continuous service and combined age and years of service of at least 75 years. Eligible staff had until March 2, 2018 to apply for VIP, sign the separation contract by March 30, 2018, and had 7 days after that date (April 6, 2018) to revoke the contract. Out of the 111 staff that were eligible for VIP, 42 accepted. A number of staff will continue working short term under contract at a rate of 125% of their current salaries. All VIP costs will be paid by general operations and the payback will occur over 15 months and completed by June 2019. The VIP laid the groundwork for the reorganization which eliminated
some middle management positions which resulted $4.5 million in savings. Staff who will be displaced will be notified within the next several weeks. There are 33 position that will be displaced. Staff who are displaced have the option to apply for other jobs with the ABA. It was noted that the number of involuntary separations were minimal due to VIP acceptances. The standard severance package is 2 months salary and insurance coverage and 2 weeks pay for every year of employment up to 24 weeks.

Questions were raised regarding staff reactions to the VIP both from those eligible to participate and other staff members. The Board was reminded that VIP was voluntary and that the reactions ranged from excitement to uncertainty. Overall, VIP was positive and well-received.

b. Reorganization

The internal structure of the ABA will be reorganized into the following nine Centers created under the four Goals of the Association: Center for Operations and Finance, Center for Member Engagement, Center for Member Practice Groups, Center for ABA Policy and Governance, Center for Access to Justice and the Profession, Center for Accreditation and Education, Center for Diversity in the Profession, Center for Global Programs, and the Center for Public Interest Law. The Office of General Counsel, Media Relations and Strategic Communications, Governmental Affairs Office, and Office of Internal Audit will report directly to the Executive Director. Mr. Rives reported that the reorganization involves much more than merely moving groups around an organization chart; the new construct will refocus staff support and thus resources of the Association. Because of the reorganization and in consideration of the reduced funding available for General Operations, some staff positions will no longer be required and will be eliminated.

After further discussion,

**UPON MOTION DULY MADE, SECONDED AND CARRIED:**

The Board of Governors approved funding for the cost of severance payments resulting from the FY2018 reorganization, and that the funding come from the portion of long-term investment monies approved at the 2018 Midyear Meeting but not used to fund the Voluntary Separation Incentive Program.

2. Discussion of New Membership Model

The Board received a report from Tracy A. Giles, Chair of the Standing Committee on Membership; James Dimos, ABA Associate Deputy Director; Bob Domenz, Chief Executive Officer, Avenue; and Kyle Barrett, Strategist and Senior Account Manager, Avenue, regarding the pricing structure of the new ABA membership model.

Mr. Domenz reported on price points, revenue, and next steps regarding the new membership model. Numerous inputs into the pricing strategy included a perceptions survey, online and in-person focus groups, pricing surveys (2009, 2017, and 2018), ABA staff interviews, meetings and working sessions with ABA entities, and financial analysis and modeling. The research found that new bar admittees are willing to pay for membership, the membership fee must be priced low to recruit young lawyers, the ABA is less likely to acquire late-career lawyers (20+), and solo and small firms warrant a special category since this group is more price sensitive and particularly mindful of the value proposition. Mr. Domenz stressed that lawyers need to view the ABA as one
organization. Membership in the ABA should provide a robust product bundle without restrictions. Content and Continuing Legal Education are extremely important. The final pricing strategy needs to maximize dues revenue, grow dues-paying membership, and simplify the dues structure.

Mr. Domenz explained the proposed new price points. The proposed 1st year promotional rates for new members are as follows: 5-9 years - $75; 10-14 years - $150; 15-19 years - $250; 20+ years - $325; and International Lawyers - $150. The intent is to get more lawyers to join the ABA, prove the value proposition, and build membership. He reported that if the membership fee structure does not change, the total addressable market will remain flat over the next five years. If that occurs, it is projected that dues revenue will decline 3.4%; entity dues revenue will decline 4.3%; and the rate of dues paying members will decline 3.0%. Based on the current pricing structure, it is projected that the new proposed pricing model will surpass the status quo projections in five years. The proposed new pricing model should reverse trends in dues revenue and paying members; improve the ABA’s long-term membership composition by attracting more young lawyers; and have a direct impact on recruiting and retaining solo and small firm practitioners. The risks that are under the ABA’s control are failure to execute a revised membership model; a culture that continues to focus internally versus externally; decentralized marketing and branding; inability to deliver the right product and content; undesirable public relations “pop-ups”; strategy inconsistency; and to consistently focus on membership recruitment and retainment. The ABA must develop more effective marketing; provide a robust bundle; improve membership experience and proactively help members extract value from their membership; enhance acquisition strategy for 1-4 year lawyers; retain senior dues payers; improve brand awareness and minimize negative perceptions; and stop random acts of branding. The next steps for the Board are to finalize the product bundle and approve a marketing plan.

The Board had a discussion regarding the proposed membership model. It was reported that the Young Lawyers Division supports the $75 price point for young lawyers. Regarding a monthly membership subscription, the survey found a reduced willingness to pay for a monthly subscription. In addition, the member would be able to cancel their membership at any time and the logistics to upload new members every month would be challenging. Senior management was requested to provide the projections for ABA’s long-term investments over the next five years. The Board was informed that it will receive a full report on the new membership model at the 2018 June Board meeting and take action so that a resolution can be submitted to the House of Delegates for the 2018 Annual Meeting.

A motion was made to dedicate a full day at the meeting in Denver to discuss membership and other matters. After some discussion, the Board voted not to approve the motion with the understanding that an adequate amount of time would be devoted to matters.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Board of Governors approved a sense of the Board resolution as a “placeholder” for the 2018 Annual Meeting, with the understanding that it can be withdrawn or modified:

* Deborah Enix-Ross abstained.
RESOLVED, That dues for lawyer members of the Association shall be in accordance with the following schedule, effective for dues commencing with FY2020 and each year thereafter:

- $75 if admitted to the bar for less than five years
- $150 if admitted to the bar five years but less than ten years
- $250 if admitted to the bar ten years but less than fifteen years
- $350 if admitted to the bar fifteen years but less than twenty years
- $425 if admitted to the bar twenty or more years

FURTHER RESOLVED, That lawyers employed by any federal, state, local, territorial or tribal government, lawyers employed by nonprofit public interest programs, judges, solo practitioners, small firm lawyers, and retired lawyers shall pay $150 for dues effective in FY2020 and each year thereafter;

FURTHER RESOLVED, That paralegals shall pay $75 for dues effective in FY2020 and each year thereafter;

FURTHER RESOLVED, That affiliated professionals shall pay $150 for dues effective in FY2020 and each year thereafter;

FURTHER RESOLVED, That international lawyers shall pay $250 for dues effective in FY2020 and each year thereafter; and

FURTHER RESOLVED, That if a lawyer licensed by a state, commonwealth, territory or tribal government qualifies for more than one dues category, the lawyer shall pay the lowest amount.

President Bass commended and thanked Tracy Giles for his work as Chair of the Standing Committee on Membership.

3. Discussion Regarding Realignment

President Bass stated that the officers and Board must reduce programmatic costs by at least $1.5 million to achieve a balanced general operations budget in FY 2019. The staff has done excellent work to reduce general operations spending in recent years. It is now time for the Board of Governors to prioritize spending, and specifically, to evaluate the continued need for certain programs. She reminded the Board of the following factors adopted by the Board that should guide its evaluation of programs and the ABA’s funding priorities:

- Does this program/deliverable serve existing members?
- Does this program/deliverable attract new members?
- Is it a duplication or redundant of an existing program (governance level?)
- Is it a successful program, using data and other evidence?
- Does the program/deliverable stress ABA uniqueness (are we the only one that can/should do this)?
- Does this program/deliverable have other possible sources of funding than ABA general operations revenue funds?
She asked the Board for specific recommendations on ways to save resources. She will provide the Board with a memo outlining her suggestions regarding realignment.

4. **Other Business**

President Bass encouraged each Board member to contribute to the Fund for Justice and Education (FJE) to ensure the continuation of FJE funded activities. She hoped that by the 2018 June Board meeting, 100% of the Board would have contributed to the FJE.

There being no further business to come before the Board, the meeting was adjourned.

Respectfully submitted,

Mary T. Torres
Secretary
The Executive Committee (“Committee”) of the Board of Governors of the American Bar Association met at the Vancouver Convention Centre West, in Vancouver, British Columbia, Canada, on Wednesday, January 31, 2018, at 1:30 p.m. President Hilarie Bass presided. Participating in the meeting were Michelle A. Behnke, Michael H. Byowitz, Robert M. Carlson, Deborah Enix-Ross, Ilene K. Gotts, A. Joshua Markus, Hon. Ramona G. See, Darcee S. Siegel, and Mary L. Smith. Jack L. Rives, James Dimos, Alpha M. Brady, Jarisse Sanborn, and Rochelle E. Evans also participated in the meeting.

1. **Status Report Regarding Realignment/Reorganization**

The Committee received a status report regarding realignment/reorganization. The Committee was advised that senior staff was requested to review the recommendations as submitted on behalf of the Board Committees and to make additional recommendations which would potentially restructure the Association into nine Centers. Similarly-focused entities would be grouped together and could possibly result in staff changes. The nine Centers would be aligned with the four Goals of the Association. Recommendations from senior staff will be discussed at the April meeting of the Board.

2. **Consideration of Guidelines Regarding Complaints of Member Misconduct**

General Counsel Jarisse Sanborn, reported that it will be necessary for the Board to amend the Business Conduct Standards (BCS) regarding guidelines for complaints of member misconduct. The purpose of the amendment is to refine the member complaint process which was revised June 2017 but which has been more fully developed. In June 2017, the Board authorized the creation of an Ethics Review Committee comprised of three current members of the Board of Governors to screen and act on less serious member complaints which did not warrant full Board review. In addressing an active complaint, the Office of the General Counsel subsequently helped to define a more complete and detailed review process. Ms. Sanborn advised that the BCS would be revised and submitted to the Board’s Member Services Committee prior to consideration by the full Board.

3. **Discussion Regarding the ABA Journal**

The Committee discussed the ABA Journal and questions raised regarding its editorial independence as outlined in the Association’s Bylaws. It was noted that it might be necessary to amend the Association’s Bylaws to address this issue. The Committee was advised that the Journal’s advertising revenues continue to decline. From the Journal’s perspective, the ABA requires unattainable advertising revenue which impacts
the budget. To address some of these concerns, it was suggested that: 1) the Committee get a non-binding sense of the Board regarding the Journal's expenditures; 2) fewer issues of the Journal be published or that they transition to a digital format; and 3) all expenditures in excess of $5,000 be approved by the Executive Director. It was noted that the current Editor of the ABA Journal could lead the activities of the ABA Journal into the 21st Century. It was determined that a conference call would be conducted in the near future with Treasurer Michelle Behnke, Chair of Finance Ilene Gotts, and the Chair of the Board of Editors Kathleen Hopkins, with a report back to the Committee during its next conference call.

4. **Status Report Regarding Strategic Plan**

The Committee was informed that revisions to the draft Strategic Plan are underway and will be completed prior to the June Board of Governors meeting.

5. **Discussion of Agenda Items Before the Board**

The Committee was advised that the meeting of the Board of Governors would be lengthy due to presentations by Avenue and Code &Theory. Members of the Standing Committee on Governmental Affairs and Thomas Susman would also give a presentation to the Board regarding the proposal to create a Political Action Committee. The Association is embarking upon new and exciting opportunities. It was noted that a lot of the discussion would occur in executive session, and the Board would be reminded about the importance of maintaining confidentiality.

6. **Additional Agenda Items**

President Bass noted that members of the Board would be encouraged/required to complete online sexual harassment training. In addition, a video regarding the BCS would be shown at the meeting. It was suggested that members should be required to acknowledge that they have read and agree to abide by the BCS during the presidential appointments process. Questions were raised regarding ways to capture other members of the Association, i.e., Section leadership and members who are not appointed to committees by the president. It was suggested that a process should be put in place to occur during the meeting of the Section Officers Conference. It was emphasized that staff should not feel uncomfortable about reporting misconduct by members. There are various mechanisms for reporting misconduct available, including a confidential hotline. The current culture of misconduct at the ABA must end. This misconduct has resulted in lawsuits and additional expenses for the Association.

The Committee was reminded that the Board of Governors would meet in conjunction with ABA Day on April 10, 2018, at 1:00 p.m. – 4:00 p.m. (ET).

7. **Executive Session**

In executive session, the Executive Committee discussed confidential matters regarding a defalcation issue, realignment/reorganization, and executive compensation.
There being no further business to come before the Committee, the meeting was adjourned.

Respectfully Submitted,

Mary L. Smith
Secretary
The Executive Committee ("Committee") of the Board of Governors of the American Bar Association met by telephone conference on Thursday, February 15, 2018 at 9:00 a.m. CT. President Hilarie Bass presided. Participating in the meeting were Michelle A. Behnke, Robert M. Carlson, Deborah Enix-Ross, Ilene K. Gotts, Erica R. Grinde, and Darcee S. Siegel. Jack L. Rives, Alpha M. Brady, Jarisse Sanborn, Rochelle E. Evans, and Annaliese Fleming also participated in the meeting.

1. Request for Contingent Approval for Filing of Proposed ABA Amicus Brief in In re Castro-Tum in the U.S. Department of Justice

The Commission on Immigration requested approval to file an amicus curiae brief in In re Castro-Tum in the U.S. Department of Justice. The following four questions are presented in this matter:

   a. Do Immigration Judges (IJ) and the Board of Immigration Appeals (Board) have the authority, under any statute, regulation, or delegation of authority from the Attorney General, to order administrative closure in a case? If so, do the Board’s decisions in Matter of Avetisyan, 25 I&N Dec. 688 (BIA 2012) and Matter of W-Y-U, 27 I&N Dec. 17 (BIA 2017) articulate the appropriate standard?

   a. If the Attorney General determines that the Immigration Judges and the Board lack the authority to order administrative closure, should he delegate such authority? Or, alternatively, if the Attorney General determines that such authority exists, should he withdraw such authority?

   b. What docket management devices, other than administrative closure, would be adequate to promote expeditious, fair, and proper resolution of matters before the Immigration Judge?

   c. If the Attorney General determines that the Immigration Judge and the Board do not possess the authority to grant administrative closure, what actions should be taken regarding cases that have already been administratively closed?

The proposed brief argues that IJs have the authority to order administrative closure, and that authority should not be withdrawn:

   a. The Attorney General has authorized IJs and the Board the power to “take any action … appropriate and necessary for the disposition” of the cases that are assigned to them. 8 C.F.R. §§ 1003.1(d)(ii), 1003.10(b). That includes the
authority to take administrative and ministerial steps necessary to adjudicate those cases—including the power to stay or administratively close cases.

b. The Board and IJs have used administrative closure for three decades, and during that time the Department has promulgated more than a dozen regulations that assume that the Board and IJs are empowered to place cases on inactive status.

c. Administrative closure serves the interests of both the parties and the court. By suspending activity in cases that are not (and may never be) ripe for adjudication because the noncitizen is eligible for immigration relief after the culmination of proceedings in another forum, an IJ can concentrate scarce resources on those cases that are priorities.

d. If the Attorney General decides to withdraw the authority to order administrative closure, he should not recalendar the hundreds of thousands of closed cases because doing so would swamp the courts, exacerbating the heavy burdens faced by IJs and the Board and adding to a backlog that already threatens the system’s ability to dispose of cases in a balanced and efficient manner.

The Standing Committee on Amicus Curiae Briefs (“Standing Committee”) has reviewed the draft brief and recommends approval for filing, subject to approval of the final language by the Standing Committee and the Office of the General Counsel.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Executive Committee approved the filing of an amicus curiae brief in In re Castro-Tum in the U.S. Department of Justice, subject to approval of the final language by the Standing Committee on Amicus Curiae Briefs and the Office of the General Counsel.

There being no further business to come before the Executive Committee, the meeting was adjourned.

Respectfully Submitted,

Mary L. Smith
Secretary
The Executive Committee (“Committee”) of the Board of Governors of the American Bar Association met by telephone conference on Monday, March 5, 2018 at 1:00 p.m. CT. President Hilarie Bass presided. Participating in the meeting were Michelle A. Behnke, Michael Byowitz, Robert M. Carlson, Deborah Enix-Ross, A. Joshua Markus, Darcee S. Siegel, and Mary L. Smith. Jack L. Rives, Alpha M. Brady, James Dimos, Kevin Pak, Elizabeth Anderson, Dan Andresen, Angela Conway, and Rochelle E. Evans also participated in the meeting.

1. Requests from ABA Rule of Law Initiative and Center for Human Rights Regarding Visits to Iraq

The ABA Rule of Law Initiative (ROLI) and the Center for Human Rights (CHR) requested: 1) approval of short-term ex patriate staff and pro bono specialist visits to Iraq for existing grant program activities; and 2) permission to open an office in the Kurdish region of Iraq or Baghdad and to engage local Iraqi nationals to staff it, if the ABA is awarded a proposed grant from the U.S. Department of State.

The Committee was advised that short term visits to Iraq were approved in 2014. The security would be comparable to that of other countries and insurance programs are currently being evaluated. The Committee was advised that full term visits by ABA staff are two to three weeks or shorter. There were concerns raised regarding security risks to staff. The Committee was advised that the ABA security team, led by Dan Andresen for the last three years, has been extremely instrumental regarding the assessments and working to implement procedures.

Questions were raised regarding grant funding in the event security risks become an issue. The Committee was advised that the grant would allow for the programming to shift to work outside of the country and the donors likely would reach the same conclusion. If not, the grant funds would be refunded to the donors.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Executive Committee approved the request from the ABA Rule of Law Initiative (ROLI) and the Center for Human Rights (CHR) for short-term ex patriate staff and pro bono specialist visits to Iraq for existing grant program activities. With regard to the request for permission to open an office in the Kurdish region of Iraq or Baghdad and to engage local Iraqi nationals to provide staff support if the ABA is awarded a proposed grant from the U.S. Department of State, the Executive Committee determined that prior to acceptance of the grant, ROLI and CHR shall report back to the Executive Committee regarding assessment of security and off-site visits.
1. Requests from ABA Rule of Law Initiative to Enter Into Memoranda of Understandings

ROLI also requested approval to enter into the following Memoranda of Understandings ("MOUs"):

1. with the Ankara State University, Faculty of Law, on a program to strengthen the educational capacity of law students to effectively defend constitutional, due process, and Turkish citizens’ rights through the creation of an elective course addressing international standards and best practices, Turkish law, and practical skills building;

2. with the African Prosecutors Association to implement a U.S. State Department-funded program on trafficking in persons to support development of a comprehensive institutional strategy to build the capacity of prosecutors across the Southern Africa Development Community region to effectively fight trafficking in persons; and

3. with the Collective of Mayors of Assaba and a separate subgrant agreement with Collectif des Orphelins des Victimes Civiles et Militaires/Coordination des Organisations des Victimes de la Répression to provide legal assistance to vulnerable populations by placing paralegals in these communities in the Assaba region. The paralegals will support victims of slavery and refugee returnees to obtain much-needed civil and legal identity documentation and access social services. The MOU will fall under the Department of State-funded program in Mauritania that works to provide access to legal services for victims of slavery and refugee returnees. The MOU will allow ROLI to better implement its program by working with local authorities, the mayors, and a local organization already operating in the target communities. The MOUs will not involve funding for either group.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Executive Committee approved the following requests from the ABA Rule of Law Initiative (ROLI) to enter into Memoranda of Understandings with the following organizations, subject to review and approval of the Memoranda of Understandings by the ABA Office of General Council and signed copies provided to the Policy and Planning Division:

i) Ankara State University, Faculty of Law;
ii) African Prosecutors Association; and
iii) Collective of Mayors of Assaba and Collectif des Orphelins des Victimes Civiles et Militaires/Coordination des Organisations des Victimes de la Répression.
2. Request from ABA Rule of Law Initiative to Issue Letter of Intent to Join the Global Alliance to Eliminate Lead Paint

ROLI also requested approval to issue a Letter of Intent (LOI) to join the Global Alliance to Eliminate Lead Paint. ROLI’s LOI to become a Lead Paint Alliance partner expresses ROLI’s Intent to implement the House of Delegates’ August 2017 resolution regarding lead paint and to assist the Lead Paint Alliance in eliminating lead paint by providing technical legal assistance and expertise to countries drafting lead paint legal restrictions. The Lead Paint Alliance is a voluntary partnership formed by the UN Environment Programme and the World Health Organization to prevent exposure to lead and promote the phase-out of paints containing lead. Becoming a Lead Paint Alliance partner will allow ROLI and other alliance partners to mutually share information and coordinate lead paint efforts closely, increasing the effectiveness of both ROLI's and the alliance’s work to eliminate lead paint. Partnership in the alliance requires no financial contributions and gives rise to no binding obligations. Partners can withdraw from the alliance at any time.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Executive Committee approved the request from the ABA Rule of Law Initiative to issue a Letter of Intent to join the Global Alliance to Eliminate Lead Paint (Lead Paint Alliance), subject to review and approval of the Letter of Intent by the ABA Office of General Council and signed copies provided to the Policy and Planning Division.

3. Request from ABA Rule of Law Initiative to Join the United Nations Global Compact

ROLI requested approval to join the United Nations Global Compact, as a predicate for ROLI’s application for funding from the British Government’s Conflict Stability and Security Fund (CSSF). The United Nations Global Compact is a voluntary initiative to implement universal sustainability principles in global business and to undertake partnerships in support of UN goals, including Sustainable Development Goals. Civil society organizations such as the ABA are invited to join the Compact to evince support of the initiative, thought joining is free of charge to the organization and does not commit the organization to any specific activity.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Executive Committee approved the request from the ABA Rule of Law Initiative to join the United Nations Global Compact, as a predicate for ROLI’s application for funding from the British Government’s Conflict Stability and Security Fund.
4. Request from ABA Rule of Law Initiative for Re-Registration of a Branch Office in Morocco

ROLI requested approval of the formal re-registration of a Branch Office in Morocco, subject to the final approval of the corporate form and other legal arrangements by the Office of General Counsel. ROLI previously registered the office in Morocco in 2004. It is currently updating its registration and requires a current resolution to support its application.

**UPON MOTION DULY MADE, SECONDED AND CARRIED:**

The Executive Committee approved the request from the ABA Rule of Law Initiative to re-register the Branch Office in Morocco.

There being no further business to come before the Executive Committee, the meeting was adjourned.

Respectfully Submitted,

Mary L. Smith
Secretary
MINUTES

The Executive Committee (“Committee”) of the Board of Governors of the American Bar Association met by telephone conference on Tuesday, March 27, 2018 at 10:00 a.m. CT. President Hilarie Bass presided. Participating in the meeting were Michelle A. Behnke, Robert M. Carlson, Deborah Enix-Ross, Ilene Gotts, Erica Grinde, A. Joshua Markus, Darcee S. Siegel, and Mary L. Smith. Jack L. Rives, Alpha M. Brady, Jarisse Sanborn, Rochelle E. Evans and Annaliese Fleming also participated in the call.

1. Request for Contingent Approval for Filing of Proposed ABA Amicus Brief in Hawaii v. Trump in the Supreme Court of the United States

The Section of International Law, Section of Civil Rights and Social Justice, and the Commission on Immigration requested approval to file an amicus curiae brief in Hawaii v. Trump in the Supreme Court of the United States. The issue is whether the third revised Executive Order entitled “Protecting the Nation from Foreign Terrorist Entry into the United States” (“Revised EO”) violates the Constitution of the United States and the 1965 Immigration and Nationality Act (“INA”).

The proposed brief takes a historical approach, and sets forth a description of the evolution of our immigration policies, including a description of some of the discrimination that has occurred on the basis of national origin and the critical nature of judicial review of executive action in the immigration context, in order to ensure the constitutionality of our immigration policies and adherence to the principles that underlie them and form the basis of our nation of immigrants. The proposed brief makes the following points:

   a. The Revised EO violates the prohibition on national origin discrimination in the Immigration and Nationality Act, and is contrary to our fundamental principles and values. National security is not a facially legitimate or bona fide reason for the Revised EO’s national origin discrimination. The brief is currently being edited to tighten this discussion.

   b. Judicial review is critically important in this context to prevent improper religious or national origin animus from underpinning our immigration policies. The proposed brief expands the justiciability discussion from previous briefs, making this more the central point of the brief.

   c. The Revised EO violates the Establishment Clause of the First Amendment.
The Standing Committee on Amicus Curiae Briefs (“Standing Committee”) has reviewed the draft brief and recommends approval for filing, subject to approval of the final language by the Standing Committee and the Office of the General Counsel.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Executive Committee approved the filing of an amicus curiae brief in *Hawaii v. Trump* in the Supreme Court of the United States, subject to approval of the final language by the Standing Committee on Amicus Curiae Briefs and the Office of the General Counsel.

2. Request for Contingent Approval for Filing of Proposed ABA Amicus Brief in *In the Matter of Harriet O’Neal* in the Georgia Supreme Court

The Commission on Women in the Profession requested approval to file an amicus curiae brief in *In the Matter of Harriet O’Neal* in the Georgia Supreme Court. The issue is whether Ms. O’Neal’s application to waive into the Georgia Bar as a military spouse should have been granted under Georgia’s waiver procedure.

The proposed brief is intended to present the following points and arguments:

a. Military families, and military spouse attorneys in particular, face unique professional challenges:

   • Moves are not optional for military families.

   • They move frequently, every 2-3 years, and attorney spouses must seek admission to the bar of a new jurisdiction just as often, or choose to live separately from their servicemember spouse.

   • Many military spouse attorneys need to work because of financial need, especially if they have student loans to repay.

   • Military families face a difficult choice – for either the military spouse to give up his or her legal career, or for the servicemember to leave the military. This drains the talent pool of the legal profession or the military.

   • Military spouses have trouble meeting previous practice requirements because they may be newly admitted in their primary jurisdiction, they may have been deployed overseas, they may have breaks in employment, they may have held part-time, temporary or nonlegal positions, and they may have been assigned to live in areas where they have been unable to find legal work.

b. There has been, and continues to be, a national initiative to support military families.
c. Appropriate accommodations for attorney military spouses benefit the legal community and the military.

d. There are procedural due process concerns with denying Ms. O'Neal's application without explanation.

e. Given the timing on filing this brief, the last section of the brief is still being edited for better organization.

The Standing Committee on Amicus Curiae Briefs ("Standing Committee") has reviewed the draft brief and recommends approval for filing, subject to approval of the final language by the Standing Committee and the Office of the General Counsel.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Executive Committee approved the filing of an amicus curiae brief in *In the Matter of Harriet O’Neal* in the Georgia Supreme Court, subject to approval of the final language by the Standing Committee on Amicus Curiae Briefs and the Office of the General Counsel.

3. Status Report Regarding Voluntary Incentive Program ("VIP")

Executive Director Jack Rives provided the Committee with a status report regarding the Voluntary Separation Incentive Program ("VIP"). The Committee was informed that there were 111 employees eligible for VIP. Forty-eight of those eligible for VIP submitted applications with a separation date of March 30, 2018. It was noted that some of the VIP participants would transition to Consultants for a limited amount of time. The final date for VIP participants to revoke their contract agreements is April 6, 2018. An update regarding VIP and the final number of participants would be provided to the Board of Governors at its April 10, 2018 meeting.

There being no further business to come before the Committee, the meeting was adjourned.

Respectfully Submitted,

Mary L. Smith
Secretary
The Executive Committee (“Committee”) of the Board of Governors of the American Bar Association met by telephone conference on Tuesday, April 24, 2018 at 9:00 a.m. CT. President Hilarie Bass presided. Participating in the meeting were Michelle A. Behnke, Michael H. Byowitz, Robert M. Carlson, Deborah Enix-Ross, Ilene K. Gotts, Erica Grinde, A. Joshua Markus, Hon. Ramona G. See, and Mary L. Smith. Jack L. Rives, James Dimos, Alpha M. Brady, Elizabeth Andersen, Jarisse Sanborn, Carol Stevens, Holly Cook, Rochelle E. Evans, Annaliese Fleming, Angela Conway and Dan Andresen also participated on the call.

1. **Request for Contingent Approval for Filing of Proposed ABA Amicus Brief in The Matter of A-B- in the Department of Justice**

The Commission on Immigration requested approval to file an amicus curiae brief in *The Matter of A-B-* in the Department of Justice. The issue is whether, and under what circumstances, being a victim of private criminal activity constitutes a cognizable particular social group for purposes of an application for asylum or withholding of removal.

The proposed brief makes the following points:

a. The Immigration and Nationality Act ("INA") sets forth a specific statutory framework under which an alien can seek asylum and withholding from removal: (1) persecution or fear of persecution (2) on account of membership in one of five statutorily-defined groups, including a “particular social group.” 8 U.S.C. §§ 1101(a)(42)(A), 1158(b)(1)(A), 1231(b)(3)(A).

b. Circuit Court and BIA decisions clearly establish that private criminal activity can rise to the level of “persecution” within the meaning of the INA when governments are unable or unwilling to protect the victims of the persecutors.

c. Further, Circuit Court and BIA decisions have repeatedly found private criminal activity on account of membership in a particular social group to be sufficient to establish asylum and withholding of removal. Gender-based definitions of a particular social group consistently have been found to be appropriate.

d. The Attorney General cannot overrule Circuit Court precedent and a reversal of long-standing BIA precedent that private criminal activity can, in certain cases, establish “persecution” and, further, that such persecution on account of a particular social group (often gender-based) can support applications for asylum or withholding of removal would further victimize those most in need of protection.
d. The Amicus Committee has requested that some revisions be made to this version of the proposed brief. The Committee believes that the brief would benefit from a deeper analysis of the reasoning underlying the finding of persecution based on membership in a particular social group in the cases presented in the brief, and an explanation of why that reasoning is appropriate. The brief will evolve to address that feedback.

The Standing Committee on Amicus Curiae Briefs (“Standing Committee”) has reviewed the draft brief and recommends approval for filing, subject to approval of the final language by the Standing Committee and the Office of the General Counsel.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Executive Committee approved the filing of an amicus curiae brief in *The Matter of A-B* in the Department of Justice, subject to approval of the final language by the Standing Committee on Amicus Curiae Briefs and the Office of the General Counsel.

2. **Request from ABA Rule of Law Initiative for Approval of Proposed Iraq Program In-country Presence**

The ABA Rule of Law Initiative (ROLI) requested approval of operational plans for the ROLI/CHR Iraq programs, including the establishment of a permanent presence in Erbil (Kurdistan) and possibly Baghdad and Basra, all to be staffed by local staff (expatriate staff and pro bono specialists will be based in Amman and, as previously approved by the Committee, may travel periodically for short-term visits as required to implement the program). ROLI and CHR have been invited by State DRL to submit a full proposal for a $3 million, 2-year program in Iraq to protect and empower Iraqi women and youth through a multi-faceted initiative to strengthen their rights through public legal education, capacity building among justice sector actors, and increased engagement of women and youth through civil society and government initiatives. The program will target women and youth throughout Iraq with an emphasis on stakeholders affected by ISIS, or who are vulnerable to radicalization, as well as at-risk populations in the southern provinces.

Members of the Committee stressed the importance of making sure that the ABA is doing everything possible to avoid experiencing a tragedy.

Questions were raised regarding funding and it was noted that the programming would be fully funded by the grant, therefore no general operations funding will be required. A question was raised regarding funding of the grant if the ABA needs to withdraw from the program due to security concerns. Concerns were expressed regarding this request and why it is not considered a security threat in Iraq. It was noted that ROLI should use caution and not allow funding and grants to drive certain requests.
UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Executive Committee approved the request of the ABA Rule of Law Initiative (ROLI) and the Center for Human Rights (CHR) of operational plans for the ROLI/CHR Iraq programs, including the establishment of a permanent presence in Erbil (Kurdistan) and possibly Baghdad and Basra, all to be operated by local staff.

3. Request from ABA Rule of Law Initiative of New Donor (Twitter, Inc.)

The Center for Human Rights (CHR) requested approval of Twitter, Inc., as an approved donor, as CHR seeks support of a program to address social media harassment of human rights defenders and lawyers. Twitter has recently sent out a call for proposals to develop metrics for evaluating the health of the online conversations on its platform to hold itself publicly accountable for increasing the public health, openness and civility of public conversations around the world. CHR would like to submit a concept note in response to this call that draws upon CHR’s extensive experience supporting at risk defenders around the world who use the social platform for their work and face intense levels of online harassment that has been anecdotally linked to increase risk of violence in the real world. It will explore this link relying on publicly available data, case studies, and proprietary data from Twitter on reported harassment in to-be-identified focus countries. This is a unique opportunity to bring the expertise of the American legal profession, historically one the strongest supporters of robust freedom of expression rights, to bear where there are concerns about online harassment leading to real world violence.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Executive Committee approved the request of the Center for Human Rights to add Twitter, Inc., as an approved donor for a program to address social media harassment of human rights defenders and lawyers.

4. Request from the Commission on Immigration for ABA Participation in Litigation Over the Legal Orientation Program (LOP)

The Commission on Immigration requested approval for ABA participation to join litigation currently in development to enjoin the Department of Justice from halting funding for the Legal Orientation Program (LOP) and the Immigration Court Helpdesk (ICH). The ABA has been one of the main providers of LOP services through ProBAR and the Immigration Justice Project since the program’s inception in 2003. On April 10, 2018, the ABA learned that the DOJ will halt funding for the LOP after April 30, 2018, for an indefinite period. The lawsuit seeks to enjoin DOJ from illegally and arbitrarily ending the programs, contrary to the ongoing congressional mandate, while DOJ conducts its further studies. The end goal is to force DOJ to continue appropriating funds and maintain LOP and ICH operational. Currently, two claims form the basis of the complaint. Both are based on the Administrative Procedures Act. The first claim is that
the APA allows for judicial review of an action contrary to law or action that is unlawfully withheld. The second claim is that the APA allows the court to set aside arbitrary and capricious agency action or action that constitutes an abuse of discretion. Stakeholder groups have asked the ABA to join the lawsuit.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Executive Committee approved the request of the Commission on Immigration to have the ABA participate in litigation currently in development to enjoin the Department of Justice from halting funding for the Legal Orientation Program and Immigration Court Helpdesk.

There being no further business to come before the Executive Committee, the meeting was adjourned.

Respectfully Submitted,

Mary L. Smith
Secretary
AMERICAN BAR ASSOCIATION

REPORT OF THE SECRETARY
ON THE EXERCISE OF BLANKET AUTHORITY

Since the last report to the Board of Governors at the Midyear Meeting in Vancouver, Canada, B.C., the Secretary has received a total of sixteen (16) requests for blanket authority. Nine (9) requests were regular and seven (7) requested expedited procedures. The requests are set forth below in date order of submission.

1) **Section of Antitrust Law – December 20, 2017**

The Section requested blanket authority to submit comments to the European Commission regarding its Public Inception Impact Assessment on Fairness in Platform-to-Business Relations.

Since no objections were raised, the Section of Antitrust Law was authorized to submit the comments.

2) **Expedited Section of Antitrust Law**
**Section of International Law – December 27, 2017**

The Sections requested expedited blanket authority to submit comments to the Israeli Antitrust Authority regarding the Proposed Draft Amendment to the Restrictive Trade Practices Law.

Since no objections were raised, the Sections of Antitrust Law and International Law were authorized to submit the comments.

3) **Expedited**
**Section of Antitrust Law**
**Section of International Law – December 29, 2017**

The Sections requested expedited blanket authority to submit comments to the European Commission regarding its Public Inception Impact Assessment on Fairness in Platform-to-Business Relations.

Since no objections were raised, the Sections of Antitrust Law and International Law were authorized to submit the comments.

4) **Section of Antitrust Law – January 4, 2018**

The Section requested blanket authority to submit comments to the Competition Bureau, Government of Canada regarding its Immunity Program Under the Competition Act.

Since no objections were raised, the Section of Antitrust Law was authorized to submit the comments.
5) **Section of Intellectual Property Law – January 10, 2018**

The Section requested blanket authority to submit comments to the United States House and Senate Judiciary Committees on Section 108 copyright updates.

Since no objections were raised, the Section of Intellectual Property Law was authorized to submit the comments.

6) **Section of Intellectual Property Law**

**Section of Business Law – January 16, 2018**

The Sections requested blanket authority to submit comments to the United Nations Commission on International Trade law (UNCITRAL) on the draft Practice Guide to the UNCITRAL Mode Law on Second Transactions.

Since no objections were raised, the Sections of Intellectual Property Law and Business Law were authorized to submit the comments.

**Expedited**

7) **Section of Antitrust Law**

**Section of International Law – January 23, 2018**

The Sections requested expedited blanket authority to submit comments to the Korea Fair Trade Commission regarding the Amended Rules on Committee Operation and Case Handling Procedure.

Since no objections were raised, the Sections of Antitrust Law and International Law were authorized to submit the comments.

8) **Section of Antitrust Law**

**Section of International Law – January 26, 2018**

The Sections requested blanket authority to submit comments to the South Africa Commission regarding its Competition Amendment Bill 2017.

Since no objections were raised, the Sections of Antitrust Law and International Law were authorized to submit the comments.

**Expedited**

9) **Section of Antitrust Law**

**Section of International Law – February 8, 2018**

The Sections requested expedited blanket authority to submit comments to the Ministry of Electronics and Information Technology regarding its White Paper on Date Protection Framework for India.

Since no objections were raised, the Sections of Antitrust Law and International Law were authorized to submit the comments.
10) **Section of Intellectual Property Law – February 12, 2018**

The Section requested blanket authority to submit comments to the United States Trade Representative on intellectual property rights considerations during the renegotiation of the North American Free Trade Agreement.

Since no objections were raised, the Section of Intellectual Property Law was authorized to submit the comments.

**Expedited**

11) **Section of Intellectual Property Law – March 7, 2018**

The Section requested expedited blanket authority to submit comments to the United States Patent and Trademark Office on Office Policy and International Affairs reorganization.

Since no objections were raised, the Section of Intellectual Property Law was authorized to submit the comments.

12) **Section of Intellectual Property Law – March 8, 2018**

The Section requested blanket authority to submit comments to the United States House Judiciary Committee on Copyright Alternative in Small-Claims Enforcement Act of 2017.

Since no objections were raised, the Section of Intellectual Property Law was authorized to submit the comments.

13) **Section of Antitrust Law – April 5, 2018**

The Section requested blanket authority to submit comments to the Chilean Competition Agency regarding its Internal Guidelines for the Submission of Criminal Claims for Cartel Offences.

Since no objections were raised, the Section of Antitrust Law was authorized to submit the comments.

**Expedited**

14) **Section of Taxation – April 23, 2018**

The Section requested expedited blanket authority to submit comments to the Department of Treasury and Office of Management and Budget on Review of Tax Regulations Under Executive Order 12866.

Since no objections were raised, the Section of Taxation was authorized to submit the comments.
15) **Section of Antitrust Law – April 30, 2018**

The Section requested expedited blanket authority to submit comments to the United Kingdom Competition and Markets Authority Public Consultation on Information Requests in Merger Control.

Since no objections were raised, the Section of Antitrust Law was authorized to submit the comments.

16) **Section of Antitrust Law – April 30, 2018**

The Section requested blanket authority to submit comments to the Canadian Competition Bureau on their Abuse of Dominance Enforcement Guidelines.

Since no objections were raised, the Section of Antitrust Law was authorized to submit the comments.

Respectfully submitted,

Mary L. Smith, Secretary

May 2018
EXHIBIT 1.5 (i)

MINUTES

AMERICAN BAR ASSOCIATION
BOARD OF GOVERNORS
FUND FOR JUSTICE AND EDUCATION

Vancouver Convention Centre
Vancouver, British Columbia
February 2, 2018


Executive Director Jack L. Rives and the following management staff also attended: Elizabeth Andersen, Martin D. Balogh, Alpha M. Brady, Holly Cook, Barry Currier, James Dimos, H. Maria Enright, Robert Horowitz, Michael Kreisberg, Janae LeFlore, William K. Phelan, Jarisse J. Sanborn, Carol Stevens, and Thomas M. Susman.

President Bass called the meeting to order and welcomed the members of the Board and Association staff.

MINUTES OF PREVIOUS MEETING

The ABA Secretary Mary L. Smith, presented the minutes of the October 18-20, 2017, meeting of the FJE Board.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The minutes of the October 18-20, 2017, meeting of the FJE Board were approved as presented.

FINAL ACCEPTANCE OF GRANT AWARDS

The Association’s Financial Services office requested that the FJE Board review and note the acceptance of the American Bar Association Fund for Justice and Education (ABA/FJE) restricted grants and contributions received or awarded through September 30, 2017, and not previously reported. These grants and contributions are presented under Exhibit 1.5d (ii) of the February 2018 agenda books of the Board.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The grants and contributions for ABA/FJE, totaling $16,918,128 and received through September 30, 2017, as presented under Exhibit 1.5d (ii) of the February 2018 agenda books of the Board were accepted for the purpose indicated.

There being no further business to come before the FJE Board, the meeting was adjourned.

Respectfully Submitted,

Mary L. Smith,
Secretary
Date: May 18, 2018
To: Board of Governors of the FJE
From: William K. Phelan
Subject: FJE New Awards/Modifications

Financial Services kindly requests that the Board of Governors of the American Bar Association Fund for Justice and Education review and note the acceptance of the restricted grants listed on the attached report. These grants, totaling $13,692,618 and not previously reported to the Board, were awarded through March 31, 2018.

Should you have any questions – or need further information – my staff and I are available to assist.

WKP:nn
Cc: Jack L. Rives
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<td>U.S. Department of State</td>
<td>CAR Strengthening the Justice Sector and Combating Impunity</td>
<td>$826,607</td>
<td>12/1/2017**</td>
<td>6/30/2018</td>
<td>NICRA $597,345</td>
<td>$113,783</td>
<td>$115,479 ROLI - Rule of Law Initiative - Africa</td>
</tr>
<tr>
<td>U.S. Department of State</td>
<td>Liberia Support to the Liberian Judiciary</td>
<td>$2,500,000</td>
<td>2/15/2018</td>
<td>2/29/2020</td>
<td>NICRA $1,894,096</td>
<td>$265,416</td>
<td>$340,486 ROLI - Rule of Law Initiative - Africa</td>
</tr>
<tr>
<td>U.S. Department of State</td>
<td>Philippines International Justice Sector Education and Training Program</td>
<td>$190,000</td>
<td>2/22/2018</td>
<td>2/21/2020</td>
<td>NICRA $146,851</td>
<td>$16,901</td>
<td>$26,248 ROLI - Rule of Law Initiative - Middle East and North Africa</td>
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<tr>
<td>U.S. Department of State</td>
<td>Sri Lanka Combatting Trafficking in Persons</td>
<td>$700,000</td>
<td>1/1/2018</td>
<td>7/30/2019</td>
<td>NICRA $495,047</td>
<td>$104,412</td>
<td>$100,541 ROLI - Rule of Law Initiative - Asia</td>
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<tr>
<td>U.S. Department of State</td>
<td>Supporting the African Prosecutor’s Association to Improve Legislative, Policy and Regulatory Frameworks to Combat</td>
<td>$500,000</td>
<td>2/9/2018</td>
<td>3/31/2019</td>
<td>NICRA $382,971</td>
<td>$61,636</td>
<td>$55,393 ROLI - Rule of Law Initiative - Africa</td>
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<td>U.S. Department of State</td>
<td>Supporting Implementation of Morocco’s 2016 Anti-Trafficking in Persons Law</td>
<td>$750,000</td>
<td>2/9/2018</td>
<td>1/31/2020</td>
<td>NICRA $555,693</td>
<td>$93,349</td>
<td>$100,958 ROLI - Rule of Law Initiative - Middle East and North Africa</td>
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<td>U.S. Department of State</td>
<td>Tunisia Supporting Tunisia’s Anti-Trafficking Efforts</td>
<td>$500,000</td>
<td>2/9/2018</td>
<td>7/31/2019</td>
<td>NICRA $361,711</td>
<td>$70,034</td>
<td>$68,255 ROLI - Rule of Law Initiative - Middle East and North Africa</td>
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<tr>
<td>U.S. Agency for International Development / IMA World Health</td>
<td>USAID/ IMA DRC Counter Gender-Based Violence Activity</td>
<td>$253,279</td>
<td>1/1/2018</td>
<td>9/30/2019</td>
<td>NICRA $44,104</td>
<td>$8,067</td>
<td>$8,513 ROLI - Rule of Law Initiative - Africa</td>
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<td>Center for Children and Family Futures</td>
<td>QIC Infants Toddlers</td>
<td>$121,418</td>
<td>10/11/2017**</td>
<td>9/30/2018</td>
<td>NICRA $98,185</td>
<td>$7,078</td>
<td>$16,155 Domestic Center of Children and The Law</td>
</tr>
<tr>
<td>Grantor</td>
<td>Project Title</td>
<td>Amount</td>
<td>Obligated</td>
<td>Period</td>
<td>End date</td>
<td>NICRA Cost</td>
<td>G &amp; A</td>
</tr>
<tr>
<td>-------------------------------</td>
<td>---------------------------------------------------</td>
<td>--------</td>
<td>-----------</td>
<td>--------</td>
<td>----------</td>
<td>------------</td>
<td>---------</td>
</tr>
<tr>
<td>Fund for Nonviolence</td>
<td>Death Penalty Due Process Review Project</td>
<td>$50,000</td>
<td>$50,000</td>
<td>1/1/2018</td>
<td>12/31/2018</td>
<td>10.00%</td>
<td>$42,499</td>
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<tr>
<td>USAID World Vision</td>
<td>EL Salvador Juvenile Justice and Restoration</td>
<td>$1,084,277</td>
<td>$469,530</td>
<td>1/8/2018</td>
<td>5/31/2020</td>
<td>NICRA</td>
<td>$334,937</td>
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<tr>
<td>Casey Family Program</td>
<td>Legal Center for Foster Care and Education</td>
<td>$50,000</td>
<td>$50,000</td>
<td>1/1/2018</td>
<td>12/31/2018</td>
<td>0.00%</td>
<td>$46,108</td>
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<tr>
<td>Casey Family Program</td>
<td>National Alliance for Parent Representation</td>
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<td>$70,000</td>
<td>1/1/2018</td>
<td>12/31/2018</td>
<td>0.00%</td>
<td>$65,115</td>
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<tr>
<td>Casey Family Program</td>
<td>Grandfamilies</td>
<td>$65,000</td>
<td>$65,000</td>
<td>1/1/2018</td>
<td>12/31/2018</td>
<td>0.00%</td>
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<tr>
<td>Casey Family Program</td>
<td>Family Justice Initiative</td>
<td>$150,000</td>
<td>$150,000</td>
<td>1/1/2018</td>
<td>12/31/2018</td>
<td>0.00%</td>
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<tr>
<td>Chemonics International Inc</td>
<td>Sri Lanka CORE Justice Project</td>
<td>$121,804</td>
<td>$121,804</td>
<td>2/22/2018</td>
<td>2/21/2019</td>
<td>NICRA</td>
<td>$83,201</td>
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<tr>
<td>Laura and John Arnold Foundation</td>
<td>LJAF Project 2018</td>
<td>$656,153</td>
<td>$656,153</td>
<td>3/14/2018</td>
<td>3/31/2020</td>
<td>NICRA</td>
<td>$596,418</td>
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<td>Redlich Horwitz Foundation</td>
<td>Redlich Horwitz 2018 Education</td>
<td>$75,000</td>
<td>$75,000</td>
<td>2/1/2018</td>
<td>1/31/2019</td>
<td>NICRA</td>
<td>$60,429</td>
</tr>
<tr>
<td>Texas Access to Justice</td>
<td>ProBAR Emergency &quot;Unmet Legal Needs&quot;</td>
<td>$150,000</td>
<td>$150,000</td>
<td>3/1/2018</td>
<td>1/31/2019</td>
<td>0.00%</td>
<td>$138,208</td>
</tr>
</tbody>
</table>

**Subtotal New Awards:**

| Estimated | $8,813,538 | Obligated | $8,006,196 | NICRA Cost | $6,146,306 | G & A | $906,977 | Domestic | $952,913 |
### ABA Fund for Justice and Education

#### New Awards / Modifications

**Period:** January 1 - March 31 2018

<table>
<thead>
<tr>
<th>Grantor</th>
<th>Project Title</th>
<th>Estimated</th>
<th>Obligated</th>
<th>Estimated</th>
<th>Obligated</th>
<th>Indirect</th>
<th>Direct</th>
<th>Direct Labor</th>
<th>G &amp; A</th>
<th>ROLI / Entity</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Amount</td>
<td>Amount</td>
<td>Period</td>
<td>End date</td>
<td>NICRA</td>
<td>Cost</td>
<td>Overhead Cost</td>
<td>NICRA</td>
<td>Domestic</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Total award modification: $971,396</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>NICRA</td>
<td>Cost</td>
<td>Overhead Cost</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Total estimated award: $2,424,777</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>NICRA</td>
<td>Cost</td>
<td>Overhead Cost</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Total awarded to date: $1,448,756</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>NICRA</td>
<td>Cost</td>
<td>Overhead Cost</td>
<td></td>
</tr>
<tr>
<td>U.S. Agency for International Development</td>
<td>Kazakhstan Judicial Independence Program</td>
<td>$1,260,000</td>
<td>$1,260,000</td>
<td>4/16/2012</td>
<td>9/30/2019</td>
<td>9/30/2019</td>
<td>NICRA</td>
<td>$940,447</td>
<td>$153,619</td>
<td>$165,934</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Total award modification: $1,260,000</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>NICRA</td>
<td>Cost</td>
<td>Overhead Cost</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Total estimated award: $4,050,000</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>NICRA</td>
<td>Cost</td>
<td>Overhead Cost</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Total awarded to date: $4,050,000</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>NICRA</td>
<td>Cost</td>
<td>Overhead Cost</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Total award modification: $848,734</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>NICRA</td>
<td>Cost</td>
<td>Overhead Cost</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Total estimated award: $2,475,987</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>NICRA</td>
<td>Cost</td>
<td>Overhead Cost</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Total awarded to date: $2,475,987</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>NICRA</td>
<td>Cost</td>
<td>Overhead Cost</td>
<td></td>
</tr>
<tr>
<td>U.S. Agency for International Development</td>
<td>Philippines Judicial Strengthening to Improve</td>
<td>$500,000</td>
<td>$500,000</td>
<td>10/1/2012</td>
<td>12/31/2018</td>
<td>12/31/2018</td>
<td>NICRA</td>
<td>$326,849</td>
<td>$78,296</td>
<td>$94,856</td>
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<tr>
<td></td>
<td></td>
<td>Total award modification: $500,000</td>
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<td></td>
<td></td>
<td></td>
<td>NICRA</td>
<td>Cost</td>
<td>Overhead Cost</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Total estimated award: $21,250,000</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>NICRA</td>
<td>Cost</td>
<td>Overhead Cost</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Total awarded to date: $21,250,000</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>NICRA</td>
<td>Cost</td>
<td>Overhead Cost</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Total award modification: $56,287</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>NICRA</td>
<td>Cost</td>
<td>Overhead Cost</td>
<td></td>
</tr>
<tr>
<td>Grantor</td>
<td>Project Title</td>
<td>Amount</td>
<td>Amount</td>
<td>Period</td>
<td>End date</td>
<td>NICRA Rate*</td>
<td>Cost</td>
<td>Overhead Cost</td>
<td>NICRA Cost</td>
<td>Domestic</td>
</tr>
<tr>
<td>---------</td>
<td>---------------</td>
<td>--------</td>
<td>--------</td>
<td>--------</td>
<td>----------</td>
<td>-------------</td>
<td>------</td>
<td>--------------</td>
<td>-----------</td>
<td>----------</td>
</tr>
<tr>
<td>Department of Health and Human Services / Vera Institute of Justice Inc</td>
<td>Vera ProBar CLIN3</td>
<td>$1,242,663</td>
<td>$1,242,663</td>
<td>9/30/2015</td>
<td>9/29/2018</td>
<td>NICRA</td>
<td>$1,107,692</td>
<td>$98,646</td>
<td>$36,325</td>
<td>Domestic</td>
</tr>
</tbody>
</table>

Total estimated award: $1,242,663
Total awarded to date: $1,242,663

Subtotal Modifications | $4,879,080 | $4,879,080 | $3,751,724 | $491,822 | $635,534 |

Grand Total Awards January 1 - March 31, 2018 | $13,692,618 | $12,885,276 | $9,898,030 | $1,398,799 | $1,588,447 |

Domestic Total | $3,601,630 | $3,601,630 | $3,153,072 | $243,053 | $205,505 |

Full NICRA | $3,066,630 | $3,066,630 | $2,657,754 | $207,479 | $201,397 |

Partial NICRA | $535,000 | $535,000 | $495,318 | $35,574 | $4,108 |

International (ROLI) Total | $10,090,988 | $9,283,646 | $6,744,958 | $1,155,746 | $1,382,942 |

Full NICRA | $10,090,988 | $9,283,646 | $6,744,958 | $1,155,746 | $1,382,942 |

Partial NICRA | $0 | $0 | $0 | $0 | $0 |

NICRA Variance From Full Rate | $33,208.36 | $33,208.36 | $33,208.36 | $33,208.36 | $33,208.36 |

*NICRA - Approved indirect cost rate in the Negotiated Indirect Cost Rate Agreement
** Received it after Jan1, 2018
MEMORANDUM

TO:      Board of Governors

FR:      Mary L. Smith, Secretary

RE:      Request for Adoption of Memorial Resolution for Former
         Board Member Wendell G. Large

DT:      June 4, 2018

As you know, Wendell G. Large of Portland, Maine, passed away suddenly on April 7, 2018. He is survived by his wife, Soozie; his daughter, Nellie and her partner, Juan Garcia, and one grandson; his sister, Leslie-Ann Stevens, her husband, Mark, and four nieces.

Wendell served in the House of Delegates representing the Maine Bar Association from 2006-2014, on the Board of Governors from 2014-2017, and was recently elected as the Maine State Delegate for 2017-2020.

I request that the Board adopt the following memorial resolution for Wendell.

BE IT RESOLVED, THEREFORE, that the Board of Governors of the American Bar Association, meeting on the twenty-second day of June, 2018, in Denver, Colorado, recognizes the accomplishments, standards and achievements of Wendell G. Large and extends its deepest sympathy to his family.
MEMORANDUM

TO: Board of Governors

FR: Mary L. Smith, Secretary

RE: Request for Adoption of Memorial Resolution for Former President Wallace D. Riley

DT: June 4, 2018

As you know, former ABA President Wallace D. Riley passed away on May 17, 2018.

Mr. Riley served in the House of Delegates from 1972 to 1977, representing the State Bar of Michigan. He served as the ABA President from 1983-1984, and as a Former President, had life tenure in the House of Delegates.

I request that the Board adopt the following memorial resolution for Wallace.

BE IT RESOLVED, THEREFORE, that the Board of Governors of the American Bar Association, meeting on the twenty-second day of June, 2018, in Denver, Colorado, recognizes the accomplishments, standards and achievements of Wallace D. Riley and extends its deepest sympathy to his family.
Treasurer’s Report

The ABA’s FY2018 Finances Through April 30, 2018

American Bar Association Board of Governors
Denver, Colorado
June 2018

Michelle Behnke
Madison, Wisconsin
608.233.9024 mbehnke@behnkeassociates.com
In my report to the Board of Governors as Treasurer, I will cover two topics: the Consolidated FY2018 Operating and Non-Operating Results through April 30, 2018 and an update on the FY2019 budget process.

**Consolidated FY2018 Operating and Non-Operating Results through April 30, 2018**

On a consolidated basis, the ABA reports revenue under four segments: 1) General Operations; 2) Sections, Divisions and Forums; 3) Grants; and 4) Gifts. To view greater detail than summarized in the charts below, please refer to the last few pages of this report. Please note that some minor differences related to rounding may exist.

<table>
<thead>
<tr>
<th>By Segment ($ in millions)</th>
<th>FY18 - FYTD April 2018</th>
<th>FY17 - Apr 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Actual FYTD</td>
<td>Budget FYTD</td>
</tr>
<tr>
<td>General Operations</td>
<td>$ 61.3</td>
<td>$ 63.2</td>
</tr>
<tr>
<td>Sections</td>
<td>38.2</td>
<td>39.9</td>
</tr>
<tr>
<td>Grants</td>
<td>32.8</td>
<td>33.7</td>
</tr>
<tr>
<td>Gifts</td>
<td>2.1</td>
<td>1.6</td>
</tr>
<tr>
<td>Total</td>
<td>$134.5</td>
<td>$138.3</td>
</tr>
</tbody>
</table>

Consolidated operating revenue through April 30, 2018 was $134.5 million, which was $3.8 million below budget. Revenue budget variances are primarily due to unfavorability in General Operations of $1.9 million and Sections of $1.7 million. The main drivers of the General Operations revenue shortfalls to budget are Dues revenue of $1.4 million followed by Advertising revenue of $0.4 million. Unfavorability in Section revenue is driven by Meeting Fees ($1.3 million) and Gifts, Contributions and Sponsorships ($0.6 million), and is more than offset by favorable Section expenses.

For the full year, staff expects that General Operations’ revenue will be short of budget by roughly $4.0 million. The largest drivers of the variance are lower than budgeted dues revenue and meeting fees. As reported to the Finance Committee in April 2018, dues revenue is expected to be $2.0 million unfavorable to budget for FY2018. Of course, as the fiscal year progresses, we will have better information, but this is a starting point to determining the path for the FY2019 budget.

Consolidated operating revenue compared to prior year is $2.8 million unfavorable, mainly driven by General Operations revenue of $2.9 million. The decline in General Operations is
intentional because we have relied upon $4.0 million less in investment income in operations (better compliance with our reserve spending policy of 3.5%). Also, Dues revenue is $0.8 million less than the prior year, offset by some favorability in Gifts, Contributions and Sponsorships of $1.3 million.

Consolidated Operating Expense
By Segment ($ in millions)

<table>
<thead>
<tr>
<th>Segment</th>
<th>FY18 - FYTD April 2018</th>
<th>FY17 - Apr 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Actual FYTD</td>
<td>Budget FYTD</td>
</tr>
<tr>
<td>General Operations</td>
<td>$63.5</td>
<td>$62.1</td>
</tr>
<tr>
<td>Sections</td>
<td>37.5</td>
<td>43.0</td>
</tr>
<tr>
<td>Grants</td>
<td>35.2</td>
<td>33.5</td>
</tr>
<tr>
<td>Gifts</td>
<td>0.0</td>
<td>2.2</td>
</tr>
<tr>
<td>Total</td>
<td>$136.3</td>
<td>$140.9</td>
</tr>
</tbody>
</table>

Through the same period, consolidated operating expense of $136.3 million was $4.6 million favorable to (under) budget, and $1.4 million favorable to (lower than) the prior year.

Favorable expense budget variances are driven by Sections ($5.5 million) and Gifts ($2.2 million). Section expenses are favorable $5.5 million, driven by nearly all reporting line items, notably, Meetings & Travel expense ($3.9 million), Publishing ($1.5 million), and Personnel Costs ($1.5 million). This favorability is partially offset by the $2.0 million transfer from the Section of Taxation. Gifts favorability reflects a $2.0 million transfer from the Section of Taxation to its quasi-endowment, as well as domestic fixed fee grants proceeds that were transferred to program support funds.

Partially offsetting the expense favorability in Sections and Gifts are higher than expected expenses in Grants of $1.7 million, and General Operations of $1.4 million. Grants unfavorability of $1.7 million reflects the domestic fixed fee grants proceeds that were moved to the Gifts segment in FY2018, as mentioned above. General Operations unfavorability is mainly driven by Professional Services ($1.5 million – primarily legal fees/settlements and contract services).

Consolidated operating expenses are $1.4 million favorable to prior year. Favorability in Gifts ($1.4 million) and General Operations ($1.4 million) is partially offset by unfavorability in Grants ($1.4 million). Gifts are favorable $1.4 million, reflecting the $2.0 million transfer from the Section of Taxation to its quasi-endowment. General Operations expense is favorable to prior year by $1.4 million because of the Section personnel move from General Operations to Sections, partially offset by the Section funding (transfers).
Consolidated Revenue over/(under) Expenses
By Segment ($ in millions)

<table>
<thead>
<tr>
<th></th>
<th>FY18 - FYTD April 2018</th>
<th>FY17 - Apr 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Actual FYTD</td>
<td>Budget FYTD</td>
</tr>
<tr>
<td>General Operations</td>
<td>$ (2.2)</td>
<td>$ 1.1</td>
</tr>
<tr>
<td>Sections</td>
<td>0.7</td>
<td>(3.1)</td>
</tr>
<tr>
<td>Grants</td>
<td>(2.4)</td>
<td>0.1</td>
</tr>
<tr>
<td>Gifts</td>
<td>2.1</td>
<td>(0.7)</td>
</tr>
<tr>
<td>Total</td>
<td>$ (1.8)</td>
<td>$ (2.6)</td>
</tr>
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</table>

Through April 30, 2018, on a consolidated basis, Net Operating Revenue is less than Expenses resulting in a $1.8 million deficit. This deficit by segment consists of a $2.4 million deficit from Grants and a $2.2 million deficit from General Operations, partially offset by a $2.1 million surplus in Gifts, and a $0.7 million surplus in Sections. This deficit is favorable to budget by $0.8 million and unfavorable to prior year by $1.4 million.

Effect of Recurring Operating Deficits

<table>
<thead>
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<th></th>
<th>Target Reserve</th>
<th>% of Investments</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Deficit</td>
<td>Funding</td>
</tr>
<tr>
<td>FY 2018 Est</td>
<td>$ (2.0)</td>
<td>3.5%</td>
</tr>
<tr>
<td>FY 2107 Act</td>
<td>(6.7)</td>
<td>5.5%</td>
</tr>
<tr>
<td>FY 2016 Act</td>
<td>(3.6)</td>
<td>5.5%</td>
</tr>
<tr>
<td>FY 2015 Act</td>
<td>(8.3)</td>
<td>5.5%</td>
</tr>
<tr>
<td>Four-year Avg.</td>
<td>$ (5.2)</td>
<td>5.0%</td>
</tr>
</tbody>
</table>

Total four-year deficit $ (20.6)

As you can see from the chart above, over this four-year period, our actual performance was a $20.6 million operating deficit, or an average annual deficit of $5.2 million (deficit numbers are shown in millions). These operating deficits require cash to pay our bills and therefore deplete our long-term investments. Because of this, recently, we were required to both borrow on our revolving credit facility and closely manage cash disbursements in April and May of this year. This has attributed to the difficult cost cutting decisions we have had to make in the FY19 budget. More on that later in my report.
Statement of Financial Position (Balance Sheet)

It is also important to understand the components of our Association’s balance sheet in conjunction with the income statement.

Consolidated Statements of Financial Position

$ in millions

<table>
<thead>
<tr>
<th></th>
<th>April 30 2018</th>
<th>April 30 2017</th>
<th>Prior Year Variance Fav/(Unfav)</th>
<th>August 31 2017</th>
<th>Prior Year Variance Fav/(Unfav)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Assets</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cash and Cash Equivalents</td>
<td>$0.4%</td>
<td>$5.6</td>
<td>$(5.2)</td>
<td>$15.5</td>
<td>$(15.0)</td>
</tr>
<tr>
<td>Accounts Receivable</td>
<td>17.0%</td>
<td>15.9</td>
<td>1.1</td>
<td>15.0</td>
<td>2.0</td>
</tr>
<tr>
<td>Inventory, Prepaid &amp; Other</td>
<td>4.9%</td>
<td>5.8</td>
<td>(0.9)</td>
<td>6.3</td>
<td>(1.4)</td>
</tr>
<tr>
<td>Investments:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ABA Operating Funds</td>
<td>176.1%</td>
<td>178.4</td>
<td>(2.4)</td>
<td>184.7</td>
<td>(8.6)</td>
</tr>
<tr>
<td>ABA Section Funds</td>
<td>98.3%</td>
<td>97.3</td>
<td>1.0</td>
<td>96.2</td>
<td>2.1</td>
</tr>
<tr>
<td>ABA Fund for FJE</td>
<td>17.8%</td>
<td>14.9</td>
<td>2.9</td>
<td>15.2</td>
<td>2.6</td>
</tr>
<tr>
<td>ABA Funds Held for Related Parties</td>
<td>0.3%</td>
<td>0.3</td>
<td>(0.0)</td>
<td>0.3</td>
<td>(0.0)</td>
</tr>
<tr>
<td>Investments Total</td>
<td>292.5%</td>
<td>290.9</td>
<td>1.6</td>
<td>296.4</td>
<td>(3.9)</td>
</tr>
<tr>
<td>Property and Equipment, Net</td>
<td>13.7%</td>
<td>11.7</td>
<td>2.0</td>
<td>11.6</td>
<td>2.1</td>
</tr>
<tr>
<td>Total Assets</td>
<td>$328.5%</td>
<td>$330.0</td>
<td>$(1.4)</td>
<td>$344.8</td>
<td>$(16.2)</td>
</tr>
<tr>
<td>Liabilities</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Payables and Other Debt</td>
<td>$25.8%</td>
<td>$20.8</td>
<td>(5.0)</td>
<td>$19.9</td>
<td>(5.9)</td>
</tr>
<tr>
<td>Deferred Revenue and Deferred Rent At</td>
<td>60.3%</td>
<td>59.9</td>
<td>(0.4)</td>
<td>78.0</td>
<td>17.6</td>
</tr>
<tr>
<td>Loan to Fund Pension Plan</td>
<td>40.0%</td>
<td>28.0</td>
<td>(12.0)</td>
<td>26.0</td>
<td>(14.0)</td>
</tr>
<tr>
<td>Pension Liability</td>
<td>31.1%</td>
<td>59.1</td>
<td>28.0</td>
<td>48.8</td>
<td>17.7</td>
</tr>
<tr>
<td>Total Liabilities</td>
<td>$157.2%</td>
<td>$167.9</td>
<td>10.7</td>
<td>$172.7</td>
<td>15.4</td>
</tr>
<tr>
<td>Net Assets</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unrestricted</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ABA General Operations/FJE Funds</td>
<td>$47.0%</td>
<td>$43.7</td>
<td>3.3</td>
<td>$53.6</td>
<td>(6.5)</td>
</tr>
<tr>
<td>ABA Section Funds</td>
<td>111.3%</td>
<td>106.1</td>
<td>5.2</td>
<td>106.0</td>
<td>5.3</td>
</tr>
<tr>
<td>Total Unrestricted</td>
<td>158.4%</td>
<td>149.9</td>
<td>8.5</td>
<td>159.6</td>
<td>(1.2)</td>
</tr>
<tr>
<td>Total Temporarily Restricted - FJE</td>
<td>5.4%</td>
<td>4.8</td>
<td>0.5</td>
<td>5.2</td>
<td>0.2</td>
</tr>
<tr>
<td>Total Permanently Restricted - FJE</td>
<td>7.6%</td>
<td>7.4</td>
<td>0.3</td>
<td>7.4</td>
<td>0.2</td>
</tr>
<tr>
<td>Total Net Assets</td>
<td>$171.3%</td>
<td>$162.1</td>
<td>9.2</td>
<td>$172.1</td>
<td>(0.8)</td>
</tr>
<tr>
<td>Total Liabilities and Net Assets</td>
<td>$328.5%</td>
<td>$330.0</td>
<td>(1.4)</td>
<td>$344.8</td>
<td>(16.2)</td>
</tr>
</tbody>
</table>

While we have assets of $328.5 million, we have significant liabilities totaling $157.2 million, leaving us with total net assets of $171.3 million.
Our net assets represent approximately ten months of consolidated annual expenses. Of the $171.3 million total net assets, $111.3 million are Section unrestricted net assets; with the balance of $47.0 million in General Operations and FJE net assets ($13.0 million restricted and $47.0 million unrestricted).

**FY2019 budget challenges**

As has been discussed in recent years, declining dues trends are placing significant pressure on our budget.

![General Operations Dues Revenue Trend](chart)

The lower dues revenue coupled with inflationary costs increases require that we obtain $6 million of cost reductions in the FY 2019 Budget. The staff reorganization achieved the bulk of that savings.

Our annual budgetary challenges will continue until we can grow our dues. As such, it is essential that we take the necessary actions to reverse the dues revenue decline. Our membership team has is diligently working to develop a new membership model, one that we believe more lawyers will find compelling. Changing our membership model will be costly and as such will keep pressure on the operating budget in the near term (FY20 and beyond) until we can reverse the trend.

The preliminary FY 2019 budget will be presented at this meeting in Denver. This budget will reflect the reorganization savings as well as other difficult, but necessary, cost reductions. The unfortunate reality is that we do not have the resources to do all the activities we have in the past. Our Association must prioritize our activities and focus our resources in the most vital areas to insure our future success.

It is my pleasure to serve as your Treasurer. Thank you.

Michelle Behnke
**Consolidated Summary**
*FY 2018 - April 2018 FYTD*

$ in millions

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Revenue</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>General Operations</td>
<td>$61.3</td>
<td>$63.2</td>
<td>$(1.9)</td>
<td>$64.2</td>
<td>$(2.9)</td>
</tr>
<tr>
<td>Section</td>
<td>38.2</td>
<td>39.9</td>
<td>(1.7)</td>
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<td>(0.0)</td>
</tr>
<tr>
<td>Grants</td>
<td>32.8</td>
<td>33.7</td>
<td>(0.8)</td>
<td>33.4</td>
<td>(0.6)</td>
</tr>
<tr>
<td>Gifts</td>
<td>2.1</td>
<td>1.6</td>
<td>0.6</td>
<td>1.4</td>
<td>0.7</td>
</tr>
<tr>
<td><strong>Total Revenue</strong></td>
<td>134.5</td>
<td>138.3</td>
<td>(3.8)</td>
<td>137.2</td>
<td>(2.8)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Expense</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>General Operations</td>
<td>63.5</td>
<td>62.1</td>
<td>(1.4)</td>
<td>64.9</td>
<td>1.4</td>
</tr>
<tr>
<td>Section</td>
<td>37.5</td>
<td>43.0</td>
<td>5.5</td>
<td>37.6</td>
<td>0.1</td>
</tr>
<tr>
<td>Grants</td>
<td>35.2</td>
<td>33.5</td>
<td>(1.7)</td>
<td>33.7</td>
<td>(1.4)</td>
</tr>
<tr>
<td>Gifts</td>
<td>0.0</td>
<td>2.2</td>
<td>2.2</td>
<td>1.4</td>
<td>1.4</td>
</tr>
<tr>
<td><strong>Total Expense</strong></td>
<td>136.3</td>
<td>140.9</td>
<td>4.6</td>
<td>137.6</td>
<td>1.4</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Revenues over / (under) Expenses</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>General Operations</td>
<td>(2.2)</td>
<td>1.1</td>
<td>(3.2)</td>
<td>(0.7)</td>
<td>(1.5)</td>
</tr>
<tr>
<td>Section</td>
<td>0.7</td>
<td>(3.1)</td>
<td>3.8</td>
<td>0.6</td>
<td>0.1</td>
</tr>
<tr>
<td>Grants</td>
<td>(2.4)</td>
<td>0.1</td>
<td>(2.5)</td>
<td>(0.4)</td>
<td>(2.0)</td>
</tr>
<tr>
<td>Gifts</td>
<td>2.1</td>
<td>(0.7)</td>
<td>2.8</td>
<td>0.0</td>
<td>2.1</td>
</tr>
<tr>
<td><strong>Total Revenues over / (under) Expenses</strong></td>
<td>$ (1.8)</td>
<td>$ (2.6)</td>
<td>$0.8</td>
<td>$ (0.4)</td>
<td>$ (1.4)</td>
</tr>
</tbody>
</table>
## American Bar Association

### Consolidated Statements of Activities and Changes in Net Assets - Comparison to Budget and Prior Year

**Period Ending April 30, 2018**

(US $000's)

<table>
<thead>
<tr>
<th>Year-to-Date</th>
<th>Full Year</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Revenue</strong></td>
<td><strong>Expense</strong></td>
</tr>
<tr>
<td><strong>Compensation</strong></td>
<td>$48,848</td>
</tr>
<tr>
<td>Fringe Benefits and Payroll Taxes</td>
<td>15,303</td>
</tr>
<tr>
<td>Professional Services</td>
<td>21,285</td>
</tr>
<tr>
<td>Meetings and Travel</td>
<td>25,285</td>
</tr>
<tr>
<td>Advertising and Marketing</td>
<td>1,669</td>
</tr>
<tr>
<td>Publishing</td>
<td>5,277</td>
</tr>
<tr>
<td>Facilities</td>
<td>14,938</td>
</tr>
<tr>
<td>Transfers</td>
<td>0</td>
</tr>
<tr>
<td>Other Expenses</td>
<td>3,648</td>
</tr>
<tr>
<td><strong>Total Revenue</strong></td>
<td>$134,469</td>
</tr>
<tr>
<td><strong>Net Revenue over/(under) Expenses</strong></td>
<td>$(1,785)</td>
</tr>
</tbody>
</table>

| **Non-Operating** | **Non-Operating** |
| **Net Change in Pension Liability other than Periodic Cost** | -0.0% | -0.0% | -0.0% | -0.0% |
| **Investment Income** | 7,322 | 5.3% | 326 | 0.2% |
| **Reserve Transfers** | (9,98) | -0.7% | 0 | 0.0% |
| **Other Non-operating** | (5,639) | -4.2% | (3) | 0.0% |
| **Net change in Unrestricted Net Assets** | $(1,214) | -0.9% | $(2,252) | -1.6% |
| **Net change in Temporarily Restricted Net Assets** | 203 | 0.2% | 431 | 0.3% |
| **Net change in Permanently Restricted Net Assets** | 216 | 0.2% | 54 | 0.0% |
| **Net change in Total Net Assets** | $(791) | -0.6% | $(1,777) | -1.3% |

---

**Notes:**

- Revenue includes membership dues, gifts, contributions, sponsorships, publications, royalties, and more.
- Expenses include compensation, fringe benefits, meetings and travel, advertising and marketing, publishing, facilities, transfers, and other expenses.
- Net revenue over/(under) expenses reflects the difference between revenue and expenses.
- Non-operating includes changes in pension liability, investment income, reserve transfers, and other non-operating items.
- Net change in unrestricted net assets reflects changes in net assets that are not restricted.

---

**Estimates and Disclosures:**

- The fiscal year for the American Bar Association ends on April 30th.
- The organization operates various departments and programs, each with its own budget and performance metrics.
## General Operations Statements of Activities and Changes in Net Assets - Comparison to Budget and Prior Year

**Period Ending April 30, 2018**

**(US $000's)**

### Year-to-Date

<table>
<thead>
<tr>
<th>Description</th>
<th>Actual FY 2018</th>
<th>% of Revenue</th>
<th>Budget FY 2018</th>
<th>% of Revenue</th>
<th>w. Budget Var/Fav</th>
<th>% of Budget</th>
<th>Actual FY 2017</th>
<th>% of Revenue</th>
<th>w. FY 2017 Var/Fav</th>
<th>% of Budget</th>
<th>Budget FY 2018 Full</th>
<th>% of Prior</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total Revenue</strong></td>
<td>$61,329</td>
<td>100.0%</td>
<td>$63,195</td>
<td>100.0%</td>
<td>(1,866)</td>
<td>-3.0%</td>
<td>$64,217</td>
<td>100.0%</td>
<td>(2,888)</td>
<td>-4.5%</td>
<td>$96,126</td>
<td></td>
</tr>
</tbody>
</table>

### Operating

<table>
<thead>
<tr>
<th>Description</th>
<th>Actual FY 2018</th>
<th>% of Revenue</th>
<th>Budget FY 2018</th>
<th>% of Revenue</th>
<th>w. Budget Var/Fav</th>
<th>% of Budget</th>
<th>Actual FY 2017</th>
<th>% of Revenue</th>
<th>w. FY 2017 Var/Fav</th>
<th>% of Budget</th>
<th>Budget FY 2018 Full</th>
<th>% of Prior</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total Expenses</strong></td>
<td>$63,512</td>
<td>103.6%</td>
<td>$62,137</td>
<td>98.3%</td>
<td>(1,376)</td>
<td>-2.2%</td>
<td>$64,867</td>
<td>101.0%</td>
<td>(1,355)</td>
<td>2.1%</td>
<td>$96,126</td>
<td>76.4%</td>
</tr>
</tbody>
</table>

### Net Revenues over/(under) Expenses

<table>
<thead>
<tr>
<th>Description</th>
<th>Actual FY 2018</th>
<th>% of Revenue</th>
<th>Budget FY 2018</th>
<th>% of Revenue</th>
<th>w. Budget Var/Fav</th>
<th>% of Budget</th>
<th>Actual FY 2017</th>
<th>% of Revenue</th>
<th>w. FY 2017 Var/Fav</th>
<th>% of Budget</th>
<th>Budget FY 2018 Full</th>
<th>% of Prior</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total Net Revenues</strong></td>
<td>$63,197</td>
<td>100.0%</td>
<td>$63,195</td>
<td>100.0%</td>
<td>(1,866)</td>
<td>-3.0%</td>
<td>$64,217</td>
<td>100.0%</td>
<td>(2,888)</td>
<td>-4.5%</td>
<td>$96,126</td>
<td></td>
</tr>
</tbody>
</table>

### Net Change in Pension Liability other than Periodic Cost

<table>
<thead>
<tr>
<th>Description</th>
<th>Actual FY 2018</th>
<th>% of Revenue</th>
<th>Budget FY 2018</th>
<th>% of Revenue</th>
<th>w. Budget Var/Fav</th>
<th>% of Budget</th>
<th>Actual FY 2017</th>
<th>% of Revenue</th>
<th>w. FY 2017 Var/Fav</th>
<th>% of Budget</th>
<th>Budget FY 2018 Full</th>
<th>% of Prior</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total Net Change</strong></td>
<td>$6,412</td>
<td>10.5%</td>
<td>$6,412</td>
<td>10.5%</td>
<td>(7,085)</td>
<td>-11.2%</td>
<td>$6,412</td>
<td>10.5%</td>
<td>(7,085)</td>
<td>-11.2%</td>
<td>$6,412</td>
<td></td>
</tr>
</tbody>
</table>
### American Bar Association

**Section Statements of Activities and Changes in Net Assets - Comparison to Budget and Prior Year**

**Period Ending April 30, 2018**

(US $000's)

<table>
<thead>
<tr>
<th>Description</th>
<th>Actual FY 2018</th>
<th>% of Revenue</th>
<th>Budget FY 2018</th>
<th>% of Revenue</th>
<th>vs. Budget</th>
<th>% of Budget</th>
<th>Actual FY 2017</th>
<th>% of Revenue</th>
<th>vs. FY 2017</th>
<th>% of Budget</th>
<th>Actual FY 2018</th>
<th>% of Revenue</th>
<th>FY 2017</th>
<th>% of Revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Revenues</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Membership Dues</td>
<td>$7,472</td>
<td>19.6%</td>
<td>$7,708</td>
<td>19.3%</td>
<td>$237</td>
<td>-3.1%</td>
<td>$7,800</td>
<td>20.4%</td>
<td>$328</td>
<td>-4.2%</td>
<td>$11,657</td>
<td>11,900</td>
<td>(243)</td>
<td></td>
</tr>
<tr>
<td>Meeting Fees</td>
<td>16,793</td>
<td>43.9%</td>
<td>18,050</td>
<td>45.2%</td>
<td>(1,257)</td>
<td>-7.0%</td>
<td>16,584</td>
<td>43.4%</td>
<td>210</td>
<td>1.3%</td>
<td>21,794</td>
<td>20,410</td>
<td>1,384</td>
<td></td>
</tr>
<tr>
<td>Advertising</td>
<td>444</td>
<td>1.2%</td>
<td>628</td>
<td>1.6%</td>
<td>(184)</td>
<td>-29.4%</td>
<td>416</td>
<td>1.1%</td>
<td>27</td>
<td>6.5%</td>
<td>808</td>
<td>654</td>
<td>154</td>
<td></td>
</tr>
<tr>
<td>Gifts, Contributions, and Sponsorships</td>
<td>4,718</td>
<td>12.3%</td>
<td>5,305</td>
<td>13.3%</td>
<td>(588)</td>
<td>-11.1%</td>
<td>5,207</td>
<td>13.6%</td>
<td>(400)</td>
<td>-9.4%</td>
<td>7,228</td>
<td>7,189</td>
<td>39</td>
<td></td>
</tr>
<tr>
<td>Grants</td>
<td>-</td>
<td>0.0%</td>
<td>-</td>
<td>0.0%</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>Publications</td>
<td>3,418</td>
<td>8.9%</td>
<td>3,497</td>
<td>8.8%</td>
<td>(79)</td>
<td>-2.2%</td>
<td>3,253</td>
<td>8.5%</td>
<td>166</td>
<td>5.3%</td>
<td>5,216</td>
<td>5,368</td>
<td>(152)</td>
<td></td>
</tr>
<tr>
<td>Royalties</td>
<td>1,473</td>
<td>3.9%</td>
<td>734</td>
<td>1.8%</td>
<td>735</td>
<td>100.0%</td>
<td>1,225</td>
<td>3.2%</td>
<td>247</td>
<td>20.2%</td>
<td>1,175</td>
<td>1,927</td>
<td>(752)</td>
<td></td>
</tr>
<tr>
<td>Accommodation Fees</td>
<td>3,071</td>
<td>8.0%</td>
<td>2,928</td>
<td>7.2%</td>
<td>143</td>
<td>4.9%</td>
<td>3,013</td>
<td>7.9%</td>
<td>58</td>
<td>1.5%</td>
<td>4,204</td>
<td>4,503</td>
<td>(299)</td>
<td></td>
</tr>
<tr>
<td>Miscellaneous Other</td>
<td>(36)</td>
<td>-0.1%</td>
<td>(31)</td>
<td>0.0%</td>
<td>(5)</td>
<td>-1.6%</td>
<td>(31)</td>
<td>0.0%</td>
<td>(5)</td>
<td>-1.6%</td>
<td>(59)</td>
<td>(79)</td>
<td>169</td>
<td></td>
</tr>
<tr>
<td>Investment income from Operations</td>
<td>8.9</td>
<td>0.2%</td>
<td>1,065</td>
<td>2.6%</td>
<td>(198)</td>
<td>-18.0%</td>
<td>870</td>
<td>2.3%</td>
<td>(10)</td>
<td>-1.2%</td>
<td>1,359</td>
<td>1,233</td>
<td>366</td>
<td></td>
</tr>
<tr>
<td>Designated Reserve for Operations</td>
<td>-</td>
<td>0.0%</td>
<td>-</td>
<td>0.0%</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>Net Assets Released from Restrictions</td>
<td>-</td>
<td>0.0%</td>
<td>-</td>
<td>0.0%</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td></td>
</tr>
</tbody>
</table>

**Total Revenues** | $38,211 | 100.0% | $39,898 | 100.0% | (1,686) | -4.2% | 38,212 | 100.0% | (9) | 0.0% | 53,612 | 53,006 | 606 |

| **Expenses** |               |              |                |              |            |             |                |              |             |             |               |              |           |              |
| Compensation | $9,325 | 24.4% | $10,452 | 26.2% | 1,126 | 10.8% | 5,895 | 15.4% | (3,155) | -58.3% | 15,855 | 8,858 | (6,997) |
| Fringe Benefits and Payroll Taxes | 2,837 | 7.4% | 3,228 | 8.3% | 388 | 12.0% | 2,039 | 5.3% | (768) | -39.2% | 4,803 | 3,070 | (1,733) |
| Professional Services | 2,992 | 7.8% | 2,840 | 7.1% | (152) | -5.4% | 2,765 | 7.2% | (277) | -9.9% | 4,256 | 4,499 | (243) |
| Meetings and Travel | 15,998 | 41.8% | 19,827 | 49.7% | 3,835 | 19.5% | 17,369 | 45.5% | 1,402 | 8.1% | 25,463 | 24,530 | (934) |
| Advertising and Marketing | 204 | 0.5% | 360 | 0.9% | 156 | 43.4% | 300 | 0.8% | 96 | 32.0% | 503 | 425 | (77) |
| Publishing | 2,874 | 7.5% | 4,396 | 11.0% | 1,522 | 34.6% | 3,255 | 8.8% | 48 | 14.3% | 6,058 | 5,315 | (722) |
| Facilities | 3,596 | 9.4% | 4,240 | 10.6% | 2,644 | 15.2% | 2,914 | 7.6% | (682) | -23.4% | 5,893 | 4,457 | (1,436) |
| Transfers (1,383) | -100% | (6,517) | -66.3% | (2,600) | 0.0% | (681) | -18.3% | 3,156 | -463.4% | (9,049) | (2,111) | 7,838 |
| Other Expenses | 3,564 | 9.3% | 4,151 | 10.4% | 357 | 8.6% | 3,656 | 9.6% | 92 | 2.9% | 5,964 | 5,980 | (16) |

**Total Expenses** | $37,514 | 98.2% | $42,984 | 107.7% | $5,470 | 12.7% | $37,607 | 98.4% | $93 | 0.2% | $59,816 | 55,923 | (3,893) |

| **Net Revenues (under)** Expenses | $698 | 1.8% | $(3,086) | -7.7% | $3,784 | 122.6% | $605 | 1.6% | $93 | 15.4% | $(6,204) | $(2,917) | (3,287) |

| Non-Operating |               |              |                |              |            |             |                |              |             |             |               |              |           |              |
| Net Change in Pension Liability other than Periodic Cost | - | 0.0% | - | 0.0% | - | - | 0.0% | - | 0.0% | - | - | - | - |
| Investment Income | 4,600 | 12.0% | 327 | 0.8% | 4,273 | 100.0% | 6,257 | 16.4% | (1,657) | -26.5% | 541 | 9657 | (9,106) |
| Reserve Transfers | - | 0.0% | - | 0.0% | - | - | 0.0% | - | 0.0% | - | - | - | - |
| Other Non-operating | - | 0.0% | - | 0.0% | - | - | 0.0% | - | 0.0% | - | - | - | - |

**Net change in Unrestricted Net Assets** | $5,298 | 13.9% | $(2,762) | -6.9% | $8,068 | 291.8% | $6,861 | 18.0% | $(1,564) | -22.8% | (5,668) | 6,728 | (12,397) |

| Net Change in Temporarily Restricted Net Assets | - | 0.0% | - | 0.0% | - | - | 0.0% | - | 0.0% | - | - | - | - |
| Net Change in Permanently Restricted Net Assets | - | 0.0% | - | 0.0% | - | - | 0.0% | - | 0.0% | - | - | - | - |

**Net Change in Total Net Assets** | $5,298 | 13.9% | $(2,762) | -6.9% | $8,068 | 291.8% | $6,861 | 18.0% | $(1,564) | -22.8% | (5,668) | 6,728 | (12,397) |
### American Bar Association

**Total Grants Statements of Activities and Changes in Net Assets - Comparison to Budget and Prior Year**

**Period Ending April 30, 2018**

(US $000's)

<table>
<thead>
<tr>
<th>Description</th>
<th>Year-to-Date</th>
<th>Full Year</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Reserves</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Membership Dues</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Advertising</td>
<td>- 0.0%</td>
<td>- 0.0%</td>
</tr>
<tr>
<td>Gifts, Contributions, and Sponsorships</td>
<td>- 0.0%</td>
<td>- 0.0%</td>
</tr>
<tr>
<td>Grants</td>
<td>32,800</td>
<td>33,651</td>
</tr>
<tr>
<td>Publications</td>
<td>0.0%</td>
<td>0.0%</td>
</tr>
<tr>
<td>Royalties</td>
<td>- 0.0%</td>
<td>- 0.0%</td>
</tr>
<tr>
<td>Accreditation Fees</td>
<td>- 0.0%</td>
<td>- 0.0%</td>
</tr>
<tr>
<td>Miscellaneous Other</td>
<td>350</td>
<td>0.0%</td>
</tr>
<tr>
<td>Designated Reserve for Operations</td>
<td>- 0.0%</td>
<td>- 0.0%</td>
</tr>
<tr>
<td>Reserve Transfers</td>
<td>- 0.0%</td>
<td>- 0.0%</td>
</tr>
<tr>
<td>Net change in Unrestricted Net Assets</td>
<td>(2,386) -7.3%</td>
<td>(2,515)</td>
</tr>
<tr>
<td>Net Change in Temporarily Restricted Net Assets</td>
<td>- 0.0%</td>
<td>- 0.0%</td>
</tr>
<tr>
<td>Net Change in Permanently Restricted Net Assets</td>
<td>- 0.0%</td>
<td>- 0.0%</td>
</tr>
<tr>
<td>Net Change in Total Net Assets</td>
<td>(2,386) -7.3%</td>
<td>(2,515)</td>
</tr>
</tbody>
</table>

| **Operating Expenses**                    |              |           |
| Compensation                              | 9,108        | 10,487    |
| Fringe Benefits and Payroll Taxes         | 2,969        | 3,207     |
| Professional Services                     | 13,603       | 13,317    |
| Meetings and Travel                       | 4,843        | 3,742     |
| Advertising and Marketing                 | 22           | 19        |
| Publishing                                | 34           | 66        |
| Facilities                                | 2,428        | 2,236     |
| Transfers                                 | 414          | (1,200)   |
| Other Expenses                            | 1,781        | 1,669     |
| Total Expenses                            | 35,195       | 33,522    |

| **Net Revenues over/(under) Expenses**    |              |           |
|                                          | (2,386) -7.3%| (2,515)   |

| **Non-Operating Expenses**                |              |           |
|                                          | (2,386) -7.3%| (2,515)   |

| **Net Change in Pension Liability other than Periodic Cost** | - 0.0% | - 0.0% |
| **Investment Income**                         | - 0.0% | - 0.0% |
| **Reserve Transfers**                        | - 0.0% | - 0.0% |
| **Other Non-operating**                      | - 0.0% | - 0.0% |
| **Net change in Unrestricted Net Assets**    | (2,386) -7.3%| (2,515)   |
| **Net Change in Temporarily Restricted Net Assets** | - 0.0% | - 0.0% |
| **Net Change in Permanently Restricted Net Assets** | - 0.0% | - 0.0% |
| **Net Change in Total Net Assets**           | (2,386) -7.3%| (2,515)   |
# American Bar Association

Gifts, Contributions, Support Funds, and Endowments Statements of Activities and Changes in Net Assets - Comparison to Budget and Prior Year

Period Ending April 30, 2018

(US $000's)

<table>
<thead>
<tr>
<th>Description</th>
<th>Actual FY 2018</th>
<th>2018 % of Revenue</th>
<th>Budget FY 2018</th>
<th>% of Revenue</th>
<th>Fan(Unfan)</th>
<th>% vs. Budget</th>
<th>Actual FY vs. FY 2017</th>
<th>% of Revenue</th>
<th>Fan(Unfan)</th>
<th>% of Prior</th>
<th>Budget FY 2017 Year vs. FY 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Revenues</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Membership Dues</td>
<td>$ -</td>
<td>0.0%</td>
<td>$ -</td>
<td>0.0%</td>
<td>$ -</td>
<td>0.0%</td>
<td>$ -</td>
<td>0.0%</td>
<td>$ -</td>
<td>0.0%</td>
<td>$ -</td>
</tr>
<tr>
<td>Meeting Fees</td>
<td>82</td>
<td>3.9%</td>
<td>79</td>
<td>5.1%</td>
<td>3</td>
<td>4.3%</td>
<td>$ 219</td>
<td>15.4%</td>
<td>(137)</td>
<td>-62.7%</td>
<td>$ 615</td>
</tr>
<tr>
<td>Advertising</td>
<td>-</td>
<td>0.0%</td>
<td>-</td>
<td>0.0%</td>
<td>-</td>
<td>0.0%</td>
<td>-</td>
<td>0.0%</td>
<td>-</td>
<td>0.0%</td>
<td>-</td>
</tr>
<tr>
<td>Gifts, Contributions, and Sponsorships</td>
<td>45</td>
<td>2.1%</td>
<td>227</td>
<td>14.6%</td>
<td>(382)</td>
<td>-80.1%</td>
<td>$ 96</td>
<td>6.8%</td>
<td>(51)</td>
<td>-53.0%</td>
<td>$ 296</td>
</tr>
<tr>
<td>Grants</td>
<td>-</td>
<td>0.0%</td>
<td>-</td>
<td>0.0%</td>
<td>-</td>
<td>0.0%</td>
<td>-</td>
<td>0.0%</td>
<td>-</td>
<td>0.0%</td>
<td>-</td>
</tr>
<tr>
<td>Publications</td>
<td>60</td>
<td>2.8%</td>
<td>89</td>
<td>5.7%</td>
<td>(29)</td>
<td>-33.7%</td>
<td>$ 95</td>
<td>6.7%</td>
<td>(35)</td>
<td>-37.2%</td>
<td>$ 111</td>
</tr>
<tr>
<td>Royalties</td>
<td>4</td>
<td>0.2%</td>
<td>-</td>
<td>0.0%</td>
<td>4</td>
<td>0.0%</td>
<td>5</td>
<td>0.3%</td>
<td>(1)</td>
<td>-22.6%</td>
<td>-</td>
</tr>
<tr>
<td>Accreditation Fees</td>
<td>-</td>
<td>0.0%</td>
<td>-</td>
<td>0.0%</td>
<td>-</td>
<td>0.0%</td>
<td>-</td>
<td>0.0%</td>
<td>-</td>
<td>0.0%</td>
<td>-</td>
</tr>
<tr>
<td>Miscellaneous Other</td>
<td>57</td>
<td>2.7%</td>
<td>38</td>
<td>1.2%</td>
<td>39</td>
<td>0.0%</td>
<td>31</td>
<td>2.2%</td>
<td>26</td>
<td>83.2%</td>
<td>-</td>
</tr>
<tr>
<td>Investment income from Operations</td>
<td>-</td>
<td>0.0%</td>
<td>-</td>
<td>0.0%</td>
<td>-</td>
<td>0.0%</td>
<td>0</td>
<td>0.0%</td>
<td>(8)</td>
<td>-100.0%</td>
<td>-</td>
</tr>
<tr>
<td>Designated Reserve for Operations</td>
<td>-</td>
<td>0.0%</td>
<td>-</td>
<td>0.0%</td>
<td>-</td>
<td>0.0%</td>
<td>-</td>
<td>0.0%</td>
<td>-</td>
<td>0.0%</td>
<td>-</td>
</tr>
<tr>
<td>Net Assets Released from Restrictions</td>
<td>1,872</td>
<td>88.3%</td>
<td>1,142</td>
<td>73.9%</td>
<td>730</td>
<td>48.6%</td>
<td>730</td>
<td>48.6%</td>
<td>296</td>
<td>158</td>
<td>139</td>
</tr>
<tr>
<td><strong>Total Revenues</strong></td>
<td>$ 2,119</td>
<td>100.0%</td>
<td>$ 1,554</td>
<td>100.0%</td>
<td>$ 565</td>
<td>36.4%</td>
<td>$ 1,423</td>
<td>100.0%</td>
<td>$ 697</td>
<td>49.0%</td>
<td>$ 3,076</td>
</tr>
</tbody>
</table>

| **Expenses** | | | | | | | | | | | | |
| Compensation | $ 589 | 27.8% | $ 567 | 36.9% | (22) | -3.9% | $ 467 | 32.9% | (122) | -26.3% | $ 861 | 642 | (238) |
| Fringe Benefits and Payroll Taxes | 170 | 8.0% | 180 | 11.6% | 9 | 5.2% | 156 | 11.0% | (14) | -9.1% | 273 | 223 | (50) |
| Professional Services | 738 | 35.8% | 422 | 27.2% | (316) | -79.6% | 163 | 11.5% | (95) | -56.0% | 1,005 | 785 | (220) |
| Meetings and Travel | 699 | 33.0% | 577 | 37.7% | (122) | -21.2% | 342 | 24.0% | (136) | -40.9% | 1,406 | 1,046 | (360) |
| Advertising and Marketing | 2 | 0.1% | 7 | 0.4% | 5 | 68.3% | 1 | 0.5% | (1) | -85.0% | 10 | 2 | 54 |
| Publishing | 83 | 3.9% | 100 | 6.4% | 17 | 17.2% | 37 | 2.6% | (44) | -124.5% | 207 | 196 | (11) |
| Facilities | 114 | 5.4% | 167 | 10.8% | 54 | 32.0% | 215 | 15.0% | 101 | -47.0% | 261 | 293 | 33 |
| Transfers | (1,031) | -143.0% | 80 | 3.8% | 3,099 | 587.2% | (486) | -34.2% | 2,545 | -523.3% | (224) | (584) | (684) |
| Other Expenses | 648 | 30.6% | 161 | 10.4% | (487) | -302.6% | 505 | 35.5% | (143) | -28.3% | 596 | 737 | 142 |
| **Total Expenses** | $ 3,221 | 15.5% | $ 2,241 | 144.2% | $ 2,208 | 98.6% | $ 1,401 | 98.5% | $ 1,369 | 97.7% | $ 4,404 | 3,069 | (1,335) |

| **Net Revenues over/(under) Expenses** | $ 2,087 | 95.8% | $ (687) | -44.2% | $ 2,774 | 403.9% | $ 21 | 1.5% | $ 2,065 | 9673.6% | $ (1,328) | 191 | (1,519) |

| **Non-Operating** | | | | | | | | | | | | |
| Net Change in Pension Liability other than Periodic Cost | $ - | 0.0% | - | 0.0% | - | 0.0% | - | 0.0% | - | 0.0% | - | - |
| Investment Income | 202 | 9.6% | (1) | -0.1% | 202 | 209.4% | 251 | 17.6% | (48) | -93.3% | - | - |
| Reserve Transfers | - | 0.0% | - | 0.0% | - | 0.0% | - | 0.0% | - | 0.0% | - | - |
| Other Non-operating | - | 0.0% | - | 0.0% | - | 0.0% | - | 0.0% | - | 0.0% | - | - |
| **Net change in Unrestricted Net Assets** | $ 2,289 | 108.0% | $ (688) | -44.3% | $ 2,977 | 432.9% | $ 272 | 19.1% | $ 2,017 | 740.7% | $ (1,329) | 368 | (1,997) |
| Net Change in Temporarily Restricted Net Assets | $ 203 | 9.6% | $ 428 | 27.5% | (224) | -52.4% | $ 894 | 62.8% | (698) | -77.2% | $ 500 | 1,193 | (693) |
| Net Change in Permanently Restricted Net Assets | $ 216 | 10.2% | 54 | 3.5% | 162 | 300.4% | 140 | 9.9% | 76 | 54.2% | $ 56 | 176 | 120 |
| **Net Change in Total Net Assets** | $ 2,709 | 127.8% | $ (296) | -13.3% | $ 2,915 | 1414.8% | $ 1,306 | 91.8% | $ 1,403 | 107.4% | $ (772) | 1,737 | (2,599) |
REPORT OF THE EXECUTIVE DIRECTOR
TO THE
BOARD OF GOVERNORS

(Submitted June 1, 2018)

Introduction

Effective communications are critical to everything the American Bar Association does. We must engage successfully with our members, the media, and the public if we are to thrive as a relevant and dominant voice for America’s lawyers in the decades to come, and if we are to grow as an organization.

As part of the recent staff reorganization, we have made significant changes in our communications strategy. Now called Media Relations and Strategic Communications (“MR,” formerly Communications and Media Relations, or “CMR”), our team has a new focus to proactively promote the ABA and its mission and accomplishments.

The MR changes involve several areas:

Strategic Messaging. MR will work more closely with the Office of the President, Membership, the Governmental Affairs Office, and other entities to develop consistent messaging about the ABA, our brand, and our mission. MR will also work to ensure this messaging more closely guides presidential appearances, media interviews, and other media outreach, including editorial boards and other opportunities with the media.

Rapid Media/Public Response. To stay relevant, the ABA must be responsive to the media, particularly on stories involving the ABA. MR will identify areas where the ABA should weigh in publicly and will develop responses that should be delivered in a timely matter. MR will also continue to produce talking points and conduct practice interviews and media training with leaders to ensure they are well-prepared.

Proactive Media and Public Outreach. To better control the ABA’s message, MR will regularly identify topics and messages that speak to the ABA’s mission and pitch them to the media through interviews, editorial boards, op-ed campaigns, social media campaigns, and other opportunities.

Social Media and New Media. Twitter has been widely adopted across the Association, and there are other social media and multimedia opportunities that hold promise for the ABA and
our entities. These include podcasting, audio embeds in newsletters, Facebook Live presentations, blogging, Instagram, and Snapchat. MR will incorporate such state-of-the-art communication tools into its communications vehicles and train interested individuals or entities in the best practices for each of these opportunities.

In addition to these efforts, in June the Board of Governors will be asked to approve three key initiatives to enhance the ABA brand and showcase the Association’s pivotal role within the legal profession. For each of these programs, MR will work with relevant entities to pull together information and then disseminate it effectively. The first initiative is an annual “State of the Profession,” which will provide a broad range of updated demographic information, such as how many lawyers practice in America, the percentage of women and minorities within the profession, how many attorneys are solo, and other key statistics. The second is an “Access to Justice Index,” which will assess how many Americans have proper access to the justice system, legal aid, and pro bono resources. This will be compiled on both the national and state-by-state levels. Finally, an annual “ABA Survey of Constitutional Knowledge” will measure the public’s understanding of basic civics concepts and determine where awareness and education are needed.

Our launch of each of these efforts should produce extensive positive media interest, highly anticipated annual updates, and helpful ABA-branded resources for the legal profession and for the public at large. These projects will also enhance the Association’s reputation and profile among media influencers.

The ABA does a tremendous amount of good work for our profession and for society. Through the proposals and changes outlined above, ABA communications will showcase the Association’s crucial role as an advocate for justice, the rule of law, and the attorneys who work every day to enhance those critical areas.

Membership

As of May 25, the overall ABA membership count was 385,438, which is up 5.9 percent from the same time last year. Our continued success with law school outreach is a major factor in this growth -- over the last year, the ABA saw a 14.4 percent increase in student members, to 112,301. During the same period, we also saw a slight 2.9 percent rise in our lawyer members to 258,185, and a drop in our associate members of 1.1 percent to 14,952.

As typically happens this time of year, current membership totals are below the final Fiscal Year 2017 counts, when we ended the year with 412,499 members. This is because the third and final drop for dues non-payment occurred on April 6. Our membership team is currently actively working to recruit new members and win back those who have left the ABA. We anticipate our final FY 2018 membership totals will be above 400,000.

Recruiting and retaining dues-paying lawyer members continue to be a major challenge for the Association, and a prime focus of our membership efforts. Over the last 10 years, we have lost approximately 56,000 dues-paying attorneys. Out of more than 1.3 million attorneys in this country, fewer than 200,000 are currently dues-paying members of the ABA. While that is
of course a matter of concern, the enormous growth opportunity is clear. We must successfully engage lawyers and demonstrate the substantial benefits of membership in the national professional association.

Thanks to the guidance and support of the Board, the new membership model, currently under development, offers great promise for our efforts to gain and maintain more dues-paying lawyer members. At the June Board meeting, Standing Committee on Membership Chair Tracy Giles and ABA Deputy Executive Director Jim Dimos will provide a detailed update on the bundled benefits under consideration. Currently, these enhanced benefits are expected to include membership in two specialty groups as part of a member’s dues payment; access to a large CLE library (much of which will be at no cost to members); and electronic access to online ABA content behind a paywall. We will also move forward with a simplified dues structure. At a special meeting in April, the Board strongly supported a Sense of the Board Resolution that would reduce the number of dues price points from 157 to five. The House of Delegates is expected to vote on the new dues structure at the Annual Meeting in August.

The ABA has increased its use of social media to grow membership and increase interest in the Association. An example is our Briefly Speaking Facebook campaign, which ran from January through the end of May. The campaign asked experienced lawyers to post career advice for first-year attorneys. More than 1,000 lawyers provided tips for those entering the profession on such topics as opening a solo firm, trial practice, and advice for business lawyers. The advice varied from the practical, such as the importance of checking out the courtroom before your first appearance, to principles to live by like how to treat courtroom staff and opposing counsel. It is very heartening to note how so many experienced lawyers take a pride in our profession and offer a helping hand to new practitioners.

Planning is underway for President Bass' next managing partner forum, scheduled for June 19 in Denver, Colorado. As President, she has thus far held forums in seven cities and met with a combined 84 leaders from National Law Journal 500 firms -- representing a combined total of over 25,000 lawyers at the firms -- to discuss important issues affecting the legal profession and to explain how the ABA is addressing these issues. We have discussed Full Firm membership with many of the firms that attend these programs and follow up efforts continue.

The Group Membership recruitment campaign has enrolled 75 new group accounts for FY 2019 as a result of calls from membership staff. Group membership offers firms the opportunity to consolidate all their lawyer memberships onto one invoice [no discounts are provided]. More than 900 new group accounts have been created since these staff efforts began in 2014.

As of May 25, Full Firm membership stands at 26,157 members, an increase of 5.3 percent from the same time last year. FY 2018 Full Firm dues revenue is at $5,494,797, up 4.7 percent from a year ago. Overall Group membership is at 71,064 members, which is down about 1 percent from this time last year. FY 2018 Group dues revenue is at $19,534,145, a decrease of 0.9 percent from the prior year.
We currently have 100 schools participating in the Full School Enrollment Program, up from 93 at the same period last year. The success of this initiative is based in large part to our effective use of Group enrollments for law schools. We are currently confirming our contact list for law school representatives prior to sending out new student orientation materials this summer.

The Law Student Division Premium program continues to grow and evolve. The Premium program offers an enhanced group of benefits to law students for an annual fee of $25. Later this summer, the Division will expand its bar review prep member benefit, bringing new flexibility and greater value to our student members. The Division is also working on enhancements of the student representative program, which provides the Association with a presence on all 204 ABA approved law schools around the country. As of mid-April, 23,684 students were enrolled in the Premium program, an increase of 82.3 percent from the year before.

VIP, Reorganization, and Realignment

I appreciate the strong support of the Board of Governors for several key changes to the ABA staff and structure this spring. At the end of March, we successfully concluded the Voluntary Separation Incentive Program (VIP), which offered a very generous payment option for senior ABA staff members who provided long and loyal dedication to the ABA. In all, 111 people were eligible for VIP and 42 ultimately accepted. Of those 42 positions, one was grant funded, eight were section funded, and 33 were funded by general operations. All costs associated with VIP are borne by general operations.

VIP was especially useful as it shaped and set up the ensuing staff reorganization. We created nine Centers based upon the four goals of the Association. While the reorganization will result in $4.5 million in annual savings, its central purpose was to enhance staff efficiency and effectiveness. In addition to the new Centers, four offices will remain direct reports to me -- the Office of the General Counsel, the Governmental Affairs Office, the Office of Internal Audit, and Media Relations and Strategic Communications (MR, whose new responsibilities were outlined in the introduction to this report).

Following the staff reorganization, the Board has been working on programmatic changes as it realigns many of the Association’s programs and entities. These systemic, strategic changes are designed to provide better focus on the ABA’s priorities and to provide general operations funding to programs that best support the Association’s goals. The realignment will also help break down the silos within the Association that discourage communication and cooperation between ABA entities, volunteer leaders, and staff members.

ABA Emails

The ABA continues its work to improve and better target the emails we distribute to our members. We have successfully reduced the number of messages sent by the Association. In FY 2016 we distributed some 280 million emails, and that number will be reduced to about 150 million by the end of FY 2018.
A new staff-based Email Working Group has been set up to review our current email system and processes. The ABA currently uses Maestro as its email platform to distribute email campaigns to its members and market ABA products. Since the ABA adopted Maestro in 2002, many improved technologies have been created, enabling more personalized messages, better analytics, and email creation tools that are easier to use. We are currently evaluating responses to a Request for Proposals for a new email platform, which we intend to have in place by next spring. In addition to greater personalization, the new platform will allow us to connect with members through social media, further reduce the number of emails sent (thanks to multi-messaging), and a new Preference Center will be developed to give people more control over their email experience. Staff will be extensively trained before the new program is launched.

**ABA Website**

The launch of our new and extensively improved ABA website has been delayed as a result of our extraordinarily complex operating environment. We have been working very closely with the vendor to ensure all problems are overcome as quickly as possible. We have been very clear that we strongly desire to launch the website before the Annual Meeting in August. We are doing all possible to reach that goal, although we’re facing significant challenges. The website will feature enhancements in many areas and will be readily accessible on mobile devices.

On the content side, which involves the information available on the website, material from our current site has been migrated into the new production environment for testing, review, and the building of new content. ABA staff has been trained in content development, publication creation, and Product and Meeting creation. Entities have been instructed to have their microsite landing pages and launch critical content up-to-date by the end of May and will work with groups in June if they had any difficulty meeting this deadline to ensure all content is up. Digital Engagement staff will continue to work with these groups to refine content until and after launch.

The new site will also feature substantial improvements to eCommerce transactions. In that regard, we are at a critical stage as our vendor works to complete and perfect three complex eCommerce transaction flows: join, renew, and meeting registration. Once these three areas are fully resolved, we will rapidly finalize the countdown to launch.

While the process of migrating to a new website has taken longer than anticipated, we are committed to getting this right -- and to have a dynamic final product that will serve the Association’s online needs well into the future. The Board has been advised that these final phases of work are under a fixed-price contract, and that has saved the Association immense costs, as the vendor has run into unanticipated problems -- for which the vendor is financially responsible.

**Insurance**

In April of FY 2016, the ABA initiated a new insurance program as a benefit for members. Since we had no existing program on which to build, the program had to be created
from the ground up. Slowly but steadily, we have expanded and enhanced the insurance program, which currently offers 24 insurance products for ABA members. The products are highly rated and the pricing is extremely competitive.

I’m pleased to report sales of our insurance products have increased steadily as well. As of mid-May, we have already exceeded sales from FY 2017 and FY 2016 combined, and we are on pace to double that business. The third-party administrator of ABA Insurance, USI Affinity, is extremely enthused about our progress and prospects for the future. We are now focusing on accelerated growth through more effective marketing to solos, firms, non-members and members, and greater collaboration between ABA entities thanks to the recent staff reorganization. We are also looking at ways to work with state and local bars. We’re on track to have an exceptionally robust insurance program within the five-year point of the program’s launch.

**Center for Innovation**

On April 30, the ABA Center for Innovation, in conjunction with the Legal Services Corporation (LSC), launched the Legal Tech for A Change Project. This program will match legal technology companies with local LSC grantees to provide free software and technology assistance to financially-strapped legal aid providers across the nation. A vetting committee comprised of members of the Center, legal aid professionals, and LSC will ensure the software provided is both useful and appropriate for the needs of the legal services offices. So far, tech giants Metajure and ROSS Intelligence have agreed to donate products. A [website](#) to recruit legal tech companies to the program, is now operational. To date, nine technology companies have volunteered for the program. The project was highlighted at the Equal Justice Conference held in San Diego in May.

In other Center for Innovation news:

- The Miranda Project is an app being developed for use by police officers to inform people who have limited knowledge of English of their rights. Field testing has begun with two chosen prototype tools utilizing uniform, court certified, plain-language Spanish translations of the warning, along with pictographic representations. Following successful testing of the Spanish language tools, the Center will develop additional language translations, along with developing tools for the hearing impaired.
- The State Bar of Michigan has agreed to sponsor an Innovation Fellow. The Fellow will work on a state data collection project the Center is conducting in conjunction with several state bar associations. Additionally, the National Center for State Courts has agreed to sponsor a NextGen Fellow who will work on a court improvement project.
- The Center received a $20,000 grant to provide an expansion of its FloodProof program in Texas and to implement programs in the U.S. Virgin Islands and Puerto Rico. FloodProof is a mobile app that directs flood victims to appropriate legal services in their region.
- Liberty Mutual joined with the Center on a new data collection project that will develop a robust database on the legal profession, justice system, and access to justice issues.
Finances

Result through the end of April (eight months into our fiscal year), show the Association generated consolidated operating revenues of $134.5 million and incurred operating expenses of $136.3 million, which resulted in a deficit of $1.8 million. The $3.8 million operating revenue shortfall to budget is more than offset by a $4.6 million favorable expense variance, resulting in a $0.8 million favorable net variance with budget. Consolidated operating revenue decreased by $2.8 million compared to FY 2017, while consolidated operating expenses decreased $1.4 million compared to prior year. More detailed information on the Association’s financial status is provided in the Treasurer’s Report.

As of May 18, charitable donations from individuals and organizations received through the ABA Fund for Justice and Education total $2,223,345. That represents a year-to-date increase of nearly 20 percent in revenue from FY 2017 and a year-to-date increase of 50 percent from FY 2016. The ABA/FJE is on target to reach its fundraising goal of approximately $3.63 million for FY 2018. This goal was determined after the ABA/FJE surpassed its FY17 goal of $2.99 million by raising nearly $3.30 million.

Chicago Facilities Update

The Chicago Move and Construction Project at ABA Headquarters was completed on time and under budget. Some 541 staff members relocated as a result of the Project, which saw the ABA give up space in the lobby, 90 percent of Lower Level 1, and the 16th floor. The renovated space has been widely praised by staff and recent visitors to the building. As earlier reported to the Board, the renegotiated lease saves substantial costs for the Association.

Advocacy

ABA Day in Washington, DC, our annual opportunity to lobby Congress on issues important to the legal profession, was conducted April 10 to 12. More than 300 lawyers from 48 states, DC, and the U.S. Virgin Island went to Capitol Hill to speak with lawmakers and their staffs.

This year, the focus was on three key issues. The first was to ensure funding for the Legal Services Corporation (LSC), which provides financial support for low-income Americans who need civil legal help. This program had been targeted for elimination by the White House, but thanks in large measure to ABA efforts, this year Congress granted the program a $385 million appropriation which was later increased by $25 million to $410 million. We’re pushing for at least $482 million in FY 2019 funding.

The second ABA Day priority is to protect the Public Service Loan Forgiveness Program (PSLF). Under PSLF, qualified participants were promised student loan forgiveness after 10 years of working in public service; this includes lawyers working at nonprofits. The ABA has been at the forefront of efforts to preserve the program and to have it applied as intended in the legislation. Strained and unacceptable interpretations of the program’s application have caused the ABA to take a number of actions, including a lawsuit against the Department of Education.
The Association is a very strong proponent of the incentive promised by PSLF to help those who choose to work in public service.

The third ABA Day priority involved the Legal Orientation Program (LOP), which provides legal information to undocumented adults awaiting a determination of their immigration status understand their rights. On April 10, the Justice Department announced the program would be suspended at the end of the month. That happened as ABA Day was just underway, and our staff colleagues at the Governmental Affairs Office (GAO) worked into the night to prepare participants to lobby lawmakers on behalf of this most worthy issue. Thanks to ABA pressure, the Justice Department quickly reversed its decision and announced it would continue funding LOP for another year. We can take pride in this accomplishment, which demonstrates the powerful impact our Association has on behalf of those in need.

GAO assisted President Bass in drafting her statement and preparing to testify April 18 at a Senate Judiciary Subcommittee on Border Security and Immigration hearing on immigration courts. The hearing focused on alternative structures for organizing immigration courts. GAO also helped prepare testimony for President Bass on LSC funding for submission on April 27 to the House and Senate Appropriations Subcommittees on Commerce, Justice, Science, and Related Agencies.

On February 7, GAO sent a letter to key contacts in the Senate Judiciary Committee, reminding them to support the Sentencing Reform and Corrections Act (SRCA) during a scheduled markup. GAO also participated in a Twitter campaign to support the bill. The bill was approved by the Committee by a vote of 16 to five on February 15.

**Media Relations and Strategic Communications (MR)**

MR worked with GAO and the Commission on Immigration on messaging that opposed the proposed cut to the LOP, resulting in a media statement from President Bass which was referenced by news outlets such as CNN, Dallas News, Texas Monthly, and the Houston Chronicle. As noted above, these swift efforts by ABA stakeholders helped preserve the LOP program for this next year.

Amid a national focus on workplace sexual misconduct, MR reached out to several news outlets to pitch ABA efforts to combat the problem. Both Bloomberg and The American Lawyer interviewed President Bass, who informed the publications of a recently passed House of Delegates resolution to address harassment in the legal profession and a newly updated ABA manual of law firm best practices to help fight the misconduct.

As attendees gathered for the Midyear Meeting in Vancouver, the San Diego Union Tribune on February 5 published a story on President Bass’ Initiative on Achieving Long-Term Careers for Women in Law, a study to determine why women at various stages in their careers are leaving law firms and to propose solutions to combat the problem.
MR reached out to almost 1,500 news outlets in promotion of the Midyear Meeting. In total, the Division contacted 2,203 U.S. and Canadian reporters through personalized outreach. It also produced 15 news releases, nearly 30 staff-written web stories, and almost 30 video clips.

A signature initiative of President Bass, the ABA Homeless Youth Legal Network, was the focus of an opinion editorial bylined by Bass that appeared in several national news outlets, including the Florida Sun Sentinel, GVwire, and Inside Sources. In the op-ed, Bass urged lawyers to serve the legal needs of homeless youth and introduced the network’s resources, such as training and technical assistance in the unique needs of homeless young people.

ABA Legal Fact Check continues to be a MR priority with several timely posts associated with the top news headlines, including ones on the First Amendment Rights of high school students; the courts’ approach to gun control legislation; the law supporting “chain migration”; and treason as a legal matter and its history, as noted by Detroit Legal News. Additionally, journalist Dan Abrams maintains an archive of all ABA Legal Fact Check posts, which he re-publishes on his Law & Crime news site here. ABA Legal Fact Check was also recently featured in Associations Now, a publication of the American Society of Association Executives.

Global Programs

I am delighted to welcome Alberto Mora as the ABA’s new Associate Executive Director for Global Programs and Director of the Rule of Law Initiative (ROLI). He assumed his new duties on May 31. Alberto brings to the Association broad experience and a very successful record of protecting and advancing the rule of law. He comes to us from the Harvard Kennedy School of Government, where he serves as a senior fellow at the Carr Center for Human Rights Policy. He previously served as the chief legal officer at Mars, Inc. (2008-2013) and Walmart International (2006-2008).

Prior to his corporate work, Alberto was General Counsel of the Navy and Marine Corps (2001-2005) with management responsibility for some 640 attorneys and 214 support personnel across 146 offices throughout the United States and overseas. In that role, he had oversight responsibilities for the Naval Criminal Investigative Service, and he served as the agency’s chief ethics officer and, on occasion, as acting Secretary of the Navy. He has been a partner in law firms and also served as the General Counsel for the United States Information Agency (1989-1993). Before law school, he served as a Foreign Service Officer for three years.

As we welcome Alberto to the ABA staff, we also say farewell to Betsy Andersen, whose appointment as Executive Director of the World Justice Project was recently announced. We wish her the very best as she pursues her new opportunity.

ROLI and the China Law Society conducted a conference on implementation of China’s recently adopted anti-domestic violence law from April 22 to April 23 in Beijing. The goal of the conference was to build the capacity of the justice sector to effectively implement the new law and train participants on key provisions. The discussion focused on key issues faced by judges related to implementation of the law and on recommendations to improve it.
Approximately 40 participants from various sectors such as the judiciary, academia, and the Women’s Federation attended the event. The event marked the first time that ROLI has been permitted to carry out activities in China since January 2017.

On April 5, ROLI finalized informational videos for the Philippines which serve to promote the use of the Find Justice mobile app and provide the public with information on how to download and use it. The free app was developed by ROLI in conjunction with the Supreme Court and the Integrated Bar of the Philippines and connects individuals with pro bono legal services. It also provides contact information and location for trial courts, judicial reforms, and case filing procedure.

In April, ROLI hosted Trafficking in Persons (TIP) experts from the DOJ (a federal prosecutor and TIP coordinator) and the San Diego Police Department. A meeting was held with Jordan’s Minister of Justice and head of the country’s anti-human trafficking national committee, and with the directors of the human rights and anti-human trafficking units at the Ministry. A workshop for prosecutors and detectives addressed modern investigation methods using Internet-based evidence and digital evidence taken from crime scenes, interviewing victims, and addressing criminal charges against TIP victims.

The ROLI Annual Conference on Rule of Law Issues, *When People Flee: Rule of Law and Forced Migration*, was held on Tuesday, April 17 at the George Washington Elliott School of International Affairs. The conference was co-sponsored by the Elliott School, and the ABA Section on Litigation, the Center for Human Rights, the Commission on Immigration, and the Section of Civil Rights and Social Justice. In sessions with three breakout panels, participants examined the origin, transit, and destination experiences of migrants in three different migration paths: Syria to Europe, Sub-Saharan Africa to Europe, and Central America to the United States. The conference was well attended by over 200 participants representing U.S government agencies, the European Union, U.N. agencies, NGOs, researchers, scholars, and journalists.

From March 12 to 16, ROLI conducted a workshop in Peru’s Amazon region on the criminal investigation of illegal gold mining and transnational crimes for 70 participants, including environmental prosecutors, eight environmental judges, scientific police, and coast guards. Peruvian Attorney General Pablo Sánchez Velarde attended on Thursday to highlight the importance of the training for fighting environmental and organized crimes and commended ROLI’s training methodology.

At the end of March, an eight-person delegation of judges, prosecutors, and staff persons from Bahrain’s Ministries of Justice and Interior traveled to the U.S. to participate in a study tour to DC and Maryland to learn more about how alternatives to detention programs are managed in the U.S. Meeting with judges and parole/probation staff, the Bahrainis are gathering information to assist them as they continue develop their alternatives to detention program to minimize incarceration in the country.

In February, the Center for Human Rights hosted the Dean of the Warsaw Bar Council who traveled from Poland to attend meetings on Capitol Hill and with the State Department to
raise awareness of the declining independence of the judiciary in Poland and discuss how the U.S. can help.

ROLI in February completed a month-long, four-course legal skills training program at Prince Sultan University in Riyadh, Saudi Arabia. The participating group of female law students developed practical legal skills as they were trained in Accounting for Lawyers, Law Practice Management, Legal Writing, and Oral Advocacy. In the last week of the course, they learned to develop case analysis to advocate for clients, question witnesses, and present oral arguments at both the trial and appellate levels.

From January 9 to 12, ROLI supported the visit of President Bass to Vietnam. The trip included meetings with the U.S. Ambassador, Vietnam Bar Federation leadership, Vice Minister of Justice, Chief Justice of the Supreme Court, and Prime Minister. ROLI and the Vietnam Bar Federation co-hosted a day-long seminar on legal ethics to inform on-going reform of the Vietnamese legal ethics code. Joining President Bass on the visit were President-Elect Bob Carlson, ROLI Chair Judge Margaret McKeown, and leaders of the Litigation Section, among others.

Governance and Public Services

The new ABA National Lawyer Regulatory Data Bank platform successfully launched in February, with features including enhanced bulk search functionality, increased user-friendly email notification to disciplinary counsel when a lawyer licensed in their jurisdiction has been added to the Data Bank, and a "recently disciplined lawyers" function.

The ABA’s Free Legal Answers, the web-based pro bono brief advice service, has now surpassed 27,800 client questions. More than 4,600 pro bono attorneys are registered to respond to civil legal questions. The number of questions submitted has increased by 20 percent over the past three months.

The Center for Pro Bono promoted events to serve homeless youth on or around International Day for Street Children on April 12, in connection with President Bass’ initiative on the legal needs of homeless youth. Organizations around the country held 38 events in March and April for homeless awareness.

The Commission on Lawyer Assistance Programs launched a new "Path to Law Student Well-Being" podcast series in collaboration with the Section of Legal Education and Admissions to the Bar. The inaugural two-part episode features two short conversations with notable law school professors and deans from across the country. Part One discusses ways individual faculty members can notice, engage with, and support students they suspect are in distress. Part Two provides steps faculty can take to promote student well-being through their teaching in the classroom, including concrete actions for law school administrators.

The Commission on Women in the Profession (CWP) in May partnered with the Minority Corporate Counsel Association (MCCA) and the Center for WorkLife Law at the University of California, Hastings College of Law, to release an anticipated research report, You
Can’t Change What You Can’t See: Interrupting Racial & Gender Bias in the Legal Profession. This report provides new data about and toolkits to address the damaging effects of implicit bias in the legal workplace.

Entity Activities

The Death Penalty Representation Project and Commission on Disability Rights partnered to launch a new website http://www.capitalclemency.org. The site is designed to improve the public’s understanding of clemency in death penalty cases and provide hundreds of critically-needed resources for lawyers and other stakeholders, including a new publication, Representing Death-Sentenced Prisoners in Clemency: A Guide for Practitioners. This Initiative was initially made possible by an ABA Enterprise grant in 2015.

The Section of International Property Law sent a letter to the U.S. Trade Representative outlining intellectual property rights considerations during the renegotiations of the North American Free Trade Agreement (NAFTA), noting that a modernized NAFTA should take account of effective trade secret and intellectual property rights protection and address deficiencies in the current agreement. The letter provided recommendations for trade secrets, trademarks, patents, copyrights, regulatory exclusivity, digital trade, and investor-state dispute settlement system issues.

On February 11 and 12, the ABA Center on Children and the Law hosted a Work Group meeting for the U.S. Department of Health and Human Services Children’s Bureau focused on Primary Prevention and Strengthening Communities to protect against unnecessary entry into the child welfare system. Jerry Milner, the Associate Commissioner of the Children’s Bureau, attended the two-day event and led the discussions. Other participants included leaders from the Centers for Disease Control, HeadStart, and child welfare agencies across the country.

The Solo, Small Firm and General Practice Division’s timely CLE webinar titled “Sexual Harassment: The Employer’s Role in Prevention” was held on January 31. Several entities cosponsored this program including: Center for Professional Development; Commission on Domestic and Sexual Violence; Criminal Justice Section; Division for Public Services; and the Law Practice Division.

ABA Journal

Once again, the ABA Journal demonstrated it is the most respected news magazine for lawyers in America, as it was awarded a host of awards and recognitions this spring. At the National Azbee Awards held in Washington, D.C. in May, the Journal received five gold awards and 10 total honors, including recognition as a top-three magazine in the Magazine of the Year category. Also in May, the Chicago Headline Club (one of the largest chapters of the Society of Professional Journalists) presented their Lisagor Awards. The Journal won for “Best Feature Story” and “Best Illustration.” A full listing of the Journal’s recent awards can be found here.
Conclusion

Businessman Warren Buffet once noted, “someone’s sitting in the shade today because someone planted a tree a long time ago.” The major changes currently underway at the ABA, such as the staff reorganization, improvements to our communications efforts, and the realignment being considered and implemented by the Board, are necessary to position the Association for growth and to make us a more efficient and effective organization.

The three major communications projects to be considered at the June meeting of the Board -- the State of the Profession, the Access to Justice Index, and the Survey of Constitutional Knowledge -- will raise the Association’s profile among the media and the public and demonstrate the ABA’s relevance. Most importantly, they will help to ensure the ABA remains an invaluable resource and dominant voice within the legal community.

I encourage you to contact me with any comments or questions you may have, and I look forward to spending time with you when we meet in Denver.

Respectfully submitted,

Jack L. Rives
Executive Director
FY2019 Budget Appeals

9:30 a.m. - 10:45 a.m.
MEMORANDUM

To: ABA Board of Governors
From: Tracy Giles, Chair, Standing Committee on Membership
       James Dimos, Deputy Executive Director
Date: June 5, 2018
Re: Update on Proposed New Membership Model

Background

Over the last eighteen months, the Association has been working on a recommendation from the Standing Committee on Membership ("SCOM") for a possible new membership model for the American Bar Association, originally named “OneABA,” for implementation in Fiscal Year 2020. The new model was based on research performed by Dr. J.P. Dube’ that identified the benefits that potential members valued the most and the price that made sense to them.

The work began with a staff working group that expanded later to include active participation by members of SCOM, appointed representatives from SOC, members of the Board of Governors, and any other member or staff who asked to participate, to form what became known as the Working Group. The Working Group held telephonic meetings on a regular basis since October and a day-long in-person meeting in December. Since July 2017, ABA leadership, the Board, the House of Delegates, attendees at the SOC Fall Conference, members of the SOC Executive and class committees, and the leadership of various sections, divisions, forums, committees, and commissions received briefings, some multiple times, about the status of efforts to develop the new model. We have attached a partial list of entities that have received briefings and those with representation on the Working Group as Exhibit 1.

As part of the refinement and evaluation of the new membership model and following a well-received RFP, the ABA retained Avenue, a business strategy and marketing firm from Chicago, to test the new membership model and develop projections regarding the market adoption rate and timeline. Avenue conducted numerous focus groups, interviews, and surveys to evaluate how members and non-members would receive the new membership model. The overall market reaction suggests that the new membership model would be an improvement towards reversing our decline in dues paying members. The research indicated that potential members desired increased access to content as part of a membership in the ABA.

The research also showed that the new membership model was just a step forward and that we need to identify ways continually to deliver more value to members while being aware of the price sensitivities of lawyers. We also confirmed that the ABA needs to improve the perception of our brand as others seem more able to define the ABA, often inaccurately and to our detriment.

Avenue has provided three briefings to the Board so far, one at its October meeting explaining its approach to refining and evaluating the membership model, a second at Midyear providing a report on its then recently completed research, and in April when Avenue provided its recommendations on pricing and projections regarding adoption. The firm also conducted a briefing in March with members of SCOM and the Working Group as well as a “Q&A” session with the SOC representatives to the Working Group. Avenue will brief the Board at the upcoming June meeting as well.
The Working Group provided a valuable forum to communicate with interested members, to discuss existing and new ideas, and to provide meaningful feedback that helped to shape a new membership model. To be as inclusive as possible, there were no limits placed on participation. While this made the Working Group valuable in so many ways, it made having conclusive votes on every item discussed impossible. The Working Group reached a collective consensus over many aspects of a new membership model, though it would be impossible to say that every participant in the Working Group agreed with every aspect of this proposal. Honestly held, competing views held in good faith existed between Working Group members on some issues and those differences remain.

At the April Board meeting, Avenue provided an extensive briefing regarding membership and revenue projections under the new membership model. The most relevant pages from that briefing are attached as Exhibit 2.

During the course of these efforts, the Board adopted various “Sense of the Board” resolutions to provide guidance and to facilitate presenting the new membership model to the House of Delegates in August. Two of those resolutions involve:

1. Making changes to the Constitution and Bylaws of the Association to conform them to the proposed new membership model (Exhibit 3); and,
2. Establishing a new dues structure (Exhibit 4).

Please note that we modified Exhibit 3, the new dues structure resolution, at the request of Policy and Governance to include some clarifying language regarding the Board’s authority to determine the benefits included in membership. We ask that the Board adopt Exhibits 3 and 4 (as amended) as final resolutions of the Board and recommend their adoption by the House.

At this point, though, we are not prepared to provide the Board with a recommendation regarding the “product bundle,” the benefits included as part of membership in the ABA. The reason, simply stated, is that too many want the benefits of change fully funded by general operations funds without incurring any of the cost. That just isn’t realistic. The Association has strong general operating reserves but it does not have the wherewithal to sustain the type of reductions that would result from the currently envisioned bundle. The projected declines in revenue were of such a magnitude that our reserves could not sustain them over the years necessary to reverse our membership and dues revenue declines.

As with any business, the Association must make fiscally sound decisions. This requires thoughtful analysis on the part of decision-makers. While it appears that our original model is not sustainable at this time, we suggest that SCOM and the Working Group work with our outside consultants to identify new products that can be included in the product bundle or ways to fund the current bundle as contemplated.

In the meantime, we recommend that the Board authorize some of the proposed IT improvements (for Membership, Financial, and Reporting Systems and Multi-Channel Marketing System along with the proposed marketing work identified above. We already know that no matter what we do, improvements to our systems and our marketing are necessary and that progress can be made in both while we investigate our options to increase value. In particular, we ask the Board to approve the following expenditures:

**Technology:** Approve up to $1.0 million in one-time costs and $250,000 in recurring annual costs for upgrades to the following IT systems:

- **Membership and Financial Systems**—this work involves installing features and making modifications of existing membership (Personify) and financial systems by both outside vendors and ABA IT staff that will improve functions of both systems in supporting membership;
- **Reporting Systems**—in order to monitor progress and make more data driven decisions, modifications to existing reporting systems and data structures are necessary. These modifications will be performed by ABA IT staff with no direct
costs or vendor fees. The work should be done on a 6-month implementation schedule.

- **Multi-Channel Marketing System**—to communicate more effectively with our members, the ABA needs to license a new communications platform that integrates the various channels that the Association currently uses to share its messages. Our existing channels: email, social media, and the website do not interface easily or effectively. Also, we do not have a central repository on member engagement with these various platforms that would allow us to monitor efficacy. A new platform that incorporates marketing automation will allow us to send more targeted and therefore more valuable messages to our members.

**Marketing:** For FY19, we would request a that $4 million be allocated for membership marketing, in addition to the $2 million in the existing marketing budget for the categories set out above. This amount may be adjusted as a result of the RFP process, and the full amount appropriated by the Board will be a ceiling (“not to exceed”) and will be underspent to the extent that can be wisely done, considering all factors.

Of course, another option is to do nothing. However, that is a false choice. Our internal data and market research clearly show that the ABA is on a trend line that will render it irrelevant and fiscally unviable. As a result, we believe that a new membership model is the most practical first step that the Association can take to secure its future. The Board must find a path that allows for the implementation of a new membership model while fairly allocating the responsibility to contribute to member value and the risk and reward of the new membership model across all aspects of the Association. The Association missed its opportunity in 2010 to make meaningful change and, while it must be prudent, that cannot happen again. Otherwise, the ABA and the entities that are part of it will wither on the vine.

**List of Exhibits:**

| Exhibit 1 | Partial list of entities briefed on new membership model and entities participating on Working Group |
| Exhibit 2 | Relevant portions of Avenue presentation to the Board on membership and revenue projections under the new membership model |
| Exhibit 3 | Sense of the Board Resolution—C&B Amendments |
| Exhibit 4 | Sense of the Board Resolution—New Pricing Structure (revised) |
Partial List of Briefings

1. BOG
   a. June 2017 meeting
   b. August 2017 meeting
   c. October 2017 meeting
   d. February 2018 meeting
   e. April 2018 meeting
2. HOD—February 2018
3. SOC
   a. September 2017
   b. October 2017
   c. February 2018
   d. March 2018
4. SOC Executive Committee—multiple times when invited
5. SOC Class Representatives Calls—multiple times when invited
6. SOC Representatives to the Working Group—April 2018 (session with Avenue)
7. Business Law—ABA 2018 Midyear
8. TIPS—ABA 2018 Midyear
9. Judicial Division
   a. December 2017 specially scheduled meeting in Chicago
   b. Spring 2018 Planning Meeting
10. Intellectual Property—Fall 2017 Council Meeting
11. GP, Solo, and Small Firm—October 2017 Council Call
12. Franchising—October 2017 Council Meeting
13. Civil Rights and Social Justice—Fall 2017 Council Meeting
14. SEER—Two specially scheduled calls with leadership and strategic planning chair
15. Dispute Resolution—Specially scheduled meeting in Chicago and subsequent calls
16. Family Law—December 2017 Officers’ Call
17. SCOM—multiple times
18. SCOTIS—Fall 2017 Meeting
19. SCOPO—Fall 2017 Meeting
20. SCOCLE—Fall 2017 Meeting
21. CPR—Specially scheduled call with Chair

Entities That Have Members or Staff Participating on the Working Group

A. BOG
B. Business Law
C. CPR
D. Civil Rights and Social Justice
E. Construction
F. Dispute Resolution
G. Health
H. Labor Law
I. Litigation
J. Judicial Division
K. International Law
L. Intellectual Property
M. GP, Solo, and Small Firm
N. LSD
O. LPM
P. SEER
Q. Regulated Industries
R. RPTE
S. SCOM
T. SCOCLE
U. SCOPO
V. SCOTIS
W. SOC
X. Science & Technology
Y. TIPS
Z. YLD
AA. SLD
Scenarios and Projections
Projections

All key assumptions are conservative

**Status Quo:** The scenario based on ABA current performance (i.e., nothing changes)

**Total addressable market (TAM):** Stays flat over next 5 years

**Churn:** ABA historical rates

**New member acquisition:** Achieve 35% of the survey projections over the course of 5 years, at rate of 10-20-30-30-10

**Additional entity dues revenue:** Achieve 35% of the survey projections of .4 additional entities at a price point of $50
Projections

**FY2017 through FY2019**

<table>
<thead>
<tr>
<th></th>
<th>Actuals FY2017</th>
<th>Projected FY2018</th>
<th>Projected FY2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Combined Dues Revenue</td>
<td>$68,671,301</td>
<td>$66,500,000</td>
<td>$64,135,500</td>
</tr>
<tr>
<td>Dues Payers</td>
<td>194,448</td>
<td>187,000</td>
<td>181,390</td>
</tr>
</tbody>
</table>

FY2019 is our point of departure for running future projections

**Notes**

| Rate of base dues revenue decline: | 3.4% |
| Rate of entity dues revenue decline: | 4.3% |
| Rate of dues payer decline: | 3.0% |
Projections

Scenario 1: Status Quo (Do nothing)

<table>
<thead>
<tr>
<th>Status Quo</th>
<th>Year 1 FY2020</th>
<th>Year 2 FY2021</th>
<th>Year 3 FY2022</th>
<th>Year 4 FY2023</th>
<th>Year 5 FY2024</th>
</tr>
</thead>
<tbody>
<tr>
<td>Combined Dues Revenue</td>
<td>$61,855,844</td>
<td>$59,657,954</td>
<td>$57,538,870</td>
<td>$55,495,734</td>
<td>$53,525,799</td>
</tr>
<tr>
<td>Dues Payers</td>
<td>175,948</td>
<td>170,670</td>
<td>165,550</td>
<td>160,583</td>
<td>155,766</td>
</tr>
</tbody>
</table>

Notes
- Rate of base dues revenue decline: 3.4%
- Rate of entity dues revenue decline: 4.3%
- Rate of dues payer decline: 3.0%
**Scenario 2: Proposed New Pricing**

<table>
<thead>
<tr>
<th>Proposed</th>
<th>Year 1 FY2020</th>
<th>Year 2 FY2021</th>
<th>Year 3 FY2022</th>
<th>Year 4 FY2023</th>
<th>Year 5 FY2024</th>
</tr>
</thead>
<tbody>
<tr>
<td>Combined Dues Revenue</td>
<td>$43,432,084</td>
<td>$45,909,202</td>
<td>$50,491,407</td>
<td>$55,098,188</td>
<td>$55,511,753</td>
</tr>
<tr>
<td>Dues Payers</td>
<td>182,786</td>
<td>203,426</td>
<td>236,798</td>
<td>267,952</td>
<td>268,812</td>
</tr>
</tbody>
</table>

**Notes**

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>% of Historical Churn:</td>
<td>100%</td>
</tr>
<tr>
<td>Acquisition % of Survey:</td>
<td>35%</td>
</tr>
<tr>
<td>5-year Rate of Distribution:</td>
<td>10-20-30-30-10</td>
</tr>
<tr>
<td>Price of Additional Section:</td>
<td>$50.00</td>
</tr>
</tbody>
</table>
# Projections

## Comparison

### Combined Dues Revenue:

<table>
<thead>
<tr>
<th></th>
<th>Year 1 FY2020</th>
<th>Year 2 FY2021</th>
<th>Year 3 FY2022</th>
<th>Year 4 FY2023</th>
<th>Year 5 FY2024</th>
<th>5 Year Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Status Quo</td>
<td>$61,855,844</td>
<td>$59,657,954</td>
<td>$57,538,870</td>
<td>$55,495,734</td>
<td>$53,525,799</td>
<td>$288,074,201</td>
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<tr>
<td>Proposed</td>
<td>$43,432,084</td>
<td>$45,909,202</td>
<td>$50,491,407</td>
<td>$55,098,188</td>
<td>$55,511,753</td>
<td>$250,442,635</td>
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<tr>
<td>Difference</td>
<td>-$18,423,760</td>
<td>-$13,748,752</td>
<td>-$7,047,463</td>
<td>-$397,546</td>
<td>$1,985,954</td>
<td>-$37,631,566</td>
</tr>
</tbody>
</table>

### Dues Payers:

<table>
<thead>
<tr>
<th></th>
<th>Year 1 FY2020</th>
<th>Year 2 FY2021</th>
<th>Year 3 FY2022</th>
<th>Year 4 FY2023</th>
<th>Year 5 FY2024</th>
</tr>
</thead>
<tbody>
<tr>
<td>Status Quo</td>
<td>175,948</td>
<td>170,670</td>
<td>165,550</td>
<td>160,583</td>
<td>155,766</td>
</tr>
<tr>
<td>Proposed</td>
<td>182,786</td>
<td>203,426</td>
<td>236,798</td>
<td>267,952</td>
<td>268,812</td>
</tr>
<tr>
<td>Difference</td>
<td>+6,838</td>
<td>+32,756</td>
<td>+71,248</td>
<td>+107,369</td>
<td>+113,046</td>
</tr>
</tbody>
</table>
MEMO

To: Mary L. Smith, Secretary
American Bar Association

From: Tracy A. Giles, Chair Standing Committee on Membership
Kelly-Ann F. Clarke
Lynn Fontaine Newsome
Rana H. Salti
Eugene G. Beckham
William t. Garcia
Suzanne E. Gilbert
Rew R. Goodenow
David Joseph Scriven-Young

Date: March 9, 2018

Amendment to Article 2 of the Association’s Bylaws – Definitions and General Provisions.

As ABA members, we respectfully request that Article 2.1 of the Association’s Bylaws be amended to change the definitions of “Small Firm Practitioners” and “Solo Firm Practitioners” from 2-5 lawyers to 2-10 lawyers.

The current Bylaw reads:

§2.1 Definitions. In this Constitution, the Bylaws, and any rules of the House of Delegates the term: The designation, jurisdiction, and special tenures of standing committees are as follows:

§2.1(m) “Small Firm Practitioner” means a lawyer in private practice in a firm of 2-5 lawyers.

§2.1(o) “Solo and Small Firm Practitioners” collectively means those lawyers in private practice who are in firms of less than six lawyers.

The proposed amendments in legislative format are:

§2.1(m) “Small Firm Practitioner” means a lawyer in private practice in a firm of 2-10 lawyers.

1
§2.1(o) “Solo and Small Firm Practitioners” collectively means those lawyers in private practice who are in firms of less than six ten lawyers.

The clean version of the proposed amendments is:

§2.1(m) ”Small Firm Practitioner” means a lawyer in private practice in a firm of 2-10 lawyers.

§2.1(o) “Solo and Small Firm Practitioners” collectively means those lawyers in private practice who are in firms of less than ten lawyers.

Amendment to Article 3 of the Association’s Bylaws – Membership

As ABA members, we respectfully request that Article 3.4 of the Association’s Bylaws be amended to change the name of the “Associates” membership class to “Affiliated Professionals”.

The current Bylaw reads:

§3.4 Associates. Nothing in this Article prevents the establishment by bylaws of classes of associates composed of nonmembers with whom affiliation is considered to be in the interest of the Association.

The proposed amendments in legislative format is:

§3.4 Associates Affiliated Professionals. Nothing in this Article prevents the establishment by bylaws of the class of affiliated professionals composed of nonmembers with whom affiliation is considered to be in the interest of the Association.

The clean version of the proposed amendments is:

§3.4 Affiliated Professionals. Nothing in this Article prevents the establishment by bylaws of the class of affiliated professionals composed of nonmembers with whom affiliation is considered to be in the interest of the Association.

As ABA members, we respectfully request that a new Article 3.5 be added to the Association’s Constitution as follows:

§3.5 International Lawyer. Any person of good moral character in good standing at the bar of the legal profession of another country who is admitted to practice law but is not admitted to the bar of any state, territory, tribal nation, or possession of the United States. An international Lawyer member shall have the same rights and privileges as Member except as follows:
(a) may not participate in electing a Delegate-at-large  
(b) may not participate in nominating a member of the Board or an officer of the Association, and may not serve as an officer of the Association;  
(c) may not vote in Association-wide elections other than while serving as a delegate in the House; and  
(d) may not sign a petition for a vote in an Association referendum.

The clean version of the proposed amendments is:

§3.5 International Lawyer. Any person of good moral character in good standing at the bar of the legal profession of another country who is admitted to practice law but is not admitted to the bar of any state, territory, tribal nation, or possession of the United States. An international Lawyer member shall have the same rights and privileges as Member except as follows:

(a) may not participate in electing a Delegate-at-large  
(b) may not participate in nominating a member of the Board or an officer of the Association, and may not serve as an officer of the Association;  
(c) may not vote in Association-wide elections other than while serving as a delegate in the House; and  
(d) may not sign a petition for a vote in an Association referendum.

Amendment to Article 6 of the Association’s Bylaws The House of Delegates

As ABA members, we respectfully request that Article 6.6 of the Association’s Bylaws be amended to change “Non-U.S. Lawyer Associates” to “International Lawyer”.

The current Bylaw reads:

§6.6 Section Delegates. Each section shall be entitled to a minimum of two delegates. A section with more than 20,000 members and Non-U.S. Lawyer Associates, shall elect from its membership one additional delegate to the House. A section with more than 45,000 members and Non-U.S. Lawyer Associates shall elect from its membership one additional delegate. All terms shall be staggered and in each succeeding third year each position shall then be elected for a term of three Association years. The term of a Section Delegate is three Association years, beginning with the adjournment of the annual meeting during which elected. A Section Delegate elected as an officer or member of the Board of Governors ceases to be a Section Delegate at the beginning of the term as officer or governor. If a vacancy occurs, the council of the section shall select a successor for the unexpired term. This section does not apply to divisions.

The proposed amendments in legislative format is:
§6.6 Section Delegates. Each section shall be entitled to a minimum of two delegates. A section with more than 20,000 members and Non-U.S. Lawyer Associates International Lawyer members, shall elect from its membership one additional delegate to the House. A section with more than 45,000 members and Non-U.S. Lawyer Associates International Lawyer members, shall elect from its membership one additional delegate. All terms shall be staggered and in each succeeding third year each position shall then be elected for a term of three Association years. The term of a Section Delegate is three Association years, beginning with the adjournment of the annual meeting during which elected. A Section Delegate elected as an officer or member of the Board of Governors ceases to be a Section Delegate at the beginning of the term as officer or governor. If a vacancy occurs, the council of the section shall select a successor for the unexpired term. This section does not apply to divisions.

The clean version of the proposed amendments is:

§6.6 Section Delegates. Each section shall be entitled to a minimum of two delegates. A section with more than 20,000 members and International Lawyer members, shall elect from its membership one additional delegate to the House. A section with more than 45,000 members and International Lawyer members, shall elect from its membership one additional delegate. All terms shall be staggered and in each succeeding third year each position shall then be elected for a term of three Association years. The term of a Section Delegate is three Association years, beginning with the adjournment of the annual meeting during which elected. A Section Delegate elected as an officer or member of the Board of Governors ceases to be a Section Delegate at the beginning of the term as officer or governor. If a vacancy occurs, the council of the section shall select a successor for the unexpired term. This section does not apply to divisions.

**Amendment to Article 21 of the Association’s Bylaws – Members and Associates.**

As ABA members, we respectfully request that Article 21 of the Association’s Bylaws be amended to change “Associates” to “Affiliated Professionals”.

The current Bylaw reads:

Article 21 of the Association’s Bylaws – Members and Associates

The proposed amendments in legislative format is:

Article 21 of the Association’s Bylaws – Members and Associates Affiliated Professionals.
The clean version of the proposed amendments is:

Article 21 of the Association’s Bylaws – Members and Affiliated Professionals.

As ABA members, we respectfully request that the existing Article 21.3 be replaced with a new membership category “Retired Members”

The current Bylaw reads:

§21.3 Life Members. A person who has been a member and paid the equivalent of senior dues for at least 10 years may become a life member upon written notice to the Treasurer and payment of the fee for life membership prescribed by the House of Delegates. Such a member has all the privileges of membership. Life membership fees shall be invested by the Treasurer and the income from the money so invested shall be used for the general purposes of the Association.

The proposed amendments in legislative format is:

§21.3 Retired Members. Lawyers who have voluntarily placed their law license on inactive, retired, or other such similar status indicating the intent to no longer practice law or serve as a judicial officer in all jurisdictions in which they are licensed, may retain the privileges of membership upon payment of the annual dues for Retired Members prescribed by the Board of Governors unless the lawyers have voluntarily resigned or deactivated their licenses under a criminal charge or conviction, or charge of sanction from the disciplinary authority.

The clean version of the proposed amendments is:

§21.3 Retired Members. Lawyers who have voluntarily placed their law license on inactive, retired, or other such similar status indicating the intent to no longer practice law or serve as a judicial officer in all jurisdictions in which they are licensed, may retain the privileges of membership upon payment of the annual dues for Retired Members prescribed by the Board of Governors unless the lawyers have voluntarily resigned or deactivated their licenses under a criminal charge or conviction, or charge of sanction from the disciplinary authority.
As ABA members, we respectfully request that the existing Article 21.4 be amended to allow the Board to establish the dues rate for “Sustaining Members” (category that we do not currently use).

The current Bylaw reads:

§21.4 Sustaining Members. A member may become a sustaining member upon payment of the annual dues for sustaining membership prescribed by the House of Delegates. If eligible, a sustaining member may revert to another membership classification.

The proposed amendments in legislative format is:

§21.4 Sustaining Members. A member may become a sustaining member upon payment of the annual dues for sustaining membership prescribed by the Board of Governors, which shall be in an amount greater than the highest rate adopted by the House of Delegates. If eligible, a sustaining member may revert to another membership classification.

The clean version of the proposed amendments is:

§21.4 Sustaining Members. A member may become a sustaining member upon payment of the annual dues for sustaining membership prescribed by the Board of Governors, which shall be in an amount greater than the highest rate adopted by the House of Delegates. If eligible, a sustaining member may revert to another membership classification.

As ABA members, we respectfully request that the existing Article 21.6 be amended for clarification and uniformity.

The current Bylaw reads:

§21.6 Special Members. (1) If a person who has reached age 75 and has been a member of the Association for at least 25 years so requests, that person shall retain the privileges of membership but need only pay 50% of the highest dues rate.

(2) Provided, however, that (i) if a person who reached age 70 prior to September 1, 2004, and has been a member of the Association for 25 years so requests, that person shall retain the privileges of membership but need not pay any Association dues; or (ii) if a person who has reached age 70 prior to September 1, 2006, but after August 31, 2004, and has been a member of the Association for 25 years so requests, that person shall retain the privileges of membership but need only pay 50% of the highest dues rate.

The proposed amendments in legislative format is:
§21.6 Special Members. (1) **(a)** If a person who has reached age 75 and has been a member of the Association for at least 25 years so requests, that person shall retain the privileges of membership but need only pay 50% of the highest dues rate, an amount prescribed by the Board of Governors, which shall be in an amount less than the highest rate adopted by the House of Delegates.

(2) **(b)** Provided, however, that (i) if a person who reached age 70 prior to September 1, 2004, and has been a member of the Association for 25 years so requests, that person shall retain the privileges of membership but need only pay any Association dues; or (ii) if a person who has reached age 70 prior to September 1, 2006, and has been a member of the Association for 25 years so requests, that person shall retain the privileges of membership but need only pay 50% of the highest dues rate, an amount prescribed by the Board of Governors, which shall be in an amount less than the highest rate adopted by the House of Delegates.

As ABA members, we respectfully request that the existing Article 21.7 to make changes to the “Student” definition to include the “Student Associate” category into the new “Student” category.

The current Bylaw reads:

§21.7 Student Members. Law Student and Law School Graduate Members. (a) A law student who is otherwise ineligible for Association membership may apply for law student membership under rules prescribed by the Board of Governors in consultation with the Council of the Section of Legal Education and Admissions to the Bar and the Law Student Division. Dues for law student members must be paid as prescribed by the Board of Governors.

(b) A law school graduate who is otherwise ineligible for Association membership because that person has not yet been admitted to the bar of a state, territory or possession may apply for law school graduate membership under rules prescribed by the Board of Governors in consultation with the Council of the Section of Legal Education and Admissions to the Bar and the Law Student Division. Dues for law school graduate members must be paid as prescribed by the Board of Governors.

(c) Both law student members and law school graduate members:
1. may not participate in electing a State Delegate or a Delegate-at-Large
2. may not participate in nominating a member of the Board or an officer of the Association, and may not serve as an officer of the Association;
3. may not vote in Association elections other than while serving as a delegate in the House;
4. may not sign a petition for or vote in an Association referendum; and
5. may participate in other activities of the Association as authorized by the House.

The proposed amendments in legislative format is:

§21.7 Student Members. Law Student and Law School Graduate Members. (a) A law student who is otherwise ineligible for Association membership may apply for law student membership under rules prescribed by the Board of Governors in consultation with the Council of the Section of Legal Education and Admissions to the Bar and the Law Student Division. Dues for law student members must be paid as prescribed by the Board of Governors. (b) A law school graduate who is otherwise ineligible for Association membership because that person has not yet been admitted to the bar of a state, territory or possession may apply for law school graduate membership under rules prescribed by the Board of Governors in consultation with the Council of the Section of Legal Education and Admissions to the Bar and the Law Student Division. Dues for law school graduate members must be paid as prescribed by the Board of Governors. (c) A student enrolled in college or university level educational studies and has an interest in the work of the American Bar Association.

(d) Both law student members and law school graduate All student members:

1. may not participate in electing a State Delegate or a Delegate-at-Large
2. may not participate in nominating a member of the Board or an officer of the Association, and may not serve as an officer of the Association;
3. may not vote in Association elections other than while serving as a delegate in the House;
4. may not sign a petition for or vote in an Association referendum; and
5. may participate in other activities of the Association as authorized by the House.

(e) Dues for Student Members must be paid as prescribed by the Board of Governors.
The clean version of the proposed amendments is:

§21.7 Student Members. (a) A law student who is otherwise ineligible for Association membership may apply for law student membership under rules prescribed by the Board of Governors. (b) A law school graduate who is otherwise ineligible for Association membership because that person has not yet been admitted to the bar of a state, territory or possession may apply for law school graduate membership under rules prescribed by the Board of Governors in consultation with the Council of the Section of Legal Education and Admissions to the Bar and the Law Student Division. Dues for law school graduate members must be paid as prescribed by the Board of Governors. (c) A student enrolled in college or university level educational studies and has an interest in the work of the American Bar Association.

(d) All student members:

1. may not participate in electing a State Delegate or a Delegate-at-Large
2. may not participate in nominating a member of the Board or an officer of the Association, and may not serve as an officer of the Association;
3. may not vote in Association elections other than while serving as a delegate in the House;
4. may not sign a petition for or vote in an Association referendum; and
5. may participate in other activities of the Association as authorized by the House.

(e) Dues for Student Members must be paid as prescribed by the Board of Governors.

As ABA members, we respectfully request that the existing Article 21.8 to clarify that the Board may authorize adjustments in dues to reflect changes in the Cost of Living Index.

The current Bylaw reads:

§21.8 Scale of Dues. Except as otherwise provided, a member of the Association must pay dues in the amount prescribed by the House of Delegates and in the manner prescribed by the Board of Governors. Dues include the member’s annual subscription to the American Bar Association Journal in an amount set by the Board. In special circumstance, the Board may waive payment of a member’s dues.

The proposed amendment in legislative format is:
§21.8 Scale of Dues. (a) Except as otherwise provided, a member of the Association must pay dues in the amount prescribed by the House of Delegates and in the manner prescribed by the Board of Governors. Dues include the member’s annual subscription to the American Bar Association Journal in an amount set by the Board. In special circumstance, the Board may waive payment of a member’s dues.

(b) After the fiscal year ending August 31, 2023, the Board of Governors may modify dues in an amount not to exceed the change in the Cost of Living. A change in the Cost of Living means the product, subject to the rounding up to the nearest dollar, of (a) the annual increase in the cost of living as reported by the Bureau of Labor Statistics for the preceding December times (b) the dues for the preceding fiscal year. The House of Delegates may override any such modification by a two-third vote.

The clean version of the proposed amendments is:

§21.8 Scale of Dues. (a) Except as otherwise provided, a member of the Association must pay dues in the amount prescribed by the House of Delegates and in the manner prescribed by the Board of Governors. Dues include the member’s annual subscription to the American Bar Association Journal in an amount set by the Board. In special circumstance, the Board may waive payment of a member’s dues.

(b) After the fiscal year ending August 31, 2023, the Board of Governors may modify dues in an amount not to exceed the change in the Cost of Living. A change in the Cost of Living means the product, subject to the rounding up to the nearest dollar, of (a) the annual increase in the cost of living as reported by the Bureau of Labor Statistics for the preceding December times (b) the dues for the preceding fiscal year. The House of Delegates may override any such modification by a two-third vote.

As ABA members, we respectfully request that the existing Article 21.11 to amend the “Associates” membership to reflect various changes to the name, International Associates, and Student Associates.

The current Bylaw reads:

§21.11 Associates. Persons who are ineligible to be members or Law Student members of the Association may qualify as associates if they are in one of the following classifications, have never been disbarred or suspended from the practice of law in any jurisdiction, are of good moral character, and satisfy such further eligibility requirements as may be approved by the Board:
(a) General Associates. Individuals who are not admitted to practice law in any jurisdiction, but have an interest in the work of the American Bar Association.

(b) Non-U.S. Lawyer Associates. Members of the legal profession of another country who are admitted to practice law but are not admitted to the bar of any state, territory, or possession of the United States.

(c) Student Associates. Individuals enrolled in college or university level post secondary educational studies and have an interest in the work of the American Bar Association.

The privileges and dues of associates shall be prescribed by the Board. However, they have no interest in the property of the Association and they may not vote, except as authorized by the House of Delegates.

The proposed amendment in legislative format is:

§21.11 Associates. **Affiliated Professional.** Persons who are ineligible to be members of the Association or Law Student members of the Association may qualify as an **Affiliated Professional member** if they are not admitted to practice law in any jurisdiction, but have an interest in the work of the American Bar Association, in one of the following classifications, have never been disbarred or suspended from the practice of law in any jurisdiction, are of good moral character, and satisfy such further eligibility requirements as may be approved by the Board:

(a) General Associates. Individuals who are not admitted to practice law in any jurisdiction, but have an interest in the work of the American Bar Association.

(b) Non-U.S. Lawyer Associates. Members of the legal profession of another country who are admitted to practice law but are not admitted to the bar of any state, territory, or possession of the United States.

(c) Student Associates. Individuals enrolled in college or university level post secondary educational studies and have an interest in the work of the American Bar Association.

The privileges and dues of **Affiliated Professionals** shall be prescribed by the Board. However, they have no interest in the property of the Association and they may not vote, except as authorized by the House of Delegates.

The clean version of the proposed amendments is:

§21.11 **Affiliated Professional.** Persons who are ineligible to be members of the Association or Law Student members of the Association may qualify as an **Affiliated Professional member** if they are not admitted to practice law in any jurisdiction, but have an interest in the work of the American Bar Association, have never been disbarred or suspended from the practice of law in any jurisdiction, are of good moral character, and satisfy such further eligibility requirements as may be approved by the Board:

(a) General Associates. Individuals who are not admitted to practice law in any jurisdiction, but have an interest in the work of the American Bar Association.

(b) Non-U.S. Lawyer Associates. Members of the legal profession of another country who are admitted to practice law but are not admitted to the bar of any state, territory, or possession of the United States.

(c) Student Associates. Individuals enrolled in college or university level post secondary educational studies and have an interest in the work of the American Bar Association.

The privileges and dues of **Affiliated Professionals** shall be prescribed by the Board. However, they have no interest in the property of the Association and they may not vote, except as authorized by the House of Delegates.
Amendment to Article 30 - Sections

As ABA members, we respectfully request that Article 30.5 be modified to make clear that each Section/Division/Forum has the authority to decide whether International Lawyer and Affiliated Professional members may serve on its Council or as a leader.

The current Bylaw reads:

§30.5 Officers and Council. A section shall have a chair. It may also have a chair-elect and such other officers as its bylaws may provide. It shall also have a council consisting of the officers and such other members as it bylaws may provide. Notwithstanding any provisions of this section, non-members may serve on the Council of the Section of Legal Education and Admissions to the bar as its bylaws may provide, non-U.S lawyer associates may serve on the Council and in the leadership of the Section of International Law, the Section of Business Law, the Section of Litigation, the Section of Antitrust Law, the Section of Environment, Energy and Resources, and the Section of Labor and Employment Law as their respective bylaws may provide, and non-U.S. lawyer associates may serve on the Council of the Law Practice Division as its bylaws may provide, and associate members may serve on the Council and in the leadership of the Section of Dispute Resolution as its bylaws may provide.

The proposed amendment in legislative format is:

§30.5 Officers and Council. A section shall have a chair. It may also have a chair-elect and such other officers as its bylaws may provide. It shall also have a council consisting of the officers and such other members as it bylaws may provide. Notwithstanding any provisions of this section, non-members may serve on the Council of the Section of Legal Education and Admissions to the Bar as its bylaws may provide, non-U.S lawyer associates may serve on the Council and in the leadership of the Section of International Law, the Section of Business Law, the Section of Litigation, the Section of Antitrust Law, the Section of Environment, Energy and Resources, and the Section of Labor and Employment Law as their respective bylaws may provide, and non-U.S. lawyer associates may serve on the Council of the Law Practice Division as its bylaws may provide, and associate members may serve on the Council and in the leadership of the Section of Dispute Resolution as its bylaws may provide. International Lawyers and Affiliated Professionals may serve on the Council or as a section leader as its bylaws may provide.

The clean version of the proposed amendments is:

§30.5 Officers and Council. A section shall have a chair. It may also have a chair-elect and such other officers as its bylaws may provide. It shall also have a council consisting of the officers and such other members as it bylaws may provide. Notwithstanding any provisions of this section, non-members may serve on the Council of the Section of Legal Education and Admissions to the Bar as its bylaws may provide, International Lawyers
and Affiliated Professionals may serve on the Council or as a section leader as its bylaws may provide.

**Amendment to Article 32 of the Association’s Bylaws – Forums**

As ABA members, we respectfully request that the existing Article 32.1 be modified to make clear that each Forum has the authority to decide whether International Lawyer and Affiliated members may serve on its Council or as a leader.

The current Bylaw reads:

§32.1 Forums. (a) The House of Delegates may, by a majority vote, create a forum to carry out, in a specific field, a responsibility that is principally to educate its members in that field, is within the purposes of the Association, and is not otherwise served within the Association. The forum shall also investigate and study the matters within its responsibilities.
(b) During each Association year, a forum shall hold one or more educational meetings, open to any member of the Association.
(c) A forum is unlimited in number and indefinite in duration. Any member of the Association may be a member. Each forum shall adopt bylaws not inconsistent with the constitution and Bylaws. The bylaws become effective when approved by the House.
(d) Each forum shall have a governing committee selected in accordance with that forum’s bylaws. Non-U.S. Lawyer Associates may serve on the governing Committee of the Forum on Construction Law as its bylaws may provide.
(e) In carrying out its responsibilities under the section, a forum shall coordinate its activities with those of each section or other commit of the Association that is concerned with a matter that is also within the forum’s responsibilities.
(f) To cover its expenses, a forum may impose such dues as the Board of Governors approves.
(g) The House may discontinue or change the name of a forum. The House shall discontinue a forum if, for any Association year, its expenditures exceed the dues received and advance provision has not been made to cover the excess.

The proposed amendment in legislative format is:

§32.1 Forums. (a) The House of Delegates may, by a majority vote, create a forum to carry out, in a specific field, a responsibility that is principally to educate its members in that field, is within the purposes of the Association, and is not otherwise served within the Association. The forum shall also investigate and study the matters within its responsibilities.
(b) During each Association year, a forum shall hold one or more educational meetings, open to any member of the Association.
(c) A forum is unlimited in number and indefinite in duration. Any member of the Association may be a member. Each forum shall adopt bylaws not
inconsistent with the constitution and Bylaws. The bylaws become effective when approved by the House.
(d) Each forum shall have a governing committee selected in accordance with that forum’s bylaws. International Lawyers and Affiliated Professionals may serve on the governing Committee of the a Forum on Construction Law as its bylaws may provide.
(e) In carrying out its responsibilities under the section, a forum shall coordinate its activities with those of each section or other commit of the Association that is concerned with a matter that is also within the forum’s responsibilities.
(f) To cover its expenses, a forum may impose such dues as the Board of Governors approves.
(g) The House may discontinue or change the name of a forum. The House shall discontinue a forum if, for any Association year, its expenditures exceed the dues received and advance provision has not been made to cover the excess.

The clean version of the proposed amendments is:

§32.1 Forums. (a) The House of Delegates may, by a majority vote, create a forum to carry out, in a specific field, a responsibility that is principally to educate its members in that field, is within the purposes of the Association, and is not otherwise served within the Association. The forum shall also investigate and study the matters within its responsibilities.
(b) During each Association year, a forum shall hold one or more educational meetings, open to any member of the Association.
(c) A forum is unlimited in number and indefinite in duration. Any member of the Association may be a member. Each forum shall adopt bylaws not inconsistent with the constitution and Bylaws. The bylaws become effective when approved by the House.
(d) Each forum shall have a governing committee selected in accordance with that forum’s bylaws. International Lawyers and Affiliated Professionals may serve on the governing Committee of a Forum on Construction Law as its bylaws may provide.
(e) In carrying out its responsibilities under the section, a forum shall coordinate its activities with those of each section or other commit of the Association that is concerned with a matter that is also within the forum’s responsibilities.
(f) To cover its expenses, a forum may impose such dues as the Board of Governors approves.
(g) The House may discontinue or change the name of a forum. The House shall discontinue a forum if, for any Association year, its expenditures exceed the dues received and advance provision has not been made to cover the excess.
RESOLVED, That dues for lawyer members of the Association shall be in accordance with the following schedule, effective for dues commencing with FY2020 and each year thereafter:

$ 75 if admitted to the bar for less than five years
$150 if admitted to the bar five years but less than ten years
$250 if admitted to the bar ten years but less than fifteen years
$350 if admitted to the bar fifteen years but less than twenty years
$425 if admitted to the bar twenty or more years

FURTHER RESOLVED, That lawyers employed by any federal, state, local, territorial or tribal government, lawyers employed by nonprofit public interest programs, judges, solo practitioners, small firm lawyers, and retired lawyers shall pay $150 for dues effective in FY2020 and each year thereafter;

FURTHER RESOLVED, That paralegals shall pay $75 for dues effective in FY2020 and each year thereafter;

FURTHER RESOLVED, That affiliated professionals shall pay $150 for dues effective in FY2020 and each year thereafter;

FURTHER RESOLVED, That international lawyers shall pay $250 for dues effective in FY2020 and each year thereafter;

FURTHER RESOLVED, That if a lawyer licensed by a state, commonwealth, territory or tribal government qualifies for more than one dues category, the lawyer shall pay the lowest amount;

FURTHER RESOLVED, That the Board of Governors is authorized to determine those benefits to be included as part of membership in the Association.
The following Association goals were adopted by the House of Delegates in August 2008:

**GOALS:** 1) Serve our members; 2) improve our profession; 3) eliminate bias and enhance diversity; and, 4) advance the rule of law.

**GOAL I:** Serve our members

**STRATEGIES**

1. Focus on retaining existing members and attracting new members.
2. Develop and implement a comprehensive plan that communicates the value of the ABA to members and potential members.
3. Encourage membership in and active participation by every ABA member in Sections, Divisions and Forums.
4. Increase the functionality of the website and improve the user experience.
5. Make digital content available to all ABA members.
6. Realign ABA entities into Centers of Excellence focused on the four goals of the Association.

**GOAL II:** Improve our profession

**STRATEGIES**

1. Advocate for increased pro bono and public service by lawyers.
2. Develop strategy for meaningful reform of legal education to prepare students for the practice of law of the future.
3. Continue to develop, regularly review, and adopt ethical standards for the legal profession.
4. Continue to develop and market high-quality CLE using the unique human and other resources of the ABA.
5. Be a catalyst for innovation and the development of technology to reshape delivery of and access to legal services.

6. Work with state, local and special focus bar associations to improve our profession and justice system.

GOAL III: Eliminate Bias and Enhance Diversity

STRATEGIES

1. Lead by example and advocate for change to ensure racial, ethnic and gender fairness in the profession, the justice system, legal employers and the ABA.

2. Develop and advocate training for the profession and all participants in the judicial system to eliminate bias and enhance diversity.

3. Adopt the broadest possible definition of a diverse legal profession.

4. Develop and implement focused efforts to recruit diverse members of the ABA.

5. Promote diversity and inclusion in leadership of all ABA entities.

GOAL IV: Advance the Rule of Law

STRATEGIES

1. Defend the rule of law in the United States and around the world.

2. Lead in efforts to educate the public on the rule of law, the justice system, and the roles of judges and lawyers in society.

3. Work to ensure access to justice for all and support Legal Services Corporation and its affiliates.

4. Continue to evaluate candidates for the federal judiciary and communicate to members of Congress and the public the value of the ABA’s evaluation of candidates.

5. Advocate on behalf of the ABA in courts, Congress and other legislative bodies, and regulatory bodies.
ABA Board of Governors
321 North Clark Street
Chicago, IL 60654

May 18, 2018

Re: The National Judicial College Agenda Request

Dear Board of Governors,

The National Judicial College (NJC) Board of Trustees asks the ABA Board of Governors (BOG) to convene as members of the NJC Corporation during the June BOG meeting to conduct two (2) items of business: approve nominees to the NJC Board of Trustees and approve an amendment to the bylaws. The nominees to serve three-year terms on the NJC Board of Trustees includes a BOG nominee (we understand Edward Blumberg has submitted his request to the BOG for reappointment), a Judicial Division nominee to replace Judge J. Matthew Martin (we understand it will be Judge Margarita Bernal), and the five nominees selected by the NJC Board of Trustees.

The Board of Trustees, at the April Board meeting, selected Trustees Alan Brayton, Douglas Cannon, Ann Thornton Field to nominate for additional three-year terms. The Board also selected two new members to nominate for new three-year terms: Marianne Short and Angelina Tsu. Information on each nominee and letters of intent are attached.

NJC Trustees nominated to serve additional three-year terms:

Alan R. Brayton, Esq.
Senior and Founding Partner
Brayton Purcell, LLP
222 Rush Landing
Novato, CA 94949-6169
abrayton@braytonlaw.com

Douglas A. Cannon
President
NV Energy
6226 W. Sahara Ave. M/S 3
Las Vegas, NV 89146
DCannon@nvenergy.com

Ann Thornton Field
Trustee/Partner
Gordon & Rees Scully Mansukhani
One Commerce Square
2005 Market Street, Suite 2900
Philadelphia, PA 19103
afield@gordonrees.com

Looking forward to your support,

Hon. Benjamin H. Aldana (Ret.)
President
New nominees to serve three-year terms:

Marianne D. Short  
Office of the Chief Executive  
Executive Vice President & Chief Legal Officer  
United Health Group  
P.O. Box 1459  
Minneapolis, MN 55440-1459  
jodi.larson@uhg.com

Angelina Tsu  
Vice President, Legal Counsel  
Zions Bancorporation  
245 N. Vine  
Salt Lake City, UT 84103  
angelinatsu@gmail.com

In addition to approval of the nominees to the NJC Board of Trustees, we request approval of an amendment to the NJC Bylaws to designate qualified former members of the Board of Trustees as Trustees Emeriti. The amendment would be inserted after section 8.04 of the bylaws and read:

8.05. Trustee Emeritus. The Board of Trustees of the Corporation may, by Resolution approved by 75% of the Board, designate and elect a former member of the Board of Trustees as a Trustee Emeritus. A Trustee Emeritus shall serve at the pleasure of the Board of Trustees as a non-voting office.

The sections that follow this change would be renumbered in accordance with the proposed change. To be prepared to implement this amendment, the Board adopted a policy outlining the criteria for the designation of a Trustee Emeritus.

If you have any questions regarding these nominees or need additional information, please contact me.

Respectfully Submitted,

Benes Aldana  
President and CEO

Attachments

cc: boardsubmissions@americanbar.org  
Laura Macias, ABA Associate Director, Planning – Governance & Public Services Group  
Kim D. Hogrefe, NJC Board Chair  
Sandra Yamate, NJC Board Chair-elect
With over twenty-eight years of experience, Al Brayton is recognized as one of the West's leading attorneys representing injured individuals and their families in all types of personal injury, products liability and mass tort litigation. He also enjoys a national reputation as one of the foremost attorneys representing victims of asbestos-related disease and has represented clients from virtually every state.

He has been recognized by the Consumer Attorneys of California for his particular experience as a Trial Lawyer in the areas of Products Liability and Professional Negligence. He has successfully tried and settled numerous cases involving victims of mesothelioma and other asbestos-related diseases, products liability, medical malpractice and personal injury, and has handled and argued cases involving a wide range of issues before the California Supreme Court and Courts of Appeal and various Federal Courts. Under his leadership, Brayton Purcell has become one of the premier trial firms in the western United States.

Born and raised in Northern California, Mr. Brayton graduated from Shasta High School in Redding, California before attending the United States Air Force Academy in Colorado Springs, Colorado. He was commissioned a second lieutenant upon graduation, and spent the next twelve years on active duty in the USAF, serving in a variety of jobs both in the United States and overseas, including seven years as a Judge Advocate. Upon leaving the Air Force he entered private practice in Novato, California, concentrating initially on asbestos litigation and aviation cases.

Early in his career, Mr. Brayton won one of the first asbestos cases ever tried in San Francisco Superior Court, and he successfully tried the first asbestos case in Solano County. He has been instrumental in the development of General Orders that govern the conduct of asbestos litigation in various counties throughout the State of California.

Although most of his time is currently dedicated to asbestos litigation, he also has extensive experience in defective medical device litigation and other toxic tort litigation. He has served as Plaintiffs’ Statewide Coordinating Counsel in California cases involving defective Temporomandibular Joint (TMJ) implants, served as plaintiffs’ co-counsel in Hawaii TMJ litigation, and has served on the TMJ Plaintiffs’ Steering Committee in the nationwide Multidistrict Litigation (MDL) “In Re TMJ Implants Products Liability Litigation.” He has negotiated key settlements in cases involving beryllium exposure and beryllium lung disease in plant worker and end-user cases across the United States. He has also served as lead counsel and settled various consumer class actions involving a wide range of problems ranging from altered medical vaccines to rent control abuses.

He also has extensive experience working with asbestos Bankruptcy Trusts, and currently serves as Chair of the Trust Advisory Committee for several Trusts involved in providing compensation for current and future asbestos victims. He recently served as Co-Chair of the Unsecured Creditor’s Committee in the
Chrysler Bankruptcy, and was recently appointed by the Bankruptcy Court to serve as Litigation Manager for litigation stemming from this bankruptcy.

In addition to supervising the firm and working as a trial lawyer, Mr. Brayton has served on the Board of Governors of the Consumer Attorneys of California and reviews and comments on proposed legislation that affects consumer rights and access to the justice system. He has testified before Congress on behalf of asbestos victims to oppose industry efforts to relax stringent asbestos control standards and has been an invited speaker at a symposium on asbestos-related disease sponsored by the University of California at San Francisco Medical School. He also has been an invited speaker at numerous legal conferences on topics involving asbestos litigation, bankruptcy and trial advocacy. Mr. Brayton is an active member of and Past President of the Public Justice Foundation, a nonprofit organization that supports Public Justice, a national public interest law firm dedicated to protecting people, the environment and access to the courts. Mr. Brayton continues his involvement by serving on the organization’s Board of Directors, Executive Committee and Case Evaluation Committee.

An active member of the American Bar Association, Mr. Brayton has held various leadership positions in the Tort Trial & Insurance Practice Section. He has served as the Chair of the Plaintiffs’ Involvement Task Force and on the Task Force on Strategic Alliances as well as various committees, and has served on the Section’s Leadership Council. He has also served as Co-Chair of the ABA Asbestos Task Force and as a mentor and Course Director of the Section’s National Trial Academy. He is a member of the American Association for Justice, the American Trial Lawyers Association, the Marin County Trial Lawyers Association, the San Francisco County Trial Lawyers Association, and the Marin County Bar Association. He has also served as the Dean (or Chair) of the National Trial Academy. He is a Master in the American Inns of Court. Reflecting his fondness for the grape, he is also a member of Lawyer Friends of Wine. In August of 2014, Mr. Brayton joined the Board of Directors for the Bay Area Legal Aid (BayLegal). Mr. Brayton was reappointed to the National Judicial College’s Board of Trustees in June 2015. In September 2017, Mr. Brayton will begin serving on the Board of Directors for the Lifehouse Agency.

Mr. Brayton is admitted to the California Bar (1977), the United States Supreme Court, the U.S. Court of Appeals, Ninth and Third Circuits, U.S. District Courts, Northern and Eastern Districts of California and Hawaii and the Court of Military Appeals. He is rated "AV Preeminent" by Martindale-Hubbell, a rating that indicates that he has practiced law for many years and has achieved the highest level of skill and integrity, and has consistently been selected as a Northern California Super Lawyer.

Alan Brayton on Google+

Areas of Practice

- Personal Injury
- Products Liability
- Mass Tort Litigation

Litigation Percentage

- 100% of Practice Devoted to Litigation

Bar Admissions
- California, 1977
- Hawaii
- U.S. District Court Northern District of California
- U.S. District Court Eastern District of California
- U.S. Court of Appeals 9th Circuit
- U.S. Court of Appeals 3rd Circuit
- U.S. Supreme Court

**Education**

- **University of California at Berkeley, Boalt Hall School of Law, Berkeley, California**
  - J.D. - 1976
- **United States Air Force Academy**
  - B.S. - 1971
  - Major: Economics
- **University of California at Los Angeles, Los Angeles, California**
  - M.S. - 1972
  - Major: Finance

**Classes/Seminars**

- Speaker, Symposium on Asbestos–Related Disease, University of California at San Francisco Medical School
- Speaker, Involving Asbestos Litigation, Bankruptcy and Trial Advocacy

**Honors and Awards**

- Rated “AV Preeminent” by Martindale–Hubbell
- Champion of Justice - Public Justice Foundation, 2013
- Super Lawyers, 2004 - 2005
- Super Lawyers, 2007 - 2016

**Professional Associations and Memberships**

- Chrysler Bankruptcy, Co–Chair, Unsecured Creditor’s Committee
- Consumer Attorneys of California, Board of Governors
- Public Justice Foundation, Member & Past President
- American Bar Association, Member
- Plaintiffs’ Involvement Task Force, Chair
- ABA Asbestos Task Force, Co–Chair
- Section’s National Trial Academy, Mentor and Course Director
- American Association for Justice, Member
- Marin County Trial Lawyers Association, Member
- San Francisco County Trial Lawyers Association, Member
- Marin County Bar Association, Member
- American Inns of Court, Master
• Lawyer Friends of Wine, Member
• Bay Area Legal Aid (BayLegal), Board of Directors
• National Judicial College, Board of Trustees
• Lifehouse Agency, Board of Directors, September 20, 2017 - Present
May 16, 2018

Chair, NJC Board of Trustees,
Kim Dean Hogrefe, Esq.
The National Judicial College
Judicial College Bldg., MS-358
Reno, Nevada 89557

Re: The National Judicial College Board of Trustees—3rd Term Service

Dear Chair Hogrefe,

I am willing and seek to serve on the Board of Trustees of The National Judicial College for a third term. It is my intention to faithfully attend meetings and to work with the other Trustees and Senior Staff to conduct the business of The National Judicial College. Attached is my current CV.

Very truly yours,

Alan R. Brayton

ARB:jsh
Enclosure

CC: Sandra S. Yamate, Esq. - Chair Elect NJC Board of Trustees
Douglas A. Cannon  
President, NV Energy

Doug Cannon serves as president of NV Energy where he leads the company’s daily operations and oversees NV Energy’s commitment to deliver low-cost energy, expand its renewable energy portfolio and maintain industry-leading reliability for its customers.

NV Energy delivers electricity to nearly 1.3 million customers and over 43 million tourists annually throughout its nearly 46,000-mile service territory in the state of Nevada. The company also provides natural gas to more than 165,000 customers in the Reno-Sparks, Nevada area.

Cannon left private law practice in Nevada and joined the Berkshire Hathaway Energy family of businesses in 2011, working as an attorney for PacifiCorp Energy in Salt Lake City. In 2013, Cannon was the lead attorney in obtaining the regulatory approvals necessary for NV Energy to join Berkshire Hathaway Energy. At the end of 2013, with the closing of the NV Energy merger, Cannon joined NV Energy as senior vice president general counsel, corporate secretary and chief compliance officer and, since then, has served in various management roles with the company. In these roles Cannon has set and executed on the strategic direction of the company, and managed all legal, regulatory, compliance, legislative and public relations functions for the company and its subsidiaries.

Cannon earned a juris doctor from the University of Colorado School of Law and a master’s degree in environmental studies from the University of Colorado. He holds a bachelor’s degree in environmental geoscience from Weber State University.

Cannon volunteers as the vice president of finance and serves on the board of directors for the Las Vegas Area Council of the Boy Scouts of America. He also serves as a volunteer member of the board of directors for the National Judicial College.
May 9, 2018

Chair, NJC Board of Trustees
The National Judicial College
The Judicial College Bldg., MS-358
Reno, NV  89557

Dear Sir/Madam:

Thank you for your invitation to join The National Judicial College’s Board of Trustees. I would be honored to work with the other trustees to further the NJC goal of EDUCATION | INNOVATION | ADVANCING JUSTICE. This letter represents my acceptance of the invitation to serve a three-year term as a member of the college’s board of trustees. It is my intent to faithfully attend meetings and work cooperatively with other trustees and NJC staff to facilitate the work of The National Judicial College.

Sincerely,

[Signature]

Douglas A. Cannon
Ann Thornton Field
Partner

Practices
• Commercial Litigation
• Aviation
• Tort & Product Liability
• Agricultural Chemicals & Pesticides
• D&O and Shareholder Litigation

Attorney Biography

Ann Thornton Field is a member of the firm’s Commercial Litigation, Tort & Product Liability, Agricultural Chemicals & Pesticides, and Aviation Groups.

Ann’s practice includes representation of corporations in contract and products litigation both as plaintiff and defense counsel. She has tried numerous cases to verdict both in Philadelphia’s notorious state court system and the state and federal courts in Pennsylvania, Arkansas, and Georgia, to name a few. She has appeared in cases as trial counsel in numerous other matters throughout the U.S., from Oregon to Florida, and the U.K.

Ann’s aviation practice has covered the full scope of the aviation industry, including aircraft and component part manufacturers, fixed base operators, airlines, municipal airport owners and operators, industrial aircraft owners and the estates of persons injured in aircraft accidents.

Ann is involved in her local community where she serves as Chair of the Board of Girl Scouts of Eastern Pennsylvania; is on the Executive Committee of the Philadelphia Police Foundation; on the Board of the Eastern District of Pennsylvania Federal Court’s Historical Society; is Chair of the Philadelphia Bar Association’s Federal Courts Committee; and is on the Temple University Fox School of Business Board of Visitors.

Nationally, Ann is a Trustee of the National Judicial College and is on the Board of the International Aviation Woman’s Association. She is a frequent speaker on issues related to trial tactics across the country.

Prior to joining Gordon & Rees, Ms. Field was a partner at Cozen O’Connor and served on that firm’s Executive Committee and as Chair of the General Litigation Department.

Admissions
• Georgia
• Pennsylvania
• Georgia Supreme Court
• Pennsylvania Supreme Court
• U.S. Court of Appeals, Eleventh and Third Circuits
• U.S. District Court, Eastern and Middle Districts of Pennsylvania
• U.S. District Court, Northern District of Georgia
May 17, 2018

VIA EMAIL

Operations & Communications Committee
ABA Board of Governors
321 North Clark Street
Chicago, IL 60654

Re: The National Judicial Board of Trustees

To Whom It May Concern:

I am willing and seek to serve a third term on the Board of Trustees of The National Judicial College. It is my intention to faithfully attend meetings and to work with the other Trustees and Senior staff to conduct the Business of The National Judicial College. Attached is my current CV.

Sincerely,

GORDON REES SCULLY MANSUKHANI, LLP

Ann Thornton Field

cc: Peter J. Neeson, Esq., Chair NJC Board of Trustees
    Matt Sweeney, Esq., Chair-Elect NJC Board of Trustees
    Lonnie Shodeen, Asst. Secty. to the Board of Trustees & NJC Executive Asst.
Marianne D. Short
Marianne D. Short is Executive Vice President, Chief Legal Officer, and member of Office of the Chief Executive at UnitedHealth Group. She is responsible for overseeing legal, regulatory and compliance matters across the enterprise. Ms. Short has over 35 years of courtroom and management experiences. From 2000-2012, she was a partner in the trial department of Dorsey & Whitney LLP and from 2007-2012, she was the Managing Partner with responsibility for over 600 attorneys in 19 offices world-wide. From 1988-2000, Ms. Short served as a judge on the Minnesota Court of Appeals and authored more than 900 opinions in virtually every area of civil and criminal law. Prior to 1988, Ms. Short was an attorney at the Minnesota Attorney General’s Office and the Dorsey firm.

Areas of Practice:
- Complex Civil Litigation, Including Healthcare, Regulatory and Securities Cases
- Federal and State Appellate

Education:
- Newton College of the Sacred Heart, BA 1973
- Boston College Law School, JD 1976

Community Activities:
- Boston College Board, Trustee Associate
- Leadership Council on Legal Diversity
- Board of Trustees of the Minneapolis Institute of Arts
- Minnesota Public Radio | American Public Media Board of Trustees
- Robina Foundation

Bar Admissions:
- Minnesota, 1977
- Massachusetts, 1977
- U.S. District Court-MN, 1977
- U.S. District Court-ND, 2001
- U.S. District Court-CO, 2005
- U.S. Court of Appeals, 8th Circuit, 1989
- U.S. Supreme Court, 1989
Honors and Awards:

- America's Leading Business Lawyers by Chambers USA
- American Academy of Appellate Lawyers Fellow
- American College of Trial Lawyers Fellow
- Best Lawyers’ Lawyer of the Year (2011, 2012)
- Best Lawyers’ Minneapolis Bet-the-Company Litigator of the Year (2010)
- Finance & Commerce 40 Minnesotans on the Move (2009)
- Girl Scouts Women of Distinction (2009)
- Minnesota Lawyer Attorney of the Year (2012)
- Minnesota State Bar Association Certified Civil Trial Specialist
- Minnesota Super Lawyer (2001-2013)
- Burton Legends in the Law Award (2014)
May 11, 2018

Chair, Board of Trustees
The National Judicial College
Judicial College Building / MS 358
Reno, Nevada 89557

Re: National Judicial College Board of Trustees Letter of Intent

Dear Chair, Board of Trustees:

Thank you for the invitation to serve as a trustee on the NJC Board. This letter represents my acceptance of the invitation to serve a 3-year term as a member of the College’s Board of Trustees. It is my intent to faithfully attend meetings and work cooperatively with other trustees, advisory groups and NJC staff to facilitate the work of The National Judicial College.

Thank you for your attention to this request.

Sincerely,

Marianne D. Short
ANGELINA TSU
1389 Military Way, Salt Lake City, UT 84103 801-638-2040  e-mail: angelinatsu@gmail.com

EXPERIENCE

Zions Bancorporation—Vice President, Legal Counsel  
Practice Areas: Commercial Litigation (representing and advising Zions Bancorporation, affiliate banks and related entities in commercial litigation claims including class action defense), Creditors’ Rights Litigation (representing affiliate banks against debtors/borrowers), Securities Litigation (representing broker-dealers and registered investment advisors in mediation, arbitration and litigation) and Regulatory Representation (representing affiliate banks, broker-dealers and registered investment advisors in investigations and audits by regulatory agencies including FINRA, the SEC and the OCC)

- Primary responsibility for all phases of litigation including drafting complaints, answers, discovery requests and responses, taking and defending depositions, drafting and arguing motions for summary judgment and supporting memoranda, motions to dismiss and supporting memoranda, settlement agreements and trials
- Managing litigation, issuing litigation hold notices, coordinating document collection, reviewing and culling data for production
- Attending, participating in, and preparing for: trials, mediations, arbitrations, motion hearings, evidentiary hearings and other court appearances

Ray Quinney & Nebeker P.C.—Associate  
Practice Areas: Creditors’ Rights Litigation (representing banks and other creditors against debtors and delinquent borrowers in state, federal and bankruptcy court) and Complex Commercial Litigation (representing individuals and entities in a variety of commercial claims including litigation related to franchise agreements and securities regulation)

Representative Experience

- Representing national and regional bank clients in litigation, bankruptcy proceedings and adversary proceedings involving promissory notes, commercial security agreements, commercial pledge agreements, guarantees and agricultural security agreements
  - Drafting complaints, participating in attorney planning meetings, drafting attorney planning meeting reports, discovery requests and responses, settlement documents, and motions for summary judgment
  - Preparing for and examining witnesses at evidentiary hearings
  - Foreclosing on trust deeds, noticing and conducting foreclosure sales
- Representing individuals and entities in complex commercial litigation.
  - Primary responsibility for all phases of commercial litigation including drafting complaints, answers, discovery requests and responses, taking depositions, drafting and arguing motions for summary judgment and supporting memoranda, motions to dismiss and supporting memoranda, and settlement agreements
  - Drafting mediation briefs, representing clients in mediations, initiating and facilitating settlement negotiations, and drafting settlement agreements
  - Attending, participating in, and preparing for: trials, motion hearings, evidentiary hearings and other court appearances

United States District Court—Judicial Clerk to Judge Dee Benson  
December 2002—February 2004

- Drafting bench memoranda, orders and opinions
- Attending motion hearings, bench trials and jury trials
- Researching and participating in legal discussions about cases
EDUCATION

University of Utah College of Law, Juris Doctor May 2002
- Utah Law Review, William H. Leary Scholar, Moot Court, Trial Advocacy, Judicial Clinic, Criminal Clinic
- Student Bar Association Officer, Minority Law Caucus Officer, Pro Bono Initiative Volunteer, Chief Justice-University Supreme Court

Brigham Young University, B.S. Psychology/Communications August 1999
- Dean’s Council Member, University Committee on Traffic and Safety, Student Advisory Council Representative for the College of Fine Arts and Humanities

AWARDS AND RECOGNITION
- Recognized by Utah Business Magazine’s Legal Elite, 2008 – present
- Young Lawyer of the Year, Utah State Bar, Young Lawyers Division (2009)
- Pro Bono Award, Association of Corporate Counsel (2010)
- Star of the Quarter, American Bar Association Young Lawyers Division (2011)
- Section of the Year, Utah State Bar (2010-2011)
- Rising Star Award, First Chair Magazine (2012)
- Committee of the Year, Utah State Bar (2013-2014)
- Distinguished Lawyer of the Year, Utah Minority Bar Association (2014)
- Forty under Forty, Utah Business Magazine (2016)

ADDITIONAL ACTIVITIES

CURRENT
- Utah State Bar, Leadership Academy Co-Chair
- Federal Judicial Nominating Commission, Merit Selection Panel Member
- National Conference of Bar Presidents, Executive Council
- Women Lawyers of Utah, Board Member, Career Advancement Committee Chair
- Emerging Leaders, Board Member and Community Relations Chair
- David K. Watkiss – Sutherland II Inn of Court

PAST
- Utah State Bar, President, Executive Committee Chair, 3rd Division Representative (Board of Commissioners), Affordable Lawyers for All Task Force (Co-Chair) and Constitution Day (Co-Chair)
- Utah Supreme Court, Limited License Technician Task Force
- Utah State Bar Young Lawyers Division, President 2010-2011, Executive Board Member, Co-Chair Public Education Committee, Co-Chair Public Service Committee
- Association of Corporate Counsel, Board Member (Mountain West Chapter)
- American Bar Association TIPS Leadership Academy, 2015-2016 Class
- ABA House of Delegates, Utah State Bar Delegate
- Utah Minority Bar Association, Mentoring Committee
- Utah Minority Bar Foundation, Board Member
- Young Benefactors, Utah Museum of Fine Arts, Young Benefactors Counsel Member
- SJ Quinney College of Law, Co-chair Mentoring Program
- SJ Quinney College of Law Young Alumni Association, Board Member
- Utah Asian Chamber of Commerce, Board Member/General Counsel
- Zions Bank Diversity Council, Board Member, API Business Forum Chair

INTERESTS: Fly tying and fishing, golf, snowboarding, travel and tennis
May 16, 2018

Kim Hogrefe
Chair, NJC Board of Trustees
The National Judicial College
The Judicial College Bldg., MS-358
Reno, NV  89557

Re: National Judicial College Board of Trustees

Dear Kim:

Thank you for your invitation to join The National Judicial College's Board of Trustees. I would be honored to work with the NJC in furtherance of its mission of education, innovation and the advancement of justice. Please consider this my acceptance of the invitation to serve a 3-year term as a member of the College's Board of Trustees. It is my intent to faithfully attend meetings and work cooperatively with other trustees and NJC staff to facilitate the work of The National Judicial College.

I look forward to meeting you and the NJC Trustees in July.

Sincerely,

[Signature]
MEMORANDUM

TO: Members of the Board of Governors
FR: Alpha M. Brady
RE: Consent Calendar
DT: June 4, 2018

The Consent Calendar is comprised of the Report of the Committee Chairs of the Board. This Report will be distributed to you at the Board meeting on Friday, June 22, 2018. Following the oral reports from each of the Chairs of the Board Committees, the Consent Calendar will be approved without discussion except for those items that have been removed from the Consent Calendar.

Should you wish to remove an item from the Consent Calendar, please notify me the morning of Friday, June 22, 2018.
Reports From Committee Chairs

Hon. Ramona G. See, Chair
Profession, Public Service and Diversity
Consideration of ABA Medal
(executive session)

Ilene K. Gotts, Chair
Finance

Andrew J. (Josh) Markus, Chair
Member Services
Sexual Harassment Video

Jarisse J. Sanborn, ABA General Counsel and Associate Executive Director

2:00 p.m. – 2:15 p.m.
Presentation Regarding New ABA Website

2:15 p.m. - 2:45 p.m.
Presentation by Section of Legal Education

Maureen O’Rourke, Chair, Section of Legal Education
Barry Currier, Managing Director, Accreditation and Legal Education

2:45 p.m. – 3:15 p.m.
Presentation Regarding Board Governance Survey Responses

Linda L. Randell, Chair, Board Governance Committee

3:15 p.m. – 3:30 p.m.
I. Executive Summary:

ABA Journal Historical Performance

- For most years in the last decade the ABA general fund contribution to produce the Journal remained between $3.4 million to $3.9 million.

- During that same period, advertising revenue dried up industry wide (e.g.: FY2005 was $4.5M, down to $1.5M for FY2017 and projected to be $2.032 million for FY2018).

- To minimize ABA general fund contribution, since FY2016 ABA Journal cut more than $2M in expenses (from appx. $7.5 million to $5.5 million), while maintaining 12 issues to all members (print mailed monthly to all members, except digital only to international and law student members).

- The Journal staff is doing more with less, and remaining the lead, news magazine for lawyers.


FY18 Projected Performance Against Budget

- FY18 Annual Revenues projected to come in at appx. $2,032,000 (budget is $2,475,000**)

- FY18 Annual Expenses currently projected to come in at appx. $5,217,136 (budget is $5,497,359)

- FY18 Annual ABA General Fund Contribution projected to come in at appx. $3,250,186 (budget is $3,022,359**)

** The deviation for the ABA General Fund Contribution is primarily attributed to the unrealistic FY18 revenue budget forecast. See July 2017 ABA Journal BOE Letter questioning aggressive FY18 revenue budget.

FY19-FY21 Budget Concerns and Plans

- FY19 additional net reduction of $450,000 in the ABA General Fund Contribution.

- Also for FY19, an additional $400,000 in operation expense cuts because of reduction in revenue projections.

- Over the three-year period FY19-21 advised that the ABA general fund contribution will be reduced by a total of $1.5 million (including the FY19 cut).

- ABA J and its outside advertising agency do not project an increase in revenues much above FY18; accordingly, the $1.5 million in cuts must come from further reduced expenses (from $5.5 million to $4 million). $4 million of expenses is insufficient to maintain current frequency and circulation. The ABA Journal Board of Editors (BOE) appreciates the association’s financial position and, accordingly, is developing a plan to absorb those cuts, while retaining editorial excellence; this is predicted to entail a substantial reconfiguration of the ABA Journal as follows:

  - For FY19: A short term adjustment to address the immediate $850,000 net cut: (a) staff cuts (already implemented), plus (b) reduce to 10 print issues, mailed only to full dues-paying members (any other members would be afforded on-line, digital access only, which is also available to full dues-paying members).
Online presence: The Journal’s staff provides a robust digital home for their journalism. The Journal’s staff will immediately commence improvements and updated to the ABAJournal.com site, intended to strengthen the digital platform and the products generated on that site. Note that at present, the Journal is separately hosted on ABAJournal.com. It is anticipated that, at some point, the americanbar.org’s vendor will upgrade the ABA’s new platform to provide the same tagging and accessibility already existing on ABAJournal.com. That will not happen immediately, however, and work must be done in the interim to strengthen the current platform. Once the ABA vendor implements an adequate platform, the Journal will migrate and integrate into americanbar.org and, at that time, the ABA J staff were informed that the cost to integrate the Journal’s digital footprint will be treated as a capital expenditure, and not charged to the Journal budget.

Starting with FY20: By FY20, to absorb the entire $1.5 million cut in the ABA General Fund Contribution, the Journal will launch a complete overhaul of the Journal brand. The Journal’s BOE will meet on June 23 to review potential options. The BOE has not made its decision yet, however the Journal’s senior staff and BOE chair believe the most likely scenario is to offer six print issues annually, mailed only to full dues-paying members (i.e., every two months) with up to two, single-topic special issues. As the magazine would no longer be sent monthly, the Journal can no longer produce a timely print news magazine for lawyers and the overhaul will include a redesign and configurations of topics and articles included in the magazine. Additionally, the online offerings would undergo redesign and relaunch, with redistributing print resources to new digital channels.

NOTE REGARDING VARIABLE COSTS:
- If membership increases, then the Journal variable expenses increase for each additional issue printed and mailed to a dues-paying member. Those increases are not included in the Journal’s budget and would need to be funded by an increase in the net ABA General Fund Contribution. The BOE anticipates the Board of Governors would consider that to be a “good” problem to have, and that they would proportionately adjust the ABA General Fund Contribution to reflect the additional print magazines being sent to full dues paying members.

- The Journal’s budget and plans through FY21 to do not include any allocation for ABA Membership’s promotional projects. Thus, if ABA Membership wishes to provide print issues of the Journal to anyone other than a full dues-paying member, the cost for such additional issues (print and mailing) must be funded by an expense offset from the membership budget to the Journal’s expense side.

NOTE REGARDING DIGITAL PRESENCE: The Journal already has a strong, digital presence as further described below, and the Journal staff is already working on enhancements necessary to bolster this important member benefit. The BOE and Journal staff appreciate, however, that a digital presence will reach a point of diminishing returns. For example (a) there is difficulty in delivering digital issues, since the ABA does not have current, correct email addresses for all members, some members opt-out from emails, and most younger lawyers and law students do not use email as their primary digital communication vehicle; (b) a recent reader survey reflected that many ABA members still prefer print issues; (c) digital only production of other ABA periodicals resulted in substantially lower “open rates” vs. print issues, even where the ABA had correct email addresses; and (d) lower open rates will materially and adversely affect the amount of advertising revenue generated (which would then result in increasing the ABA General Fund Contribution necessary to retain even the scaled back version). The plan through FY21 combines both print and digital components, and to succeed with digital, ABA membership and other ABA entities and departments must assist the Journal staff: to ensure reliable delivery of digital content that will be opened by the intended recipients; and assistance
guiding ABA members through the digital process to keep a high “open rate” and adequate advertising revenue.

II. Journal Cost Cutting & Value Building – Historical Background Details

**Doing more with less:** The Journal has long been focused on keeping expenses in check. As ad revenues continued to decline at the Journal and industry wide, so did expenses for all Journal operations. The result is that the Journal is doing much more with much less. While trimming more than $2 million from its expense budget, it vastly improved the look and feel of its 12 monthly magazines to achieve a more readable, more attractive and influential product. Besides regularly being identified as a core member benefit, the Journal’s progress has been celebrated by peers in the B2B community, which recognized the Journal as Magazine of the Year in 2013 and as a top-three magazine in 2014, 2016, 2017 and 2018.

The Journal’s digital presence is also now quite extensive. During the past 10 years, the Journal added a full-featured news website that attracts more than 1.5 million pageviews a month, added three newsletters, added three podcasts with growing audiences, and developed a strong social presence on Facebook (25,000), Twitter (94,000), and LinkedIn (415,000).

As membership fluctuated over the years, the Journal’s reach for the ABA has grown, making the Journal a powerful resource for the larger association, both to advance ABA policies, and as the association seeks to attract and influence an increasingly diverse and hard-to-pin-down market.

Consider that in 2005, the Journal’s revenue was nearly $4.5 million and expenses were more than $7.9 million. The ABA general fund contribution of $3.5 million of the Journal’s total expenses that year. Fast forward to 2017, with ad revenue in the tank (at $1.5 million) the Journal trimmed expenses, and the ABA general fund contribution was $3.7 million.

The ABA general fund contribution for Journal operations has remained relatively consistent over the years, ranging from $3.4 million to $3.9 million for most of the last decade. The rare exception was in FY16, when overly optimistic revenue projections combined with exceptionally poor performance resulted in the ABA’s portion topping $5 million for the first time. By FY17, the ABA general fund contribution portion was back within range to $3.7 million; for FY18 the ABA budgeted approximately $3 million for the ABA general fund contribution, although the actual contribution is projected to come in higher (the increase over budget is due primarily to unsubstantiated, aggressive revenue forecasts included in the FY18 budget, without the Journal BOE’s advice or consent).

III. FY18 Current Financial Status

**A. REVENUE**

Over the first eight months of the fiscal year, the Journal has accrued $1,379,257 or $172,407 a month in total revenue. The budgeted accruals indicate that the Journal is 22% below a revenue budget of $1,770,415 for the period. That is still below the optimistic target employed by the Board of Governors in the Journal’s FY18 budget, but trending in the right direction, with approximately $650,000 in additional revenue projected for FY18 (FY17 actual revenue was $1.379 million, FY18 revenue is projected to come in at $1.928 million).
### B. ABA (GENERAL FUND) CONTRIBUTION TO THE JOURNAL’S OPERATIONS

( the “delta” of revenue to expenses)

The ABA has budgeted $3,022,359 on Journal operations for FY18. That reflects a one-year reduction of $629,462 from FY17’s budget, which was $3,651,821.

To date, for the FY18 “delta” the Journal is $170,702 over the YTD budget for the period. The actual “delta” or net cost to the ABA general fund is down $308,398 from the same time last year. Projections are that the Journal will end the FY with a delta of $3,250,186 against a budget of $3,022,359, a variance of $227,827. In FY17, the Journal was over budget by $473,737.

### C. GROSS EXPENSES

Through April, the Journal is under expenses overall by $212,985. The total expense budget for the period was $3,738,636 and the Journal has spent $3,525,651.

The following discuss subcategories of Gross Expenses:

#### 1) Salaries/Benefits

The Journal is very close, about 1.5 percent above budget on salaries and benefits. The budget for the period was about $1.57 million, with actuals at $1.59 million or $23,138 above budget. The total spend compared to FY17 has decreased. This time last year, the Journal spent $1.76 million on salaries for the period. Factoring in voluntary separations and an open position, projections are for the Journal to come in at $2,333,343 in salaries, wages and benefits, about $55,900 under budget for the fiscal year.
2) Contracted Services (Freelancers/Web Developers)

For freelance writers and other contracted services for abajournal.com, the Journal is slightly over budget, spending $120,772 against a budgeted $117,868 for the period. This is less than half of what the Journal spent on freelancers and web developers for the same period in FY17. Last year, the Journal spent $210,377 over the same period. The Journal is projected to be over budget on freelancers for the fiscal year by $4,366, with total spending estimated at $182,366 against a budget of $178,000.

As noted in the January budget update, abajournal.com is in immediate need of an update for security and support reasons. Given the americanbar.org delays and uncertainty of a timeline to migrate abajournal.com into the main americanbar.org, the Journal is moving forward with the platform upgrade. As part of the project, site producers and developers will be doing a cleanup in anticipation of a migration to another platform. This will make a future move less complicated. It’s the Journal’s understanding that the migration to the .org will involve a comprehensive review of needs, some custom design components and migration that will be covered in a capital expense. A migration to the americanbar.org is not currently a budgeted expense.

<table>
<thead>
<tr>
<th>Contracted Services*</th>
<th>FY17 YTD Budget</th>
<th>FY18 YTD Budget</th>
<th>FY17 YTD Actuals</th>
<th>FY18 YTD Actuals</th>
</tr>
</thead>
<tbody>
<tr>
<td>Writers/Web Development*</td>
<td>$199,597</td>
<td>$117,868</td>
<td>$207,631</td>
<td>$117,868</td>
</tr>
</tbody>
</table>

*Includes about $33,000 in annual web hosting and digital edition hosting/app platform expenses.

3) Commissions

As noted previously, the Journal’s outsourced ad/marketing partner Network Media Partners (NMP) charges a 35% commission rate. This is handled as an expense in the Journal’s operating budget. This added commission expense means deeper cuts to other Journal expenses.

To date, the Journal is over budget on commissions by $29,085, paying $461,885 against a budget of $432,800 for the period. If the commissions exceed the budget, it means the Journal earned more in advertising revenue. There is no way to control commission expense, unless the Journal foregoes advertising revenue. The Board of Editors would prefer that revenue and commissions would be “netted out” the revenue side of the ledger, to reflect the actual revenue earned after deducting the commissions. The Journal recommends that the ABA’s finance department consider such an adjustment going forward.

5) Meetings & Travel:

BOE: ABA’s financial reports do not break out BOE expenses vs the expenses for the Journal’s production and operation expenses. Starting with FY18 we are internally segregating those expenses, to provide decision makers with true costs for BOE meetings vs ABA Journal production costs. The BOE travel budget for FY18 is $16,200; due to an early resignation from the BOE that will not be filled until the fall, the BOE anticipates it will be on budget for its meetings.

As an aside, by capping BOE travel reimbursement, the BOE agreed to personally shift and absorb meeting costs from the ABA to the volunteer BOE members. It is anticipated that the average BOE member will absorb approximately $2,000 of unreimbursed expenses annually. That amount increases by at least $1,000/member if BOE meetings were restricted to Chicago, DC and midyear location (based upon costs for FY17, when those were the meeting locations). While the members agreed to absorb costs to preserve the necessary three meeting format, we are accommodating them with geographically diverse locations with reasonably priced hotels.

Group Functions: The budget and financial reporting do not presently break out staff vs. BOE group functions. BOE Group Functions include meals and receptions during BOE meetings (which are often rolled into the food and beverage minimums to reduce overall hotel costs) and meeting rooms. The fall meeting is held in
Chicago, in order to meet with the ABA Staff and traditionally included a joint meal. For FY18, the meal was changed to a reception, and rolled into the food & beverage minimum (thus attributed entirely to BOE Group Functions, rather than staff). Costs for that same meeting were also increased due to the ABA’s inability to provide meeting rooms in the ABA offices. There are also Staff Group Functions that do not include the BOE throughout the year. We anticipate that the total Group Functions expenditures will remain within budget. Although not done by financial services, internally we will break out staff group functions from BOE group functions.

Staff Travel: A small portion of ABA Staff Travel is used for BOE meetings; most of the ABA Staff Travel budget is expended for story development, journalism assignments, and business development (e.g. visiting current and potential advertisers). We are within budget projections for staff travel for both categories and do not anticipate a negative deviation from budget.

<table>
<thead>
<tr>
<th>Meetings &amp; Travel (Sept.-April.)</th>
<th>FY17 Budget</th>
<th>FY18 Budget</th>
<th>FY17 YTD Actuals</th>
<th>FY18 YTD Actuals</th>
</tr>
</thead>
<tbody>
<tr>
<td>All Staff Travel</td>
<td>$74,880</td>
<td>$49,500</td>
<td>$18,778</td>
<td>$16,745</td>
</tr>
<tr>
<td>BOE Travel</td>
<td>$18,000</td>
<td>$16,200</td>
<td>$34,809</td>
<td>$9,494*</td>
</tr>
<tr>
<td>All Group Functions*</td>
<td>$41,000</td>
<td>$37,400</td>
<td>$15,800</td>
<td>$32,213*</td>
</tr>
<tr>
<td>Total</td>
<td><strong>$133,880</strong></td>
<td><strong>$103,100</strong></td>
<td><strong>$69,388</strong></td>
<td><strong>$58,453</strong></td>
</tr>
</tbody>
</table>

*Note that previous BOE travel and current group functions includes CART services for a hearing-impaired board member.

6) Publishing & Postage

The Journal more closely budgeted to actual expenses for printing and postage in FY18, dropping estimated circulation from 350,000 to about 300,000. There has been increased circulation and increases in paper prices. Even so, with a new printing contract, printing and postage remains under budget.

The Journal is also saving in “editing services” which is where the Journal’s art and photography are captured in budgeting and reporting. With more original graphic design from our newest designer and a significant increase in contributed photography, we’ve been able to keep photo and art expenses low. Th Journal has so far spent less than half its budget for photography and art, putting savings projections at more than $50,000 for the year.

<table>
<thead>
<tr>
<th>Print Production &amp; Mailing</th>
<th>FY17 YTD Budget</th>
<th>FY18 YTD Budget</th>
<th>FY17 YTD Actuals</th>
<th>FY18 YTD Actuals</th>
</tr>
</thead>
<tbody>
<tr>
<td>Printing</td>
<td>$846,069</td>
<td>$597,436</td>
<td>$536,605</td>
<td>$570,320</td>
</tr>
<tr>
<td>Postage</td>
<td>$784,942</td>
<td>$622,863</td>
<td>$307,289</td>
<td>$452,579</td>
</tr>
<tr>
<td>Editing services</td>
<td>$126,995</td>
<td>$145,428</td>
<td>$72,390</td>
<td>$64,827</td>
</tr>
<tr>
<td>Total Print Production</td>
<td><strong>$1,758,006</strong></td>
<td><strong>$1,365,727</strong></td>
<td><strong>$916,284</strong></td>
<td><strong>$1,087,725</strong></td>
</tr>
</tbody>
</table>
7) Facilities

Despite consolidating office space (down three offices), decreasing storage space and increasing the number of full-time telecommuters, the Journal is paying nearly as much as it did for rent/space allocations as it did in FY17.

Even after corrections were made, the Journal is above budget by $55,717, charged $245,104 against a budget of $189,387 for the period. During the same period last year, the Journal was also over budget for the period, with a rent/space charge of $263,115 against a $239,771 for the period. Even with office changes and an increase in telecommuters, the Journal is projected to spend close to its actuals in FY17. Spending is expected to be $371,961 or $84,661 above budget. FY17 actual expenses for the year were $381,346, which included two more offices, a storage room, additional cubicle and additional cabinet space. The Journal welcomes suggestions on what additional steps it can take to reduce this expense.
ABA Journal wins best Web News Section and other national honors at 2018 Azbee Awards

POSTED MAY 11, 2018, 3:09 PM CDT

ABAJournal.com won a national gold award for best Web News Section and the ABA Journal received an honorable mention for Magazine of the Year in its revenue category at the 2018 Azbee Awards. The awards, given by the American Society of Business Publication Editors on Thursday in Washington, D.C., recognize outstanding work by business-to-business, trade, association or professional publications.

The ABA Journal also won four other national gold awards for news features, government coverage and design. A complete list of the ABA Journal’s national Azbee awards:

National Gold Awards

Azbee Category: Online > Web News Section
Title of Entry: ABA Journal: Law News Now
Awarded to: Debra Weiss, senior writer; Sarah Mui, assistant managing editor; Stephen Rynkiewicz, web producer; Lee Rawles, associate editor; Stephanie Francis Ward, senior writer; Andrew Lefkowitz, deputy web editor

Azbee Category: Print > Government Coverage
Awarded to: Lorelei Laird, legal affairs writer; Jason Tashea, legal affairs writer; Kevin Davis, assistant managing editor

Azbee Category: Print > Feature Article - General Interest
Title of Entry: “Erasing the News”
Awarded to: Terry Carter, senior writer; Reginald Davis, managing editor

Azbee Category: Print > Impact/Investigative
Title of Entry: “Troubled Passage”
Awarded to: Stephanie Francis Ward, senior writer; Reginald Davis, managing editor

Azbee Category: Design > Opening Page/Spread-Illustration
Title of Entry: “Managing Cyber Risk”
Awarded to: Brenan Sharp, deputy design director

National Silver Awards

Azbee Category: Print > News Section
Title of Entry: The Docket
Awarded to: Kevin Davis, assistant managing editor; Lorelei Laird, legal affairs writer; Jason Tashea, legal affairs writer; Mark Walsh; contributing writer

Azbee Category: Print > Technical Article
Title of Entry: “Calculating Crime”
Awarded to: Jason Tashea, legal affairs writer
Azbee Category: Design > Front Cover-Photo Illustration
Title of Entry: "Erasing the News"
Awarded to: Brenan Sharp, deputy design director; Don Levey, photographer

National Bronze Award

Azbee Category: Print > Regular Department
Title of Entry: Opening Statements
Awarded to: Liane Jackson, Assistant Managing Editor; Robert Fernandez, design director

The ABA Journal also won a number of awards for the Upper Midwest Region (consisting of Illinois, Iowa, Minnesota and Wisconsin). All of the national winners won regional gold awards except “Troubled Law Schools,” which won a Regional Silver Award.

Also winning Regional Gold Awards:

• Legal Rebels, in the Azbee Category: Online > Web Microsite/Special Section
• Building the 21st-Century Law Firm, in the Azbee Category: Print > Feature Series
• Resistance Redux, in the Azbee Category: Print > Group Profile

Winning Regional Silver Awards:

• ABAJournal.com, in the Azbee Category: Online > New or Relaunched Website
• “Ad It Up!” in the Azbee Category: Print > Feature Article - General Interest

Winning Regional Bronze Awards:

• Legal Tech Coverage, in the Azbee Category: Online > Online Product Review
• Judicial Nominations, in the Azbee Category: Online > Online Single Topic Coverage by a Team
• Legal Rebels, in the Azbee Category: Design > Feature Article Design
• Web 100 in the Azbee Category: Design > Feature Article Design
• “Rallying for Reform” in the Azbee Category: Design > Opening Page/Spread-Photo
Section 33.2 of the ABA Bylaws requires that “the proceedings of the Board of Editors shall be reported to the Board of Governors, which, by a majority vote of its entire membership, may disapprove, change or rescind any action or appointment of the Board of Editors.” This report covers the Jan. 3-4 Board of Editors meeting held in Fort Lauderdale, Fla.

**Board of Editors Action**

The BOE approved its September 2017 meeting minutes with an instruction to staff to avoid characterizations of discussions.

**Nominations Submitted for Approval**

The BOE voted to nominate two individuals to fill seats being vacated by Judy A. Toyer, whose final three-year term expires in August 2018; and Alice E. Richmond, whose three-year regular term expires in August 2018.

To replace Richmond, the BOE nominated Thomas C. Grella. As a second choice, the BOE recommended Marilyn J. Kaman. To replace Toyer, the BOE nominated Wilson A. Schooley. As a second choice, the BOE recommended Edward T. Brading.

At a subsequent phone meeting, the BOE elected Richmond as chair to replace Kathleen J. Hopkins, who announced her plan to resign from the BOE on June 30, 2018.

The BOE submitted the nominees to the Board of Governors for approval at its June meeting in Denver.

**Finance & Advertising Report**

Molly McDonough presented the year-to-date financial reports and noted the breakdown of budget for FY18. While more than 40% of the Journal’s $6.2 million budget was devoted to printing and postage in FY17, the FY18 budget of $5.5 million cut the percentage to 36%. Another 43% is devoted to salaries; 11% to ad sales commissions; 5% to facilities; 3% for freelancers and other contracted services; and 2% to BOE meetings and staff travel for business development and reporting.
Through November, the Journal was below budget on expenses by 8.9%. McDonough noted the Journal was also below budget by 22% on revenue. This was a vast improvement over the same period in FY17, when the revenue shortfall was more than 57% below budget. McDonough presented an analysis showing that the Journal has long had a large gap between budget and actuals on revenue. Narrowing that gap is a continuing focus, requiring setting of revenue targets based on previous performance and realistic projections.

Network Media Partners President Carrie Hartin presented an overview of her agency, which provides outside ad sales for the Journal and has been working to rebuild the Journal’s failing ad sales operation. Hartin explained NMP’s process for initiating sales, building a plan, and then executing a strategy. Hartin projected that NMP would be able to bring in $2.2 million in revenue in FY19 if the Journal continues as a monthly magazine. The projections would lower if issues are cut and circulation drops.

**Editor and Publisher Report**

McDonough presented a PowerPoint focused on paywalls, audience development, brand awareness and news targeting by age and career trajectory. She discussed the importance of gathering and reviewing data on reader habits and engagement, often by segments based on age or level of interest. McDonough presented readership statistics showing how often readers get their news online and how more and more readers are getting their news from social media channels. Using data from sources including the American Press Institute, she described the types of readers, breaking them down into three categories: The wary grazer, the thrifty transactor and the civically committed. McDonough then explored the characteristics of millennial readers. All these characteristics are important to understand when developing paywalls, targeted products and content marketing plans.

**Paywall**

After a presentation and discussion about implementing a metered paywall at the ABA Journal, the BOE determined it should wait to make a paywall decision until after the Journal’s website is merged with the new americanbar.org. The BOE learned that the Journal is standing by for a merger timeline after the new ABA site launches and its impact on ad sales is better known.

**Strategic Planning Review**

The BOE reviewed its strategic plan and assigned board members to work with staff on specific areas of the plan in the following areas: Internal & External Marketing (Richard Field, Pamela Roberts, Lauren Rikleen, Kathleen Hopkins); Establish Partnership and Target Audiences for Distribution (Field); Redesign of the Magazine (Katherine O’Neil); Podcast (O’Neil); New Editorial Policy (Hopkins, Rikleen, Judy Toyer); Updated Ethics Policy (Joan Durocher, Rikleen, Roberts); Newsletter Redesign (O’Neil); Diversity Guidelines (Roberts, Rikleen); and Subscriptions (Richmond).

**Editorial Review**

Editorial Committee Chair Alice Richmond expressed the BOE’s continuing concern about diversity among academic exports and other sources used in the Journal. The BOE discussed the content of the September, October, and November issues in detail. Discussion involved overall look and feel, and critiques of articles. Richmond noted a discernable difference in layouts since the Journal reduced its art budget and began using more contributed photos. The BOE remains concerned that the Journal maintain a high quality look and feel in terms of art use and article substance.
Membership Report
TO: Board of Governors

FROM: Rochelle E. Evans

SUBJECT: Requests for Bylaws Amendments

DATE: June 4, 2018

a. Section of Intellectual Property Law: requests approval to amend its bylaws to create a Financial Officer-Elect position. The Section is creating this new position to develop and provide experience to the Financial Officer, to make strategic and effective budgetary decisions for the section. The new position is patterned after the ABA Treasurer/Treasurer-Elect model. These bylaw revisions were approved by the Section Council at its meeting on April 18, 2018 and are subject to approval by the Section’s membership meeting at the ABA 2018 Annual Meeting.

b. Section of Public Contract Law: requests approval to amend its bylaws to create a Membership Officer position which will be responsible for advancing the Section and Association membership objectives, with oversight over all related Section committees and liaisons to other Section and Association entities. These bylaw revisions were approved by the Section Council at its meeting on March 17, 2018 and are subject to approval by the Section’s membership meeting at the ABA 2018 Annual Meeting.

c. Section of Legal Education and Admissions to the Bar: requests approval to amend its bylaws to eliminate the Accreditation and Standards Review Committees and to allow the Council to subsume the work of the Committees. The Council believes that by eliminating the Committees, it will have advantages that will improve the efficiency and effectiveness of the accreditation process. In addition, the Section requests approval to amend its bylaws to shift...
the periodic review of a law school from the current seven-year cycle to a ten-year cycle. These bylaw revisions were approved by the Section Council at its meeting on May 11, 2018 and are subject to approval by the House of Delegates at the ABA 2018 Annual Meeting.
ABA Board of Governors
Request for Approval of ABA Ombuds Day
March 8, 2018

The Section of Dispute Resolution (Section), on behalf of its Ombuds Committee, requests approval to designate an ABA Ombuds Day to raise awareness of the benefits of using an Ombuds and generate a renewed commitment to conflict management. Initially, the Section would hold one event in October of 2018, in Washington, D.C., as its ‘kick off’ event and would incur no or minimal expenses. Any expenses would be derived from Section funds. If successful, ABA Ombuds Day will be an annual event.

At the Annual ABA Meeting in 2017, the ABA House of Delegates adopted Resolution No.103 which supports the further use of Ombuds. And on April 7, 2017, the Section leadership approved the proposal to establish an ABA Ombuds Day.

The American Bar Association, Dispute Resolution Section, Ombuds Committee has a mission to promote a better understanding and increase utilization of appropriately designed, supported, and implemented ombuds programs in organizations of all types and are making efforts to inform and educate private, non-profit and government organizations and individuals about the functions and benefits of ombuds programs, and to continue to create new quality ombuds programs that adhere to recognized codes of conduct and standards of practice.

ABA Ombuds Day will serve as an opportunity to educate and raise awareness among the public about the history and practices of the ombuds profession including the importance of ombuds in our society.

An ABA Ombuds Day will create an outreach opportunity; increase awareness of the ombuds profession; educate the public about the different types of ombuds; clarify the wide variety of services ombuds provide; highlight the value an ombuds brings to an organization; encourage use of ombuds programs; encourage compliance with recognized standards of practice as set forth by the United States Ombudsman Association, International Ombudsman Association, and other nationally recognized standards; explain the role of ombuds in dispute resolution and conflict management systems; and connect ombuds to their respective communities.

Respectfully,

Ben Davis, Section Chair
To:    Board of Governors
From:  Carol Stevens, Associate Executive Director, Communications and Media Relations
Re:    Request to Create Proactive Messaging Projects

The Communications and Media Relations Division seeks approval to initiate a series of annual pro-active messaging projects designed to burnish the ABA’s brand as the voice of the legal profession, attract positive media attention and reinforce the ABA’s reputation as the leader in promoting justice and the rule of law and addressing the needs of the legal profession.

CMR will collaborate with relevant and appropriate ABA entities, — such as the Standing Committee on Public Education, the Standing Committee on Legal Aid and Indigent Defense, and the Standing Committee on Pro Bono and Public Service — to design, produce and promote these projects each year at minimal costs to the ABA. To the extent that funding is needed, CMR seeks approval to pursue relevant grant funding and/or explore partnerships with appropriate outside organizations and universities.

Each of the signature projects will be designed to focus public attention on important aspects of the ABA’s goals and mission and enhance the ABA’s standing as the world’s largest association for the legal profession. They include:

**ABA Annual Report on the Legal Profession** – Work with the Law Practice Division, the Commission on Women in the Profession, the Commission for Racial and Ethnic Diversity in the Profession, the Section on Legal Education and other appropriate entities to gather a wide range of statistics and produce an annual snapshot of the legal profession. Such a yearly survey would help solidify the ABA’s standing as the go-to source for statistics about the legal profession. The report would have high media interest and it would garner ABA mentions every time the media cite data from the survey. Information could include:

- Number of lawyers and where they are working (by geography, firm type, specialty area).
- Number of women and minorities in the legal profession. The number of women and minorities who are partners, equity partners in firms.
- Average age of lawyers in U.S. by firm size.
- Average salary of lawyers in U.S. by firm size.
- Number of law school graduates and breakdown by sex, race.
- Number of law school applicants and breakdown by sex, race.

**ABA Access to Justice Index** – Work with appropriate entities including the Standing Committee on Public Education, the Standing Committee on Legal Aid and Indigent Defense, the Standing Committee on Pro Bono and Public Service, and the Coalition on Racial and Ethnic Justice to design, produce and promote an annual index that measures the ability of U.S. residents to access the nation’s legal system.

This could serve as a domestic variation of the World Justice Project’s highly regarded Rule of Law Index, except it would look at access to justice, including pro bono/free legal services, low-cost legal services, and paid legal services. It could produce breakdowns by geographic location, age, gender and race. This index would
attract substantial media attention, reinforce the ABA’s commitment to access to justice and garner media mentions any time the index is cited.

Annual ABA Survey of Constitutional Knowledge or ABA Survey of Civics Knowledge—Such an annual survey could be developed in cooperation with the Standing Committee on Public Education and other appropriate entities. It could be permanently aligned with Law Day and would focus on the ABA’s commitment to the rule of law. The survey would be of high media interest and attract significant media pickup throughout the year.
MEMORANDUM

TO: Board of Governors
FROM: Rochelle E. Evans
SUBJECT: Consideration of Request for Renewal of Technical Commenting Authority Expiring in June 2018 and Notifications to Serve as Reviewing Entities for These Technical Comments

DATE: June 4, 2018

The Member Services Committee will consider the request of the Tort Trial and Insurance Practice Section to renew its technical commenting authority under the Blanket Authority Procedure as well as the notifications from certain sections to review these technical comments. Copies of the request and notifications will be reviewed by the Member Services Committee and are available from the Policy and Planning Division.

a. Request for Renewal of Technical Commenting Authority

The authority to submit technical comments under the Blanket Authority Procedure was granted to the Tort Trial and Insurance Practice Section by the Board of Governors in 2012 and 2015. The Tort Trial and Insurance Practice Section requested approval to renew its technical commenting authority for an additional three years.

b. Notifications to Serve as Reviewing Entities for Technical Comments

The following sections have submitted notification that they would like to serve as reviewing entities for some or all of the technical comments referenced in a. above: Environment, Energy and Resources and Science and Technology Law.
DATE: May 18, 2018

TO: ABA Board of Governors

FROM: Austin Groothuis, Director, Law Student Division Robin Rone, Director, Young Lawyers Division

CC: Joshua Poje, Director, Law Practice & Technology Group Amy Eggert, ABA Chief of Staff

SUBJECT: Mental Health Benefit Proposal for Law Students and Young Lawyers – New Vendor

In August 2017, the ABA Board of Governors approved the Law Student and Young Lawyer Divisions’ proposal to create a mental health benefit, with BetterHelp as the service provider. Unfortunately, BetterHelp has not been able to satisfy the ABA’s data security protocols.

LSD and YLD remain convinced of the importance of the ABA offering a tangible benefit to assist members with their mental health needs. As such, the divisions have developed a similar benefit with Talkspace, the other leading provider of online and text-based counseling and therapy. After several conversations, LSD and YLD believe Talkspace will meet the ABA security standards and will provide an attractive benefit for our members. The Standing Committee on Membership approved this request at their March, 2018 meeting. We are requesting Board approval to proceed.

Benefit:

LSD and YLD members will receive a 20% discount off the price of a one-month subscription of all available Talkspace plans. The discount is renewable for LSD and YLD members, meaning they will be able to use the discount for as long as they wish (unlike other Talkspace clients, who are able to use a discount only once). Although Talkspace does not offer a revenue sharing option, the LSD and YLD believe this represents an important member benefit, particularly given how many students and young attorneys struggle with anxiety, depression and addiction after entering law school or the profession.

The divisions believe it is important to offer this benefit to the ABA’s young members. As before, we believe the benefit:
serves to set a lower threshold for, and help destigmatize, seeking mental health services for young and future attorneys by offering it on a communication platform – text messaging - that they prefer;
• comes at a time when the ABA is under pressure to address the mental health and substance abuse crises plaguing the profession;
• represents a rare opportunity for the ABA to be innovative and offer a benefit ahead of its competition – we are unaware of any state or local bars that offer a similar benefit.

About Talkspace:

Talkspace is an online and mobile-based therapy service based in New York. Users have access to licensed, experienced, vetted therapists through the company’s website and mobile app. Clients are matched with therapists through a detailed intake process, and they may choose from a variety of plans and services. The service is completely private, highly accessible, and more affordable than traditional therapy models.

For more information about Talkspace, please visit their website https://www.talkspace.com/.
DATE: May 18, 2018

MEMO TO: ABA Board of Governors

FROM: Standing Committee on Meetings & Travel

SUBJECT: Midyear Meeting Site for 2023

We are pleased to recommend New Orleans as the site of the February 1-7, 2023 Midyear Meeting subject to negotiation of acceptable terms by Meetings & Travel staff.

New Orleans is an excellent choice for the following reasons:

- It is one of ABA’s most popular cities for meetings. The ABA held 13 meetings there in 2016/2017; 21 meetings in 2015/2016 and 13 meetings in 2014/2015.

- The ABA has held six successful Midyear Meetings in New Orleans, the latest of which was in 2012.

- New Orleans meets our goal of holding the Midyear Meeting in a mild winter climate destination.

- The overall meeting package encompasses all hotels within walking distance to each other, eliminating the need for shuttle buses. Additionally, with the adequate size of the hotels, it eliminates the need to use a Convention Center.

- New Orleans is a good walkable city with plenty of great restaurants, retail and cultural activities.

- New Orleans has a very active local legal community.

We believe New Orleans is an excellent choice for the 2023 Midyear Meeting and request your approval of this recommendation.
MEMORANDUM

TO: Members of the ABA Board of Governors
FR: Robert M. Carlson, President-Elect
RE: Request to Amend the Jurisdictional Statements of the Executive Committee and the Executive Compensation Committee
DT: May 18, 2018

The Board is requested to amend the jurisdictional statements of the Executive Committee and the Executive Compensation Committee to reflect the changes made to the process for evaluating the performance of the executive director and making any adjustments to the compensation. The Executive Committee has assumed responsibility for evaluating the performance of the executive director. In addition to evaluating the performance, the Executive Committee reports to the Board, as appropriate, regarding the compensation of the executive director. Under the new process, the Executive Compensation Committee will provide support, as necessary, to the Executive Committee. The proposed amendments to the jurisdictional statements as outlined below reflect these changes.

Thank you for your consideration of this request.

Proposed Amendment to Jurisdictional Statement of the Executive Committee:

Executive Committee. The primary areas of responsibility of the Executive Committee are Emergency Matters and evaluation of the performance of the Executive Director and determination of his/her compensation.

…(3) The Executive Committee shall have responsibility for evaluating the performance of the Executive Director and determination of his/her compensation, with support, as necessary, from the Executive Compensation Committee.
Redlined Version

Executive Committee. The primary areas of responsibility of the Executive Committee are Emergency Matters and evaluation of the performance of the Executive Director and determination of his/her compensation.

...(3) The Executive Committee shall have responsibility for evaluating the performance of the Executive Director and determination of his/her compensation, with support, as necessary, from the Executive Compensation Committee.

Proposed Amendment to the Jurisdictional Statement of the Executive Compensation Committee:

Executive Compensation Committee. The primary function of the Executive Compensation Committee is to serve as a resource to the Executive Committee of the Board of Governors to assist, as necessary, regarding the evaluation of the Executive Director and the determination of his/her compensation.

Redlined Version:

Executive Compensation Committee. Reviews the performance of the Executive Director and makes recommendations to the Board regarding compensation. The primary function of the Executive Compensation Committee is to serve as a resource to the Executive Committee of the Board of Governors to assist, as necessary, regarding the evaluation of the Executive Director and the determination of his/her compensation.
MEMORANDUM

TO:       The ABA Board of Governors

FROM:     John B. Isbister, Chair, Standing Committee on Publishing Oversight

DATE:     May 24, 2018

SUBJECT:  Requested Extension for Implementation of New Editorial Policy

In June 2017 the ABA Board of Governors revised a portion of Chapter 6 of the ABA Policy & Procedures Handbook (the Green Book) entitled “ABA Editorial Policy,” concerning editorial policies for Association entity publications. This new editorial policy requires all publishing entities to have (and to annually review), written editorial policies consistent with the ABA Editorial Policy for their print and electronic publications and publishing programs, including books, periodicals, newsletters, CD-ROM, audio, and video publications.

The Board mandated that all entities come into compliance with the new ABA Editorial Policy no later than June 1, 2018 and recommended that the Standing Committee on Publishing Oversight (SCOPO) develop a template policy to minimize the entity work required to achieve compliance with the new editorial policy. Accordingly, SCOPO developed a template policy and shared it with all ABA publishing entities. A copy of that template and our transmittal memo to the publishing entities is attached.

ABA publishing entities have been positive and collaborative in reviewing the template and sharing feedback. However, because this involves a change in Section/Division/Forum policies, the publishing entities have shared that they need additional time to communicate and review the new Editorial Policy with entity leadership, and to obtain entity approval of new written editorial policies. SCOPO agrees that this is a reasonable request and that additional time will enable entities to strengthen and refine their written editorial policies.
Therefore, SCOPO requests an extension until January 31, 2019, for all entities to comply with the new ABA Editorial Policy. If the Board agrees to this extension, SCOPO will report on the entity compliance with the new editorial policy at the 2019 Mid-Year meeting.
ABA EDITORIAL POLICY TEMPLATE


I. [Entity] Introduction:

[Optional: The [Entity Name] is a [Section, Division, Forum, Task Force, Commission] of the American Bar Association and is composed of members with like interests in [subject of entity] or [Any introductory comment by Entity, if desired]].

II. Purpose of Publishing Program, Goals, Philosophies, and Editorial Approach

A. Purpose: [Entity Name] has established its publishing program to provide its members access to high quality publications, authored by its members, regarding topics of interest and in the area of the law concerning [subject of entity].

B. Goals: [Entity Name] seeks to provide an opportunity for its members to express and share information, insights and experience with other members of [Entity Name], the greater ABA, and the public through its publication of content and materials; to be the first resource its members turn to for information, to offer insights on current topics of interest; and to encourage the exchange of ideas. [Optional: It also seeks to have a publishing program that is self-supporting [or] generates revenue to support other activities of the [Entity Name]].

C. Philosophy: [Entity Name] encourages in-depth scholarly writing and seeks to publish the highest quality of content and materials. [Entity Name] encourages the expression of a variety of viewpoints on undecided or contested issues and seeks to publish thoughtful analysis when presented in a civil and courteous manner.

D. Editorial Approach: [Entity Name] grants its authors a wide latitude of expression and encourages thoughtful presentation of a wide variety of viewpoints but reserves the right to edit and, if necessary, revise any submission before publication to conform to the ABA’s Editorial Requirements and Procedures and the [Entity’s Name]’s, policies and procedures. All publications are required to be reviewed and approved by the [Entity’s Name]’s [Name of Entity’s Publication Group] before publication. [Entity’s Name]’s [Name of Entity’s Publication Group] reserves the right to reject any submission.

III. Encourage the publication of high quality content consistent with ABA’s Mission & Goals

[Entity Name] seeks to have the highest quality content available to its members, ABA members and the public consistent with the ABA’s Mission and Goals Statements. [Entity Name] requires that all submissions for publication be reviewed and approved by its [Entity’s Publication Group] prior to publication. [Optional: Entity may place specific acceptance and review procedures here.]

IV. Comply with ABA Standards of Civility:
[Entity Name] requires that all submissions comply with ABA Resolution 108(1) and (2), August 2011, (attached hereto as Attachment 1) regarding the need for attorneys to maintain the highest civility during public discourse, including writings, in all areas involving contest, debate, legal argument or discussion. [Entity’s Name] supports the expression and publication of a variety or viewpoints, including those that are controversial or unpopular, but only when done in a civil manner.

V. Conflict Identification & Disclosure

A. ABA Conflict of Interest & Disclosure: [Entity Name] requires that all conflicts of interest, such as those identified in the ABA Business Conduct Standards (Section F) (Attached hereto as Attachment 2) be disclosed in any content or material submitted for publication. At a minimum, [Entity Name] requires that any content or material submitted for publication contain the identity of all authors and their professional affiliations, both to establish their qualifications and to reveal any potential conflicts of interest.

B. Entity Specific Conflict of Interest Rules & Disclosure:

[Optional: [Entity Name] also requires that any content or material submitted for publication comply with its own rules and procedures for the identification and disclosure of conflicts of interest as here set forth: [Entity Rules & Procedures for Identification and Disclosure of Conflicts of Interest if it has them.]]

VI. Requirement That Content Is Not Partisan Political Advocacy For or Against Any Political Candidate or Party:

[Entity Name] will not publish any content or material that is partisan political advocacy for or against any political candidate or party; however, fair criticism, analysis and comment consistent with the policies contained within this Editorial Policy, will be considered for publication.

VI. Prohibit Content That Is Defamatory or Violates the Law:

[Entity Name] will not publish any content or material that is defamatory or violates the law.

VII. Requirement That Publications Conform to ABA Identification and Disclaimer Requirement and to ABA Editorial Procedures

A. All publications of [Entity Name] will identify the publication as originating from the ABA and this identification will include:

1. The Association’s name on the cover page and the title page of the publication (and where practical, also on the spine of the publication), or on their electronic equivalents (e.g. the opening web page for social media);

2. The Association’s logotype where practical; and

3. [Entity’s Name].

B. No publications of [Entity Name] will use the words, “American Bar Association” or the acronym “ABA” in the title of any publication without the written consent of the ABA Board of Governors.
C. All publications of [Entity Name] will include a disclaimer stating that the views it contains are not necessarily those of the ABA or of the [Entity Name]. The disclaimer will be consistent with paragraph L of the Disclaimers Section of the ABA Greenbook (attached here as Attachment 3).

D. The [Entity’s Publishing Group or its Publishing Oversight Group] of [Entity Name] will review the overall editorial approach of each of its publications and publishing programs, including the roles and responsibilities of editors; set and update its desired objectives and editorial policies every year; and periodically evaluate the quality and effectiveness of each of its publications. [Optional: Entity may place any review procedures and role descriptions it currently has or may adopt here.]

E. The [Entity’s Publishing Group or its Publishing Oversight Group] of [Entity Name] will respond to any requests from the Standing Committee on Publishing Oversight (SCOPO) to review [Entity’s Name] publications or its publishing programs by:

1. Conducting such a review, and
2. Reporting its findings to SCOPO, and
3. Receiving and considering any review of the publications or publishing programs conducted by SCOPO.

F. Submitting Editorial Policy to SCOPO: [Entity] will provide its editorial policies to SCOPO when:

1. Requested by SCOPO, or
2. When the last submitted policy to SCOPO is modified.
MEMORANDUM

TO: ABA Publishing Entities

FROM: John B. Isbister, Chair, Standing Committee on Publishing Oversight (SCOPO)

DATE: March 29, 2018

SUBJECT: Proposed Editorial Policy Template - For Review and Comment

As you are probably aware, in June 2017 the ABA Board of Governors revised a portion of Chapter 6 of the ABA Policy & Procedures Handbook (the Green Book) entitled “ABA Editorial Policy” that concerns editorial policies of Association entity publications. A copy of the Task Force report that recommended this revision and the revised (current) ABA Editorial Policy is attached. (Exhibit A) In short, this requires all publishing entities to have (and to annually review), written editorial policies consistent with the ABA Editorial Policy for their print and electronic publications and publishing programs, including books, periodicals, newsletters, CD-ROM, audio, and video publications. The Board mandated that all entities come into compliance with the new ABA Editorial Policy no later than June 1, 2018. This notice is to assist your entity to develop compliant editorial policies (to the extent that you have not done so), and to request that you provide us with copies of all of your compliant editorial policies.

The Task Force recommended that the Standing Committee on Publishing Oversight (SCOPO) develop a template policy to minimize the entity work that is required to write or revise entity editorial policies to comply with the ABA Editorial Policy. Accordingly, SCOPO has developed the attached entity editorial policy “template” for your review, discussion and use, as a resource. (Exhibit B) We recognize that there are many different publishing efforts in the Association, and do not want to suggest that there is one editorial policy that is right for all publishing programs. However, all entity editorial policies must comply with the ABA policy, and we hope that this will be a useful starting point for you in developing your own policy statement. Publishing entities who have questions or need guidance in developing their own editorial policies are encouraged to consult ABA Publishing. Please contact Donna Gollmer, Director, ABA Publishing, at Donna.Gollmer@americanbar.org, phone number (312) 988-5680; or Bryan Kay, Director of Editorial and Licensing, at Bryan.Kay@americanbar.org, phone number (312) 988-6153.

SCOPO has the responsibility and authority to apply and enforce the ABA Editorial Policy. The Task Force recommended that SCOPO ensure that all entities have an editorial policy in place. Accordingly, we request that all publishing entities provide SCOPO with a copy of their compliant editorial policy(ies) by May 30, 2018. If by that
time you have not completed the process of revising or writing your editorial policies to comply with the ABA Editorial Policy, please contact Bryan Kay, at Bryan.Kay@americanbar.org, provide a brief update of your progress, and an estimate of when you will complete your policy; and please let us know if there is any way that SCOPO may assist you.

Thanks to all ABA publishing entities for providing invaluable comments and help to the Task Force, and wise guidance in helping to shape the revised Editorial Policy. We value your excellence, and look forward to working with you.
MINUTES

AMERICAN BAR ASSOCIATION
BOARD OF GOVERNORS

MEMBER SERVICES COMMITTEE

Vancouver Convention Centre
Vancouver, British Columbia, Canada
February 1, 2018

The Member Services Committee (Committee) of the Board of Governors (Board) of the American Bar Association met at the Vancouver Convention Centre, Vancouver, British Columbia, Canada, on February 1, 2018. Chair Andrew J. (Josh) Markus presided.

The following members of the Committee were in attendance: Michael H. Byowitz, Hon. William C. Carpenter, Scott C. LaBarre, Lynne B. Barr, Orlando Lucero, Lorelie S. Masters, John L. McDonnell, Jr., G. Meredith Parnell, C. Edward Rawl, Jr., Darcee S. Siegel, Mary L. Smith and Alan Van Etten. President Hilarie Bass, President-Elect Robert M. Carlson, Executive Director Jack L. Rives, ABA General Counsel Jarisse Sanborn, Director of Policy and Planning Division Rochelle E. Evans, Assistant Director of Policy and Planning Division Carri L. Kerber were present for all or a portion of the meeting.

INTRODUCTORY REMARKS FROM COMMITTEE CHAIR

Chair Markus welcomed the members of the Committee and staff.

President Bass thanked the Committee for its hard work on the realignment project. She advised that the Board would meet April 10, 2018, in conjunction with ABA Day, from 12:30 p.m. to 3:00 p.m. (CT), and would receive an update on the realignment project.

President-Elect Carlson reminded the Committee that the November Board meeting would be held via conference call or virtual meeting. This innovative Board meeting will save the ABA approximately $120,000. The ABA 2019 Midyear Meeting will be held at Caesar’s Palace in Las Vegas, Nevada. The Board will meet in June 2019 in Missoula, Montana.

MATTERS FOR REVIEW BY THE BOARD

3.1 Requests to Amend Bylaws

a. Section of Antitrust Law

The Section of Antitrust Law requested approval to amend its bylaws to: 1) establish procedures to address the anomaly created when the Chair-Elect or Vice Chair are not able to succeed to the Chair position as scheduled; 2) simplify the provision relating to Officer terms; and 3) provide a streamlined and efficient process for approval of unbudgeted expenses, expected expense overruns, and budget shortfalls. These bylaw revisions were approved by the Section of Antitrust Law Council on December 1, 2017.
UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Member Services Committee recommended approval of the request of the Section of Antitrust Law to amend its bylaws to: 1) establish procedures to address the anomaly created when the Chair-Elect or Vice Chair are not able to succeed to the Chair position as scheduled; 2) simplify the provision relating to Officer terms; and 3) provide a streamlined and efficient process for approval of unbudgeted expenses, expected expense overruns, and budget shortfalls.

b. Section of International Law

The Section of International Law (Section) requested approval to amend its bylaws to:

1) incorporate the ABA Business Conduct Standards into the Bylaws;
2) add the position of Alternate Delegate, nominated by the Section's Nominating Committee and elected at a Section Business Meeting as a nonvoting member who will serve as a Section Delegate in the place of a Section Delegate who is unable to attend a meeting of the Association's House of Delegates;
3) provide for the Chair-Elect to perform the duties of Chair for the remainder of the Chair's term (or in the case of disability for the duration of the disability) "upon death, resignation or removal of the Chair for good cause as determined by the Administration Committee";
4) provide for the Vice Chair to perform the duties of Chair-Elect for the remainder of the Chair-Elect's term (or in the case of disability for the duration of the disability) "upon death, resignation or removal of the Chair-Elect for good cause as determined by the Administration Committee";
5) provide for the Vice Chair to step in for the Chair in the event of the death, resignation or removal of both Chair and Chair-Elect per the amendments described above and clarify that Associates who are elected to the Council will have the right to vote and to rename the “Strategic Planning Committee” to “Executive Committee” to more accurately reflect the role of the Committee;
6) clarify the purpose and composition of its Task Forces, and Working and Interest Groups; and
7) avoid Conflicts of Interest when a member of the Nominating Committee who is nominated for a position being filled by the Nominating Committee is recused and excluded from the deliberations and vote on that position.

The Section's Administration Committee approved these amendments on December 20, 2017, and are subject to approval by the Section’s membership meeting on February 2, 2018.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Member Services Committee recommended approval of the request of the Section of International Law to amend its bylaws to:

1) incorporate the ABA Business Conduct Standards into the Bylaws;
2) add the position of Alternate Delegate, nominated by the Section's Nominating Committee and elected at a Section Business Meeting as a nonvoting member and who will serve as a Section Delegate in the place of a Section Delegate who
3) provide for the Chair-Elect to perform the duties of Chair for the remainder of the Chair's term (or in the case of disability for the duration of the disability) "upon death, resignation or removal of the Chair for good cause as determined by the Administration Committee";

4) provide for the Vice Chair to perform the duties of Chair-Elect for the remainder of the Chair-Elect's term (or in the case of disability for the duration of the disability) "upon death, resignation or removal of the Chair-Elect for good cause as determined by the Administration Committee";

5) provide for the Vice Chair to step in for the Chair in the event of the death, resignation or removal of both Chair and Chair-Elect per the amendments described above and clarify that Associates who are elected to the Council will have the right to vote and to rename the “Strategic Planning Committee” to “Executive Committee” to more accurately reflect the role of the Committee;

6) clarify the purpose and composition of its Task Forces, and Working and Interest Groups; and

7) avoid Conflicts of Interest when a member of the Nominating Committee who is nominated for a position being filled by the Nominating Committee is recused and excluded from the deliberations and vote on that position.

c. Young Lawyers Division

The Young Lawyers Division requested approval to amend its bylaws to provide for a non-voting delegate/liaison appointed by the chief uniformed legal officer (or designee) of each of the United States' Armed Forces to represent the respective Service in an official capacity in accordance with the Department of Defense Joint Ethics Regulation and to provide that all Young Lawyer Division (YLD) Emerging Leaders will automatically be ABA YLD Assembly Delegates. These amendments were approved by the Young Lawyers Division Assembly at the 2017 ABA Annual Meeting.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Member Services Committee recommended approval of the request of the Young Lawyers Division to amend its bylaws to provide for a non-voting delegate/liaison appointed by the chief uniformed legal officer (or designee) of each of the United States' Armed Forces to represent the respective Service in an official capacity in accordance with the Department of Defense Joint Ethics Regulation and to provide that all Young Lawyer Division (YLD) Emerging Leaders will automatically be ABA YLD Assembly Delegates.
d. **Section of Administrative Law and Regulatory Practice**

The Section of Administrative Law and Regulatory Practice requested approval to amend its bylaws to eliminate the requirement that at least one member of the Nominating Committee not have served as either an Officer or Council Member of the Section. The intent is that the Section Chair may still appoint someone who meets this requirement, however he/she would not be obligated to do so if someone cannot be found who meets this requirement. The amendment was approved by the Council of the Section of Administrative Law and Regulatory Practice on August 12, 2017.

**UPON MOTION DULY MADE, SECONDED AND CARRIED:**

The Member Services Committee recommended approval of the request of the Section of Administrative Law and Regulatory Practice to amend its bylaws to eliminate the requirement that at least one member of the Nominating Committee not have served as either an Officer or Council Member of the Section.

e. **Tort Trial and Insurance Practice Section**

The Tort Trial and Insurance Practice Section requested approval to amend its bylaws as follows:

1) to correct various inconsistencies and typos;
2) to give the Section the flexibility to collect dues “…on an annual basis in accordance with the dues policy of the Association and/or the Section Council”;
3) to permit the Annual Meeting of the Section to be held at another meeting/time/location so long as appropriate notice of the election, no less than 45 days, is given to the members of the Section. (The Section assures that it will continue to meet at the ABA Annual Meeting.);
4) to clarify the procedure for replacing an elected official of the Section should they be unable to serve or the Council deem them unable or unfit to serve;
5) to reduce the term of the Secretary from two years to one year;
6) to clarify the powers of the Chair;
7) to change the title “Financial Officer” to “Finance Office”; and
8) to eliminate the limitation on the period of time a representative of the Judicial Division may serve as Liaison to TIPS.

These bylaw amendments were approved by the Section Council on December 7, 2017.

**UPON MOTION DULY MADE, SECONDED AND CARRIED:**

The Member Services Committee recommended approval of all amendments except Article III, Section 1 (#3 above), which would permit the Annual Meeting of the Section to be held at another meeting/time/location so long as appropriate notice of the election, no less than 45 days, is given to the members of the Section.
3.2 Request from Section of International Law to Enter Into Friendship Agreements

The Section of International Law (Section) requested approval of a template for Friendship Agreements that it intends to use for a model agreement to enter into with several international bars, including the Lithuanian Bar Association, the Estonian Bar Association, the Latvian Bar Association, the Danish Bar Association, the Finnish Bar Association, the Swedish Bar Association, the Norway Bar Association, and the Jamaican Bar Association. Its mission is to “advance the professional excellence of our worldwide membership; bridge the U.S. and non-U.S. legal communities; help members serve the international needs of their clients; promote diverse international substantive expertise; and strengthen the rule of law.” The Section may consider entering into Friendship Agreements with other international bars in the future subject to approval by the Board of Governors.

The Member Services Committee recommended deferral of the above request. The Member Services Committee suggested that the Section confer with the Office of General Counsel regarding a template for these agreements and should only submit draft actual agreements to the Board for its approval.

**UPON MOTION DULY MADE, SECONDED AND CARRIED:**

The Member Services Committee recommended that the Board decline the request of the Section of International Law to create a template for Friendship Agreements to use as a model agreement to enter into agreements with a number of international bars. The Member Services Committee also recommended that the Section confer with the Office of General Counsel regarding a template for these agreements. The Section should not bring the template for Board’s approval, but continue to request Board approval of actual agreements.

3.3 Request from President Bass to Create a Task Force to Coordinate ABA Educational Outreach in Response to the New Tax Legislation

President Bass requested approval to create a Task Force to Coordinate the ABA’s Educational Outreach in Response to the New Tax Legislation (the “Task Force”) for members regarding the tax legislation signed into law on December 22, 2017. The Task Force will coordinate educational events regarding the new tax law planned by various ABA sections to maximize the impact of ABA resources and efforts and to prevent redundancy. The new tax law will present opportunities for ABA sections to work together, and the Task Force will help identify these opportunities.

The Task Force will be comprised of one representative from each of the following six sections: the Section of Taxation, the Section of Real Property, Trust and Estate Law, the Section of Business Law, the Section of International Law, the Section of Health Law, and the Section of Family Law. The representative from the Taxation Section will serve as chair of the Task Force. The Taxation Section will provide lead staff support. The sections represented on the Task Force will cover any expenses; no additional general revenue funding is requested or required. The Task Force will sunset at the close of the 2019 Annual Meeting.
UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Member Services Committee recommended approval of the request of President Bass to create a Task Force to Coordinate the ABA’s Educational Outreach in Response to the New Tax Legislation (the “Task Force”) to address the tax legislation signed into law on December 22, 2017. The Task Force will be comprised of one representative from each of the following six sections: the Section of Taxation, the Section of Real Property, Trust and Estate Law, the Section of Business Law, the Section of International Law, the Section of Health Law, and the Section of Family Law. The representative from the Taxation Section will serve as chair of the Task Force. The Taxation Section will provide lead staff support. The sections represented on the Task Force will cover any expenses; no additional general revenue funding is requested or required. The Task Force will sunset at the close of the 2019 Annual Meeting.

3.4 Request from the Ethics Review Committee to Amend the Business Conduct Standards

The Ethics Review Committee requested approval to amend the Business Conduct Standards (BCS). In June 2017, the Board authorized the creation of an Ethics Review Committee comprised of three current members of the Board of Governors to screen and act on less serious member complaints which did not warrant full Board review. In addressing an active complaint, the Office of General Counsel subsequently helped to define a more complete and detailed review process. The proposal summary is as follows: After the Ethics Review Committee acts on a complaint, making findings and imposing an appropriate disciplinary sanction, the member will be given an opportunity to appeal the action to the Executive Committee. The Executive Committee will conduct a de novo review and may affirm, modify or reverse the Ethics Review Committee’s action in whole or in part. The Executive Committee’s decision is final and not appealable. Each of the President, the Executive Director, the Ethics Review Committee or the Executive Committee also has the option to refer the complaint immediately to the full Board for review if the nature or seriousness of the complaint is deemed to warrant that expanded review.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Member Services Committee recommended approval of the request of the Ethics Review Committee to amend the Business Conduct Standards (BCS), as follows:

The Ethics Office will investigate each report as thoroughly, impartially and confidentially as practicable. All individuals must cooperate in investigations and be truthful. Obstructing or undermining investigations, withholding or destroying information or providing misleading information related to possible illegal or unethical conduct are violations of the BCS. When an investigation has been completed, the Ethics Office shall prepare a report of its findings and make recommendations for appropriate action. This report is provided to the Executive Director for final decision and action as appropriate. In appropriate cases, the Ethics Office, in consultation with the Chair of the Standing Committee on Audit and with proper recusals, will determine whether to retain outside counsel to investigate matters concerning elected ABA Officers (President, President-Elect,
Chair of the House of Delegates, Secretary and Treasurer) or senior executives (the Executive Director, Chief Financial Officer or General Counsel).

If an investigation involves, in whole or in part, a Member (including ABA Officers and members of the Board of Governors), the Executive Director shall forward the report finding(s) and recommendation(s) to the Ethics Review Committee of the Board of Governors for review and action. The Ethics Review Committee shall evaluate the report of investigation and determine whether the complaint merits immediate referral to the full Board of Governors. If it does not refer the matter to the full Board, the Ethics Review Committee is responsible for final decision and action on the complaint. A Member may appeal the action of the Ethics Review Committee to the Executive Committee of the Board of Governors. The Executive Committee may itself act on the appeal or refer it to the full Board for action. The Member may present written matters to the Ethics Review Committee and, on appeal, to the Executive Committee, but there is no right to a personal presentation. The Executive Committee is not bound by the decisions or actions of the Ethics Review Committee and may affirm, modify, reverse or rescind its findings or actions. The decision of the Executive Committee is final and not appealable except in the case the Executive Committee determines a more severe sanction should be imposed on the Member, in which case the Member may appeal that sanction decision to the full Board which will act only to affirm or deny that increased sanction. Notwithstanding the above, either the Executive Director or President may immediately refer the matter to the full Board for action if the complaint warrants such review.

If the complaint is referred to the full Board, the Executive Director, assisted by the Ethics Office, shall make the necessary arrangements for presentation to the Board of Governors after recusal of any Officer or Governor for whom the matter presents a conflict of interest. The presentation shall be conducted in executive session, at which time the Member who is the subject of the report shall be given a reasonable opportunity to be present (with counsel if s/he so elects) and to be heard in his/her own defense. The Board of Governors shall determine what action will be taken which, on a finding of good cause, may include censure or suspension or removal from membership. The Board is not bound by the findings or decisions of either the Ethics Review Committee or Executive Committee. The decision by the Board is final and not appealable.

3.5 Request from President-Elect Carlson to Approve Board Meeting Dates for 2018-2019

President-Elect Carlson requested approval to conduct the November 8-9, 2018 Board meeting as a teleconference as historically the agenda is lighter than at other meetings and will result in a substantial cost savings to the Association, and to hold the June 6-7, 2019 Board meeting at the Doubletree Hilton Missoula Edgewater Hotel in Missoula, Montana.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Member Services Committee recommended approval of the request of President-Elect Carlson to conduct the November 8-9, 2018 Board meeting as a teleconference as historically the agenda is lighter than at other meetings and will
result in a substantial cost savings to the Association, and to hold the June 6-7, 2019 Board meeting in Missoula, Montana.

3.6 Request from Standing Committee on Membership to Amend the Constitution and Bylaws Regarding New Membership Model

The Standing Committee on Membership (SCOM) requested approval for authority to file “placeholder” Constitution and Bylaws amendments. While the Board has yet to decide on a new membership model, for the House of Delegates to consider these potential proposals at the 2018 Annual Meeting in Chicago, any amendments must be submitted by March 9, 2018, to meet the Constitution and Bylaws deadline. The “placeholder amendments” address all Constitution or Bylaws amendments that would be impacted by a new membership model. It also includes language to reinstitute the Board’s authority to make minor adjustments to the dues categories consistent with changes to the Consumer Price Index after three years from the adoption of the proposed amendment. As a “placeholder,” it is submitted with the understanding that it may be withdrawn or amended to conform with final decisions made by the Board.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Member Services Committee recommended approval of the request of the Standing Committee on Membership for authority to file “placeholder” Constitution and Bylaws amendments. The “placeholder amendments” address all Constitution or Bylaws amendments that would be impacted by a new membership model. It also includes language to reinstitute the Board’s authority to make minor adjustments to the dues categories consistent with changes to the Consumer Price Index after three years from the adoption of the proposed amendment. As a “placeholder,” it is submitted with the understanding that it may be withdrawn or amended to conform with final decisions made by the Board.

3.7 Request from President Bass to Create a Working Group on Hate Speech and the Internet and to Seek Outside Funding

President Bass requested approval to Create a Working Group on Hate Speech and the Internet (Working Group) and to seek outside funding. The Working Group will address hate speech online. The Working Group would have a chair and up to 15 members. The Litigation Section, Criminal Justice Section, ABA Rule of Law Initiative, Section of International Law, Forum on Communications Law, Civil Rights & Social Justice, Science and Technology Law and the Standing Committee on Law and National Security would be invited to have representatives on the Working Group. The Working Group would also include representatives from major internet platform companies. The Working Group is in the process of reaching out to internet providers and this effort would only go forward if there is interest on their part to participate. As an initial step, the Working Group would host a meeting to develop a proposed set of principles. In the spring, a summit would be convened to introduce the draft principles to a broader set of stakeholders and obtain their feedback. From the final principles document, an agreement would be produced for signature by as many internet platforms as possible, and a roll out press event would introduce the agreement to an even wider audience. The Litigation Section would provide staffing for the summit. Each of the ABA entities represented on the Working Group would be asked to provide modest funding to help cover expenses, which should be minimal since most of the work would be done via conference call. Participants in the spring summit would be expected to fund their own
travel, and internet companies working with the ABA on the project would be asked to cover meals, meeting rental and A/V costs for the summit. No general revenue is requested or required.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Member Services Committee recommended approval of the request of President Bass to Create a Working Group on Hate Speech and the Internet (Working Group) and to seek outside funding, with the understanding that no ABA general revenue is requested or required. The Working Group would have a chair and up to 15 members. The Litigation Section, Criminal Justice Section, ABA Rule of Law Initiative, Section of International Law, Forum on Communications Law, Civil Rights & Social Justice, Science and Technology Law and the Standing Committee on Law and National Security would be invited to have representatives on the Working Group. The Working Group would also include representatives from major internet platform companies. The Litigation Section would provide staffing and each of the ABA entities represented on the Working Group would be asked to provide modest funding to help cover expenses.

3.8 Request from Section of Intellectual Property Law to Enter Into Cooperating Agreement with the Fédération Internationale en Propriété Intellectuelle

The Section of Intellectual Property Law (Section) requested approval to enter into a Memorandum of Understanding (MOU) with the Fédération Internationale des Conseils en Propriété Intellectuelle for a three-year term from the date of signature in 2018 until 2021. The purpose of the MOU is to coordinate efforts and activities to increase member awareness and promote professional cooperation. These activities include meeting attendance and participation, program development for meetings and exchange of publications. The agreement provides for liaison between the two organizations and a mutual invitation to the respective organizations’ heads to attend the other’s major annual conference as a distinguished guest. The agreement is a renewal of a previous three-year agreement that expired in 2017.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Member Services Committee recommended approval of the request of the Section of Intellectual Property Law (Section) to enter into a Memorandum of Understanding (MOU) with the Fédération Internationale des Conseils en Propriété Intellectuelle for a three-year term from the date of signature in 2018 until 2021, subject to review and approval of the MOU by the Office of the General Counsel and a signed copy filed with the Division for Policy and Planning.
3.20 Approval of Minutes

The Member Services Committee reviewed the minutes of its October 19, 2017 meeting in Miami, Florida.

**UPON MOTION DULY MADE, SECONDED AND CARRIED:**

The Member Services Committee approved the minutes of its October 19, 2017 meeting in Miami, Florida.

3.21 Status Report from ABA Center on Innovation and Young Lawyers Division

The Committee received a report from Andrew Perlman, Chair of the Governing Council of the ABA Center for Innovation (Center), regarding the Center’s work. The Center catalyzes innovations through people, process and technology in order to achieve systemic improvements in the effectiveness, accessibility, and affordability of legal information and services through five directed strategies: 1) collection, analysis and dissemination of research and data about legal services delivery; 2) connecting stakeholders to galvanize innovation; 3) encouraging and supporting the replication and scaling of promising innovations; 4) fostering innovation through education; and 5) piloting promising approaches. To date, the Center has raised over $974,000 from diverse contributors. The Center works closely with the Young Lawyer Division and the Law Student Division, which provide much needed insight into the future needs of lawyers and the delivery of legal services.

3.30 Membership Report

The Committee was informed that the Board would receive a full report on membership and the new ABA membership model when it meets on February 2, 2018.

There being no further business to come before the Member Services Committee, the meeting was adjourned.

Respectfully submitted,

Andrew J. (Josh) Markus
Chair
Membership Report
(separate distribution)
MEMORANDUM

TO: ABA Board of Governors
FROM: Rochelle E. Evans
SUBJECT: Nominations
DATE: May 24, 2018

a. ABA Journal Board of Editors (3):

   i. ABA Journal Board of Editors (“Board of Editors”) Chair Kathleen J. Hopkins will resign her position as Chair effective June 30, 2018. The Board of Editors requests the election of Alice E. Richmond to a three-year term as Chair of the Board of Editors to begin on July 1, 2018, and expire at the conclusion of the 2021 Annual Meeting.

   ii. The second three-year term of Alice E. Richmond of Boston, Massachusetts, on the Board of Editors expires at the conclusion of the 2018 Annual Meeting. (Ms. Richmond is being nominated (see “i.” above) to a three-year term as Chair.) The Board of Editors requests the election of Thomas C. Grella of Asheville, North Carolina, for a three-year term beginning at the conclusion of the 2018 Annual Meeting and expiring at the conclusion of the 2021 Annual Meeting.

   iii. The second three-year term of Judy A. Toyer of Rochester, New York, on the Board of Editors expires at the conclusion of the 2018 Annual Meeting. The Board of Editors requests the election of Wilson A. Schooley of La Mesa, California, for a three-year term beginning at the conclusion of the 2018 Annual Meeting and expiring at the conclusion of the 2021 Annual Meeting.

b. American Bar Endowment Board of Directors (3):

   i. The term of ABA President-Elect Robert M. Carlson of Butte, Montana, as an ex-officio member to the American Bar Endowment Board of Directors (“ABE Board of Directors”) expires at the conclusion of the 2018 Annual Meeting. ABA President-Elect Robert M. Carlson requests the election of Hilarie Bass of Miami, Florida, to a one-year term as an ex-officio member to the ABE Board of Directors expiring at the conclusion of the 2019 Annual Meeting.

   ii. The second five-year term of Martha W. Barnett of Tallahassee, Florida, on the ABE Board of Directors expires at the conclusion of the 2018 Annual Meeting. The ABE Board of Directors requests the election of Michael E. Flowers of Columbus, Ohio, for a five-year term beginning at the conclusion of the 2018 Annual Meeting and expiring at the conclusion of the 2023 Annual Meeting.
iii. The first five-year term of Carolyn B. Lamm of Washington, D.C., on the ABE Board of Directors expires at the conclusion of the 2018 Annual Meeting. The ABE Board of Directors requests the re-election of Carolyn B. Lamm to a second five-year term beginning at the conclusion of the 2018 Annual Meeting and expiring at the conclusion of the 2023 Annual Meeting.

c. **Standing Committee on Audit (3):**

The ABA Bylaws specify that the Standing Committee on Audit be comprised of seven members, consisting of the Treasurer; three members who are not ABA Board of Governors ("Board") members; and three Board members, one from each Board class. It also states that the Chair shall be designated by the President, and that the appointments are to be made by the Board upon the recommendation of the President. Allan J. Tanenbaum of Atlanta, Georgia, will be re-appointed to serve as Chair beginning at the conclusion of the 2018 Annual Meeting and expiring at the conclusion of the 2019 Annual Meeting.

The terms of E. Fitzgerald Parnell III of Charlotte, North Carolina (ABA Board of Governors member), and Alan S. Kopit of Pepper Pike, Ohio, expire at the conclusion of the 2018 Annual Meeting. President-Elect Robert M. Carlson requests the appointment of David W. Clark of Jackson, Mississippi, and Armando Gomez of Washington, D.C., for a three-year term on the Standing Committee on Audit beginning at the conclusion of the 2018 Annual Meeting and expiring at the conclusion of the 2021 Annual Meeting.

d. **Green Growth Knowledge Platform:**

The Section of International Law requests the appointment of LeRoy Paddock of Washington, D.C., as the ABA representative to the Green Growth Knowledge Platform for a three-year term beginning at the conclusion of the 2018 Annual Meeting and expiring at the conclusion of the 2021 Annual Meeting.

e. **International Aircraft Registry Advisory Board:**

The Section of Business Law ("Section") requests that the term of the current representative, William B. Piels of San Francisco, California, to the International Aircraft Registry Advisory Board be extended two years. Typically, appointments of representatives to this entity are for five years. In the Section's original nomination for Mr. Piels, submitted on April 30, 2015, a five-year term was not specified. As a result, Mr. Piels was appointed for a three-year term. The Section requests that Mr. Piels' term be extended two years to expire at the conclusion of the 2020 Annual Meeting.

f. **National Judicial College Board of Trustees (2):**

The terms of Edward R. Blumberg of Miami, Florida (ABA Board of Governors member) and James Matthew Martin of Cherokee, North Carolina (ABA Judicial Division member), expire at the conclusion of the 2018 Annual Meeting. Mr. Blumberg has expressed interest in serving a second three-year term on the NJC Board of Trustees and the ABA Judicial Division requests the election of Judge Margarita Bernal (retired), both for a three-year term beginning at the conclusion of the 2018 Annual Meeting and expiring at the conclusion of the 2021 Annual Meeting.

g. **Union Internationale des Avocats:**

The Section of International Law requests the appointment of Steven M. Richman of Princeton, New Jersey, as the ABA representative to the Union Internationale des Avocats for a three-year term beginning at the conclusion of the 2018 Annual Meeting and expiring at the conclusion of the 2021 Annual Meeting.
MEMORANDUM

TO: ABA Board of Governors

FROM: Rochelle E. Evans

SUBJECT: Requests to Establish Awards

DATE: May 29, 2018

a. **Council on Diversity in the Educational Pipeline and Judicial Division**: requests approval to rename a segment of the ABA Judicial Clerkship Program (JCP), known as the “Research Exercise”, in honor of the Hon. Frank Sullivan (retired Justice, Indiana Supreme Court, Indianapolis, Indiana). If approved, “The Hon. Frank Sullivan Research Exercise” will be announced at a joint meeting of the entities during the 2018 Annual Meeting. During this meeting a one-time award figurine, valued at no more than $750.00, will be presented to Justice Sullivan who in 2001 reviewed and enhanced the program to reflect the practical and realistic day-to-day activities of a law clerk.

b. **Section of State and Local Government Law**: requests approval to rename its Young Lawyer Fellowship, which was approved by the Board at its August 7-8, 2008, in the name of former Section leader, Elizabeth Clark, who passed away on October 30, 2017, and was active with the Section’s Diversity Committee and committed to the mentorship of young, diverse Section members. The Elizabeth Clark Fellowship will be awarded to a young lawyer to attend the Section’s Spring or Fall meeting (or the Land Use Institute), write for the Section’s publications and develop expertise in the areas of the law which Elizabeth Clark so loved and enjoyed. The costs of attending the conference will be derived from Section funds.
ABA MEDAL

Executive Session

Special Order – 9:30 a.m.
TO: ABA Board of Governors  
FROM: Rochelle E. Evans  
SUBJECT: Requests from ABA Fund for Justice and Education  
DATE: May 29, 2018

a. **Amend Program Support Fund and Endowment Policy:** requests approval of the revised Program Support Funds (PSF) and Endowment policy that includes a more robust role for the ABA/FJE as a partner to the Board in monitoring PSFs and endowments. This policy was submitted to the Board for approval at the 2018 Midyear Meeting but was withdrawn at the request of the Finance Committee to permit comments from affected entities.

b. **Create Program Support Fund for Section of Family Law:** requests approval to create a Program Support Fund (PSF) on behalf of the Section of Family Law. The PSF will allow the Section to explore other sources of non-dues revenue to help maintain and expand the charitable programming that helps improve the profession and society. This charitable account will be maintained within the ABA/FJE and all applicable policies pertaining to PSFs will be followed.

c. **Update and Recommendation on Current Program Support Funds:** At the June 2017 Board of Governors Meeting, the Improving the Profession Committee approved the ABA/FJE’s request to have an official and participatory role with the Board in monitoring and compliance of Program Support Funds (PSF). The ABA/FJE fulfilled its more robust role by reviewing each PSF and providing its formal recommendation on the ongoing status of each account for the Board’s consideration. The review of PSFs showed that 70% of PSFs are out of compliance with the policy as of August 31, 2017, but the ABA/FJE expects that with careful monitoring and partnering with entities, the majority of PSFs will comply by the end of FY2019. However, the PSFs of the Center for Human Rights and the AIDS Coordinating Committee have negative balances and they are seeking Board approval to spend additional funds which would further increase the PSF’s negative balance until funds are raised to eliminate the deficits.

d. **Approval of New Projects/Programs:** requests approval of eleven (11) new projects/programs submitted by five (5) ABA entities, nine (9) of which are also requesting approval to seek outside funding and nine (9) are requesting approval to establish separate accounts in their program support funds to track the funding for the new project/program.
MEMORANDUM

TO: ABA Board of Governors
FROM: Rochelle E. Evans
SUBJECT: Requests from ABA Rule of Law Initiative
DATE: May 29, 2018

a. **Updated List of Approved Countries of Operation, Donors and Thematic Program Areas:** requests approval of the updated list of Approved Countries of Operation, Donors, and Thematic Program Areas. Specifically, ABA ROLI seeks approval of the Kosovo Legal Services Company (KLSC), as a donor. KLSC is a Kosovo-based organization established in 2011 which operates as an independent limited liability company that provides legal analysis and consulting services strengthening the rule of law in Kosovo. KLSC has received funding from the European Union, the World Bank and the U.S. Agency for International Development (USAID) to build the capacity of, and provide technical support to, Kosovo’s legal institutions, and ABA ROLI would like to explore the possibility of receiving a sub-grant from KLSC to support capacity-building of the Kosovo Chamber of Advocates (bar association) under the upcoming USAID-funded Justice Matters program.

b. **Memoranda of Understanding with Partner Organizations:** requests approval to enter into MOUs, subject to review and approval by the ABA Office of General Counsel, with the following prospective partner organizations: (1) Tunisia - with (a) the Tunisian National Committee on Trafficking in Persons; and (b) The United Nations Population Fund; (2) Armenia - with the Office of the Human Rights Defender of the Republic of Armenia; (3) Tajikistan – with the International Development Law Organization; (4) Uzbekistan – with (a) the Tashkent State University of Law of the Republic of Uzbekistan; and (b) the Chamber of Advocates of the Republic of Uzbekistan; (5) Liberia – with Liberia’s judicial authorities; (6) Mauritania – with Mauritania’s Commission on Human Rights and Humanitarian Action; (7) continuing membership in the InterAction Democracy, Rights, and Governance Initiative approved by the Board in July 2015. ABA Rule of Law Initiative regularly enters into Memoranda of Understanding (MOUs) with legal and civil society institutions and organizations in its countries of operation. These MOUs are non-binding expressions of intent to collaborate between the organizations and are often critical to successful implementation of ROLI’s grant commitments.
c. **Updated Resolution on Overseas ABA ROLI Office Registration:** In June 2015, the Board approved a resolution to streamline the process of registration of ABA overseas offices, “Resolution Authorizing the Registration and Operations of Representative Offices of the American Bar Association,” which allows the Board to authorize the ABA to register a representative office in each of the countries set forth on Exhibit A (each, a “Representative Office” or “Branch Office”). ROLI requests to update the countries listed in Exhibit A of the Resolutions to reflect a change in status of Uzbekistan. ABA ROLI has been in discussions with the U.S. Government about the opportunity to re-engage local partners and undertake technical assistance activities in Uzbekistan considering recent justice sector reform efforts that the Government of Uzbekistan is implementing. ROLI seeks the Board’s approval to register in-country if the opportunity arises as part of these discussions. ABA ROLI would only be able to implement programs in Uzbekistan with full registration of an office in compliance with national law.

d. **Participation in the U.N. Convention Against Corruption Coalition ePlatform:** requests approval to participate in the UN Convention Against Corruption Coalition (“UNCAC Coalition”), specifically in the African, Southeast Asian and Southeast Europe regional anti-corruption e-platforms. The UNCAC Coalition was established in August 2006 and is a global network of over 350 civil society organizations (CSOs) in over 100 countries, committed to promoting the ratification, implementation and monitoring of the UN Convention against Corruption (UNCAC). ABA ROLI has been asked to participate in the e-platforms given its reputation for anti-corruption programs. The main objective of the e-platforms is to serve as a tool to connect NGOs working in the field of anti-corruption and the promotion of good governance in their respective regions, to expose the featured CSOs to a wider network and series of events pertaining to anti-corruption and the implementation of UNCAC.
May 18, 2018

Subject: Report to the ABA Board of Governors pursuant to May 2, 2017, Mandate

Dear Board of Governors:

The Commission on Hispanic Legal Rights and Responsibilities (Hispanic Commission) received a letter of implementation dated May 2, 2017, which memorialized the action taken by the ABA Board of Governors (BOG) when it met on April 25, 2017 (see attached and herein after referred to as “the mandate”).

This report addresses the action that specifically applies to the Hispanic Commission namely:

“The Commission on Hispanic Legal Rights and Responsibilities (“Commission”) will be comprised of 10 members and remain in place for at least one year. The Commission will report to the Board of Governors prior to or at its June 2018 meeting regarding the status of the Commission’s fundraising ability and membership focus.”

Since receipt of the mandate, the Hispanic Commission has embarked on a yearlong initiative to meet the mandate and raise funds for its program support fund while working to increase the number of Hispanic ABA members. This report outlines the specific steps it has taken to meet the BOG mandate.

The Hispanic Commission is aware of the new funding criteria the BOG will be using when making funding decisions and has prepared this report in accordance to said criteria:

- Does this program/deliverable serve existing members;
- Does this program/deliverable attract new members;
- Is it a duplication or redundant of an existing program (governance level);
- Is it a successful program, using data and other evidence;
- Does the program/deliverable stress ABA uniqueness (are we the only one that can/should do this); and
- Does this program/deliverable have possible sources of funding other than ABA general operations revenue funds.
**Does this program/deliverable serve existing members**

Yes, the Hispanic Commission serves all existing members of the ABA. The Hispanic Commission is the ABA’s bridge to the Hispanic community. It brings legal, linguistic and cultural expertise about the growing Hispanic population to the ABA. It prepares the Association and its members to represent the largest legally underrepresented demographic in the U.S. with legal needs in diverse practice areas such as business law, estate planning and succession, intellectual property, labor law, family law, real property and immigration.

The Hispanic community is not yet understood or accommodated by our legal system due to factors which include: language, cultural sensitivity and economic and educational disparity. This translates into an enormous Access to Justice issue faced each day by millions of Hispanics in this country.

To put this in perspective, in 2015 the Hispanic Commission was invited by the ABA Division for Public Education to contribute to the 2016 Law Day theme which was “Miranda More Than Words.” The Division acknowledged the expertise of the Hispanic Commission and used it as an in-house resource. The Hispanic connection to the landmark case of *Miranda v. Arizona* coupled by the fact that many who are impacted by *Miranda* involve Hispanics and other communities of color is all relevant to the work of the Hispanic Commission.

The Hispanic Commission researched the *Miranda* topic and its members were shocked to learn that 50 years after the landmark case there was still no uniform translation of the *Miranda* warning in Spanish. In response to the findings, the Hispanic Commission presented Resolution 110 which was unanimously passed by the ABA House of Delegates at the 2016 Annual Meeting. The Resolution urges federal, state, local and territorial law-enforcement authorities to provide a culturally, substantively and accurate translation of the *Miranda* warning in Spanish. To view the full adopted Resolution 110, click on the link: [https://www.americanbar.org/news/reporter_resources/annual-meeting-2016/house-of-delegates-resolutions/110.html](https://www.americanbar.org/news/reporter_resources/annual-meeting-2016/house-of-delegates-resolutions/110.html)

Resolution 110 is meant to be implemented and thanks to a $20,000.00 grant awarded by the American Bar Endowment in 2017 it is in the final stages of testing a *Miranda* card and a web-based platform with a metropolitan police department. The road to this final stage has been made possible due to the collaboration with the ABA Center for Innovation through the leadership of Nominee-Elect, Judy Perry Martinez. The potential impact this could have on the future of law enforcement practices across the country is huge. We take pride in noting that it will be the ABA, through the Hispanic Commission, which will be lauded as a leader in this untouched Access to Justice issue. The project will be discussed in more detail further in this report.

The passage and implementation of Resolution 110 demonstrates the bridge the Hispanic Commission provides to the overall mission and goals of the ABA to the Hispanic community. The bridge analogy also extends to the Hispanic legal profession. Through the Hispanic Commission, the ABA creates a presence to Hispanic lawyers not yet familiar and involved in the ABA to further membership in the Association.
The Hispanic Commission should be regarded as the ABA’s in-house expert. Data about the current and future projections about Hispanics in this country validate the need to do so. Hispanics represent one in six Americans and are not only the largest minority group in the United States, they represent a young and growing population. Already one in five public school students, Latinos will soon represent one quarter of all public school children nationwide. Correspondingly, Hispanics are a growing proportion of the national electorate and of the workforce. According to the latest Pew Research Center Projections the share of the U.S. population that is Hispanic has been steadily rising. In 2015, Hispanics made up 56.5 million, comprising 17.6% of the total U.S. population, up from 3.5% in 1960, and is expected to reach 24% by 2065.

Hispanic owned businesses are the largest percentage of small business owners in the U.S. According to the U.S. Small Business Administration, Hispanic owned businesses provide employment and economic development opportunities to their communities. Click info link: https://www.mbda.gov/sites/mbda.gov/files/migrated/files-attachments/SBO_Facts_HOB.pdf

The Nielsen Company reports that the buying power of Hispanics is the largest and growing share of the consumer market. Manufacturers and retailers understand that the buying power of the nearly 57 million Hispanics in the U.S. cannot be overlooked. The growth, business ownership and consumer buying power of Hispanics translates into legal opportunities for the profession.

The Hispanic Commission contributes legal, linguistic and cultural expertise about the growing Hispanic population to the ABA. These facts alone beckon the need to retain a commission on the Hispanic community, to be the in-house expert preparing the ABA and its members for the future, a future in the United States that will be increasingly dominated by the growth of the Hispanic population.

**Does this program/deliverable attract new members**

The Hispanic Commission’s work and programs attracts new members, both Hispanic and Non-Hispanic. The Hispanic Commission prepares its members to enhance their business development by tapping into an underserved market through its CLE programs and weekly legal news segment with Univision Chicago. CLE programming and the news segment are discussed in detail further in this report.

The Hispanic population in the U.S. is presently at 17.6% and the number of Hispanic attorneys in the U.S. is only 4%. As noted earlier, the Hispanic population is noted to continue to grow up to 24% by 2065 whereas the legal educational pipeline growth is declining and in fact we are well aware of this crisis in the overall legal profession. That crisis is heightened in the Hispanic legal profession where projected numbers of future Hispanic attorneys do no exceed its current population. Essentially, there will be a large Hispanic demographic with very few Hispanic attorneys who will be able to meet their legal needs. This presents an opportunity for non-Hispanic attorneys to expand their business.

The Hispanic Commission encourages both Hispanic and non-Hispanic attorneys to become ABA members. The Hispanic Commission educates ABA members on the various legal
issues and needs pertinent to Hispanics. Immigration is not the only area of law that pertains to Hispanics. Like all Americans, Hispanics have families, buy a home, some own businesses and provide employment opportunities to their community. All these milestones require legal counsel, counsel that should be rendered by an ABA member.

Since its inception, the Hispanic Commission has promoted ABA membership to Hispanic and non-Hispanic attorneys by sharing a unique discount membership code to attorneys who attend Hispanic Commission programs. This year, with the assistance of ABA Membership it has created a pilot program to engage and attract new and former members, Hispanic and Non-Hispanic, to enroll in ABA membership. The pilot program consists of a personalized outreach effort by Chair Richard Pena who invites individuals who may have a connection either to the Hispanic Commission or its leadership, to become an ABA member by signing up for a free six-month trial membership and membership in one section of their choice. A unique membership code has been created to track the number of individuals who accept the trial membership offer. The success of this pilot program will be reviewed by ABA membership for possible future implementation among other or all ABA entities. The Hispanic Commission is proud to have been proactive and collaborated with ABA Membership on this new initiative. It is our hope that the results will be fruitful.

Note, at the time of the submission date for this report, the findings were not yet available. Additional information about the results will be presented at the June BOG meeting.

Is it a duplication or redundant of an existing program (governance level)

The work of the Hispanic Commission is neither a duplication or redundant of an existing program. No other entity can address the legal issues within the context of the experiences of Hispanics throughout the United States. The Hispanic Commission possesses expertise on matters pertaining to the Hispanic community.

While our mission fits within the goals of the Office of Diversity and Inclusion (ODI), our agenda programming and policy work addresses issues that extend beyond the traditional scope of the ODI and any of its umbrella entities or of any other ABA entity. We respectfully emphasize the unique mission of the Hispanic Commission noting that unlike the Commission on Immigration, the Hispanic Commission’s jurisdiction statement is much broader to address the multitude of issues and needs that exist in the Hispanic community. Said issues include but are not limited to education, housing, voter’s rights and employment which extend beyond the sole topic of immigration which the Commission on Immigration addresses by advocating for statutory and regulatory modifications in law and government practice.

The ABA Hispanic Commission addresses the unique legal needs of Hispanics which in turn prepares the ABA and all its members to better serve the fastest growing but legally underrepresented demographic. It prepares all members through continuing legal education programs and provides best practices to expand their client base and in turn grow their business.

CLE programs: CLE programs sponsored by the Hispanic Commission are unique as they present issues pertinent to the Hispanic community or presents an issue under a different lens focusing on its impact on Hispanics. Recent and upcoming CLE programs include:
February 3rd (Midyear Meeting): “Lessons Across Borders: What the U.S. and Canada Can Teach One Another About Establishing a Successful Immigration and Asylum Policy” A Collaboration with the ABA Commission on Immigration and Co-Sponsored by the Canadian Hispanic Bar Association. 100 people attended the standing room only program.

March 27th, Half-Day CLE Program (Dallas):
Panel 1.) “An In-Depth Look at the Future of Hispanics: Sanctuary Cities, SB4 and the Current State of Immigration Reform”

Panel 2.) ‘The Disappearing Mexican American Law Student: The Future of Latinos in the U.S.; and legal Issues associated with Community Development and its impact on the Hispanic Community”

We highlight the fact that the Dallas program raised $16,000.00 for the Hispanic Commission’s program support fund and after expenses, we netted $12,000.00. Attendance for the program was 100 people which included community and corporate leaders, attorneys and law students.

May 31st, Half-Day CLE Program, Chicago:
Panel 1.) “The impact of the #metoo #yotambien movement in the white and blue-collar workplace: The Need to Address Workplace Unfairness by Examining Laws and Policies; The connection between sexual harassment and human trafficking; and How to Empower Women and Men to Speak Up and Change the Workplace Culture.” Featuring ABA Past President Laurel Bellows.

Panel 2.) “Ethical considerations involved in advertising legal services to potential Limited English Proficient (LEP) clients; The Professional responsibility of lawyers regarding communications and client relations when representing LEP clients.”

It is anticipated that the Chicago program will also raise funds for our program support fund. To date we have raised $3,500.00 in support.

June 28th, New York: Featuring ABA Past President James Silkenat

Panel 1): “Nuremberg lessons in today’s political climate: Legal complicity in the Holocaust and a lawyer’s responsibility to stop discrimination and hate; Issues of legal process (ex post facto and duty of representation) at Nuremberg; Knowing anti-Semitism & other forms of bigotry when you see it; Current institutional attacks on specific groups, such as Muslims and Hispanics, and the unleashing of hate groups."

Panel 2): “Parallels between yesterday’s immigrants (Jews and Hispanics) and today’s immigrants: unaccompanied minors, and those escaping poverty, violence and discrimination; Is anti-immigrant sentiment creating more restrictive immigration laws? What can lawyers do to ensure the protection of equal protection rights for both documented and undocumented immigrants?”

The New York program is also designed to raise funds for our program support fund.
Previous CLE topics have included: Strengthening Justice in Latin America; Legal Issues Arising from the Zika Virus, Are We Prepared?; Analysis of the Latino Electorate in 2016 Elections; The Post Housing Crisis, Doing Business in Cub; Tips on Representing Spanish Speaking Clients; Access to Justice; Hemispheric Changes in Immigration; and Voting Rights.

These topics may not have otherwise been addressed by the ABA but for the work of the Hispanic Commission.

**Policy work:** Resolution 110, a Spanish translation of *Miranda*. This Resolution addresses a critical Access to Justice issue faced by people with limited English proficiency, cognitive and impairment challenges. Resolution 110 urges federal, state, local and territorial law-enforcement authorities to provide a culturally, substantively and accurate translation of the *Miranda* warning in Spanish so Spanish-speaking suspects know their constitutional rights. The use of an inaccurately translated *Miranda* warning violates individual rights and undermines law-enforcement public safety efforts. Courts will subsequently exclude arrestee statements if the translation of *Miranda* rights was inaccurate.

In April 2017, the American Bar Endowment awarded the Hispanic Commission a $20,000.00 grant for its implementation of Resolution 110, a Spanish translation of Miranda. to create, disseminate, and implement an accurate and accessible Spanish translation of the Miranda warning. As a result of the grant, the Hispanic Commission has partnered with the, ABA Center for Innovation, under the leadership of Nominee-Elect, Judy Perry Martinez, and the ABA Section of Criminal Justice, working with a diverse group of community partners including the IIT Institute of Design and a police department created a Miranda Card and a web-based platform depicting accurate and reliable written, audio and visual translations of the Miranda warning in Spanish. The project is currently undergoing a 60-day field test. Following updates determined in the test phase, the translation tools will be piloted by law enforcement and then shared with the public to ultimately drive national implementation and, ensure a fairer and more uniform application of Constitutional rights. Moreover, the project and its finished tools will serve as a template that will be replicated for use with other languages, and potentially adapted for persons with sight and hearing impairment as well as other non-typical arrest situations.

We must emphasize that had it not been but for the existence of the Hispanic Commission and its commitment to language and Access to Justice issues, this important work may not have ever been addressed. It has been fifty years since the *Miranda* landmark case and no other organization has taken the lead to address the issue. It is precisely because the ABA passed Resolution 100 that this project was able to take off with a metropolitan police department. It was the ABA seal of approval that opened the doors to address this Access to Justice issue.

The foreseeable impact of this project on law enforcement practices throughout the country could be very large in scope. It will undoubtedly reinforce the ABA’s prestige and affirm its position in the legal realm as a trailblazer particularly on a subject matter that impacts those communities presently under attack in the current political climate namely, immigrant communities.
Univision: The Hispanic Commission has broken ground on media coverage of the legal profession. The Hispanic Commission, together with Univision Chicago, launched in January of 2015 the “Conozca Sus Derechos” or “Know Your Rights” legal news segment that airs weekly during the 10pm newscast.

The segment features an ABA Spanish speaking member who speaks in his/her own personal capacity as a legal expert on the substantive topic of the week. The segment educates the legally underrepresented Spanish speaking community about the law and their rights and responsibilities. A sampling of the topics covered include: Voting Rights; Estate Planning; Consumer Laws; Family Law; Education; Workmen’s Compensation and Employment law; Social Security Disability and Immigration. *No other ABA entity provides a weekly opportunity for members of the ABA to be featured on television.*

In March of 2017 the Hispanic Commission responded to the current immigration crisis due to the Executive Orders on immigration, deportation and travel, by holding an immigration phone bank with Univision Chicago. ABA volunteer immigration attorneys answered calls for four consecutive hours, or over 300 calls, from the community. The crisis has generated heightened levels of fear and uncertainty in the Hispanic community, a community that has been negatively singled out by the Trump administration. The success of the phone bank underscored the need of the community to be legally educated about their rights.

**Future Lawyers:** In January 2015, the Hispanic Commission implemented a public-interest volunteer internship for law and college students in the greater Chicago area. Since its launch, seven law students and one college intern have been exposed to the important work of the ABA and of the Hispanic Commission. Through its internship program the Hispanic Commission actively invests in the future legal generation of the fastest growing segment of the population. Four of the former seven legal interns are now licensed attorneys and ABA members.

**Home Owner Video:** The Hispanic Commission, in collaboration with the Section of Real Property Trust and Estate Law produced an English and Spanish video which guides first time homebuyers on the process of buying a home from start to finish. The video was a response to the foreclosure crisis that disproportionately affected the Hispanic population.

**Overall Press coverage:** The work of the Hispanic Commission has overall received 81 instances of press coverage, including national and international press coverage.

**Is it a successful program, using data and other evidence**

The Hispanic Commission is a successful entity within the ABA which is doing outstanding and efficient work with minimal resources namely, only one full time staffer and a modest general revenue budget of $14,000.00.

Evidence to support its success can be found through the following recognitions and achievements:

In April of 2017 the Hispanic Commission was awarded a $20,000.00 grant by the American Bar Endowment to implement Resolution 110 by creating a solution to the above Access to
Justice issue faced every day by individuals arrested by law enforcement. As was previously discussed in the “Policy Work” provision on the previous page 6 of this report, the foreseeable impact of this project on law enforcement practices throughout the country could be very large in scope. It will undoubtedly reinforce the ABA’s prestige and affirm its position in the legal realm as a trailblazer particularly on a subject matter that impacts those communities presently under attack in the current political climate namely, immigrant communities.

The Hispanic Commission’s continued work with Univision Chicago for over three years or close to 120 episodes of the weekly news legal segment on the “Conozca Sus Derechos” (“Know Your Rights”) legal segment which features a Spanish speaking ABA member speaking in his or her own personal capacity as a legal expert.

Since 2013 the Hispanic Commission has sponsored over 21 CLE programs, some of which have been able to garner national press coverage. The programs are unique as they represent issues pertinent to the Hispanic Community and the legal profession. Topics have included: Representing Spanish Speaking Clients; An In-depth Look at the Future of Hispanics: Sanctuary Cities, SB4 and the current State of Immigration Reform; Doing Business in Cuba; Developments in Voter ID and Citizenship Verification Practices; The Disappearing Mexican American Law Student; and The Future of Latinos in the U.S. and Legal Issues Associated with Community Development and its Impact on the Hispanic Community.

**Does the program/deliverable stress ABA uniqueness (are we the only one that can/should do this)**

Yes, the work of the Hispanic Commission is unique which in turn stresses the uniqueness of the ABA. The timing could not be better suited for having the ABA, through the work of the Hispanic Commission, to enhance its presence and commitment to emphasize the rule of law to the Hispanic community. The Hispanic Commission is the ABA’s bridge to a community that is not yet understood or accommodated by our legal system due to factors which include: language, cultural sensitivity and economic and educational disparity all of which create an Access to Justice issue, one which the ABA is capable to address. Additionally, this legally underrepresented demographic is an untapped market for business development for Hispanic and non-Hispanic attorneys.

The current climate of crisis and uncertainty facing the Hispanic population and immigrant communities, should be a platform for the ABA to lead the way for others to follow. Hispanics, namely Mexicans who comprise the largest sector of the Hispanic demographic, have been labeled rapists, drug dealers and most recently animals under the current administration. This rhetoric of hate and discrimination and continued marginalization of immigrant communities are not the core values of this country nor should they begin to form a construed basis for the rule of law.

There are various organizations throughout the country that address segments of the Hispanic Commissions’ work, such as, UnidosUS (f/k/a National Council of La Raza); Mexican American Legal Defense and Education Fund (MALDEF); Latino Justice PRDLEF and the Hispanic National Bar Association (HNBA). The chief executives and principals of these organizations served as members of the Hispanic Commission during its tenure as a presidential initiative. Some will continue to serve, and the Hispanic Commission will also
continue to foster our strong partnership with other groups and plan to collaborate with them in the coming years. The ABA, however, as the world’s premier professional association and the national voice of the legal profession in America – has a unique and respected role in this arena. No other group is better equipped and able to address legal issues within the context of the experiences of Hispanics throughout the United States than the ABA.

Does this program/deliverable have possible sources of funding other than ABA general operations revenue funds

Yes, the Hispanic Commission has an established program support fund. The Hispanic Commission acknowledges its responsibility to actively fundraise and has formed a fundraising committee to engage its members in the fundraising process. As a result of the May 2, 2017 BOG mandate, the Hispanic Commission convened a strategic planning session during its Business Meeting at the 2017 Annual Meeting. Pursuant to that session, the Hispanic Commission has embarked on a regional fundraising initiative to raise necessary funds and maintain a healthy program support fund balance. Going forward, the Hispanic Commission would also consider soliciting sponsorship from external groups for this project.

The Hispanic Commission works closely with the FJE/Office of General Counsel in developing its fundraising initiatives. Through the assistance of the FJE the Hispanic Commission has launched a regional fundraising campaign in connection with a traveling CLE series to demographic areas with large Hispanic populations. The campaign began in early 2018 and will continue until the end of the 2017-2018 bar year. To date, the campaign has successfully netted $12,000 in funds for its program support fund from the CLE program that took place on March 27, 2018 in Dallas, Texas. Additional CLE programs will take place in Chicago (May 31st), and New York (June 28th). Each of these CLE programs are anticipated to raise funds for our program support fund.

By taking the ABA “on the road” and bringing it to Hispanic lawyers who may not otherwise have the ability to travel to attend an ABA program such as Midyear or the Annual Meeting, we have bolstered the image and presence of the ABA in these cities. We have witnessed a buzz of excitement and renewed interest in the ABA by the local Hispanic legal community. Many commented that they were unaware of the commitment the ABA has placed in the Hispanic Community through the formation of the Hispanic Commission. This perception that the ABA cares about Hispanics and the members of the Hispanic legal profession resonates with those who have attended our programs.

The Hispanic Commission has agreed to adopt the traveling CLE series as a signature program going forward. This will raise funds for our program support fund and bring awareness of the high caliber programs for which the ABA is renowned to members and prospective members who may not be able to travel to the ABA Midyear or Annual Meetings. Most importantly, it will raise the profile of the ABA and resonate with younger generation of lawyers who are the future of the Association and its leadership.

In conclusion, we credit the BOG for encouraging us to accept the challenge of fundraising and membership as it has helped to bolster the important work and four goals of the ABA through the Hispanic Commission while growing its presence within the Hispanic community.
We pray that the BOG deem that the Hispanic Commission has successfully achieved the mandate set forth on May 2, 2017.

We respectfully submit this report for your full consideration.

Sincerely,

Richard Pena
Chair

Cc:
Orlando Lucero
Alpha Brady
May 2, 2017

Mr. Richard Pena, Chair  
Commission on Hispanic Legal Rights and Responsibilities  
Law Offices of Richard Pena  
Ste 300  
2211 South Ih-35  
Austin, TX  78741  

Sent Via Email:  richard@rpenalaw.com

Dear Mr. Pena:

The ABA Board of Governors met on April 25, 2017, and took the following action:

1) the Commission on Hispanic Legal Rights and Responsibilities (“Commission”) will be comprised of 10 members and remain in place for at least one year. The Commission will report to the Board of Governors prior to or at its June 2018 meeting regarding the status of the Commission’s fundraising ability and membership focus;

2) changed the name of the Center for Racial and Ethnic Diversity to the Diversity and Inclusion Center comprised of a chair and all 7 Goal III entities, including the Commission on Racial and Ethnic Diversity, Council for Diversity in the Educational Pipeline, Coalition on Racial and Ethnic Justice, Commission on Women, the Commission on Sexual Orientation and Gender Identity, the Commission on Disability Rights, and the Commission on Hispanic Legal Rights and Responsibilities;

3) the Commission, as well as all Goal III entities, will become a part of the Diversity and Inclusion Center; and

4) created an Advisory Council comprised of not more than 20 members to ensure communication, connection, collaboration and coordination between the diversity entities in the ABA, the national bars of color, and FJE which houses the Legal Opportunity Scholarship Fund.

If you have any questions regarding these actions, please do not hesitate to contact the Policy and Planning Division staff in Chicago.

Sincerely,

Mary T. Torres  
Secretary

MTT:clk

cc:  Orlando Lucero  
Ruthe C. Ashley  
Nancy Andrade  
Carri L. Kerber
MEMORANDUM

TO: Board of Governors

FROM: Rochelle E. Evans

Subject: Requests for Co-Sponsorship

Date: May 24, 2018

The following requests for co-sponsorships have been made. The Guidelines for Co-sponsorship of Programs/Activities with Other Organizations are attached. (Please note: No ABA general revenue is requested or required for these co-sponsorship requests.)

a. Section of International Law:

to co-sponsor a breakfast session with the East Africa Law Society during the International Bar Association’s Annual Congress on Thursday, October 11, 2018. The panel, including representatives of both common law and civil law jurisdictions, will explore developments in access to justice, particularly in regard to cross border practice, where traditional forms of law firms are under challenge.

b. Standing Committee on Public Education:

to collaborate with ThinkCERCA to develop high-quality digital curriculum materials in the areas of law-related and civic education and provide professional development support for teachers and schools using the resources. The two organizations will also collaborate to seek funding as opportunities arise to expand the depth and reach of the collaboration, such as from the Library of Congress for its Teaching with Primary Sources grant program.

c. Commission on Disability Rights:

to co-sponsor with Microsoft to provide a 10-12 week summer internship opportunity for a law student with a disability who has completed his or her first year. The Commission requests approval for the next three years (2019, 2020, 2021). The selected intern will work within Microsoft’s Corporate, External, and Legal Affairs Department in Redmond, Washington, and will be paid $8,500 a month by Microsoft.

d. National Conference of the Administrative Law Judiciary:

to co-sponsor and contribute funds to the Fund for Justice, Inc., d/b/a Chicago Appleseed Fund for Justice and others, for a new Comprehensive Data-Based Comparative Study of Central Panels. The study is a complete update of Malcom Rich and Wayne E. Brucar’s THE CENTRAL PANEL SYSTEM FOR ADMINISTRATIVE LAW JUDGES: A SURVEY OF SEVEN STATES, which was co-sponsored by the American Judicature Society and the Administrative Conference of the United States in 1983. The Conference will contribute $2,500 to the project from its Program Support Fund.
e. Judicial Division (3):

i. to apply for a National Press Club “Headliners Program” this bar year (the exact timing is unknown, as the program would need to be first chosen and then determined by the National Press Club). This program will be a high-profile speaker panel discussing the U.S. crisis involving police-involved harm to citizens, such as has been reported in Ferguson, Missouri; Cincinnati, Ohio; Baton Rouge, Louisiana; and Baltimore, Maryland; and elsewhere, and to discuss the role of the courts, the press and the bar in ensuring a fair trial and to instill confidence in the judiciary.

ii. to co-sponsor with Golden Gate University the Sixth Annual Veterans Law Conference to be held at Golden Gate University Law School in San Francisco, California, on Friday, November 2, 2018. The goal of the conference is to help veterans transition into higher education and into professional careers.

iii. to co-sponsor with the Loyola University School of Law in Chicago, Illinois, a panel discussion, tentatively titled #Me Too and the Judiciary, and a reception to be held in conjunction with the ABA Annual Meeting, on Wednesday, August 1, 2018, with an estimated 100 ABA members and local attorneys in attendance. The Judicial Division Standing Committee on Diversity in the Judiciary has budgeted $3,000 of section funds towards the cost of the program and reception.

f. National Conference of Federal Trial Judges:

to co-sponsor a one-day CLE program with the South Carolina Chapter of the Federal Bar Association (SCFBA) on Thursday, August 23, 2018, in Greenville, South Carolina. (Approval for the CLE program has already been obtained from the Standing Committee on Continuing Legal Education.) The program will take place at both the Poinsett Club and the Clement F. Haynsworth Federal Building and U.S. Courthouse. The Judicial Division has approved up to $5,000 from its Program Support Fund to defray the cost of scholarships and speaker reimbursements.

g. Standing Committee on Legal Aid and Indigent Defendants:

to co-sponsor with the Los Angeles County Bar Association’s Criminal Justice Section a meet-and-greet event featuring North Carolina Supreme Court Associate Justice Cheri Beasley, on Wednesday, July 11, 2018, in Los Angeles, California. The program will include a Q&A about Justice Beasley’s background, her path to the North Carolina Supreme Court, and her expertise on juvenile justice.

h. ABA Rule of Law Initiative

to co-sponsor with outside organizations, including several Chicago law schools and law firms, ROLI’s Rule of Law Luncheon at the ABA Annual Meeting, an annual celebration of the ABA’s work to advance the rule of law in more than 50 countries around the world which will feature a discussion with a keynote speaker addressing current challenges and state of the rule of law globally.
MEMORANDUM

Board of Governors
May 24, 2018
Page Three

i. **Forum on Communications Law**

   to continue to co-sponsor with several outside organizations and to seek outside funding for the First Amendment and Media Law Diversity Moot Court Competition which has been successful for the past ten years. The competition is designed primarily to expose minority law students to the Forum on Communications Law (“Forum”) and the practice of media law and offers a unique opportunity for law students to apply their writing and advocacy skills to issues relevant to the media law bar. Potential sources of funding will be identified and the Forum will be required to fund some portion of the competition from Forum funds.

j. **Section of Intellectual Property Law**

   to co-sponsor certain Section of Intellectual Property Law (“Section”) committee programs with specific outside entities in the 2018-2019 Association year. This same request has been submitted and approved by the Board for the past six Association years. Committee programs are tools used by Section committees to inform Section members and other interested parties about timely issues in intellectual property law.

k. **Section of Dispute Resolution**

   to co-sponsor the project *We, the People: Strengthening Democratic Engagement to Address Local Civil Unrest* with Ohio State University’s Divided Community Project. This collaboration between the Divided Community Project and the Section has received a grant from the American Association of Arbitrators Foundation to support the development and implementation of a national “academy” for invited local community leaders. Expenses not covered by the grant will be paid from Section of Dispute Resolution funds.
A request to co-sponsor a program/activity with an outside organization should be in the form of a memo (on the entity's letterhead stationery):

To: Profession, Public Service and Diversity Committee of the Board of Governors
From: The Entity Chair
Subject: Request for Co-Sponsorship of…
Date:

The first paragraph of the memo should summarize what the entity is requesting. The memo should then list each of these questions and the entity's responses:

a. Describe the program/activity. *(Include the date and place of the event, if applicable.)*

b. Identify all co-sponsoring entities. *(Provide the name and a brief description of each outside entity, including whether it is for-profit or not-for-profit.)* {NOTE: If the outside entity is a corporation, the entity should contact the ABA Director of Sponsorship to determine if there are any corporate support or sponsorship issues involved with the co-sponsorship and include this information in the response.}

c. If approval is needed before the next regularly scheduled meeting of the Committee, state the reason.

d. Address **fully** each of the following Board guidelines:

1. How the program/activity significantly advances the purposes of the ABA and one or more ABA goals or objectives, or otherwise provides identifiable benefits to the ABA, its members and/or the public in furtherance of ABA purposes and/or goals.

2. How the ABA and each of the other organizations have significant and meaningful participation in and responsibility for the planning and implementation of the program/activity and any resultant publication or printed work product.

3. Whether the program/activity will result in policy statements which could be attributable to the ABA without prior approval of the ABA House of Delegates or the Board of Governors or which would be in conflict with any existing ABA policy.

4. Whether the program/activity budget is fiscally sound and whether it is likely to expose the ABA to liability for unanticipated expenses and/or net losses. *(Provide information on the program budget, including the financial responsibility of each of the co-sponsors; and whether ABA general revenue is requested or required.)*

Please contact Laura Macias at 312/988-5407 or at laura.macias@americanbar.org for additional information or assistance.
The Profession, Public Service and Diversity Committee (“Committee”) of the Board of Governors of the American Bar Association met at the Fairmont Pacific Rim, in Vancouver, BC, Canada, on Thursday, February 1, 2018. Chair Honorable Ramona G. See presided. The following members of the Committee were in attendance: Mark H. Alcott, Tom Bolt, David L. Brown, Lee A. DeHihns III, J. Timothy Eaton, Deborah Enix-Ross, David S. Houghton, Honorable Eileen A. Kato, Bernard T. King, Penina K. Lieber and Honorable Leslie Miller. Also in attendance were ABA President Hilarie Bass, Scope and Correlation of Work Committee (“Scope”) member Amy Boss, representing Scope Chair Thomas M. Fitzpatrick, Section Officers Conference representative Pauline A. Weaver, Standing Committee on Governmental Affairs member William K. Weisenberg, ABA Center for Innovation Governing Council Chair Andrew Perlman and Special Advisor Judy Perry Martinez and Incoming Chair Nominee of the House of Delegates William Bay. The following staff were present for all or portions of the meeting: ABA Executive Director Jack L. Rives, Tom Susman, Alpha M. Brady, Jarisse Sanborn, Rochelle E. Evans, Bethany Myles, Amy Eggert, Janet Jackson, Jackie Casey, Lea Snipes, Holly Cook, Bob Horowitz, Sarah Vetrano, Betsy Andersen, Carol Stevens, Ira Pilchen and Laura Macias.

**Welcome**

Chair See welcomed everyone and recognized new Committee member Mark H. Alcott who replaced former member A. Vincent Buzard following his resignation. Chair See asked the Committee members to introduce themselves. She then asked the Committee to observe a moment of silence in honor of Committee member Joe Whisler who passed away. Following the moment of silence, Chair See provided the Committee with an overview of the agenda.

a) **Matters for Review by the Board**

4.1 Nominations and Request for Reauthorization of Membership

   a. i. Request from Section of Intellectual Property Law for Reauthorization of Institutional Membership in American Intellectual Property Law Education Foundation

   The Section of Intellectual Property Law requested approval to continue its institutional membership in and co-sponsorship of the American Intellectual Property Law Education Foundation for five years beginning in 2018 and ending in 2023.

   **UPON MOTION DULY MADE, SECONDED AND CARRIED:**

   The Profession, Public Service and Diversity Committee recommended approval of the request of the Section of Intellectual Property Law to continue its institutional membership in and co-sponsorship of the...

ii. Request from the Section of Intellectual Property Law Section for Approval of Nomination to Intellectual Property Constituency

The Section of Intellectual Property Law requested the re-election of William L. LaFuze of Houston, Texas, as the ABA representative to the American Intellectual Property Law Education Foundation for a second three-year term beginning on July 1, 2018, and expiring on June 30, 2021.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Profession, Public Service and Diversity Committee recommended approval of the request of the Section of Intellectual Property Law to re-elect William L. LaFuze of Houston, Texas, as the ABA representative to the American Intellectual Property Law Education Foundation for a second three-year term beginning on July 1, 2018, and expiring on June 30, 2021.

b. Request from the Section of Intellectual Property Law for Approval of Nomination to the Intellectual Property Constituency

The Section of Intellectual Property Law requested approval for the election of James Bikoff of Washington, D.C., as the ABA representative to the Intellectual Property Constituency for a three-year term beginning on July 1, 2018, and expiring on June 30, 2021.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Profession, Public Service and Diversity Committee recommended approval of the request of the Section of Intellectual Property Law for the election of James Bikoff of Washington, D.C., as the ABA representative to the Intellectual Property Constituency for a three-year term beginning on July 1, 2018, and expiring on June 30, 2021.

c. Request from the Section of International Law for Approval of Nomination to the Industry Trade Advisory Committee on Services and Financial Industries

The Section of International Law requested approval for the re-election of Timothy Charles Brightbill of Washington, D.C., as the ABA representative to the Industry Trade Advisory Committee on Services and Financial Industries for a two-year term beginning in February 2018 and expiring in February 2020.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Profession, Public Service and Diversity Committee recommended approval of the request of the Section of International Law for the re-election of Timothy Charles Brightbill of Washington, D.C., as the ABA representative to the Industry Trade Advisory Committee on Services and Financial Industries for a two-year term beginning in February 2018 and expiring in February 2020.
Industries for a two-year term beginning in February 2018 and expiring in February 2020, with the understanding that because the current representative has served in this position since 2007, the Section shall consider other members with similar expertise to serve in this position when the current representative’s term expires in 2020.

4.2 Request from ABA Fund for Justice and Education to Approve Revised Program Support Fund and Endowment Policy

The ABA Fund for Justice and Education (FJE) requested approval of the newly revised Program Support Fund (PSF) and Endowment Policy which includes a more robust role for the FJE as a partner to the Board of Governors. The FJE will more effectively monitor PSF accounts for timely use of funds and adherence to donor intent, as well as ensure that the ABA’s 501(c)(3) tax status is maintained and that the ABA/FJE can continue to raise charitable dollars.

The three main changes to the policy are:

1) The inclusion of endowments into the PSF policy. This allows one policy to address the overlapping need for monitoring of the accounts and review of their annual usage.
2) A defined role for the FJE in the monitoring and compliance of the policy. This includes regular review of the accounts, an annual educational series for leaders and entity staff, and suggested recommendation to the Profession, Public Service and Diversity Committee and Finance Committee if an entity is out of compliance with the policy.
3) Suggested actions the Profession, Public Service and Diversity Committee and Finance Committee may recommend to the Board if an entity is not in compliance with the policy. Recommendations will be based upon the analysis conducted by the FJE of each PSF and endowment after conversations with each entity that is not in compliance with the policy.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Profession, Public Service and Diversity Committee recommended approval of the request of the ABA/FJE to revise the PSF and Endowment Policy to include a more robust role for the FJE as a partner to the Board of Governors. The FJE will more effectively monitor these accounts for timely use of funds and adherence to donor intent, as well as ensure that the ABA’s 501(c)(3) tax status is maintained and that the ABA/FJE can continue to raise charitable dollars.

Following discussion and approval of 4.2, the Committee learned that this item was withdrawn at the Finance Committee meeting pending wide distribution to ABA entities. Subsequently, the Profession, Public Service and Diversity Committee withdrew the request as this item will be submitted to the Board for approval at a future meeting.
4.3 Requests from the ABA Rule of Law Initiative

a. Memoranda of Understanding

i. Ground Truth Solutions

The ABA Rule of Law Initiative (ROLI) requested approval to enter into a Memorandum of Understanding (MOU) with Ground Truth Solutions to conduct joint research and evaluation activities of ROLI’s work of providing legal protection services. Ground Truth Solutions is an Austrian nongovernmental organization that provides the humanitarian sector with direct feedback from people affected by crisis.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Profession, Public Service and Diversity Committee recommended approval of ROLI’s request to enter into a MOU with Ground Truth Solutions to conduct joint research and evaluation activities of ROLI's work of providing legal protection services subject to review and approval of the MOU by the Office of the General Counsel and a signed copy filed with the Policy and Planning Division.

ii. Prince Sultan University

The ABA ROLI requested approval to enter into a cooperation agreement with Prince Sultan University (PSU). PSU is a leading law school in Saudi Arabia, widely known for its beginnings as a women’s law school that has become co-ed. ROLI would collaborate on course design and development with PSU paying ROLI for the costs of implementing workshops and trainings.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Profession, Public Service and Diversity Committee recommended approval of ROLI's request to enter into a cooperation agreement with Prince Sultan University (PSU), subject to review and approval of the MOU by the Office of the General Counsel and a signed copy filed with the Policy and Planning Division.

b. Amendment to List of Approved Countries of Operation and Registration, Donors and Thematic Program Areas

The ABA ROLI requested approval to amend the list of Approved Countries of Operation and Registration, Donors and Thematic Program Areas to add GSMA, the industry association of mobile operators, as a donor.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Profession, Public Service and Diversity Committee recommended approval of ROLI's request to amend the list of Approved Countries of
4.4 Request from ABA Center for Human Rights for Approval of Memorandum of Understanding with the International Senior Lawyers Project

The ABA Center for Human Rights requested approval to enter into a Memorandum of Understanding (MOU) with the International Senior Lawyers Project (ISLP). ISLP is a US-based non-profit organization that provides pro bono legal assistance to governments and civil society organizations in developing countries, leveraging global legal resources in alignment with client needs to support just, accountable and inclusive development. The purpose of the MOU is to formalize the relationship between the two entities when it comes to volunteers conducting joint trial observations on behalf of both entities.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Profession, Public Service and Diversity Committee (“Committee”) recommended approval of the request from the ABA Center for Human Rights to enter into a MOU with the ISLP, subject to review and approval of the MOU by the Office of the General Counsel, and a signed copy filed with the Policy and Planning Division. The Committee requested that the Center for Human Rights consider involving the ABA Senior Lawyers Division. Involvement of the Senior Lawyers Division will be suggested by the Center for Human Rights to ISLP.

4.5 Request from ABA Commission on Law and Aging to Enter into Agreement Regarding Mind Your Loved Ones App

The ABA Commission on Law and Aging requested approval to enter into an agreement regarding Mind Your Loved Ones app. In 2014, the Commission, with Board approval, entered into a contract to develop and promote a smart device app that served as an online depository of health care directives with the name My Health Care Wishes. Due to the low volume and limited resources, the Commission discontinued the annual support and the app was shut down. Recently, a New York elder law attorney and app developer acquired the rights to the app, upgraded it and renamed it Mind Your Loved Ones. The attorney has asked the ABA to resume its relationship, though under different terms. The app continues to not only allow users to store advance directives as well as critical medical and insurance information but also highlights the importance of advance directives. The app would be available for an annual subscription of $3.99 per year to individuals and marketed to large firms to consider purchasing the app in bulk to provide to clients. The ABA has been offered a royalty on sales for use of the ABA logo. The agreement would also allow the attorney selective use of ABA mailing lists, within the constraints of ABA policy.

UPON MOTION DULY MADE, SECONDED AND CARRIED:

The Profession, Public Service and Diversity Committee recommended approval of the request from the ABA Commission on Law and Aging to enter into an agreement regarding Mind Your Loved Ones app subject to review and approval.
4.6 Discussion with Standing Committee on Governmental Affairs Regarding Creation of an ABA Political Action Committee

William K. Weisenberg, member of the Standing Committee on Governmental Affairs ("Committee") and Associate Executive Director Thomas M. Susman, presented a proposal requesting that the Board of Governors consider establishing an ABA Political Action Committee (PAC). The PAC would be organized as a separate segregated fund – a nonprofit political organization separate and apart from the ABA – organized under applicable federal election laws. Challenges continue to evolve in communicating effectively with federal policymakers. Control of Congress shifts back and forth between political parties. Senators and Representatives increasingly rely upon staff who rapidly turn over. Legislative staff increasingly rely upon email and social media, eschewing in-person discussion. A PAC is a means to overcome these obstacles by helping to improve direct, personal access to legislators. Increased access facilitates better explanation of ABA policy goals. The Committee recommends that the PAC be governed and administered by a diverse and balanced Board and officers appointed by ABA presidents in a system approved by the Board of Governors. Representatives from the Board of Governors and the House of Delegates could be included. Support from ABA leadership, including financial support, will be important, as the PAC’s goal will be to obtain sufficient voluntary contributions to make at least $150,000 in contributions to federal candidates and political party committees every (two-year) election cycle. To maintain the impartiality valued in ABA advocacy and expertise, the PAC would contribute equally to candidates and committees of the two major political parties.

Some Committee members expressed concerns about the creation of a PAC and stressed the importance of hearing from entities that have concerns or are opposed to the PAC. It is important that the ABA looks at this from all sides and understands how our membership feels. Other Committee members were in favor of creating a PAC but stressed that it must be consistent with ABA Policy. The Committee will continue to refine the proposal to be presented to the Board of Governors for approval at a future meeting.

4.7 Request to Consider and Evaluate Reinstating the Enterprise Fund in FY2019

The Profession, Public Service and Diversity Committee ("Committee") requested the reinstitution of the Enterprise Fund in FY2019. In October 2006, the Board of Governors established the ABA Enterprise Fund to provide $500,000 in competitive awards to ABA Sections, Divisions, Forums, Committees, Commissions, and other entities to undertake innovative, collaborative projects that advance the Mission and Goals of the Association. Because of financial challenges the Association experienced, the Board sought to encourage greater collaboration and coordination among the many diverse entities of the ABA by providing seed money for innovative projects. Since its inception, 132 proposals have been submitted to the Enterprise Fund requesting a total of $10,059,612. The Enterprise Fund has provided seed money to 35 projects totaling $2,615,524. Due to the financial challenges faced by the ABA, the Enterprise Fund was not funded in FY2011 and FY2012. However, at its August 2011 meeting, the Board approved the request of the Program, Evaluation and Planning Committee to
reserve $350,000 in funding for the ABA Enterprise Fund beginning with the FY2013 budget year and on an annual basis thereafter. When a decision was made not to fund the Enterprise Fund in FY2018 due to the continued financial challenges facing the ABA, the Committee agreed to request that the Board reinstitute funding for the Enterprise Fund in FY2019.

ABA Executive Director Jack L. Rives informed the Committee that the establishment of the Enterprise Fund was a great idea at the time and that its demise was necessary. He added that because the Board has to prioritize all expenses, any requests for new funding should come through the annual budgeting process.

**UPON MOTION DULY MADE, SECONDED AND CARRIED:**

The Profession, Public Service and Diversity Committee withdrew the request that the Board of Governors consider and evaluate reinstituting funding for the Enterprise Fund.

4.8 Request from ABA Center for Innovation to Enter into a Memorandum of Understanding with the Legal Services Corporation

The ABA Center for Innovation (“Center”) requested approval to enter into a Memorandum of Understanding (MOU) with the Legal Services Corporation. The MOU outlines the responsibilities of the Center and the Legal Services Corporation for the Social Entrepreneurship Initiative, that was approved by the ABA Board of Governors at the 2017 Annual Meeting. This initiative will match legal technology companies with local legal aid offices to provide free technology to those service providers to assist them in their work.

**UPON MOTION DULY MADE, SECONDED AND CARRIED:**

The Profession, Public Service and Diversity Committee recommended approval of the request of the Center to enter into a MOU with the Legal Services Corporation, subject to review and approval of the MOU by the Office of the General Counsel and a signed copy filed with the Policy and Planning Division.

b) Matters for Independent Jurisdiction

4.15 Requests for Co-Sponsorship

The Profession, Public Service and Diversity Committee (“Committee”) approved co-sponsorship requests from the following entities (no additional ABA general revenue is requested or required for the co-sponsorships at this time):

a. **Section of Antitrust Law:**

to renew its cosponsorship of the International Competition Network’s (ICN) Training on Demand Project for FY2018-2020. The mission of the project is to create a comprehensive curriculum of training materials to serve as a virtual university on competition law and practice for competition agency officials, especially those from developing countries. At its 2017 Spring Meeting, the
Section of Antitrust Law Council approved funding for this project from its Section budget in the amount of $25,000 per year for FY2018-2020.

b. Young Lawyers Division:

to co-sponsor with the University of South Carolina School of Law, the University of South Carolina Center on Professionalism, and the National Legal Mentoring Consortium, a National Mentoring Conference in Columbia, South Carolina to be held April 12 – 14, 2018, at the University of South Carolina School of Law. The conference is an excellent opportunity for the Young Lawyers Division to support mentoring in the legal profession and to engage with thought-leaders on the importance of mentoring, as well as to help shape best practices and identify successful mentoring programs and strategies that could benefit our members.

c. Rule of Law Initiative (2):

i. to co-sponsor with the United Nations Office on Drugs and Crime (UNODC) trainings or workshops on alternatives to detention in Bahrain. These events would be co-branded with both ABA and UNODC’s logos (in addition to that of our donor, the US government). Both UNODC and ABA ROLI are implementing projects aimed at training Bahraini stakeholders on best practices and tools for implementing alternatives to incarceration, following the July 2017 passage of alternatives to detention law in Bahrain.

ii. to co-sponsor with the George Washington University Elliot School of International Affairs, its day-long conference “When People Flee: Rule of Law and Forced Migration” scheduled to take place on April 17, 2018, at the George Washington University Elliot School of International Affairs. This Conference will elaborate the relationship between rule of law and forced migration and identify effective rule of law responses bringing together leading scholars, development professionals and policy-makers for a day-long exploration and exchange of lessons learned. Both the ABA ROLI and the George Washington University Elliot School of International Affairs logos would appear on all program materials and both organizations would distribute invitations to the event to their contacts.

d. Section of Science & Technology Law:

to co-sponsor with the Health Information and Management Systems Society (HIMSS) the Annual Conference & Exhibition from March 5 – 9, 2018 in Las Vegas, Nevada which brings together 45,000+ professionals from around the world for five days of education, innovation and collaboration to help uncover the promise of health information and technology. Since 2013, the ABA Board of Governors has approved SciTech’s participation as a co-sponsor of HIMSS events including its Annual Meetings and Health Summits. The section contributes valuable perspectives and expertise on science and technology issues through its Healthcare Technology and Medical Devices Committees and eleven committees in its Security, Privacy and Information Law Division.
e. **Commission on Homelessness and Poverty:**

   to co-sponsor with the California Administrative Office of the Courts a three-day national summit on Homeless Courts and the role of the criminal justice system in addressing homelessness to be held on June 28-30, 2018, in San Diego, California.

f. **ABA Representatives and Observers to the United Nations:**

   to co-sponsor with the Medical Women’s International Association and Dr. Padmini Murthy, a Senior Fellow at the Public Private Alliance Foundation, a program entitled “Sexual Violence, Funding and Technology During Armed Conflict: The Next Step.” The program will be held in New York City in conjunction with the Commission on the Status of Women 62nd Forum to be held from March 12-23, 2018.

g. **Section of Environment, Energy, and Resources:**

   to co-sponsor and financially support with up to $7,000, the Jeffrey G. Miller Pace National Environmental Law Moot Court Competition with Pace Law School for 2018, 2019, and 2020 which is scheduled for February 22-24, 2018. The Jeffrey G. Miller Pace National Environmental Law Moot Court Competition is recognized as the preeminent environmental law moot court competition in the United States and tests skills in appellate brief writing and oral advocacy involving issues drawn from real cases, providing experience in environmental litigation first hand.

h. **Section of Public Contract Law and Forum on Construction Law:**

   to co-sponsor a two-hour panel workshop on Federal Regulation at the Associated General Contractors of America (AGC) upcoming Federal Contractors Conference to be held on May 1-3, 2018, in Washington, D.C. The Section will pay a $7,500 sponsorship fee for the two-hour panel workshop which will be sponsored by member firms and a contractor of the Section and Forum. The $7,500 sponsorship could be waived if 15 Section and/or Forum members register for the AGC conference.

Following approval of the co-sponsorship requests, the Committee discussed the questions asked of entities and agreed to add language to the current form asking if the requesting entity considered other entities that may have an interest in that particular area.

c) **Matters for Committee Consideration Only**

   4.20 **Approval of the Minutes**

   The Profession, Public Service and Diversity Committee approved the minutes of the October 19, 2017, meeting.
4.21 ABA Enterprise Fund Projects – FY2018 First Quarter Reports

Penina K. Lieber, Committee member responsible for the oversight of active Enterprise Fund Projects, reported on the four active projects. All projects are on track to achieve deliverables and will be completed by the end of FY2018.

Following discussion of the FY2017 First Quarter Reports, the Committee discussed agenda item 4.7 regarding a request to the Board of Governors to consider and evaluate reinstituting the Enterprise Fund in FY2019.

4.22 Report from Committee on Scope and Correlation of Work

Committee Chair See invited Amy Boss, member of the Committee on Scope and Correlation of Work (“Scope”) representing Scope Committee Chair Thomas M. Fitzpatrick who could not be at this meeting, to update the Committee on its activities. Ms. Boss reported that Scope will have a vacancy at the end of the 2018 Annual Meeting and that applications are available and must be submitted by March 16, 2018. She added that Scope will review seven entities at this meeting. Scope has recommended that the Standing Committee on Medical Professional Liability be sunset at the conclusion of the 2018 Annual Meeting and that its work be subsumed by the Tort Trial and Insurance Practice Section.

Ms. Boss indicated that the Realignment Project relationship was disappointing to Scope. Scope members felt that there was a lot of miscommunication and that Scope’s work was sidelined as a result of the Realignment Project. Scope understands that the Realignment Project will be discussed by the Board in executive session. Since she cannot attend, she suggested that the lines of communication be kept open. She stated that there was a lot of confusion during the Realignment Project process. Next year, Amy Boss will be Chair of Scope and hopes that communication will be improved.

The Committee agreed that the process kept evolving and was cause for frustration for both Committees. Both Committees are trying to do what is good for the ABA and agreed to work together moving forward.

4.23 Report from the Commission on Hispanic Legal Rights and Responsibilities on Phone Banks Conducted

The Committee received the written report from the Commission on Hispanic Legal Rights and Responsibilities which indicates that no phone banks were conducted since the Commission received approval in October 2017 to conduct information phone banks with Spanish media outlets.

d) Informational Only

3.21. Report from the ABA Center on Innovation and the Young Lawyers Division

Professor Andrew Perlman, Chair of the ABA Center (“Center”) for Innovation Governing Council, updated the Committee on the activities of the Center. He indicated that in the last 18 months, the Center has raised over $474,000. In response
to a question raised by a Committee member regarding future funding for the Center, since it will not receive general revenue funding after 2018, Chair Perlman indicated that the Center plans to continue fundraising efforts and hopes to be in a good position next year. The Criminal Justice Section has been very supportive and wants to fund the Center’s initiatives.

In response to a question regarding collaboration with other ABA entities, Chair Perlman indicated that the Center works with many ABA entities on its projects and serves on committees. He also indicated that they will be talking to Deputy Executive Director Jim Dimos about what the membership structure will look like in the future and the Center is excited about members joining the Center. Judy Perry Martinez, Special Advisor to the Center, added that the Center has sought and has been enriched by the expertise of other ABA entities. Innovation is taking what is there and looking at it from a different angle. Most promising in the last 18 months is the number of major foundations that have never approached the ABA in the past and are now interested in all that the ABA has to offer. The ABA needs to build relationships with potential funders to build its reputation.

Center Chair Perlman introduced Amy Krieg, the Young Lawyers Division liaison to the Center. Ms. Krieg thanked the Committee for allowing time on the agenda to listen to a young lawyer. She added that innovation is very important to young lawyers. If we do not acknowledge and address the change in the profession, we will fall behind. Students are interested in seeing innovation and how that affects them. They are the future leaders and are looking at how the profession looks now and how it will look in the future. They are looking for experts to help them with innovation. Young lawyers are adept at using technology for personal use but not as adept at using technology in their practice. The overarching goal is to improve delivery of legal services by young lawyers.

Center Chair Perlman closed by saying that technology is destroying many industries. The Center has shown remarkable progress in its first 17 months - having programmatic impact, creating awareness of its work and making members excited about the work.

4.30 Informational Report on Action Taken Since Last Meeting

Since its last meeting, the Profession, Public Service and Diversity Committee considered the following requests that required action prior to the February 2018 Committee meeting. (No additional general revenue is requested or required for the requests, unless otherwise indicated):

a. Approved the request from the Standing Committee on Legal Assistance for Military Personnel and the ABA Veterans Legal Services Initiative to list the American Bar Association as a co-sponsor of a networking reception held in November 2017 as part of Veterans Day activities planned by the Nestle Corporation in Washington, D.C.

b. Approved the request from the Section of Civil Rights and Social Justice to co-sponsor with the Constitution Project and the Electronic Privacy Information Center a program panel on Carpenter v. United States, entitled “Where Are We With

c. Approved the request from the Section of International Law to co-sponsor the 2017 Moscow Dispute Resolution Conference with the Russian Arbitration Association, held on December 8, 2017.

d. Approved the request from the Commission on Women in the Profession to co-sponsor a luncheon, “The Challenges for Women in Politics – Both Personal and Professional,” presented by the National Conference of Women's Bar Associations (NCWBA) and the Canadian Bar Association BC Women Lawyers Forum (CBABC Women Lawyers Forum), that will take place in conjunction with the ABA Midyear Meeting on Friday, February 2, 2018.

e. Approved the request from the Commission on Disability Rights to co-sponsor with the Florida Bar CLE Committee and the Labor and Employment Law Section an annual, two-day Advanced Labor Topics Seminar in the Spring, in which the Commission will work with them in developing some advanced-level programs that focus on disability rights topics in the labor and employment context.

f. Approved the request from the Standing Committee on Delivery of Legal Services to co-sponsor with the Texas A&M University School of Law to conduct a survey of current and former law firm incubator participants and non-profit law firm attorneys designed to obtain greater data about who law firm incubators and non-profit law firms help, and how successful they are in supporting lawyers to provide greater services to modest-income populations.

g. Approved the request from the Commission on Disability Rights (“Commission”) to have the Pennsylvania Bar Association, the Pennsylvania Bar Institute, the Philadelphia Bar Association's Legal Rights of Persons with Disabilities Committee, Disability Rights Pennsylvania, and the Association of Corporate Counsel be joint sponsors of the Commission's Fifth National Conference on Education and Employment Law Issues Impacting Persons with Disabilities to be held in Philadelphia, Pennsylvania, on June 22, 2018. The Commission will work with the ABA Standing Committee on Continuing Legal Education on the panels for the Conference as they are developed.

h. Approved the request from the Council for Diversity in the Educational Pipeline (“Council”), the Law Student Division, and the Young Lawyers Division to co-sponsor the annual mentoring and networking event for diverse law students and young lawyers hosted by the Kozyak Minority Mentoring Foundation to be held on Saturday, February 3, 2018, in Miami, Florida. The Young Lawyers Division’s Program Support Fund will be used to cover the reduced administrative fee of $500 for the exhibit booth.

i. Approved the request from the Commission on Immigration to partner with the American Immigration Council/AILA’s Immigration Justice Campaign (AIC) to expand and improve legal representation and advocacy on behalf of detained
immigrants and asylum-seekers in South Texas. AIC will hire one full-time attorney/fellow to be placed at ProBAR’s Adult Project in Harlingen, Texas, for a two-year period, a type of secondment.

e) Other Business

Realignment Project

Committee Chair See briefly discussed the status of the Realignment Project (“Project”) and advised the Committee that the Project would be addressed at the Board meeting in executive session. Chair See added that President Hilarie Bass communicated the status of the Project to all entities. Chair See thanked the Committee for its hard work on the Project. As part of phase two of the Project, Senior staff is looking at the Committees’ report and recommendations and will incorporate this information into future recommendations.

There being no further business to come before the Profession, Public Service and Diversity Committee, the meeting was adjourned.

Respectfully submitted,

Honorable Ramona G. See, Chair
DRAFT MEMORANDUM

TO: Board of Governors Profession, Public Service and Diversity Committee

FROM: Laura P. Macias

Subject: Informational Report on Action Taken Since February 2018 Meeting

Date: May 24, 2018

Since the February 2018 meeting, the Profession, Public Service and Diversity Committee considered the following requests that required action prior to the June 2018 Committee meeting. (Unless otherwise indicated, no additional general revenue is requested or required for the requests.):

a. Approved the request from the Section of Civil Rights and Social Justice Committee of the California Lawyers Association, the Environmental Law Institute, Holland & Knight, Paul Hastings, Downey Brandt, Greenberg and others who will also donate to fund the fellowship and to host an event on May 21, 2018, to formally celebrate the launch of the fellowship. In approving the request, the Profession, Public Service and Diversity Committee requested that the Section on Environment, Energy, and Resources be consulted for purposes of collaboration.

b. Approved the request from the ABA Standing Committee on Public Education/Division for Public Education to collaborate with the National Council for Social Studies (NCSS) to plan a plenary session featuring federal judges at the 2018 NCSS meeting, to be held in Chicago, Illinois, from November 30 – December 2, 2018.

c. Approved the request from the Standing Committee on Public Education to be listed as a coalition partner of the Civic Learning Field-Building Coalition, a follow-up to the Democracy at a Crossroads Summit that convened in Washington, D.C., on September 21, 2017. Coalition members iCivics and Tufts University will collect data about the root causes of the poor state of civic learning in the United States through online surveys and will recognize the ABA Division for Public Education on the Coalition’s website and in the white paper that will be published at the completion of the data collection process.
<table>
<thead>
<tr>
<th>Entity Requesting Appeal</th>
<th>Appeal Requestor's Name</th>
<th>Staff Name</th>
<th>Approved Reduction Amount</th>
<th>Actual Reduction Amount</th>
<th>Amount Appealed</th>
<th>Description (per entity submission)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commission on Law and Aging</td>
<td>Charlie Sabatino</td>
<td>Charlie Sabatino</td>
<td>301,000</td>
<td>301,000</td>
<td>224,784</td>
<td>The grants and contracts COLA obtains will contribute about $200k to the ABA (including $87k of indirect grant benefit (reflected in “Approved Reduction Amount”)), and it will be more difficult to obtain grant funding without the ABA’s support.</td>
</tr>
<tr>
<td>Death Penalty Due Process Review Project</td>
<td>Misty Thomas</td>
<td>Misty Thomas</td>
<td>117,000</td>
<td>128,000</td>
<td>138,531</td>
<td>It is the only entity in the country that advocates for implementation of ABA policies on the death penalty, leverages the ABA’s uniquely valuable position on capital punishment to advance reform efforts, and conducts sought-after research bearing the ABA name.</td>
</tr>
<tr>
<td>Commission on Interest on Lawyers’ Trust Accounts</td>
<td>Carolyn Witherspoon, Selina Thomas</td>
<td>Selina Thomas</td>
<td>124,000</td>
<td>201,000</td>
<td>21,600</td>
<td>The Commission is only appealing the portion of the General Revenue funding allocated to support Commission members and ensure the ability of Commission members to meaningfully participate in the Commission’s work, which is critically important to the success of the legal service community and funding access to justice initiatives.</td>
</tr>
<tr>
<td>Legal Opportunity Scholarship Committee</td>
<td>Jackie Casey</td>
<td>Ceilanne Libber</td>
<td>70,000</td>
<td>70,000</td>
<td>50,000</td>
<td>Funding supports Goal III of the ABA.</td>
</tr>
<tr>
<td>National Judicial College</td>
<td>Benes Aldana</td>
<td>Jim Dimas</td>
<td>100,000</td>
<td>100,000</td>
<td>75,000</td>
<td>The NJC provides travel revenue through ABA Leverage, and promotes ABA membership to judges who attend NJC courses. A reduction in funding will cause there to be fewer staff, fewer courses delivered, and fewer grant applications submitted by the NJC.</td>
</tr>
<tr>
<td>Standing Committee on Group and Prepaid Legal Services</td>
<td>Keri Coleman Norris, Ramon Robinson, and Janet Jackson</td>
<td>Janet Jackson</td>
<td>140,000</td>
<td>140,000</td>
<td>31,495</td>
<td>It offers education, networking, and technical support directly and indirectly to many stakeholders; the Standing Committee is eager to help contribute to the ABA's goal of increasing dues and non-dues revenue.</td>
</tr>
<tr>
<td>Standing Committee on American Judicial System</td>
<td>Nicole VanderDoes</td>
<td>Nicole VanderDoes</td>
<td>281,000</td>
<td>287,000</td>
<td>287,000</td>
<td>This loss of funding would constructively eliminate the Committee and would diminish the ABA’s reputation and ability to serve as a national voice on behalf of the judiciary.</td>
</tr>
<tr>
<td>Standing Committee on Disaster Preparedness</td>
<td>Elizabeth Yang</td>
<td>Elizabeth Yang</td>
<td>56,000</td>
<td>61,000</td>
<td>56,000</td>
<td>Lack of due process; scope of work goes beyond YLD Disaster Legal Services; unique nature of standing committee; have worked with ABACLE on disaster relief programming.</td>
</tr>
</tbody>
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Exhibit 5.1

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<td>301,000</td>
<td>224,784</td>
<td>The grants and contracts COLA obtains will contribute about $200k to the ABA (including $87k of indirect grant benefit (reflected in “Approved Reduction Amount”)), and it will be more difficult to obtain grant funding without the ABA’s support.</td>
</tr>
<tr>
<td>Death Penalty Due Process Review Project</td>
<td>Misty Thomas</td>
<td>Misty Thomas</td>
<td>117,000</td>
<td>128,000</td>
<td>138,531</td>
<td>It is the only entity in the country that advocates for implementation of ABA policies on the death penalty, leverages the ABA’s uniquely valuable position on capital punishment to advance reform efforts, and conducts sought-after research bearing the ABA name.</td>
</tr>
<tr>
<td>Commission on Interest on Lawyers’ Trust Accounts</td>
<td>Carolyn Witherspoon, Selina Thomas</td>
<td>Selina Thomas</td>
<td>124,000</td>
<td>201,000</td>
<td>21,600</td>
<td>The Commission is only appealing the portion of the General Revenue funding allocated to support Commission members and ensure the ability of Commission members to meaningfully participate in the Commission’s work, which is critically important to the success of the legal service community and funding access to justice initiatives.</td>
</tr>
<tr>
<td>Legal Opportunity Scholarship Committee</td>
<td>Jackie Casey</td>
<td>Ceilanne Libber</td>
<td>70,000</td>
<td>70,000</td>
<td>50,000</td>
<td>Funding supports Goal III of the ABA.</td>
</tr>
<tr>
<td>National Judicial College</td>
<td>Benes Aldana</td>
<td>Jim Dimas</td>
<td>100,000</td>
<td>100,000</td>
<td>75,000</td>
<td>The NJC provides travel revenue through ABA Leverage, and promotes ABA membership to judges who attend NJC courses. A reduction in funding will cause there to be fewer staff, fewer courses delivered, and fewer grant applications submitted by the NJC.</td>
</tr>
<tr>
<td>Standing Committee on Group and Prepaid Legal Services</td>
<td>Keri Coleman Norris, Ramon Robinson, and Janet Jackson</td>
<td>Janet Jackson</td>
<td>140,000</td>
<td>140,000</td>
<td>31,495</td>
<td>It offers education, networking, and technical support directly and indirectly to many stakeholders; the Standing Committee is eager to help contribute to the ABA's goal of increasing dues and non-dues revenue.</td>
</tr>
<tr>
<td>Standing Committee on American Judicial System</td>
<td>Nicole VanderDoes</td>
<td>Nicole VanderDoes</td>
<td>281,000</td>
<td>287,000</td>
<td>287,000</td>
<td>This loss of funding would constructively eliminate the Committee and would diminish the ABA’s reputation and ability to serve as a national voice on behalf of the judiciary.</td>
</tr>
<tr>
<td>Standing Committee on Disaster Preparedness</td>
<td>Elizabeth Yang</td>
<td>Elizabeth Yang</td>
<td>56,000</td>
<td>61,000</td>
<td>56,000</td>
<td>Lack of due process; scope of work goes beyond YLD Disaster Legal Services; unique nature of standing committee; have worked with ABACLE on disaster relief programming.</td>
</tr>
<tr>
<td>#</td>
<td>Entity Requesting Appeal</td>
<td>Appeal Requestor's Name</td>
<td>Staff Name</td>
<td>Approved Reduction Amount</td>
<td>Actual Reduction Amount</td>
<td>Amount Appealed</td>
</tr>
<tr>
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</tr>
<tr>
<td>9</td>
<td>Standing Committee on Election Law</td>
<td>Elizabeth Yang</td>
<td>Elizabeth Yang</td>
<td>85,000</td>
<td>90,000</td>
<td>90,000</td>
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<td>10</td>
<td>Standing Committee on Gun Violence</td>
<td>Sharon Terrill</td>
<td>Sharon Terrill</td>
<td>6,000</td>
<td>6,000</td>
<td>5,510</td>
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Funding of Approved Appeals

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<tr>
<th></th>
<th>PSF Net Asset Balance as of 4/30/18 (per GL)</th>
<th>Temporary Restricted Net Asset Balance as of 4/30/18 (per GL)</th>
<th>Reserves for Operations Amount</th>
<th>Revenue Increases Amount</th>
<th>Expense Reductions Amount</th>
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<tr>
<td></td>
<td>$198,814</td>
<td>$732,392</td>
<td>$</td>
<td>$</td>
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</table>

Approved $1,280,000
Rejected / Withdrawn (979,920)
Appeals Submitted $899,820
AMERICAN BAR ASSOCIATION
BUDGET APPEAL FORM
FY2019

Requestor Name:  Charlie Sabatino  
Department Name:  Center for Public Interest  
Senior Manager:  Jim Dimos  
Name of Chairperson:  Hon. Patricia Banks  

Account String (Entity, Fund, Responsibility, and Line of Business):  03.30.14280.7000052

Total FY 2019 Appeal Amount:  
Program Support Fund(s) and/or Endowment Balance (Ending Net Assets) as of most recent month end, if applicable:  PSF: $168,227 of which $49,794 is temporarily restricted  
Endow: $1,655,058, of which $927,115 is permanently restricted

Justification (provide other attachments as necessary)
The Commission on Law and Aging (COLA) respectfully appeals the Finance Committee decision to recommend reducing the general revenue funding of the Commission on Law and aging from its current level of $449,411 to zero. COLA can manage a cut in general revenues as it has been increasingly successful in securing outside revenues, but the proposed elimination of ABA support significantly harms COLA’s ability to obtain outside funding and ultimately forfeits a substantial ABA return on investment. COLA requests a funding level at one-half of its FY 18 funding. This amounts to $224,784 but actually costs the ABA roughly $25,000 in net funding because the grants and contracts that COLA obtains will contribute approximately $200,000 to the ABA’s revenues. See the attached continuation of justification.

<table>
<thead>
<tr>
<th>Detail by Expense Type of Appeal Amounts</th>
<th>Amount</th>
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<tr>
<td>00100 Salaries (including overtime)</td>
<td>$159,768</td>
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<tr>
<td>00500 Taxes</td>
<td>$12,062</td>
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<tr>
<td>00600 Fringe Benefits</td>
<td>$40,453</td>
</tr>
<tr>
<td>00700 Temporaries</td>
<td>0</td>
</tr>
<tr>
<td>00900 Professional Services/Consultants</td>
<td>0</td>
</tr>
<tr>
<td>02100 Postage</td>
<td>0</td>
</tr>
<tr>
<td>01500 Printing</td>
<td>0</td>
</tr>
<tr>
<td>03000 Staff Travel</td>
<td></td>
</tr>
<tr>
<td>04000 Member Travel</td>
<td>8,000</td>
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<tr>
<td>04300 Group Functions</td>
<td>4,500</td>
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<tr>
<td>Other (please specify)/Printing</td>
<td></td>
</tr>
<tr>
<td>Total Expenses</td>
<td>$224,784</td>
</tr>
</tbody>
</table>

*Please submit form to Christina.gazos@americanbar.org with a copy to Jack Rives and Bill Phelan.

Will there be a presentation of the appeal?  X Yes**

Name of Presenter:  Hon. Patricia Banks, Commission Chair

For Department Use Only:
Resolution of Appeal  
Approved
Denied
Justification for Continued Funding of Commission on Law and Aging (COLA)

1. **For every ABA dollar, COLA is generating $3.** COLA has been successful in bringing in increasing amounts of outside funding over the last several years. In just the past 3 years, the general revenue share of the COLA’s funding has dropped from 47% to 26% as its overall funding has increased. (See CHART -- ATTACHMENT A)

2. **A substantial portion of COLA’s outside funding is paid to the ABA.** The net general revenue funding of COLA is actually far lower than the $449,441 that COLA received in the current fiscal year. Our grants pay directly to the ABA an indirect fee, a direct labor overhead fee, plus a substantial space occupancy rate for five offices and three work stations. In reviewing data for the last 12 months, COLA grants have paid the ABA nearly $103,000 in indirect expenses and over $82,000 in rent. (Spread sheet available)

3. **Zero funding undermines any viable business plan for COLA.** No grant funding organizations will fund a program that cannot show financial support from its parent organization (see letter from The John A. Hartford Foundation -- ATTACHMENT B). If grant funding is undermined, virtually all the work COLA accomplishes will be impaired, because the great majority of our work is grant funded. ABA funding does not necessarily have to be at the amounts COLA has historically received, but it does need to demonstrate a substantial commitment. In addition, some federal agencies require grantees to contribute a percentage of grant funds as "match." To illustrate, COLA currently has a $1 million grant that requires a $333,334 match. The considerable value of the time that COLA’s members contribute to it—most of which stems from their attendance at COLA’s two in-person meetings each year—has always been reported as match, but will be lost if COLA has no or inadequate ABA funds to support those meetings.

4. **COLA plays a unique, essential role in fulfilling the mission of the ABA, especially in serving our members (Goal I) and improving our profession (Goal II), and doubly so as to Goal IV, advancing the rule of law. And, Goal III is embedded in all our work, especially with respect to combatting the compound discriminations faced by persons who are aged, disabled, and a minority. A list of our current work and accomplishments is attached and includes everything from our success in producing the only national conference that serves the needs of legal services programs that serve the elderly (which is all legal services programs), to our leadership roles in working with state courts on guardianship reform across the states, to educating lawyers and judges about elder abuse, to working with the United Nations Working Group on Aging. (See Summary of Commission Contributions -- ATTACHMENT C)

5. **COLA’s work can help attract and retain millennial members, as it is both mission-driven and practical for lawyers and allied professionals who are dealing with aging issues in their families or in their jobs.** An example is COLA’s long-standing work on guardianship reform, which has resulted in significant reforms in laws and policies, and in development of widely-used practice tools such as the PRACTICAL Guide and Capacity Assessment Handbook for Lawyers. Given the demographics in the U.S. and much of the world, Elder Law is and will continue to be a growing area of practice.

6. **The need for the Commission is backed by leaders from other key entities, as shown by the attached excerpts from more than 40 letters of support for the continuation of the Commission. Groups include the Conference of State Court Administrators, the National Center for State
Courts, the National Disability Rights Center, Legal Aid programs, and the federal Administration on Aging, which has provided funding to the Commission for over 30 years straight, as well as many ABA section or division leaders. (See Letters Excerpts - ATTACHMENT D. Complete compilation of letters available)

7. **COLA’s activities are neither duplicative of or replaceable by other ABA entities or non-ABA entities.**
   - Within the ABA, while the Senior Lawyers Division shares certain interests with COLA, it relies on COLA for the special expertise and content it provides and strongly supports the Commission precisely because it cannot bring together the unique range of interdisciplinary resources, policy and practice development resources, and educational tools that COLA can. Other sections such as RPTEL strongly support COLA for similar reasons. Over 30 state bars have sections or divisions on elder law, and the Commission is the primary entity within the ABA that addresses their interests and needs. COLA’s work is interdisciplinary, multidimensional (not focused on just one area of practice), and substantially focused on access to justice for older persons, particularly those who have diminished decision-making capacity or who are experiencing physical abuse, neglect, or financial exploitation by family members or professional fiduciaries.
   - There are non-ABA organizations that address aging issues, but they don’t focus on helping practicing lawyers provide better services to older clients, policy and legislative changes, and access to justice. None of them speaks with the national perspective or credibility of the legal profession that COLA brings. Indeed, this is why organizations including AARP, the US Administration on Aging, the Department of Justice, and private foundations fund COLA. No other organization or entity provides the unique contribution of the Commission to the fields of law or aging.

COLA can manage a cut in general revenues, because we have been increasingly successful in securing outside revenues, but the proposed model with no ABA contribution whatsoever hurts both the Commission and the ABA and ultimately forfeits any ABA return on investment. Our request in this appeal is to set our funding level at one-half of our current year’s funding. The amounts to $225,000 in round numbers, and as pointed out, in net funding, amounts to only about $25,000 when grant proceeds that directly benefit the ABA are weighed in.

Respectfully Submitted,
Hon. Patricia Banks, Chair

Attachments:
A. Chart-Commission on Law and Aging Funding
B. Letter from The John A. Hartford Foundation
C. The Commission’s Contributions to the ABA’s Goals
D. Excerpts of 49 Letters
ATTACHMENT A
Commission on Law and Aging Funding

Committed Funding at Start of Each Fiscal Year

FY 2016
- ABA Gen Rev: 47%
- Grants: 39%
- Gifts & Educ Income: 14%

FY 2017
- ABA Gen Rev: 33%
- Grants: 55%
- Gifts & Educ Income: 12%

FY 2018
- ABA Gen Rev: 25%
- Grants: 66%
- Gifts & Educ Income: 9%
June 5, 2018

Hon. Patricia Banks  
Chair of the Finance Committee  
American Bar Association  
1050 Connecticut Ave NW Suite 400  
Washington, DC 20036

Dear Hon. Banks,

We are writing to strongly request that the American Bar Association (ABA) continue its general revenue funding support for the ABA’s Commission on Law and Aging. The John A. Hartford Foundation is currently a funder of important national work led by the ABA’s Commission on Law and Aging. Our grant aims to improve advance care planning by lawyers in order to make the resulting documents actionable in clinical settings. While advance care planning is a right (Patient Self-Determination Act), if done poorly, the documents fail to support decisions of individuals, resulting in unwanted care and needless suffering. This national work is being done in partnership with the American Academy of Hospice and Palliative Care, along with leading experts in health care, medical ethics and law.

Grants such as ours are made to the ABA’s Commission on Law and Aging based on the Commission’s expertise along with the organizational commitment of the American Bar Association to carry out this work. The John A. Hartford Foundation, and most funders, look for co-funding as a signal of an organization’s commitment and mission fit. If the ABA were to de-fund the Commission, it would send a very different signal to the philanthropic community, suggesting a fundamental change in the American Bar Association’s commitment to Aging issues as our society faces a doubling in the older adult population.

We ask that you consider the impact of your decision to support the ABA Commission on Law and Aging on current and future external funding and partnerships, critical to advancing the ABA’s work and mission. We are committed to the work of the ABA’s Commission on Law and Aging and will be looking to see if the ABA maintains this commitment. In an aging society, your positive decision will strengthen the organization and signal the ABA’s commitment to the highest standards of law for society.

Sincerely,

Amy J. Berman  
Senior Program Officer

Rani Snyder  
Program Director
ATTACHMENT C

The Commission's Contributions to the ABA Goals

June 2018

The Commission on Law and Aging is a major asset of the ABA efforts in meeting both serving our members (Goal I) and improving our profession (Goal II). This is demonstrated by:

- Our annual *National Aging and Law Conference* in partnership with the ABA Center for Professional Development. Now in its 5th year under Commission leadership, it is the only national conference targeted to legal services attorneys and other advocates who serve older persons. It continues to grow in attendance with 260 registrants this past year.

- The *National Center on Law and Elder Rights*, a 5-year, federally funded program in which the Commission partners with lead entity Justice in Aging, to provide education and technical assistance to legal services providers.

- Our *Law and Practice publications* such as:
  - The e-journal *BIFOCAL* provides both substantive law and delivery system focused articles in law and aging and is published online as a free resource six times a year.
  - The *PRACTICAL Tool* for Lawyers to help lawyers identify less restrictive options than guardianship for individuals with diminished capacity. This was created as a collaboration with the Commission on Disability Rights, the Section on Civil Rights and Social Justice, and the Section on Real Property, Trust and Estate Law.
  - *Legal Issues Related to Elder Abuse: A Pocket Guide for Law Enforcement*. More than 26,000 hard copies were disseminated to criminal justice professionals, and we are working with Georgetown Law students to develop an app version of the Pocket Guide.
  - Our Ethics brochure for families of older clients: *Why Am I Left in the Waiting Room: Understanding the Four C's of Elder Law Ethics.*
  - *The Tool Kit for Health Care Advance Planning*
  - The Legislative resource pages of our website tracking (1) health decisions laws, (2) guardianship laws, and (3) elder abuse legislation.

- The *Medical-Legal Advance Care Planning Project*, funded by the John A. Hartford Foundation is developing practice guidelines and principles for bringing the work of lawyers more in alignment with clinical realities in health care settings, so that clients' values, goals, and wishes will be known and honored in clinical settings.

- Our quarterly "Elder Law Essentials" CLE webinars conducted in collaboration with the Center for Professional Development, presented live and available for purchase/download afterwards.
• Presentation of approximately 50 professional education presentations by staff and Commissioners.

• Our Elderbar email list which enables dialog and information exchange among legal services and other advocates in aging nationally. Within the ABA, we also host quarterly calls among ABA entities working on aging issues, along with Elderlink, an email list connecting these entities.

• Our Elder Investment Fraud and Financial Exploitation Prevention Program — Legal, a continuing legal education initiative, funded by the Investor Protection Trust and Investor Protection Institute, which is piloting the training of lawyers in six states to identify potential financial exploitation of or by their clients and respond effectively.

• Technical assistance in response to several hundred requests per year from lawyers, other disciplines, policy-makers, and the media.

The Commission is the primary asset of the ABA in advancing the rule of law (Goal IV) in all public policy matter affecting older persons and their families:

• The Commission is in its second year of a two-year grant from the federal Administrative for Community Living to expand and support “Working Interdisciplinary Networks of Guardianship Stakeholders” (WINGS). The highest court of each state is a key partner in WINGS, which are court-community problem-solving partnerships that bring together stakeholders to advance reform, promote less restrictive options, and address abuse through collective impact. Partnering with the National Guardianship Network, the Commission is supporting WINGS initiatives in 25 states.

• The Conservator Exploitation project, a collaboration with the National Center for State Courts, funded by the DOJ Office for Victims of Crime has prepared a report and recommendations based upon an expert forum, now under review by DOJ.

• Working with the National Center for Victims of Crime, the Commission is developing Model Civil Statutory Provisions for Elder Financial Exploitation.

• Working with the National Center for State Courts, the Commission is developing an online Training Curriculum for Guardians.

• Commission staff have served in a collaborative Advisory Role to key organizations, including the Uniform Law Commission in its drafting of a new Guardianship, Conservatorship, and Other Protective Arrangements Act, the North American Securities Administrators Association, the National Center on Elder Abuse, and the National POLST Paradigm Task Force.

• The Commission continues work with AARP on elder abuse and guardianship issues, providing ongoing technical assistance, including fact sheet development, policy analysis, and education on elder abuse and guardianship activities at the state level.

• The project on Guardianship Restoration of Rights produced a comprehensive review of restoration cases and convene a Forum on Best Practice, resulting in a report and recommendations.
• The Commission works with **Government Affairs** to provide expert input on several bills affecting older persons, including the *Elder Abuse Prevention and Prosecution Act*, the *Older Americans Act*, the *Care Planning Act*, the *Personalize Your Care Act*, the *Court-Appointed Guardian Accountability and Senior Protection Act*, and others.

• **Online state law tracking charts** of state law are periodically updated, summarizing the status of state legislation on guardianship, elder abuse, health care decision-making, and other subjects.

• Commission staff provide liaison support to the **United Nations Open-Ended Working Group on Ageing** in its efforts to examine the need for an international convention on the rights of older persons.

• In the last dozen years, the Commission has successfully advocated within the ABA to secure House of Delegate adoption of **21 policy resolutions** on law and aging priorities and will be moving ahead with a resolution at the 2018 annual meeting in collaboration with the Section on International Law, calling for a U.N. convention on the rights of older persons.

**The Commission's work positively impacts public understanding of the law and their legal rights and options.**

• The Commission has published **educational self-help materials** for the general public, addressing legal education of family caregivers (e.g., *Ten Legal Tips for Family Caregivers*); and health care advance care planning tools; and other topics.

• The *Managing Someone Else's Money* lay fiduciary guides were prepared for the Consumer Financial Protection Bureau (CFPB) which has disseminated more than one million hard copies. An untold number of guides have also been downloaded from the CFPB website. Additionally, we produced six state-specific versions of those guides as well as replication tips, and other states are now developing their own versions of the guides.

• As one of the founding co-sponsors of **National Health Decisions Day**, the initiative celebrated its 10th anniversary last year with a forum on Capitol Hill.

• The Research Triangle Institute has contracted for Commission consulting time in carrying out its work as the **National Alzheimer's and Dementia Resource Center** under is multi-year grant from the Administration for Community. Among its tasks, the Commission is developing a legal guide for persons working with individuals living along with dementia.

**The strength of the Commission is its ability to effectively represent the ABA in collaborating with key groups both within in outside the bar and to bring together experts and stakeholders across practice areas, different professional disciplines, and the public and private sectors to examine needs, find solutions, and implement them.**
ATTACHMENT D

Excerpts of 49 letters from organizations and individuals most familiar with the work of the Commission on Law and Aging. The full letters are available on request.

Conf. of Chief Justices, Gerald VandeWalle, Chief Justice, ND, and Conf. of State Court Administrators, Callie T. Dietz, State Court Admin., WA & COSCA President-Elect

On behalf of the Conference of Chief Justices/Conference of State Court Administrators (CCJ/COSCA) Joint Committee on Elders and the Courts, we write in support of the ABA Commission on Law and Aging. The Commission has been instrumental in leading national initiatives to reform the adult guardianship system and improve responses to elder abuse, neglect and exploitation. Our Committee fully supports the valuable work carried out by the Commission... The ABA Commission on Law and Aging staff provide input in the development of legislation promoted through the Uniform Law Commission and are recognized as some of the nation’s foremost leading authorities on guardianships and elder abuse... The work and leadership of the Commission on Law and Aging is more critical than ever.

ABA Senior Lawyers Division, Hon. William D. Missouri, Chair (deceased)

CoLA's publications, website, expertise and research have benefited ABA and its entities, older adults, young lawyers, legal services, federal and state agencies, and legislatures in excess of 25 years... The elimination of a universally respected ABA entity would be a travesty... CoLA's uniqueness lies in its wealth of institutional knowledge insofar as law and aging issues and it ability to work collaboratively with numerous entities to bring about real change. This uniqueness is borne out by its work in the areas of advance care planning, guardianship, elder abuse and delivery of legal services. It is extremely concerning that CoLA might be in jeopardy by reason of an ABA review. As Chair and Past Chair of at least three (3) ABA entities that have benefited greatly from CoLA through partnerships and reliance on its expertise, I offer my unequivocal support for an outstanding Commission that adds value to the ABA.

AARP Legal Counsel for the Elderly, Jan May, Executive Director

The ABA Commission on Law and Aging has been a key player in guardianship reform, including guardianship monitoring and including non-attorneys on the panel of potential guardians. Their WINGS support of DC Probate Court was integral to enhancing communication between Probate Court staff and practitioners.

AARP Public Policy Institute, Susan Reinhard, Senior VP & Director

The staff of the ABA Commission on Law and Aging have consistently been one of the key thought leaders and experts we rely on to improve policies and practices that affect the lives of individuals and their families as they age.

Edwin L. Walker, Deputy Assistant Secretary for Aging, Administration for Community Living, DHHS

Over the past decades, the American Bar Association Commission on Law and Aging (ABACoLA) has been awarded numerous grants from the Administration on Aging (AoA), including grants to serve as a national resource center for lawyers who provide legal services to the elderly. Project goals and objectives, activities, milestones, and work products were completed successfully in all previous grant awards. Through these grants the ABA Commission on Law and Aging has contributed to the field, most significantly
in the areas of developing an ethical construct for lawyers engaged in representation of older Americans and as thought leaders in the area of guardianship reform, developing and disseminating approaches to decisional capacity and decision-making that effectively promote the self-determination interests of persons thought to be in need of protection.

National Center for State Courts, Mary Campbell McQueen President

The mission of the National Center for State Courts (NCSC) is to improve the administration of justice through leadership and service to state courts, and courts around the world... In 2008 we began to build the cornerstone of work on elder issues—the Center for Elders and the Courts (CEC). Now well established, the CEC has partnered with the ABA Commission on Law and Aging staff to develop comprehensive products and educational resources that have wide audience appeal... The ABA Commission on Law and Aging has been instrumental in leading national initiatives to reform the adult guardianship system and improve responses to elder abuse, neglect and exploitation. NCSC supports the valuable work carried out by the Commission. We look forward to partnering with Commission staff on current and future efforts.

American Society on Aging, Bob Stein, President and CEO

The Commission has repeatedly played a key role in securing and protecting the rights of older adults. Commission staff has, over the years, generously contributed its considerable expertise, time, and invaluable perspectives to Generations: ASA leadership and staff, along with the Generations Editorial Advisory Board, have relied on the Commission to shape content as well as write numerous articles that have provided essential knowledge, education, analysis, and practice guidance to professionals in social services, health care, and law. The Commission, we believe, truly represents a stellar facet of the American Bar Association.

Justice in Aging, Kevin Prindiville, Exec. Director,

When we were developing the new NCLER project [National Center on Law and Elder Rights], it was clear to us that we wanted to work with the ABA CoLA. The CoLA has long played a critical role in the elder law community and is widely viewed in the community as a strong leader, partner, advocate, expert and innovator. The excellent staff are well known and recognized by lawyers in both private practice as well as legal services. That community relies on the CoLA’s deep expertise and innovation and would be deeply concerned if the CoLA was no longer available to provide leadership, partnership and support.

Curtis L. Decker, Exec. Director, National Disability Rights Center

For a number of years NDRN has worked closely with the Commission on Law and Aging on several issues, including the abuse and neglect of elders, particularly in nursing facilities and other congregate care facilities, and guardianship and conservatorship reform. The expertise of the Commission's staff is unparalleled, particularly in the areas of guardianship and conservatorships. The research, knowledge base, and coordination efforts of the Commission have been critical in the advancement of guardianship reform.

Center for Medicare Advocacy, Judy Stein, Exec. Director, former commissioner

For decades the Commission has been in the forefront of myriad elder rights issues, including guardianship, elder justice and end-of-life matters. Indeed, the Commission is known as the leader in these and other fields related to older people. The Commission is ... instrumental in ensuring that the elder law bar
remains connected and up-to-date on important changes and interpretations in the ever-expanding law related to the rights of older people. For example, the National Aging and Law Conference would not be possible without the Commission. The Commission dedicates skilled staff and resources, leading partnering organizations to develop the only national conference for legal service and other public interest attorneys to share knowledge, concerns, and strategies, and to develop important professional relationships.

Commission staff have been go-to experts for our organization on numerous issues, including elder abuse prevention, advanced care planning, guardianship, and capacity issues, to name a few. They have served as important educators and resources for long-term care ombudsmen and citizen advocates seeking to effectively advocate for long-term care facility residents....

The leadership, research, analysis, advocacy, and partnerships for which the commission is responsible cannot be replaced by other organizations, legal or otherwise. They have neither the expertise nor the capacity. The Commission is considered an objective source of information, a bridge between key players, and an entity that has successfully brought about positive change.

The history and work of the Center for Practical Bioethics (CPB) has been closely intertwined with the ABA’s Commission on Law and Aging (CoLA) for three decades. We have relied on and worked with the CoLA and its nationally respected staff since our beginning. Our work would be severely compromised should we not be able to do so in the future, and we are certainly not the only organization that has benefitted from a relationship with CoLA. HHS’ Administration on Aging, National Conference of Governors, American Society on Aging, Medicare, the Joint Commission, Leading Age, the Aging and Disability Resource Centers, National Association of Attorneys General, CTAC, the Robert Wood Johnson Foundation, National Conference of State Legislators, the Hartford Foundation, and AARP, to name only a few, are organizations that regularly turn to ABA CoLA and its staff for consultation and resources.

Through Commission staff research and participation in NGN [National Guardianship Network], the Commission has played an integral part in educating the other members of the network as well as other allied organizations... The National Aging and Law Conference [hosted by CoLA] brings together substantive law, policy, and legal service development and delivery practitioners from across the country... Millions of poor Americans are in need of legal services, and the National Aging and Law Conference is the only annual, national opportunity for legal aid attorneys to build their knowledge and their networks in support of older Americans.

We believe that the ABA Commission on Law and Aging has been critical to the practice of elder law in this country. Its groundbreaking work in the areas of guardianship, capacity and health care decision-making have formed the basis for countless state laws and regulations, academic papers and educational programs throughout the country...
Maryland Legal Aid, Wilhelm H. Joseph, Jr., Executive Director

The Commission on Law and Aging has assisted MLA staff in a variety of ways for many years. One way has been through education of staff via webinars, the Bifocal journal, other Commission publications and the National Aging and Law Conference. MLA staff have attended Webinars on topics including the role of undue influence in elder abuse, the basics of VA benefits, and older adults and health care decision making. Publications such as “Assessment of Older Adults with Diminished Capacity” and Bifocal articles such as “Key Changes to the Older Americans Act” are both informative and useful in the work we do. In addition, MLA sends several attorneys every year to the National Aging and Law Conference because the educational programs on topics such as Medicare, Medicaid, Social Security, housing, elder abuse and consumer law provide substantive information that is extremely valuable to MLA’s Title IIIB practice… Finally, the ABA Commission on Law and Aging staff have presented at several MLA sponsored trainings on topics such as ethics, diminished capacity, and elder abuse.

National Council on Aging, James Firman, President & CEO, former commissioner

Over the past 20 years as CEO of NCOA (and before that for 10 years as CEO of United Seniors Health Cooperative) we have relied on the legal analysis and advocacy of the Commission staff on numerous issues affecting older adults. They have advocated to maintain and improve access to various programs that support low-income older adults, including Social Security, Medicare and legal services. They are the only legal entity that has collected and developed model state legislation to protect the rights of individuals under guardianship. They have been leaders in the development of elder justice legislation and promoted the training of law enforcement to identify and address elder abuse. Over the past several decades, it is the Commission that has spearheaded the national effort to promote the autonomy for older adults for all decisions, financial, health care and end-of-life.

C-TAC (Coalition to Transform Advanced Care), Tom Koutsoumpas, Co-Chair

In the last month, staff of the Commission have provided both substantive feedback and drafting assistance on bipartisan and bicameral federal legislation that would create significant improvements in advanced illness care… Commission staff have made important contributions to more than a dozen pieces of federal legislation and policy proposals over the last year… Finally, we refer numerous inquiries from academic institutions, clinicians, faith community and consumer advocates to the Commission for advice on elder abuse resources to elder law attorneys… Without the Commission, there would be no national, centralized leadership on these issues and no advocate for some of our sickest and most frail fellow citizens who need guidance on legal resources. The ABA’s leadership on these issues through the Commission is unique and commendable in the field of advanced illness care.

Georgia Dept. of Human Services, Natalie Thomas, State Legal Services Developer (LSD)

In my role as LSD, I have made and participated in requests from my agency to the CoLA staff to provide guidance, advice, and technical assistance in drafting legislation for guardianship, developing training programs, issues involving advance directives, the conflicts of the location of the adult protective services program within state agencies as well as others. Each time they were contacted, staff were responsive and provided exactly what was needed to assist us in moving forward… Time after time, I have seen and heard the results of the Commission on Law and Aging’s ground breaking and life changing work in...
their areas of expertise that have benefitted and continue to benefit legal and aging organizations and the people served by them.

National POLST Paradigm Task Force, Amy Vandenbroucke, JD Executive Director,

The National POLST Paradigm improves the quality of care for patients who are seriously ill or frail by creating a system that elicits, documents and honors patient medical treatment preferences through portable medical orders... The Commission has been an essential and vital partner since before the Task Force, the body overseeing the programmatic strategy of the POLST Paradigm, was formalized in 2004. Through the Commission's support in terms of resources, conference presentations, and individualized technical assistance, we have been able to successfully start the POLST Paradigm in almost every state.

National Healthcare Decisions Day, Nathan Kottkamp, Founder and Chair

The Commission has been a fantastic resource to me in my leadership of National Healthcare Decisions Day (www.nhdd.org). Indeed, the Commission has been supportive of this pro bono initiative since its inception over ten years ago. The on-going support has been invaluable in helping us to grow this important initiative.

The Center for Social Gerontology, Ann Arbor, MI, Penelope A. Hommel, Co-Director

Given that we share a similar mission with ABA CoLA, we have worked closely with them over the years. We look to them for leadership on critical policy issues that are essential to protecting the autonomy and decision making rights of older persons, for example alternatives to guardianship and advance planning for health care. In fact, we were involved in the initial effort to establish the Commission within the ABA. The reasons it was needed then, remain the same today. The ABA affiliation greatly enhances the Commission's ability to provide strong national leadership on policies and practices that affect older persons and their families, and in securing and strengthening the rights of older persons throughout the country. Further, their excellent work and reputation serve to enhance the reputation of the ABA overall.

Center for Advocacy for the Rights and Interests of the Elderly (CARIE), Philadelphia, PA, Diane Menio, Executive Director

Since CARIE was founded in 1977 and the Commission in 1978, we cannot recall, nor do we want to contemplate, not having access to the Commission’s essential leadership in advocacy and education on critical issues confronting older adults such as elder justice, guardianship, and end-of-life... With a small, highly qualified, and widely respected staff, the Commission has achieved many accomplishments in the areas of policy development, research, advocacy, education, and training on matters impacting older adults. The Commission raises critical issues, brings clarity to complex matters, and helps create an ethical framework to guide practices when individuals can no longer make decisions... The expertise, breadth and depth of knowledge, and national perspective that Commission staff provide have supported and enhanced CARIE's capacity to serve elders in our own community.

Ricker Hamilton, Acting Commissioner, Maine Dept. of Health & Social Services, Current COLA commissioner

My current role as Deputy Commissioner of Maine DHHS covers programs from Child and Family Services, Aging and Disability Services, Substance Abuse and Mental Health Services, Domestic Violence and Sexual Assault and our two state psychiatric hospitals. Previously, I had 28 years experience in Adult Protective Services (APS). The ABA COLA has been central to advocacy, support, guidance and an incredible resource.
Aging with Dignity is a national non-profit organization founded 20 years ago with a mission to affirm and safeguard human dignity for those who face the challenges of aging and serious illness... Today, the Commission is particularly valuable to organizations like ours because it does such an excellent job of monitoring federal and state developments that could impact on us and those we serve... Just in our programs alone, I have seen millions of lives touched by the Commission's efforts.

From June 2009 to July 2016, I served as the U.S. Assistant Secretary for Aging at the Department of Health & Human Services... To assist the delivery of legal services, the Administration on Aging (AoA) funds a national legal resource center. For many years, the ABA CoLA has been an essential partner in providing technical assistance to states and Area Agencies on Aging. CoLA staff are experts in the field and have provided essential leadership in addressing guardianship, elder abuse, public benefits, advanced care planning and access to services, to name a handful of issues.

The ABA Commission on Law and Aging has been a cornerstone of the NGN over the past two decades. By and through its relationship with the ABA Commission, NGN has played a leading role in adult guardianship reform since its creation in 2002 following the Second National Guardianship Conference ("Wingspan").

Since its inception in 1979, CoLA has and continues to play a vital leadership role, nationally and now internationally, in policy and practice development, education and training. Termination of the Commission would be shortsighted and not in the best interests of the ABA, the legal profession, or the public... Since 1991 I have been and remain associated with the CoLA as a Commissioner, Special Advisor and, through the Borchard Foundation Center on Law and Aging, as a partner on numerous projects. A number of former Borchard Fellows are also involved in the Commission's work. Among others, CoL.A/ Borchard partnerships have involved: 5 national working conferences and one World Congress intended to improve policies and practice on emerging issues; the award of 94 mini-grants over 10 years in 41 states to increase awareness of legal rights and access by the elderly to legal services; and since its inception in 2013, the annual National Law and Aging Conference.

There is no better example of the importance of the Commission's work than the groundbreaking publication, "Can Bank Tellers Tell?" This is where the exceptions to the federal privacy act were first recognized and led to the partnership of PCA and a national bank which remains the only successful partnership between a national bank and a local APS program. This partnership led to cooperation between APS programs in 13 states and eventually to a working partnership with the Financial Services Roundtable. The result of these partnerships has led directly to savings of billions of dollars for older consumers, the financial service industry and taxpayers. The Commission has built on that collaboration to continue its work through the present.

I have been privileged to be a Commissioner (fm) of CoLA at the ABA. CoLA has contributed to the improvement of policies and practices that affect the lives of individuals and their families; has assisted the public in furthering the rights
of older persons, or assisted the legal profession in education or advocacy; and has affected the reputation or stature of the ABA, which considers itself the foremost representative of the legal profession. On a personal note, I have tremendously enjoyed working with staff of the CoLA, whose work and dedication are remarkable and exemplary of the best in professionalism collectively to push for equal justice and protection of our diverse aging populations.

Dr. Jason Karlawish, MD, Prof. of Medicine, Medical Ethics & Health Policy, and Neurology, University of Pennsylvania, former commissioner

The commission has been among the leaders in advancing the most legally and ethically robust standards for capacity assessment and guardianship and for translating and disseminating these into practice. Just last fall, at a meeting of elder lawyers, I shared a panel with a commission member who spoke eloquently about the current standards for capacity assessment and their legal origins. It was inspiring. It reflected tireless engagement of the commission in this important area, an area where, once upon a time, capacity was ill-defined as the decision made by a “reasonable person.” ... Now, I see the commission engaged with the emerging area of financial security with attention to minimizing the harms of elder abuse and neglect. At most every meeting I attend of leaders in the regulatory, financial and advocacy groups, the Commission is there.

Dr. Carmel Bitondo Dyer, MD, Professor, Div. of Geriatric & Palliative Medicine, U. Texas Health Science Center, commissioner, Houston, TX

The ABA Commission on Law and Aging (ABA CoLA) has been the nidus of a significant and long lasting elder justice effort in the 4th largest city in the US... In 2002 a seed grant from the ABA CoLA was awarded to the Texas Elder Abuse and Mistreatment Institute to form an elder abuse fatality review team in Harris County (Houston)... In 2008 this fatality review team founded a separate team that focuses handling complex cases of financial abuse and assisting victims of that growing and costly problem... In 2015 members of this fatality review team designed a Senior Justice Forensic Center modeled after the Children’s Assessment Center concept... None of this work would have been possible without the seed funding from the ABA CoLA and the technical assistance provided by the Commission’s expert staff.

Israel Doron, Prof. of Law, former commissioner, Haifa, Israel

I am a lawyer, a law professor, and currently the Head of the Center of Aging Studies at the University of Haifa, Haifa, Israel. I am also the Past President of the Israeli Gerontological Society, and the Founder and Chair of the Association of Law in the Service of the Elderly in Israel... Looking through various key legal and policy reforms and legal changes in the field of law and aging, one can easily see that there is almost no field within law and ageing that CoLA did not serve as a key player in its development... CoLA – as part of the ABA - became renowned for its ability to transform lawyers into better citizens, transform legislatures into more elderly-centered agents; and transform judges into better elder-justice seekers. Without CoLA, the ABA will lose its unique national and international character as an organization committed to justice – in general, and social justice – in specific.

Rebecca Morgan, Prof. of Law, Stetson University College of Law, special advisor

I have been in the field of elder law for over three decades. I have been at Stetson since the fall of 1985; I have been teaching, researching and writing in the field of elder law since that time. As the co-director (formerly director) for the Center for Excellence in Elder Law, I am involved in the educating of students and planning the curriculum for our students, both at the J.D. level and
the LL.M. level... I have had the great good fortune of working with the Commission over the years. Their work has been invaluable in advancing the field of elder law and in creating and providing important research and publications for the field. They are the authoritative source in a number of substantive areas of law. Their research and publications provide critical support and resources to the field... What a negative message the ABA would send to the profession as well as to the public if the ABA eliminated the Commission.

Nina Kohn, Prof. of Law, Syracuse University, former commissioner

Today, the Commission continues to educate new lawyers (and more seasoned ones) through the Conference and its outreach work, and is, for many, their introduction to the ABA... In addition, the Commission is central and essential to support the work of ABA entities. As you know, there are many entities within the ABA whose work impacts older adults and policies related to older adults. These include, but are by no means limited to, the Real Property Trusts and Estates Section (and many of its Committees), the Senior Lawyers Division (and many of its Committees), and the Section of Civil Rights and Social Justice American Bar Association (and many of its Committees, including the one I Chair). The Commission is the entity that ties these groups together and makes sure their work is coordinated. Without them, much of this work would be involve entities working across purposes, be duplicative, and be woefully ill-informed. It would be a great disservice to these entities to curtail the work of the Commission.

Hawaii, University of, Prof. James Pietsch

Over the years we looked to the commission for assistance on the development of our own state laws and policies to address such issues as access to justice for older persons, elder abuse, health care decision-making and capacity. Commission staff expertise were of great assistance as we developed proposals for key legislation and we were successful in adopting such legislation as Hawaii's Adult Protective Services Act, Uniform Health Care Decisions Act, and Uniform Guardianship and Protective Proceedings Act. The improvement of policies and practices that affect the lives of many older persons in Hawaii has been greatly enhanced due to our partnership with the commission.

Kristin Booth Glen, Prof. & Dean Emerita CUNY School of Law, Surrogate, NY County (ret.), former chair

If, as a profession (and as a professional organization) we believe in our obligation to improve the system of justice and to serve the legal needs of the poor and vulnerable, then CoLA is in the forefront of fulfilling that obligation for the ABA and its members.

Amos Goodall, Elder Law Practitioner, Pennsylvania

Without the Commission, the ABA would lose its visibility, leadership, and effectiveness among attorneys who are in general practice, especially those in estate planning and elder and disability law practices, because all lawyers are seeing the aging of their clientele and the challenges of living with serious chronic conditions. Given the demographic trends, this would be the absolute worst time to give up the Commission, and it would ultimately diminish the relevance of the ABA.

Marshall Kapp, Prof. & Director, Center for Innovative

Elimination of the Commission would greatly impair the legal profession's role and status as principal protector and enhancer of the well-being of older people in the United States and their families.
Linda Whitton, Prof. of Law (ret.), former commissioner, Valparaiso

Over the course of my career, I served as the Reporter for two Uniform Acts and participated in many national task forces to study policy and law reform related to powers of attorney, guardianship, dementia, public benefits, and elder abuse. I cannot recall any initiative during these years that did not involve contributions from the Commission and its staff members. In fact, many of these initiatives were spearheaded by the Commission. As the demographics of the country continue to shift toward an older society, the need for a Commission on Law and Aging has never been greater.

Georgia Anetzberger, PhD, Consultant and Adjunct Faculty, Case Western Reserve University

During my tenure in the field of aging spanning four decades, I have witnessed countless contributions of the Commission and the difference it has made across multiple associations and contexts. For example, in the area of elder abuse, the Commission has been an important partner of the National Center on Elder Abuse, the federally-funded clearinghouse on the subject, currently under the auspice of the University of Southern California. Moreover, it has held notable forums and produced essential documents that have impacted practice nationwide, such as Recommended Guidelines for State Courts Handling Cases involving Elder Abuse and Legal issues Related to Elder Abuse. In the area of guardianship, the Commission has assumed a leadership role in promoting state legislative reform and national standards and education. This has benefited those of us in Ohio serving on the state Supreme Court's Subcommittee on Adult Guardianship, as we have strived to better our system locally....

Naomi Karp, former staff/AARP/CFPB collaborator

First as a Senior Strategic Policy Advisor at AARP’s Public Policy Institute and for the past five years as a Senior Policy Analyst at the Consumer Financial Protection Bureau’s Office for Older Americans, I worked closely with the Commission and its staff. I believe wholeheartedly that the Commission’s work has strengthened the physical, financial and legal health of America’s older citizens in countless ways... These contributions have enhanced the reputation of the American Bar Association, which had the foresight to create and support the ABA Commission on Legal Problems of the Elderly (as it was originally called).

Jonathan Martinis, Director, Law & Policy, Burton Blatt Inst., Syracuse Univ. + Project Director, National Resource Center for Supported Decision-Making

A major part of my work involves helping older adults and people with disabilities learn about, access, and implement decision-making options other than guardianship, so that they may retain their legal rights, stay in control of their lives, and increase their self-determination, community integration, and life outcomes... The Commission on Law and Aging is a leader in this area, educating and providing invaluable resources to individuals, attorneys, judges, and other professionals....

Eleanor Crosby Lanier, Prof. of Law, University of Georgia, commissioner

The Commission on Law and Aging is unsurpassed in their ability to have a great impact with a small staff and grant dependent budget. Words cannot fully express the importance of their work to the lives of elder law attorneys and the vulnerable clients they serve. We need their expertise to help us better understand effective approaches to the legal needs of our growing older.
population, especially where the federal underpinning for many programs that serve this population is shifting.

Larry McDevitt, The Van Winkle Law Firm, Former Commission Chair

While many other entities and initiatives within the ABA study much and accomplish little, the Commission is a hands-on operation that serves the interests of the elderly throughout America as well as the American Bar Association. It is a shining example demonstrating that the work of the ABA deserves the public trust.

Prof. William Mock, The John Marshall Law School

The United Nations is currently debating the possibility of crafting an international human rights treaty setting forth the global rights of older persons... For the past few years, I have had the honor of representing the ABA as its liaison to this process, during which time the ABA has played a significant and highly visible role in promoting the Rule of Law and access to justice for older persons worldwide. Our success in establishing and maintaining this role, so consistent with the core mission of the ABA, would not have been possible without the strong support of the Commission on Law and Aging.

Robyn S. Shapiro, Health Sciences Law Group, LLC, Milwaukee. Former commissioner

My work as an academic and a practicing health law attorney has included working on guardianship issues for vulnerable older adults; advocacy projects for nursing homes and nursing home residents; and policy issues relating to resident rights, elder abuse, treatment decisionmaking for incapacitated patients and residents; and related issues. The pioneering work that the Commission has done on these issues, as well as the resources and education that it offers, have contributed invaluably to my work and that of countless other attorneys.

Shoshanna Ehrlich, private attorney formerly with the AARP Foundation and the Center for Elder Rights Advocacy

COLA was integral to shaping and improving the delivery of legal services to seniors, particularly those who are low income or have other difficulties in accessing legal help. COLA’s work as part of the National Legal Resource Center was integral in developing and disseminating legal materials and training attorneys and advocates. Its leadership in producing the National Aging and Law Conference instrumental in producing an event the senior legal hotline and legal services attorneys depended on to learn new skills, discuss new methods of delivering services, get the latest updates on client surveys, and prepare for emerging legal issues.

Betsy Abramson Deputy Director at Wisconsin Institute for Healthy Aging Madison, Wisconsin

I’m in Wisconsin and worked in two different non-profit organizations developing and providing legal services to older adults under both Older Americans Act and state funding. Here’s a small sampling of what the Commission’s work did for Wisconsin: [description of 17 different contributions] I could go on and on, but that’s a nice start. In short, Wisconsin’s legal protections for older adults would not be anywhere where it is today, had we locals out in the states, not had their resources and technical assistance to lean on. This is shocking, disappointing and deeply disturbing news.
American Bar Association Board of Governors
American Bar Association Headquarters
Chicago, Illinois

Dear Board Members,

I am writing in support of the appeal from the ABA Commission on Law and Aging ("Commission"). I recently learned that the proposed budget for the next fiscal year has eliminated funds for the Commission. I believe this would be a serious mistake for a number of reasons.

First let me say that I appreciate the fiscal pressures the Board is facing. Having served fairly recently on the Board and the Finance Committee I experienced the necessity to reduce expenses and make cuts each year and participated in the appeal process each year. I am sure that your issues this year are more difficult than in previous years, but I think the Commission has made a reasonable request in its appeal.

The elimination of funding for the Commission does not make sense from a financial standpoint because it will ultimately result in a loss of revenue for the ABA. The Commission brings about $200,000 into the ABA and without the Commission that revenue will be lost. I see the proposed elimination of ABA revenue and support as a death sentence for the Commission. If we are realistic and honest about the ABA financial situation there is little or no likelihood that the Commission will receive funding in the future should its funding be eliminated this year. From what I know of the new program that is being adopted it seems likely things may get worse before they get better. The loss of funding from the ABA will result in the loss of the ability to get the grants that the Commission depends on for its budget. In other words the elimination of funding will kill the golden goose.

I also want to mention the importance of this Commission to the ABA. You have materials on its activities and accomplishments. With the increasing population of older people the work of the Commission to the ABA and its impact on the legal profession and public is more important than ever. The work of the Commission can not be replicated by a Division or Section.
This Commission is one of the finest entities in the ABA among many fine ABA entities. I had the honor of serving on the Commission a number of years ago and was very impressed by the Commission’s staff and the work they do. In my opinion it is one of the best ABA entities. After completing my service on the Board I sought out a liaison position with the Commission because of the important and excellent work they do. I find it hard to believe that the ABA would sacrifice one of its best groups for the small investment they are seeking. I strongly encourage the Board to approve the Commission’s appeal and provide the $225,000 they are seeking given that this will only result in a net $25,000 of general revenue funds for the Commission. I think it would be a mistake to lose this Commission when a small investment will allow it to continue its fine work on behalf of the ABA.

Thank you for considering my letter in support of the Commission.

Sincerely,

Jim Carr
# AMERICAN BAR ASSOCIATION
## BUDGET APPEAL FORM
### FY2019

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<th>Misty Thomas</th>
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<tr>
<td>Department Name:</td>
<td>Death Penalty Due Process Review Project</td>
<td>Senior Manager:</td>
<td>Jim Dimos</td>
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<tr>
<td>Name of Chairperson:</td>
<td>Seth E. Miller</td>
<td>Account String (Entity, Fund, Responsibility, and Line of Business):</td>
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**Total FY 2019 Appeal Amount:**

The May 24 letter to Mr. Miller simply said that it recommended “discontin[ing] General Operations funding for the Death Penalty Due Process Review Project effective FY2019” with no further guidance or detail or references to our existing grant budgets.

This appeal requests reinstating a General Revenue budget of at least $138,531. This would allow the Project to re-hire a qualified staff person at the Staff Attorney II/Chief Counsel level again and retain its modest programmatic funds as previously budgeted for FY19.

Alternatively, the Project staff and leadership recognizes that, if absolutely necessary, it could be feasible for the staff director to utilize a cubicle rather than a more expensive office, and could eliminate or shrink a few other line-items in the prior FY19 budget, so as to be responsive to the Board’s desire to trim the overall budget. This alternative proposal – which is as bare bones as possible – reflects a reduction of $23,255 from our originally submitted FY19 budget of $151,336, but would still allow for substantive operation and staffing of the Project, and administration of any current or pending future grant awards.

**Program Support Fund(s) and/or Endowment Balance (Ending Net Assets) as of most recent month end, if applicable:**

$5,759.37

### Justification (provide other attachments as necessary)

The ABA Death Penalty Due Process Review Project is the only entity in the country that advocates for implementation of ABA policies on the death penalty, leverages the ABA’s uniquely valuable position on capital punishment to advance reform efforts, and conducts sought-after research bearing the ABA name. Its work has ensured the Association remains a nationally-recognized leader on this issue. No other organization within or outside the ABA is able to bring the breadth of experience and knowledge to the administration of capital punishment from arrest to execution, and no other organization can be as effective in making the case to potential funders of such research.

Please see below for our full justification response. Also attached to this appeal are letters of support from current and former ABA leaders, law professors, our funders, and other experts in capital punishment.

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<tr>
<th>Detail by Expense Type of Appeal Amounts</th>
<th>Amount</th>
<th>Alternative</th>
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<td><strong>Total Expenses</strong></td>
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<td><strong>$128,081</strong></td>
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*Please submit form to Christina.gazos@americanbar.org with a copy to Jack Rives and Bill Phelan.

**Will there be a presentation of the appeal?**

<table>
<thead>
<tr>
<th>Yes**</th>
<th>No</th>
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<tbody>
<tr>
<td>X</td>
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**Name of Presenter:** To Be Determined (we have not had sufficient time to determine who is available on the dates of the Finance committee and Board meetings, nor do we know what time is proposed for our presentation).

For Department Use Only:

<table>
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<tr>
<th>Resolution of Appeal</th>
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On behalf of the current Death Penalty Due Process Review Project’s Steering Committee, we ask the Board of Governors not to eliminate the General Revenue funding for the Project. We believe that the recommendation will have a devastating effect on the work of the Project (as it provides no transition plan for ensuring that the Project’s varied substantive work and ongoing grants continue to be staffed and able to serve our members and the public), and it fails to recognize the significant impact that the Death Penalty Due Process Review Project has on the ABA’s mission, the ability for the ABA to serve as a leader in capital punishment policy development and reform advocacy, and the broader death penalty community’s reform efforts nationwide.

The debate on the fairness in the application of the death penalty – including concerns about lethal injection, racial disparity, individuals with disabilities, high costs, wrongful convictions, and many other problems – continues to dominate news headlines and court dockets (including the U.S. Supreme Court) around the country. Amidst this frenzied attention, the ABA’s Death Penalty Due Process Review Project has been a national leader for unbiased, accurate, and comprehensive information about all aspects of capital punishment, which is considered particularly valuable due to the ABA’s role as the non-partisan, independent voice of the legal profession. As a result, the Project is often the first place that many lawyers think to call with requests for research or strategic support. Lawyers and advocates regularly rely and use ABA policies on the death penalty – if the Project were to disappear, no entity would remain to actively advocate for the implementation of ABA policies and to ensure that the ABA as an organization remains at the forefront of the debate on capital punishment. Other groups inside and outside the ABA (who are already stretched thin themselves) do not and could not provide the information, expertise, or resources as quickly or as effectively as our Project.

In this important time, the ABA should continue to be at the forefront of promoting the fair application of the death penalty and the support we provide for capital punishment research and advocacy is more important than ever. Keeping the Project’s modest budget (which is consistently supplemented by outside grant support) will not meaningfully impact the ABA’s overall finances, but would ensure that the ABA remains a respected and valued voice on death penalty policy and advocacy. Ending the Project will eliminate the multiplier effect that occurs by virtue of our grant-seeking work.

What does the Death Penalty Due Process Review Project do?

The Death Penalty Due Process Review Project is an ABA Special Committee established to conduct research and educate the public and decision-makers on the operation of capital jurisdictions’ death penalty laws and processes in order to promote fairness and accuracy in death penalty systems. By way of a few highlights, the Project has leveraged its modest budget to:

- Complete 12 major Assessments that comprehensively evaluate major death penalty states’ administration of capital punishment, authored a seminal report on severe mental illness and the death penalty, and published the first-ever guide to capital clemency representation;
- Host educational events in 12 states that have attracted more than 1,000 attendees in the last three years;
- Draft 20 different policy or advocacy letters, op-eds, legislative testimony, and official statements of the ABA President in the last three years;
- Sponsor three successful resolutions before the House of Delegates since 2015 (on jury unanimity, execution transparency, and offenders 21-years-old and younger), all of which have been cited in numerous briefs, court decisions, and news stories;
- Support the drafting of six influential ABA amicus briefs in the last three years;
• Have either members or staff speak at more than 25 different events and conferences in the last three years on our state Assessments, our mental illness initiative, and other reform topics.

How does the Project further the Board’s priorities and the ABA goals?

Below we briefly address how the Project provides distinct and meaningful value to the Association, furthers each of the priorities listed in the Board’s guidelines, and does so with disproportionately high impact for its relatively small budget and staff.\(^1\)

- **Our work is unique to the ABA, does not duplicate other ABA entities or other external organizations, and cannot be successfully housed elsewhere (Guidelines #2 and #7)**

Since its inception in 2001, our Project has helped the ABA become known as a leader in the national dialogue on the death penalty. The Project is the only non-abolitionist, capital punishment-specific entity in the country with a focus on policy reform (and the only organization dedicated to furthering the implementation of existing ABA policy and best practices on state, national, and international levels). Our mix of unbiased education, advocacy, and technical support makes us exceptional – as most other groups only work on one of those activities, or are limited due to their defense or prosecution bias, or abolition position. And no outside organization – whether that be a non-profit or law school – could or would serve as an ambassador for the ABA standards, policies, or best practices related to capital punishment, speak with the ABA’s distinct and unbiased policy voice, or bring a diverse and powerful membership to the table.

We also have a track-record of creating Initiatives that address innovative areas of law and policy. These have consistently brought in grant funding over the years, and continue to draw national attention to the ABA. As a result of the Project creating and supporting new Initiatives, the ABA is now considered the national expert on mental illness and the death penalty and capital clemency campaigns. Due to this Project, there are now over 13 state advocacy groups working to exempt people with mental illness from the death penalty, all of whom rely on our ongoing technical and strategic support, and there have been over 80 news articles around the country, noting the ABA’s leadership, including in major outlets such as the *Washington Post* and *NPR*.

Internally, we are not redundant or duplicative of any other ABA effort, including the Death Penalty Representation Project. The Representation Project’s focus is on the need for improved defense counsel services and funding, and on finding lawyers and funding to work on these key areas. This work is important and directly supports the defense community. However, as the ABA’s interest in and policies on the death penalty expanded in the last two decades, the Due Process Review Project was established with a different mission in mind, as our work addresses the full range of policy issues related to the fair administration of the death penalty. This Project frequently collaborates with or defers to the Representation Project when defense counsel-related issues come up, and works together on ABA actions, when appropriate. So there is no real overlap, and by the same token, no reason to think that the Representation Project could fill any of the gap that would be created by defunding the Due Process Review Project.\(^2\)

Additionally, the Section of Civil Rights and Social Justice ("CRSJ"), the Criminal Justice Section, and the Commission on Disability Rights all regularly look to this Project for leadership on death

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\(^1\) The Project provided much more detailed answers to these questions in its October 2017 report to the Board committee tasked with review. We assume that report has been made available to the full Finance Committee and Board, but if not, we are happy to provide it as it contains significantly more information.

\(^2\) This is in no way meant to diminish the excellent work of the Death Penalty Representation Project. We are glad to know that its budget remains intact, but must note that its mission is narrower and distinct from this Project’s.
penalty research and policy development for the ABA. But, with all of our staffs stretched thin – with each entity taking budget hits in recent years – it is unrealistic to expect that any of these entities will have the staff and financial resources to continue the specialized and nuanced work that the Death Penalty Due Process Review Project has been managing for the last 17 years.

- **We serve existing members and could, if adequately supported and promoted, attract new members.** (Guideline #1)

As public criticism of the operation of the death penalty continues, the Project’s balanced and non-partisan work continues to put the ABA in a positive light in the media and could – with a meaningful campaign from the Membership Committee and others – create a draw for new ABA membership, especially younger lawyers or those who are interested in capital case issues but do not want to work with abolition groups focused on the morality of the death penalty. The ABA provides a forum for members who, regardless of their philosophical position on capital punishment itself, agree that, as ABA former president John Curtin said, “a system that takes a life, must first give justice.” We consistently provide opportunities for active and substantive engagement for more than 150 ABA-involved lawyers each year, including our 14-member Steering Committee, our 92 State Assessment Team members, members of the CRSJ death penalty committee, and other individual ABA members who seek to be involved with the Project’s research and policy work.

The Project’s high-visibility promotion of more than 30 ABA policies on capital punishment also continues to raise the profile of the Association and affirms the ABA’s important role as a leader in the criminal justice reform debate. Our work has led to more than 160 press mentions about the ABA’s positions on the death penalty just in the last two years. Although the Project does not otherwise have its own membership, it has always been affiliated with CRSJ, which is a vibrant membership entity that includes many members interested in death penalty issues. Because the Project’s work complements and furthers that CRSJ member interest, we help facilitate CRSJ member engagement and retention.

- **Our work is closely connected to the ABA’s core mission and furthers each of the ABA’s four goals (Guidelines #3 and #4)**

Our impact on Goal I: Serve Our Members was discussed above.

**Goal II: Improve Our Profession.** Given that much of the death penalty debate focuses on issues of fairness and due process within the legal system, lawyers are particularly well-suited to participate in and influence this issue around the country (and globally). The Project collects extensive data, creates resources on, and promotes best practices for the ethical and professional conduct of law enforcement, prosecutors, defense attorneys, and judges involved in capital punishment. The Project increases the activity of lawyers on this issue by engaging and educating ABA members, and making the Project’s research widely accessible to lawyers working in capital jurisdictions.

**Goal III: Eliminate Bias and Enhance Diversity.** There is abundant evidence (including in our comprehensive State Assessments) that our criminal justice system at large – and capital punishment specifically – disproportionately affects racial minorities, those living in or near poverty, and individuals with mental illness and intellectual disabilities. Therefore, it is vitally important that the ABA, through the Death Penalty Due Process Review Project, continue to monitor and study these issues; actively promote and educate the public and policymakers on our relevant policies; and fight for meaningful access to justice at every stage of the capital punishment process – from the moment of arrest to the moment of execution. Protecting the constitutional, statutory, and human rights of individuals who face frequent discrimination is a central part of the Project’s mission.
Goal IV: Advance the Rule of Law. The Project undertakes research on the workings and failings of states’ capital punishment systems and recommends specific reforms to ameliorate documented injustices and unfairness that occur in death penalty cases. The Project actively advocates for just laws and a fair legal process by promoting the adoption of the numerous ABA policies on the death penalty and criminal justice system at-large. Several components of our work deal squarely with promoting laws and practices aimed at preserving and enhancing the independence and vigilance of the judiciary in capital cases, as well as ensuring access to justice for those facing the death penalty.

- **We have had consistent external fundraising success, but rely on ABA general revenue to sustain our core functioning (Guidelines #5 and #6)**

The return on the ABA’s investment is consistently high with this Project, as it has always leveraged external funding to amplify its impact. Over the last 15 years, the Project has brought in grants totaling between $3-4 million. A large portion of this total is multi-year grants from the European Commission to support our State Assessment research between 2003-2013. We could, with continued support, return to the EC for additional research-based funds in the future. Additionally, over the last three years, the Project has received stable foundation grants of over $100,000/year for our Mental Illness work; received $110,000 in an Enterprise Fund award for our clemency work; received $24,000 to create a documentary about mental illness and the death penalty during FY19 and are currently in consideration for more than $150,000 worth of additional grants for the coming year (assuming there is staff in place to administer the grants).

We have demonstrated our ability to host major conferences and regional events in recent years (all of which have drawn the interest of law students and other potential new ABA members) by leveraging in-kind contributions, sponsorships, and donated space, all without any additional ABA funds. We estimate that we have received ~$90,000-$150,000 in in-kind support from outside organizations, universities, or law firms that have served as hosts for Project events in the last two years, providing space, A/V, travel for speakers, catering, CLE approval and materials, promotion, among other benefits at no cost to the ABA. Further, we receive each year hundreds of hours of pro bono time from law firms, individual lawyers, and law students in furtherance of our research projects and events.

In 2015 the Project first established a Program Support Fund and is cultivating individual contributions with the help of the Fund for Justice and Education. In fact, the ABA Fund For Justice and Education has used our Project as a featured entity that they highlight in their promotional materials and events to solicit charitable donations for the Association in recent years. With additional support from FJE – and within the new Center for Public Interest Law structure that will offer increased visibility within the Association and externally – the Project could certainly bring in more individual gifts going forward. However, it will take several years until this source of funds could reliably decrease the need for ABA General Revenue support.

Finally, despite our proven ability to bring in more outside funding than General Revenue funding (when our grants are averaged over recent years), it would not be feasible in the current philanthropic landscape for us to rely solely on outside funds to sustain the Project. In the current political climate, grant makers are having to realign their giving to respond to short-term crises. They have been clear, however, that this is not a reflection on the need for the work of the Project (or the many other death penalty entities that seek funding), and makes clear that the ABA’s modest support is needed now more than ever.³

³ It could be effective for ABA leadership to work with the Project’s Steering Committee and staff director going forward to set realistic targets for upcoming 2-3 fiscal years to gradually increase the ratio of grant funding to GenRev funding. However, to simply eliminate the budget completely without adequate time to cultivate new funder relationships, plan for other sources of revenue, and test out the new Center for Public Interest model that might well increase Project visibility.
**What will be lost if the Board does not reinstate the General Revenue budget for the Project?**

The Project is known for its non-partisan, independent research and for helping the ABA adopt new, timely, and balanced policy positions on capital punishment topics. The Project collaborates with hundreds of lawyers, advocates, lawmakers, judges, prosecutors, academics who turn to this Project for information about the ABA’s policies on capital punishment law, advice on how to craft reforms based on the ABA’s policies, amicus brief support, or educational tools. The Project is an active strategic partner in death penalty reform efforts in many states and localities; losing our support would be detrimental to these efforts – and in some cases, might mean they are halted altogether (in particular our Mental Illness Initiative work).

A decision to defund our Project would leave a major gap in the death penalty community and could curtail the existing efforts for legislative reform, litigation reform, and public education for many years to come. *Attached to this appeal are letters from leading experts in the death penalty field, as well as some of our grant funders, to further describe how they believe the field would be detrimentally affected if our Project were to be closed and why they value our work.*

Without ABA funding into FY19 and beyond, the Project’s entire operations will cease immediately. The Project requires (at least) one full-time staff member to manage its substantive, fundraising, and organizational work – as well as support the contributions of its Steering Committee. Currently the General Revenue budget provides for one staff director’s salary and modest programmatic funds to host educational events, publish research, and other ABA member-serving functions. Without funding this sole position, the Project will not be able to continue managing its ongoing grant-funded projects (let alone seek new grants) and could not offer substantive value to ABA members or policymakers.

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and funding viability is very short sighted. We encourage a reinstatement of funds so that a thoughtful external fundraising plan can be put into place during FY19.
June 5, 2018

Board of Governors
American Bar Association

Dear Members,

We write to you to strongly urge you to reject the recommendation to eliminate general revenue funding for the American Bar Association Death Penalty Due Process Review Project (“Project”) for the FY19 budget and beyond. A defunding of the Project would silence the ABA’s most essential source of information about the extent to which basic fairness and equity are lacking in administering capital punishment in the United States. The amount of funding is extremely small in the context of the ABA’s total budget, but the loss of the Project would be enormous to the ABA’s prestige and influence.

We have a keen interest in the outcome of this recommendation because we collectively represent the all of the chairpersons—former, current and future—in the seventeen-year history of this Project. We have a variety of experiences in the nonprofit world, law firms, and academia and we know that for almost two decades, the Project has been the only entity, inside or outside the ABA, that has undertaken the challenging task of determining the extent to which a dozen capital punishment states have acted in accordance with the ABA’s policies designed to enhance due process and fairness. It has accordingly had unique credibility when advocating for adoption of and compliance with the ABA’s existing policies related to the death penalty and the adoption of new policies when circumstances so warrant. These widely acclaimed assessments garnered local, national and international media attention and have been relied on by governors, state legislators, the press, advocates, and the public for critical decisions about the validity of the death penalty in their states.

Its more recent Severe Mental Illness (“SMI”) Initiative coordinated fifteen state advocacy groups working to exempt people with SMI from the death penalty and worked to bring those states into compliance with existing ABA policy. The Project’s Capital Clemency Resource (“CCF”) Initiative, in partnership with another ABA entity, addressed the troubling lack of resources and expertise available to practitioners and decision-makers in the capital clemency process by creating a first-of-its-kind toolkit, Representing Death-Sentenced Prisoners in Clemency. These and other special initiatives were funded through years and millions of dollars of non-general-revenue, grant sources.
The work of the Project far exceeds what one would expect based on the modest annual investment by the ABA. That investment, however, is the key to making this Project exist and thrive. Throughout the history of the Project, the ABA has continuously provided general revenue funding for a single staff director, who has developed the ideas for these innovative special initiatives, procured the grant funding, hired and managed additional grant-funded staff and administered those grant funds. Any effort to eliminate the modest but vital funds for the staff director and associated costs will create an enormous void: while there are limited existing grant funds, there will be no staff director to administer them or procure future grants to continue to integral work of this Project. While the Project may still technically exist, an elimination of general revenue funding will have the practical effect of shuttering its doors and the broader criminal justice community will lose the ABA’s pro-active, neutral, center of analysis and activity regarding the need for fairness and justice in every situation in which death is a potential punishment.

Given that the committee that reviewed the Project determined that “the work of [the Project] is central to role of the ABA and that the ABA bears a special responsibility as the association of lawyers to be involved in this critical issue,” this budget recommendation makes little sense. Moreover, it is unreasonable to expect any outside entity, either at a non-profit organization or educational institution, to take on the role of promoting the ABA’s due process work in the area of the death penalty, when the ABA itself will not support that work. We seriously doubt that any outside entity would be able to replicate this work with the kind of credibility the Project has.

As the Project’s chairpersons, we have worked with our staff director, staff members, steering committees of judges, practitioners and academics to support its “central role” in the ABA. We have done so, on a volunteer basis, because we believe that the ABA’s commitment to fairness, equity and due process in the administration of the death penalty must always be, as it has become since the Project's inception, unparalleled and worth supporting. To eliminate the Project’s already modest general revenue funding would also remove the heart of the ABA’s fact-based consideration of capital punishment in practice—which has been the key to the ABA having become a crucial voice in national and international assessments of capital punishment.

We strongly urge you to abandon this recommendation and ensure that that the Project will receive the full support of the Board of Governors now and in the future.

Sincerely,

Seth E. Miller  
Current Chairperson  
Executive Director, Innocence Project of Florida  
Tallahassee, Florida  

Hon. Michael Wolff (Ret.)  
Incoming Chairperson  
Dean, St. Louis University Law School  
Former Chief Justice, Missouri Supreme Court
St. Louis, Missouri

Virginia E. Sloan
Immediate Past Chairperson
Founder and Former President, The Constitution Project
Washington, DC

Stephen F Hanlon
Past Chairperson
General Counsel
National Association for Public Defense
Maclean, Virginia

James E. Coleman, Jr.
Past Chairperson
Director, Center for Criminal Justice and Professional Responsibility
Duke Law School
Durham, North Carolina
June 5, 2018

American Bar Association
Board of Governors
321 N. Clark St.
Chicago, IL 60654-7598

Dear Members of the Board of Governors:

As Past Presidents of the ABA who all greatly relied on the work of the Death Penalty Due Process Review Project (the "Project"), we strongly believe it would be an egregious and unwise mistake to cut the funding for the Project in any amount. And it would be a disastrous error to carry out the initial recommendation to completely eliminate ABA funding for the Project.

The Project has brought great prestige to the ABA; its work has been relied on by governors, state legislators, the academy, the press, advocates, and others. The Project is widely known as an impartial chronicler of the persistent, flagrant problems with the death penalty across the country. Its widely-praised state assessments (which brought well over $1 million in grants to the Project), and its work on mental illness and capital clemency are highly-regarded as uniquely valuable resources.

We believe it is misguided to believe that this work can or would be replicated by a law school or other entity. The Project's reputation, and that of the ABA itself, as entities that do not take a position on the validity or morality of the death penalty has enabled them to garner great prestige and credibility and thus to make the Project's work even more influential. The ABA would be the loser if the Project's ABA funding were substantially or completely cut; such a cut would inevitably mean the Project would have to go out of existence.

We understand that the ABA is trying to cut unnecessary funding and is looking at a variety of ABA entities to make cuts. We support these efforts. However, the amount of ABA support for the Death Penalty Due Process Review Project is, in context, de minimus. To cut its funding in any significant amount would be a grave and unnecessary mistake; and to cut all or virtually all of its ABA funding would be a tragic error. We sincerely hope that no such decision will be made, and that the Project will receive the full support of the Board.

Sincerely yours,

Martha Barnett, ABA President, 2000-01

Michael Greco, ABA President, 2005-06

Talbot "Sandy" D'Alemberte, ABA President, 1991-92

James Silkenat, ABA President, 2013-14
June 6, 2018

American Bar Association
Board of Governors
321 N. Clark St.
Chicago, IL 60654-7598

Re: Death Penalty Due Process Review Project

To the Members of the Board of Governors:

We, members of the American law school community, write to ask that you not adopt the pending recommendation to defund the American Bar Association’s Death Penalty Due Process Review Project.

Each of us works or has worked in different areas of the death penalty, and have different perspectives. All of us, however, believe the Project is a vital voice for informing courts, lawyers, and the public about the death penalty. Its work simply cannot be replicated by a law school.

The ABA’s public voice on death penalty issues cannot be replaced by law faculty, who, by and large, litigate individual cases. While those cases shed light on systemic deficiencies, they cannot replace the large-scale systematic research and policy advocacy work the ABA Death Penalty Due Process Review Project has conducted in, e.g., its state-by-state reviews.

It is also unrealistic to think that law schools will be able to step in to conduct the significant attorney, legislative, and public education initiatives the Project has undertaken. And, of course, law schools cannot serve the same role of informing and advising ABA leadership regarding death penalty issues.

We hope you reconsider this recommendation and continue to support the Project’s much-needed work.

Sincerely,

Eric Berger
University of Nebraska College of Law

John H. Blume
Samuel F. Leibowitz Professor of Trial Techniques
Director, Clinical Advocacy and Skills Programs
Director, Cornell Death Penalty Project
Cornell Law School
Karen L. Daniel  
*Clinical Professor of Law*  
*Director, Center on Wrongful Convictions*  
*Northwestern Pritzker School of Law*

Steven A. Drizin  
*Bluhm Legal Clinic*  
*Clinical Professor of Law*  
*Northwestern Pritzker School of Law*

Thomas F. Geraghty  
*Class of 1967 James B. Haddad Professor of Law*  
*Director Emeritus, Bluhm Legal Clinic*  
*Northwestern Pritzker School of Law*

Jennifer Moreno  
*Death Penalty Clinic*  
*UC Berkeley School of Law*

Sean O'Brien  
*Professor*  
*University of Missouri-Kansas City School of Law*

Robert C. Owen  
*Clinical Professor of Law*  
*Northwestern Pritzker School of Law*

Jeffrey J. Pokorak  
*Professor of Law and*  
*Director, Supreme Court Clinic*  
*Suffolk University Law School*

Thea Posel  
*Capital Punishment Clinic*  
*University of Texas School of Law*

Meredith Martin Rountree  
*Senior Lecturer*  
*Northwestern Pritzker School of Law*

Judy Royal  
*Staff Attorney*  
*Center on Wrongful Convictions, Bluhm Legal Clinic*  
*Northwestern Pritzker School of Law*
Raoul Schonemann  
*Clinical Professor, Capital Punishment Clinic*  
*University of Texas School of Law*

Elisabeth Semel  
*Clinical Professor of Law*  
*Director, Death Penalty Clinic*  
*UC Berkeley School of Law*

Gregory R. Swygert  
*Clinical Association Professor of Law*  
*Center on Wrongful Convictions*  
*Bluhm Legal Clinic*  
*Northwestern Pritzker School of Law*

Jeffrey Urdangen  
*Clinical Associate Professor*  
*Director, Center for Criminal Defense*  
*Bluhm Legal Clinic*  
*Northwestern Pritzker School of Law*

**Institutional affiliations provided for purposes of identification only.**
June 5, 2018

American Bar Association
Board of Governors
321 N. Clark St.
Chicago, IL 60654-7598

Re: ABA Death Penalty Due Process Project

Dear Colleagues

The death penalty poses the ultimate challenge to our system of justice, raising thorny issues regarding fairness, reliability, and discrimination. To many, the continued imposition of the death penalty signals both the moral and practical failure of the justice system. Others believe that the limits on the death penalty dilute deterrence and devalue victims’ rights. Wherever one stands on capital punishment and however rare its imposition, so long as it is imposed, the issues it raises go to the heart of the ABA’s stated mission of “defending liberty” and “pursuing justice.” The ABA would leave a void in that mission—a gap obvious to members and non-members alike—if it denied general revenue funding to the Death Penalty Due Process Review Project, the ABA entity focused on the constitutional and policy issues the death penalty presents.

Others, no doubt, will detail for the Board the enormous contributions this studiously non-abolitionist Project has made in educating judges and policy-makers, informing public discussion of capital punishment, and assisting the ABA in developing its policies on the subject. It suffices to note here that no other group in the ABA does what the Project does, and there is scant reason to believe that, in the absence of the Project, any other group would have the wherewithal to assume its functions and keep the ABA at the center of the legal and political dialogue regarding the death penalty. The Section of Civil Rights and Social Justice, for one, does not have the resources to take on the Project’s responsibilities.

The Board faces a difficult and unenviable task. I am sensitive to the constraints on the ABA’s finances, impressed by the responsible way the Board has approached those
June 5, 2018
Page 2

constraints, and grateful to be spared the decisions the Board is confronting. But I also believe it to be critically important that the ABA, in reducing its budget, take care not to diminish the Association’s value to its members. A key element of that value for many members is the ABA’s role as representative of the legal profession. That role dictates certain critical functions. In particular, the ABA must act--and must be seen to act--as the steward of the American system of justice.

The message conveyed—fairly or not—by defunding the Death Penalty Due Process Project is that the ABA is stepping back from this stewardship and surrendering much, if not all, of the organization’s capacity to address this ultimate challenge confronting the criminal justice system. In short, ending this project could erode the ABA’s legitimacy as the voice of the American lawyer, a result potentially detrimental to the future growth, health, and stature of this organization.

To be sure, the ABA’s financial straits require the Board and other ABA entities to set clear priorities and adhere to them. But the Death Penalty Due Process Review Project must be one of those priorities.

These observations may rest on “soft values,” but at their core lies a hard reality: Some programs cannot be cut without imperiling the ABA’s value to members and undermining its stated mission. The Death Penalty Due Process Review Project is such a program.

I urge the Board to reconsider this proposed action.

Sincerely,

Robert N. Weiner
Chair, 2017-18
ABA Section of Civil Rights
and Social Justice
June 5, 2018

ABA Board of Governors
c/o ABA Death Penalty Due Process Project

Dear Board of Governors,

I write on behalf of the 8th Amendment Project, the national campaign to abolish the death penalty, to urge the ABA to reconsider its recently announced decision to defund the Death Penalty Due Process Review Project. The Due Process Review Project has upheld the ABA’s high standards for providing leadership to the profession in the articulation and implementation of standards governing a host of legal procedures critical to the administration of justice. In recent years, the Project’s work on Serious Mental Illness legislation and the workbook on clemency has been incredibly important to practitioners and guidance to policy advocates in a dozen states.

It is hard to overstate the impact of the Project’s talented lawyers when they bring the imprimatur of the ABA on policy discussions to state capitols and county and state bar associations. While I have long advocated for the ABA to take a pro-abolition position, I recognize that is a controversial issue and there are tradeoffs. Surely sacrificing ABA credibility and gravitas because it might be seen as partisan in a hot political debate is a non-trivial risk. Defunding the DP Due Process Project will without doubt do damage to the effort to impose constitutional standards on the administration of a penalty so resistant to professional and constitutional discipline. Defunding the Project is quite simply a significant surrender. At least four justices view the Court’s 40-year challenge to root out arbitrariness in the administration of capital punishment as having failed. See, Glossip v. Gross, (J. Breyer, dissenting) Shuttering the Project now is an especially inopportune loss. Justice Ginsburg has publicly described the punishment as one isolated to three states or so. Without question, the death penalty is being effectively isolated to just ten or so outlier counties and an even fewer number of states. It’s in those remaining retentionist states and counties where the work of the DP Due Process Project can be most effective.

8th Amendment Project regards the Death Penalty Due Process Project as a reliable partner in providing critical support to still under-resourced litigation teams throughout the death belt.
In an increasingly austere resource environment, we have every confidence in the high rate of return on every dollar we have invested in the Project.

We accepted with regret the news that the Project’s very talented director and its able Fellow were leaving their positions. Such, however, is the nature of career decisions of talented professionals. History well establishes that the ABA will be able to attract highly qualified replacements for those two staff positions. The ABA’s institutional history, expertise and presence in the critical space that the Due Process Project has occupied is what must be maintained.

Thank you for your consideration of these thoughts and suggestions, and please do not hesitate to contact me if any clarification or additional information would be helpful to your deliberations.

Sincerely,

Henderson Hill
Executive Director
June 5, 2018

ABA Board of Governors
C/O ABA Death Penalty Due Process Project

Dear Governors,

On behalf of the Fund for Nonviolence, I am writing to affirm the importance of continuing the ABA Death Penalty Due Process Project’s work and engagement in the national campaign to abolish the death penalty. The Fund for Nonviolence is a foundation that cultivates and supports efforts to bring about social change that moves humanity towards a more just and compassionate coexistence. As a part of our work, we participate in a funders collaborative that provides resources to anti death penalty efforts. In the Fall of 2017, we were pleased to grant $50,000 to the American Bar Association Fund for Justice and Education for the project’s: Serious Mental Illness Initiative ABA.

We supported this initiative because of the impact made in laying the groundwork to advance the goal of ending capital punishment for individuals with severe mental illness (SMI) and to demonstrate that the death penalty is fundamentally flawed. Sixteen states are engaged in SMI work and ten states have introduced bills because the project has been successful in: 1) providing consistent and tailored support to coalitions involved in SMI educational and reform efforts around the country; 2) creating new and innovative policy and advocacy resources (effectively becoming the one-stop resource for interested stakeholders around the country); 3) facilitating and strengthening the participation of mental health and criminal justice experts as part of both national and state campaigns; and 4) taking the lead on the national media and communications strategy surrounding the issue of SMI and capital punishment.

Although the ABA does not take a stand on the issue of the death penalty, the establishment of the Death Penalty Due Process Review Project in 2001 to address current capital punishment laws and their use and the goal to reduce the number of new death sentences and executions, provided and continues to provide gravitas and credibility to this issue.

We are sad to hear that the director, Misty Thomas and fellow Aurelie Tabuteau will be leaving the project, but hope that you will look for ways to continue the project and build on their critical work.

Sincerely,

Betsy Fairbanks, CEO and President
Pat Clark, Program and Operations Director
June 5, 2018

Board of Governors
American Bar Association
321 North Clark Street
Chicago, IL 60654

Members of the Board of Governors:

I write to express my deep concern about the prospect of eliminating funding for the ABA Death Penalty Due Process Review Project.

By way of background, I have been active in ABA endeavors, particularly as they relate to individuals with mental illness and intellectual disabilities, for four decades. In the late 1970s and early 1980s, I worked closely with the ABA Commission on the Mentally Disabled and drafted model legislation that ABA published in the volume Disabled Persons and the Law: State Legislative Issues (1982). In the 1980s, I served as a Law Reporter for the Association’s Mental Health Criminal Justice Standards and drafted three sets of Standards that were accepted by the House of Delegates between 1984 and 1987. During that time, I also drafted the ABA’s landmark position statement on people with intellectual disabilities and the death penalty, which was also approved by the House of Delegates. In the 1990s, I served on the ABA Commission on Mental and Physical Disability Law and chaired the Editorial Advisory Board for the Mental and Physical Disability Law Reporter. I was also honored to be the first recipient of the Association’s Paul G. Hearne Award for Disability Advocacy. In these and other activities, I have been pleased to work closely with ABA staff and volunteers on a variety of legal issues relating to individuals with disabilities, and, in recent years, issues relating to the death penalty.

The Due Process Review Project has been particularly important in our shared efforts to achieve justice for capital defendants with mental disabilities. In cooperation with organizations like the American Association on Intellectual and Developmental Disabilities, the Arc of the United States, as well as professional groups of psychologists and psychiatrists, the Project has been a leading advocate for the just and humane treatment of those defendants. These interdisciplinary efforts have been essential in assisting organizations of clinicians and advocates who want to improve our criminal justice system for individuals with disabilities.

I would particularly point to the Project’s work on the Mental Illness Initiative. Working closely with legal and clinical advocates in the states, the Initiative has proven essential in helping legislators address the very serious problem of capital defendants with serious mental illness. From my experience in obtaining passage of legislation protecting people with intellectual disabilities from capital punishment, I am acutely aware of how important it is for lawmakers to have access to the kind of national legal perspective and expertise that the Project now provides on the mental illness issue. Without that assistance, the chances of legislative success would be greatly reduced.
Similarly, the work of the Capital Clemency Resource Initiative is pivotal. I have been involved in capital clemency cases of convicts with disabilities in several states, and I am acutely aware of the kind of expert help that legal advocates need to receive a fair hearing of their cases.

None of this is in any way to minimize the crucial importance of the Representation Project and the assistance that it provides to capital defenders. But the Association’s goals and principles also require continued and renewed efforts on the systemic issues that the Due Process Review Project is working on so ably.

I would strongly urge the Board of Governors to continue its financial support of the Project’s work in seeking justice for capital defendants.

Thank you for your consideration.

Sincerely,

James W. Ellis
Distinguished University Professor and Professor of Law
University of New Mexico
June 5, 2018

Dear Board of Governors Members:

I am writing to urge the Board to reject the recommendation to eliminate general revenue funding for the American Bar Association Death Penalty Due Process Review Project ("Project") for the FY19 budget and thereafter.

I am extremely familiar with ABA death penalty-related activities, having chaired the Capital Punishment Committee of the Section of Civil Rights and Social Justice for about 30 years and having been involved with both the ABA Death Penalty Due Process Review Project and the ABA Death Penalty Representation Project since their inceptions. I now serve as a Special Advisor to the steering committee of both Projects, by Presidential appointments. I also chaired the interdisciplinary task force regarding capital punishment and serious mental illness—whose proposals were unanimously approved by the House of Delegates. I also have written for over a decade the capital punishment chapter in the Criminal Justice Section's annual book: The State of Criminal Justice.

Based on my intimate experience with the ABA's various capital punishment efforts, I provide the following overview, which I believe will provide helpful perspective to your reconsideration of defunding this project.

In 1998, the ABA House of Delegates debated what has subsequently come to be known as the moratorium resolution. Some spoke in opposition, on the basis that the states' and the federal death penalty systems were totally fair and that there was no reason to examine carefully how the states' and federal government's capital punishment systems actually functioned.

But just a few years later, by the time that the Project had been created and began issuing state assessment reports, the consensus view within the ABA's leadership had dramatically changed. Now, many said that the ABA's moratorium position was one of the best policies the ABA had ever adopted. The assessment reports' issuance also enhanced the ABA membership's views about the ABA's death penalty activities.

By focusing on specific, fact- and law-based analyses, the Project played a unique, constructive role regarding a vexing subject long mired in debates over morality and philosophy regarding a theoretical capital punishment system that has never existed. The Project further gained credibility by including as assessment team members people with varied perspectives and experiences concerning the death penalty, and by the teams' many pragmatic proposals.
Particularly in the present time, when "fake news" rhetoric threatens to drown out factually based analysis and policy proposals, the need for this Project is greater than ever. Accordingly, I urge you to maintain its funding at as close to the existing level as possible.

Respectfully submitted,

[Signature]

Ronald J. Tabak
June 4, 2018

Dear ABA Board of Governors:

I write to support the continuation of the Death Penalty Due Process Review Project, which I understand may lose its funding if a recommendation recently made to the Board is followed. As a scholar who relies on the Project’s work, a former chair of the Project’s Assessment Team in Florida, and a reporter or chair of three American Bar Association Task Forces that touch on death penalty issues, I cannot emphasize enough how significant a mistake that would be. Whether foes or supporters of the death penalty, those who have any interest in the subject stand to lose if the Project is defunded, for a number of reasons.

First, the Project is an invaluable information source about the reality of capital punishment. The death penalty is a highly emotional, politically-charged topic. Erroneous claims and counter-claims abound about its impact, who it affects, and how it is administered. Without dependable information about how the death penalty works, it cannot be adequately analyzed. The Project is one of the only trustworthy compendia of information about capital punishment in the country, and it is certainly the most comprehensive. In particular, the Project’s compilation of information about how the various death penalty states administer the investigative, charging, adjudication, sentencing and post-conviction stages of the capital punishment is unique. The amount of work that went into that project (much of it by the type of “volunteer” or “expenses-only” worker that only the ABA can muster) is stunning and unlikely to be replicated by any other entity. Unfortunately, because this compilation requires constant updating, elimination of the Project would eventually make it much less useful (and also prevent expansion of the analysis to include all death penalty states).

Second, the Project is also unique because it is associated with the American Bar Association. Organizations like the Death Penalty Information Center provide some of the information the Project provides. But not only do these organizations have gaps in their coverage that the Project fills, they also lack the imprimatur of independence that the ABA has. If the Project disappears, we will lose a key source of data about the death penalty that not only is independent but, just as importantly, is perceived to be so.

Third, the Project is a crucial mechanism for organizing input about the practice and policy of capital punishment. I participated in the Severe Mental Illness Summit held in Washington, D.C. last year. Whether severe mental illness should provide a basis for exemption from the death penalty is an important topic both legally (in fact, the ABA has adopted a resolution endorsing such an exemption) and practically (with upwards of 10% of those currently on death row possibly qualifying). Yet, as someone who has written about mental health law for decades, I can say that no other organization would have devoted two days to this topic or brought together such a well-qualified group to discuss it.
In my testimony in Tennessee and elsewhere in support of such an exemption, I have relied on the ABA’s work in this area, as well as the Project’s staff, which has helped line up witnesses and identify key legislators who might support the ABA’s position.

The Project is a significant feather in the ABA’s cap. It should stay there.

Sincerely,

Christopher Slobogin
Dear ABA Board of Governors:

We write to express our deep concern at the recent recommendation to cut the entire General Revenue budget of the Death Penalty Due Process Review Project as of September 2018. In our capacities as current and former members of the Project, and as scholars and advocates in the field, we are concerned about the possible loss of the significant substantive contributions that the Project makes to the ABA and to the entire capital punishment community and profession generally. We hope that the ABA will reconsider this recommendation and preserve the Project’s unique role in addressing the many dysfunctions in the capital justice system across the country.

The ABA has been an important and distinctive voice on the death penalty since its moratorium vote two decades ago. In the period since, the Project has amplified that voice around the country, working to update and implement the recommendations that accompanied the ABA’s important intervention. As scholars and law reformers, we have relied upon the Project’s work. For example, we cited it repeatedly in our report to the American Law Institute, which led the ALI to withdraw its support for the death penalty provisions of the Model Penal Code in 2009—the first substantive change made to the MPC since its adoption in 1962.

Both of us teach and run litigation and policy centers at our respective law schools, but the work that we do as scholars and as directors of university programs is different from the national, in-depth, bipartisan work that the Project has been able to do. The state assessments are a good example of the distinctive role that the Project has played: it has involved a diverse group of assessors from different perspectives to do a deep dive into state compliance with ABA recommendations to a degree that no other institution, academic or otherwise, could hope to accomplish.

In addition, the Project does important work within the ABA in developing ABA policy positions, drawing on its expertise on important issues. The most recent example, among many others, is Resolution 111, which urges each jurisdiction that imposes capital punishment to prohibit the imposition of a death sentence on or execution of any individual who was 21-years-old or younger at the time of the offense (February 2018).

There are many more examples of the work of the Project that we could cite, including research, special initiatives, amicus briefs, educational events, and technical assistance. But the overarching point is simple: the ABA Death Penalty Due Process Review Project has been and will continue to be an invaluable resource to the ABA and the broader capital punishment and
legal community at a crucial time when the American death penalty is under a skeptical microscope in many jurisdictions within the United States and in the international community. We urge you to reinstate its funding and to allow the Project to continue its crucially important work.

Sincerely,

Carol S. Steiker
Henry J. Friendly Professor of Law
Co-Director, Criminal Justice Policy Program
Harvard Law School

Jordan M. Steiker
Judge Robert M Parker Endowed Chair in Law
Director, Capital Punishment Center
University of Texas School of Law
June 5, 2018

American Bar Association Board of Governors
c/o the Death Penalty Due Process Review Project
321 N. Clark Street
Chicago, IL 60654

Dear Board of Governors,

I’m writing today to provide a letter of support for the Death Penalty Due Process Review Project (“Project“). For more than 15 years, the Southern Center for Human Rights (“SCHR”) has benefited from a collaborative relationship and partnership with the Project.

SCHR is working for equality, justice, and dignity in our criminal justice system. SCHR’s mission is to end capital punishment, mass incarceration, and other criminal justice practices that are used to control the lives of poor people, people of color, and other marginalized groups in the Southern United States. We do this through death penalty representation, impact litigation, policy advocacy, and public education.

SCHR is not alone in its appreciation of and reliance on the Project. The Project’s Mental Illness Initiative has provided on the ground support for local campaigns in Georgia to reduce the application of the death penalty for person with severe mental illness and intellectual disability. The ABA’s Capital Clemency Resource Initiative – which was created because of the Project’s vision and research findings in its state Assessments – is already a proven resource for capital defense attorneys across the Deep South as they prepare to make the final case for their clients’ lives. Attorneys both at SCHR and across the country rely on the research, counsel, and expertise of the Project.

As the number of new death sentences and executions continue to decline, it is clear that our country is at a pivotal moment with regard to capital punishment. It is critical for the American Bar Association to be meaningfully engaged in this national dialogue. The surest path to this engagement is by reaffirming the ABA’s commitment to the Project. The role of the Project in educating the public and the legal profession on these complex and critical issues of law and justice cannot be overstated. The Project’s efforts to promote thoughtful and reasoned policies on capital punishment to improve the administration of the death penalty are essential.

I hope this letter is helpful in considering the future of the Project. Please feel free to contact me for any reason.

Best regards,

Sara Totonchi, H. Lee Sarokin Executive Director
June 6, 2018

[VIA E-MAIL]

ABA Board of Governors

Re: Funding for the ABA Death Penalty Due Process Review Project

Dear Board of Governors,

I write in support of the ABA Death Penalty Due Process Review Project’s (Project) appeal from the Finance Committee’s recommendation to eliminate the Project’s General Revenue budget for FY2019. I believe that the recommendation constitutes a serious error in judgment; I know that if the recommendation is implemented, it will effectively doom the Project; and I am quite sure that the ABA’s reputation will suffer if the Project fails.

To give just a little bit of background, I am a Supreme Court and appellate litigator. My practice covers many areas of the law, with an emphasis on whistleblower cases—two of which I’ve argued and won at the Court. I also regularly participate in education efforts. For example, I will be speaking on a panel at the ABA’s National Institute on the Civil False Claims Act this June. And I contribute regularly to the SCOTUSblog, which reports on the day-to-day at the Court.

Several years ago, my partners and I came to the belief that far too many petitions for a writ of certiorari filed by capital inmates were hopeless eleventh-hour pleas that would benefit from Supreme Court expertise, and we resolved to help fix that. So we began offering our services, pro bono, to capital defenders trying to give their clients a real shot at Supreme Court review. Uptake has been good and we have played a significant role in many important capital cases over the last six years, meshing our Supreme Court experience with that of trial lawyers to create superior work product for the Justices’ review.

In the course of this work, I had the great fortune to become familiar with the Project’s work, and to earn an invitation to join the Project Steering Committee. Prior to that time, I was not even an ABA member (I joined so that I could participate in the Committee), and had almost no interaction with the organization. But through the Project, I have become a more active ABA member and indeed a proponent of the organization and the services it offers to lawyers.
The Project illustrated to me that the ABA can be nimble and provide helpful, original, evidence-based assistance to lawyers facing truly daunting litigation challenges—while also pursuing meaningful policy reform. Moreover, the Project fills a critical niche in death penalty research and advocacy, providing an independent and well-informed perspective on one of the most controversial and significant legal issues of our time. That work has never been more important than it is today.

That is why I was so dismayed to see the finance committee’s recommendation.

Cutting the Project’s funding would scuttle valuable work. Nobody else can do what the Project does. Neither practicing lawyers nor academics are well-placed to perform the kinds of practical, primary research and policy advocacy that the Project’s staff has undertaken. And other think tanks are not focused on these issues to the same degree—and even if they were, no other organization in this space has the same heft and credibility as the ABA. The Project has established itself as an independent voice of reason, and attorneys, judges, and legislators on all sides of this issue care what the ABA has to say. It would be a shame if the ABA did not allocate the modest budget necessary to continue effective advocacy in this area.

Curtailing the Project’s funding would also send a bad message to lawyers, suggesting that the ABA has no interest in the rigorous study of capital punishment policy. My own experience is illustrative: I became involved with the ABA because I admire the Project’s work and want to be a part of it. And I do not believe that I am the only one who regards the Project as a uniquely valuable endeavor. Eliminating its budget would be very disheartening to me and others.

A final point bears a quick mention: I am aware that the ABA also has a Death Penalty Representation Project. As a pro bono capital defender, I understand fully the value of that project, too. But there is very little overlap between these two projects’ efforts—in fact, they complement each other—and the Board should not allow support for one to crowd out the other. The Representation Project can help ensure that defense counsel are available and competent, but the Due Process Review Project is shaping the substantive rules that will determine whether those lawyers’ efforts ultimately succeed or fail. That endeavor deserves the ABA’s full-throated support—or at a minimum the modest requested budget that would allow it to continue its good work.

Kind regards,

Tejinder Singh
tsingh@goldsteinrussell.com
Dear Misty:

Please pardon me for writing via email. I am unable to write via surface mail because I am traveling and do not have access to a printer.

I just heard the disturbing news that an American Bar Association committee has recommended defunding the Death Penalty Process Review Project. I think that such an action would be a grievous error and have a detrimental impact on the administration of justice in the U.S.

Since its inception in 2001, the Project has undertaken valuable assessments of how a dozen states implement capital punishment, issued a groundbreaking report on mental illness and the death penalty and engaged in several other endeavors that have been valuable to anyone concerned with how capital punishment is used in the United States. The Project's 2016 report "Severe Mental Illness and the Death Penalty" remains the definitive work on the subject.

Consequently, I write to express the fervent hope that the ABA committee will reconsider its recommendation. I want to emphasize the following points:

--The Review Project has done important work that no other entity has undertaken. For example, no other entity has done work such as the Project's state assessments. There seems to be a misconception that law schools are doing this work.

--The Project also created the Capital Clemency Resource Initiative, which has played a critical role in informing policymakers about the disturbing lack of resources and expertise available to both practitioners and government officials involved in the last stage of the capital punishment process.

--The Project has supported the drafting of ABA amicus curiae briefs in death penalty cases pending in the U.S. Supreme Court. Among the most significant filed in recent years were those in Hall v. Florida and Moore v. Texas, death penalty cases involving issues of mental illness and intellectual disability.

--The Project has developed policy positions for the ABA House of Delegates on a range of issues involved in implementation of the death penalty.

--The Project has conducted valuable webinars on mental illness and the death penalty.

I regret that there seems to confusion in some quarters that the Review Project is the same as the ABA's Death Penalty Representation Project. They are distinct entities with different missions and both are critically needed.

By way of background, I first became familiar with the Review Project while reporting and writing articles on a wide range of issues about capital punishment during the 30 years that I was a staff writer for the Los Angeles Times. I have continued to follow the Review Project's work while working as a professor at the University of California, Irvine Law School where I have been employed since 2008. As a journalist, and as a law professor, I have spoken at several ABA-sponsored conferences on the death penalty, including ones held in Chicago, Atlanta and Austin, Texas.

Please let me know if I can be useful in any other way regarding this issue.

Sincerely,
To the Board of Governors:

I am writing to ask you to reverse the Board’s recommendation to defund the American Bar Association’s Death Penalty Due Process Review Project. I am a member of the Project’s Steering Committee, and have worked on death penalty issues – whether through litigation, research, or teaching – for over 20 years.

I believe the Board’s recommendation is ill-advised for three reasons. It disregards the essential work the Project does to further the ABA’s own Resolutions. It underestimates the work required for the ABA to maintain its unique leadership on the death penalty. Third, it relies on the erroneous assumption that an entity such as a law school can carry on this work.

In 1997, the ABA resolved that jurisdictions with the death penalty should refrain from executing people until they “implement[ ] policies and procedures that are consistent with the following longstanding American Bar Association policies intended to (1) ensure that death penalty cases are administered fairly and impartially, in accordance with due process, and (2) minimize the risk that innocent persons may be executed”.

The Death Penalty Due Process Review Project’s state-by-state reviews have been instrumental in identifying specific areas in which the law fails to ensure due process, and supporting ongoing legal improvements. The Project’s recent white paper explaining the case for exempting people with severe mental illness from the death penalty similarly provided essential guidance. By giving concrete examples of where the law currently falls short, and suggesting how the law could be improved, exemplifies the ABA’s commitment to fair process. In addition, it furthers the 2006 ABA Resolution in favor of excluding people with severe mental illness from the death penalty that passed over a decade ago.

Without sustained commitment to implementing these positions, the ABA Resolutions threaten to lose their significance, and the ABA, its credibility.

Not only does the Project demonstrate the ABA’s commitment to its Resolutions, but it also permits the ABA to be a leader by engaging with emerging issues. The Project speaks to courts through amicus briefs; to lawyers and legal reformers working on death penalty issues through conferences and trainings; and to the public through extensive media work.

As a member of the Project’s Steering Committee, I would also add that this work simply cannot be done by the volunteer Steering Committee. In part, the time required to do what Project staff does is simply impossible in light of Committee members’ existing jobs. More importantly, it’s just not what we’re good at. Indeed, we’re more likely to be able to recruit lawyers to represent death-sentenced individuals than we are to organize conferences and trainings, draft the policy
statements and op-eds for ABA leadership, and supervise such large projects such as the Severe Mental Illness and Capital Clemency Resource Initiatives.

Third, based on my experience teaching in two law schools – previously at the University of Texas Law School, and now at the Northwestern Pritzker School of Law – I simply do not believe that law schools are in a position to fill the void that would be created if the ABA withdraws from this arena. First, as a practical matter, few law schools have the resources to take on this commitment, particularly in light of the restructuring in the legal profession. Second, law schools, through their clinics, engage with the administration of the death penalty through individual case litigation, and only occasionally speaking to legislators regarding proposed legislation. This is fundamentally different work from that of the Project. Finally, no law school can come close to the position of the ABA enjoys in speaking to and for the profession, and to society at large. The ABA’s longstanding commitment to improving the justice system and educating the public give it a rare credibility.

Finally, I believe this is a particularly inopportune time for the ABA to walk away from its commitment to the fair administration of the death penalty. After notable drops in the number of death sentencings and executions, I believe we will see increased use of the death penalty in the near future. This makes the Project’s work - and the ABA’s voice - all the more essential.

Sincerely,

Meredith Martin Rountree
June 5, 2018

[BY EMAIL]

ABA Board of Governors

Re: Funding for the ABA Death Penalty Due Process Review Project

Dear ABA Board of Governors,

I urge you to support the Death Penalty Due Process Review Project and to reject the recommendation that the Project’s entire budget be cut as of September 2018.

I am a practicing appellate litigator and, in that role, I have often provided pro bono representation to inmates sentenced to death. I have been involved in several capital cases before the U.S. Supreme Court and the various U.S. Court of Appeals. I was one of the lawyers who helped obtain clemency for Robin Lovitt. And, more recently, I helped secure habeas relief for Justin Wolfe.

Through this part of my practice, I have become familiar with the Project’s work and have served as a member of its steering committee. No other organization does the same work that the Project does. The Project is an essential resource, providing independent, trustworthy, and evidence-based information on issues relating to the death penalty. Its state assessments are highly regarded. It has played an important role within the ABA in developing policy. And its recent publication — Representing Death-Sentenced Prisoners in Clemency — is an invaluable, unique resource for practitioners representing clients who are in the process of seeking clemency.

Defunding and discontinuing the Project would be a loss not only for the ABA but also for the many practitioners, academics, and policymakers that have come to rely on the Project’s good work.

Sincerely,

Ashley C. Parrish
June 5, 2018

Board of Governors
American Bar Association
321 N. Clark St.
Chicago IL 60654

Re: ABA Death Penalty Due Process Review Project

Dear Members,

When I retired from the Supreme Court in Missouri in 2011, I was pleased to accept an invitation to join the steering committee of this fine project. My involvement with the ABA Death Penalty Due Process Project began when Missouri became one of the states where the project, with the Supreme Court’s cooperation, undertook an assessment of Missouri’s handling of death penalty cases, a process that produced a very useful report in March 2012. Though I had left the Court before the final report, I am pleased to note that some of its recommendations for improvement have been adopted.

It was very important for us to get a real sense of how our criminal justice system could treat this most serious of category cases. The project brought together leaders of the bar and experts in the field who were key to having recommendations viewed favorably. The recommendations that Missouri adopted benefited other aspects of our criminal justice system.

This project is not about getting the legal representation for those who are accused of capital crimes, but is a project aimed at making the system work well and observe basic fundamental notions of human rights and decency.

This is why I joined the project, and that’s why I think it is so important. A number of states, Missouri unfortunately one of them, that will have the death penalty for the foreseeable future. My view as a longtime member of the legal profession is that the least we can do is make the system fair.

I offer these thoughts to you, because I know you are considering cutting the budget of the project as part of the ABA’s budget retrenchment. I think this project is so central to our role as lawyers, as guardians of due process, that it ought to be continued. The project is essential to our profession’s constant struggle to preserve our core values, especially fairness through due process of law.

Sincerely,

Michael A. Wolff
Professor Emeritus and Former Dean
Judge and Chief Justice, Retired,
Supreme Court of Missouri
June 5, 2018

Board of Governors
American Bar Association

To whom it may concern:

I am writing to ask the board to reconsider its recent decision to cut the entire General Revenue budget of the Death Penalty Due Process Review Project as of September 2018. While I appreciate the board’s need to make difficult choices about where to make budget cuts overall in the face of declining revenues, I believe that the cost-effectiveness of the Due Process Review Project is a model for a high-impact, modestly staffed program. The Project’s recent initiative on mental illness has had immense national significance, and I know of no other organization that might be capable of carrying on the work in that area if the Due Process Review Project is defunded.

I am the National Mitigation Coordinator for the federal death penalty projects (described more fully on our web site, www.capdefnet.org). Our projects provide assistance to lawyers appointed in the federal courts to represent defendants who face capital prosecution by the U.S. Department of Justice or prisoners who are challenging their state-imposed death sentences on habeas corpus in the federal courts. I also serve on the board of directors of the Atlantic Center for Capital Representation, a nonprofit organization in Philadelphia that provides similar assistance to capital counsel in Pennsylvania. My work with the nonprofit makes me acutely aware of the difficulty of managing budgets at a time of scarcity. I have done capital defense work for nearly four decades, including ten years with the New York Capital Defender Office when New York’s capital statute was in effect and thirteen years with the federal projects. All of this work in indigent capital defense has made me particularly appreciate the contribution of the Due Process Review Project since its inception in 2001, and especially the initiatives under its current leadership.

The Mental Illness Initiative illustrates the unique contribution of the project. I recall well the important work initiated by the ABA in response to the High Court’s decision in Atkins v. Virginia in 2002 barring execution of people with intellectual disability. Working with the American Psychiatric and Psychological Associations and others with mental health expertise, the ABA Task Force in 2006 led the substantive efforts to extend protection from execution to individuals who met other carefully defined categories of disabling mental disorders and impairments. I am a principal organizer of several national death penalty training programs and have relied on staff from the Due Process Review Project over the years to highlight the important findings of the state assessments and the groundbreaking work of the Mental Illness Initiative. The expertise of the Due Process Review Project is unique and irreplaceable.

Yours sincerely,

[Signature]

Russell Steer
June 4, 2018

Dear ABA Board of Governors:

I am writing to ask you to reconsider your recent recommendation to cut the funding for the ABA Death Penalty Due Process Review Project. This project is a unique entity in our nation’s death penalty landscape with a distinct voice on the issue, a voice that is particularly important to those of us working on this issue at the state level.

This project has played a key role in supporting reform efforts in Tennessee, most recently the effort to exclude those with severe mental illness from the death penalty. Without the support of this project, the Tennessee Alliance for the Severe Mental Illness Exclusion (TASMIE) coalition, of which TADP is a part, would not have made the progress that we did, coming within one vote of passage in a key Senate committee in one of the most conservative legislatures in the nation.

The project provided critical research and educational resources to TASMIE while also connecting state leaders working on this reform. Through monthly calls led by the staff of this project, state leaders were able to better coordinate the work and learn from the best practices of each state.

Such an effort to enact meaningful reform to the death penalty system at the state level requires more than a couple of years to achieve. The education and media groundwork must be put into place in order to convince lawmakers that the public supports the change. We in the states need the expertise and leadership of this project as we move into the 2019 legislative sessions to keep making progress.

I am deeply grateful for the past support of this project and hope that it can continue in order to achieve these important reforms.

Stacy Rector  
Executive Director
Tuesday, June 05, 2018

American Bar Association
Board of Governors
321 N. Clark St.
Chicago, IL 60654-7598

Re: ABA Death Penalty Due Process Project

Dear Colleagues:

If not us, then who?

The ABA’s Death Penalty Due Process Review Project is an essential effort no other entity in our society can or does make.

Those of us who revere the profession, and so this Association because it exists to “serve equally our members, our profession and the public by defending liberty and delivering justice as the national representative of the legal profession,” know we have both the responsibility and the privilege to be at the forefront of efforts to insure the fair functioning of our justice system. In my long experience in the ABA, this is a shared commitment among us, regardless of political affiliation or policy preference.

If we do nothing else as representatives of the legal profession—before we hone our practice or advance our careers, we must stand together for the rule of law and fair administration of justice.

Our Association’s Death Penalty Due Process Review Project is the epitome and embodiment of that commitment. The Project was established by our Association’s Civil Rights and Social Justice Section (CRSJ)—“the conscience of the ABA”—to conduct research and educate the public and leaders on death penalty laws and processes precisely in order to promote fairness and accuracy in our justice system. CRSJ has watched closely as the Project not only performed this commitment, but performed with exacting rigor and exceeded all expectations in adding value to the national death penalty discussion.

It is renown for its innovative, non-partisan, independent research that has helped the ABA adopt balanced policy positions on capital punishment topics, and it exemplifies the positive, fact-based contributions the Association can make on a controversial subject. The Project has focused on what the law and the facts about death penalty implementation are, not on matters of morality or philosophy.
Its work is unique both to and within the ABA. The Project is the only non-abolitionist, death penalty-specific entity in the country with a focus on policy reform touching all aspects of capital punishment. Its mix of unbiased education, advocacy, and technical support makes it exceptional and invaluable—to the ABA, but more importantly to our country.

Without it, no entity will (1) serve as an ambassador for the ABA standards and best practices on capital punishment issues; (2) speak with the ABA’s distinct and unbiased policy voice, or (3) bring our diverse and powerful membership to the table in this vital national discussion.

Please, I urge you with all my heart, do not eliminate General Revenue funding for the Death Penalty Due Process Review Project. Doing so would gravely undermine the heart of our mission and our very reason for existing as an association.

Sincerely,

Wilson A. Schooley
Section Chair-elect, 2017-18
ABA Section of Civil Rights and Social Justice
June 5, 2018

American Bar Association
Board of Governors
321 N. Clark St.
Chicago, IL 60654-7598

Re: Death Penalty Due Process Review Project

Dear ABA Board of Governors,

I am writing to ask the Board of Governors to reconsider the recommendation to defund the Death Penalty Due Process Review Project (hereinafter “the Project”). This letter represents my individual view on the Board’s decision based on my ten years as a staff attorney at the Berkeley Law Death Penalty Clinic’s Lethal Injection Project and as a member of the Due Process Review Project’s Steering Committee. It does not reflect the opinion of the law school.

Since 2001, the Due Process Review Project has played a crucial role in conducting research related to the administration of the death penalty, developing reform-oriented policies, providing technical assistance to capital defense attorneys, educating the public and key decision-makers, and filing *amicus curiae* briefs in key death penalty cases. The Project’s far-ranging activities have been aimed at bringing about compliance with the ABA’s 1997 resolution that no jurisdiction should carry out executions unless it could “ensure that death penalty cases are administered fairly and impartially, in accordance with due process, and [] minimize the risk that innocent persons may be executed.” Eliminating the Project when the death penalty is coming under increased scrutiny at the state and national level would be a devastating loss to attorneys and their clients. It would undermine the ABA’s ability to enforce its resolutions and do damage to its reputation as an institutional leader in improving access to justice for thousands of men and women who face the ultimate punishment.

In my capacity as resource counsel for attorneys challenging methods of executions, I rely on the Project’s work. As states have turned to risky and untested drugs, and as botched and problematic executions occur with regularity, states have passed legislation and engaged in other practices to increase the secrecy surrounding executions to avoid scrutiny and oversight. In 2015, in response to these troubling trends, the Project drafted a report and a corresponding resolution, The Execution Transparency Resolution, which was adopted by the ABA House of Delegates. The resolution gave the ABA a leading voice in urging state and federal jurisdictions to develop execution protocols and carry out executions in a more transparent manner. It has been an invaluable source of authority for advocating to courts and other decision-makers that the protections of the Eighth Amendment require more transparency and accountability in execution procedures.

As a member of the Steering Committee, I am aware that the Project provides similar leadership on a number of other crucial issues. For example, the Project’s Mental Illness Initiative is the only national enterprise dedicated to advancing efforts to exempt persons with severe mental illness from execution. The Capital Clemency Resource Initiative provides much-needed assistance to attorneys as they navigate the clemency process, an area wholly unfamiliar to the majority of capital defense counsel.
The mission of the ABA is to serve the profession and the public by “defending liberty and delivering justice as the national representative of the legal profession.” Now is not the time for the ABA to go silent on the death penalty by eliminating the Project, which furthers the ABA’s long-standing resolutions on the imposition of capital punishment.

For these reasons, I urge the Board to reinstate the Project’s funding so it can continue its vital work and serve as resource to attorneys, individuals facing the death penalty, policy makers, and members of the public.

Thank you,

Jen Moreno
Staff Attorney
June 4, 2018

Board of Governors
American Bar Association
321 N. Clark St.
Chicago, IL 60654-7598

Re: ABA Death Penalty Due Process Review Project

Dear Members of the ABA Board of Governors,

I write to express my fervent hope that the ABA will maintain its Death Penalty Due Process Review Project ("Project"), now housed within the ABA's Center for Public Interest. The Project is a special entity that well serves the legal community - including judges, prosecutors, defenders, the accused, and victim family members - and its absence would be gravely felt by so many who rely on its expertise and guidance throughout the country.

The ABA's imprimatur provide the Project with unusual and high-level access to important decision-makers in capital cases and on death penalty policy concerns across the country. State supreme court justices - and even the United States Supreme Court - have cited the Project's assessments on the death penalty as they grapple with pressing constitutional and related concerns about its application to specific cases. And I have personally witnessed Anthony Graves - a man who spent 18 years on death row in Texas for a crime he did not commit - hold up the Project's report on the Texas death penalty in the state Capitol in Austin and publicly opine to the media that he would not have spent all those years in prison for a crime he did not commit if the State of Texas would have committed to the reforms set out in the Project's report.

The Project's work has led to a moratorium on executions in Pennsylvania, to improvements in the quality of counsel in capital cases in Ohio and Arizona, and to the creation of an innocence commission in Florida, to name a few of its successes. There have and continue to be real deliverable results from the ABA's (relatively) small investment in this vital entity. Notably, the Project is also one of the few at the ABA with a mission to see the implementation of some many of the ABA's well-crafted and thoughtful policies on capital punishment and related issues that have been adopted over the last 30 years.

I know that there are many entities at the ABA doing vital work to safeguard liberty and justice in our legal system. The Project, however, is in a league of its own and its existence will continue to promote the reputation of the ABA and effect real, positive change in policy development concerning the death penalty and the fairness and accuracy of capital cases.

I am happy to answer any additional questions or concerns you may have and thank you for your consideration.
Yours,

Sarah E. Turberville
Sarah E. Turberville
Director, The Constitution Project at POGO
Dear Members of the Board:

The American Bar Association has been a champion of justice in challenging the failings of the death penalty in the U.S. over many years. Enormous progress has been made in identifying and reforming the most egregious areas of injustice. However, those advancements are now in danger as the rhetoric of fear and vengeance again makes itself heard. Now is precisely not the time to withdraw the resources that have been critical in asserting the rule of law, especially for those held in the lowest esteem.

We have been proud co-partners with the ABA in this effort, working closely with its Due Process Review Project and the Death Penalty Representation Project. We believe that both of these entities are vitally important at a time when the country stands at a decisive crossroad: we could either fall back into an era of less constitutional protection for capital defendants, or we could be catalysts for a fundamental review of whether the death penalty is serving any purpose whatsoever.

The ABA has challenged the curtailment of the right to habeas corpus, worked for exemptions from the death penalty for juvenile offenders and those with intellectual disabilities, and has exposed the problems of the death penalty through its bipartisan panels and reports. The ABA’s 2006 call for a systematic exemption from the death penalty for those suffering from severe mental illness is another example of such leadership.

The ABA stood at the cutting edge of death-penalty change when it called for a moratorium on all executions in 1997. Moreover, it had the foresight to realize that resolutions are empty without action to back them up. The ABA’s moratorium project evolved into what is today a potent force and resource for protecting due process rights through legal and legislative change. While the Death Penalty Representation Project plays one vital role in protecting the critical right to counsel, the Due Process Project has been providing research, analysis, and a call to action on such areas as the arbitrariness of states’ death penalty practices, on the plight of severely mentally ill defendants facing execution, and the overall need for systematic clemency review.

It would be a tragic loss if the work of the ABA was reversed by efforts to speed up executions and cut short the careful scrutiny that each capital case demands. The ABA’s active involvement in promoting the availability of quality counsel and due process in capital case, and in working towards excluding especially vulnerable populations from execution has contributed significantly to the sharp decline in
death penalty use in the U.S. over the last two decades. Juveniles and the
intellectually disabled have been found ineligible for capital sanctions, and because
of the ABA due process project, states are beginning to seriously consider banning
capital punishment for the severely mentally ill. Executions and death sentences are
near historic lows. The number of states actively practicing capital punishment has
dwindled to a distinct minority. The question now facing the country is whether the
failure of the death penalty to comport with human decency in practice is indicative
of inherent flaws that can never be completely uprooted. The ABA can and should be
a critical resource for courts and the public in what may be the final debate about
the death penalty in this country. Many other nations are watching us with
anticipation.

We look forward to partnering with the ABA in the years ahead as it continues to be
a vigorous guardian of the constitution, providing leadership to the legal community
through its vibrant death penalty programs.

Richard C. Dieter
Former Executive Director
Death Penalty Information Center

Robert B. Dunham
Executive Director
Death Penalty Information Center

Affiliations listed for identification only.
AMERICAN BAR ASSOCIATION
BUDGET APPEAL FORM
FY2019

Requestor Name: Carolyn Witherspoon (Chair) and Selina Thomas (Counsel) | Phone Extension: x6721

Department Name: Commission on IOLT
Senior Manager: Alpha Brady
Name of Chairperson: Carolyn Witherspoon

Account String (Entity, Fund, Responsibility, and Line of Business): 01.04.13960.700000

Total FY 2019 Appeal Amount: $21,600
Program Support Fund(s) and/or Endowment Balance (Ending Net Assets) as of most recent month end, if applicable: $12,000 (Balance includes obligations incurred, but not yet paid.)

Justification (provide other attachments as necessary)

The Commission on IOLTA understands that it is necessary for all entities to adjust strategies to support programmatic objectives and to assist the ABA in achieving its overall budgetary goals. The Commission’s move to the Center for Professional Responsibility has already resulted in a savings to the ABA of $261,142 in annual staff costs. See the attached brief description of the Commission’s key activities. The Commission’s Winter and Summer Workshops fund themselves and can be supported with assistance from Center for Professional Responsibility staff and other resources. The Commission can also explore ways to offset the costs of the Annual IOLTA Handbook and other projects. The Commission is only appealing $21,600, or that portion of the General Revenue funding allocated to support Commission members and ensures the ability of Commission members to meaningfully participate in the Commission’s work, which is critically important to the success of the legal service community and funding access to justice initiatives.

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*Please submit form to Christina.gazos@americanbar.org with a copy to Jack Rives and Bill Phelan.

Will there be a presentation of the appeal? [ ] Yes** [ ] No

**Name of Presenter: Jon Asher (Former Chair of the Commission on IOLTA and Current CO IOLTA Trustee) and Diana Poole (CO IOLTA Director)

For Department Use Only:
Resolution of Appeal [ ] Approved [ ] Denied

Entity #3
ABA Commission on Interest on Lawyers’ Trust Accounts

Key Activities

The Commission serves ABA members and the profession, and advances Goals II and IV, by providing important access to justice-related services:

- It conducts twice-annual national training Workshops for state IOLTA organizations across the nation. These Workshops are attended on each occasion by approximately 100 IOLTA organization trustees (which include state bar leaders, members of the judiciary and legal aid leaders), who participate in two days of intensive training on banking regulations affecting IOLTA, grantmaking, developments in legal aid funding and other key topics.

- It is the only entity in the country that annually collects, analyzes and stores data from each U.S. IOLTA program; the IOLTA Database now contains information from 1981 through 2017. The Commission produces an annual Handbook, containing this essential data on the operations, revenues, grants and relationships with financial institutions for each state/territorial IOLTA organization. The IOLTA Handbook also contains information regarding cases, regulations and tax rulings regarding IOLTA, as well as the structure and status of each U.S program. IOLTA organizations find this Handbook to be an essential resource in understanding the legal underpinnings of IOLTA and the role of IOLTA as an important funder for civil legal aid in the U.S., and in comparing their achievements with similar jurisdictions.

- It provides technical assistance to IOLTA organizations across the nation with numerous issues that arise each year pertaining to state supreme court rule changes, evolving banking regulations and other legal issues. Commission members consider the evolving regulatory, jurisprudential and statutory landscape at each meeting, and guide and direct staff in providing technical assistance.

- It works closely with the National Association of IOLTA Programs, a voluntary organization (NAIP). NAIP is at the beginning stages of planning what its goals and objectives are for the future. That may be a two-year process. It is not a source of funding.
AMERICAN BAR ASSOCIATION
BUDGET APPEAL FORM
FY2019

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<tr>
<th>Requestor Name: Jackie Casey</th>
<th>Phone Extension: 5404</th>
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<td>Department Names: ABA Fund for Justice and Education and ABA Office of Diversity and Inclusion</td>
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<tr>
<td>Senior Managers: Bill Phelan and Alpha Brady</td>
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<td>Name of Chairpersons: Chair Jon Wolfe, ABA Legal Opportunity Scholarship Fundraising Committee and Chair Latanishia D. Watters, ABA Legal Opportunity Scholarship Committee</td>
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Justification (provide other attachments as necessary)

The American Bar Association has four core goals. Goal III speaks to our Association’s unwavering pledge to help eliminate bias while enhancing diversity and inclusion throughout its ranks as well as within the legal profession and the justice system.

The ABA leads the profession in its commitment to protecting and advancing equality, fairness, and the rule of law. However, despite our significant efforts, we are also part of a profession that lags behind others when it comes to diversity and inclusion.

The recently published 2018 ABA National Lawyer Population Survey reveals that of the 1.3 million lawyers in the U.S. a large majority are male (64%) and white (85%).

According to the Bureau of Labor Statistics, minority representation has on average, over the past decade, seen minor or stagnate growth – with minorities representing about 15% of attorneys. Compare this to 25% among financial managers, 28% among accountants, 44% among software developers, 31% among physicians and surgeons, and 27% within the professional labor force overall.

Our association-wide dedication to advancing Goal III is more imperative than ever. The Legal Opportunity Scholarship Fund publicly demonstrates this pledge as, each year, it is directly responsible for helping to increase diversity and inclusion in the educational pipeline by providing 20 diverse and deserving law students with $5,000 each for the three years they’re in law school. Indeed, since its inception in 2000, the scholarship has helped change the lives of and usher into our profession 380 racially and ethnically diverse law students.

While we understand the present fiscal climate and financial constraints facing our Association, they should not be a barrier to approving the necessary funds to advance Goal III and this critical diversity scholarship program.

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*Please submit form to Christina.gazos@americanbar.org with a copy to Jack Rives and Bill Phelan.

Will there be a presentation of the appeal? [ ] Yes** [ ] No

**Name of Presenter: t.b.d (on the phone)

For Department Use Only:
Resolution of Appeal [ ] Approved [ ] Denied
MEMORANDUM

To: ABA Board of Governors – Finance and Operations Committee

From: ABA Past Presidents

Dennis W. Archer
Robert J. Grey, Jr.
William G. Paul
James R. Silkenat
H. Thomas Wells, Jr.

Date: June 6, 2018

Subject: Full Support for the Appeal to Restore $50,000 to the ABA Legal Opportunity Scholarship Fund’s FY2019 Budget Allocation

The American Bar Association Goal III seeks to eliminate bias while enhancing diversity and inclusion in the Association, legal profession, and justice system. It is with steadfast commitment to this critical goal and gratitude for the past years of the ABA’s financial investment in the Scholarship, that we emphatically and respectfully request the full restoration of the recommended $50,000 budget reduction to the ABA Legal Opportunity Scholarship Fund (LOSF) in FY2019. As Past ABA Presidents, we are stepping up to add our charitable backing for the Scholarship in the hopes that the ABA continues its current financial support into the future.

Should the ABA move forward with this budget reduction, we anticipate the following potential negative ramifications:

- Public undermining of the ABA’s commitment to Goal III potentially hindering future fundraising efforts;
- Stunting the pipeline to a diverse and inclusive legal profession; and
- Retracting of promised scholarship funds to current awardees or reduction in the number of new recipients selected in fall 2018.
While progress has been made in diversifying the legal profession, it is obvious that much more work is needed. For racial and ethnic minorities, disparities in the legal field begin during law school. While overall, the percentage of non-white students has hovered around 26% - 28% (2012-2014), according to the ABA Section of Legal Education and Admissions to the Bar, the minority student attrition rate (15%) in 2013 was more than triple that of law students overall (4%) in 2013.

The demographics of law firms, corporations and universities overall have not kept pace with a growing racially diverse talent pool. The percent of law school graduates of color has almost doubled in the past two decades to just over 25%. Yet, lawyers of color accounted for only 7% of partners in the national top 200 law firms, 7% of all law school deans and 9% of all general counsel (NALP 2014).

Lawyers of color make up barely 15% of the entire legal profession, while minorities comprise 38% of the entire population, according to the 2014 Census Report. The Census projects that the U.S. population will become majority-minority in 2044. Minorities are expected to rise to 56% of the total by 2060. Under Goal III, the ABA is duty-bound to eliminate this disproportion; it poses a threat to the rule of law and to the administration of justice. The Scholarship, and the ABA’s leadership participation in it, must remain in place or even grow to help bring about a more diverse, inclusive and representative legal profession.

In efforts to better assess the impact of the Scholarship, this program for selecting and funding minority law students is currently being evaluated through a grant from AccessLex. Early results show that the Scholarship continues to be meaningful. Nearly 70% of survey respondents felt that the award was extremely or very important to their decision to enroll and remain in law school. While nearly 90% agreed that the Scholarship money allowed them to borrow less money for their education, less than half felt that the award was sufficient to supplement their law school expenses even when added to other forms of assistance. Even with the Scholarship and other sources of funding in place, more than half of survey respondents reported having tens of thousands in loans to repay for law school.

As we proceed with this evaluation and consider implementing the recommendations that are derived from it, now is not the time to diminish the Scholarship’s reach to diverse law students nor its impact on the legal profession. We implore the ABA Board of Governors to keep the budget allocation for the Scholarship Fund whole, at least for fiscal years 2019 – 2021 so the Scholarship Selection and Fundraising Committees may proceed along a more strategic course of action.
AMERICAN BAR ASSOCIATION
BUDGET APPEAL FORM
FY2019

Requestor Name: Hon. Benes Aldana (Ret.), President and CEO of the National Judicial College
Department Name: The National Judicial College
Senior Manager: Hon. Benes Aldana (Ret.)
Name of Chairperson: Kim D. Hogrefe, Esq.

Account String (Entity, Fund, Responsibility, and Line of Business):
Total FY 2019 Appeal Amount: $75,000.
Program Support Fund(s) and/or Endowment Balance (Ending Net Assets) as of most recent month end, if applicable: $15,441,015.17

Justification (provide other attachments as necessary)
See Attached

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*Please submit form to Christina.gazos@americanbar.org with a copy to Jack Rives and Bill Phelan.

Will there be a presentation of the appeal?  X Yes**  No

**Name of Presenter:

For Department Use Only:
Resolution of Appeal  □ Approved  □ Denied
June 6, 2018

American Bar Association
Board of Governors
c/o Christina Gazos
Director, Financial Planning and Analysis
American Bar Association
321 North Clark Street
Chicago, IL 60654

Dear Board of Governors:

The American Bar Association can take pride in having done more to improve the quality of this country’s judicial system than any other private organization.

More than half a century ago, the ABA founded The National Judicial College to develop judges who are skilled, principled and dedicated to the rule of law. In all the years since, the ABA has remained the College’s No. 1 sponsor and friend.

The ABA’s return on investment in The National Judicial College is best summarized in the words of Chief Justice Warren Burger, who said: “It is just remarkable the improvement that [the NJC] has made in the administration of justice. It is beyond measure.”

As you weigh wrenching choices in dealing with current financial challenges, I know we can count on you to take the full measure of The National Judicial College. On the following pages, we summarize the many effective and economical ways the NJC continues to support the ABA’s highest priorities.

The framers of the Constitution empowered our third branch of government to be a sober arbiter of truth and law, to uphold that foundational principle, which dates to the Magna Carta, that no one—not even a king—is above the law. In these turbulent times, we are grateful for the ABA’s steadfast support of our nation’s fundamental institutions and founding values.
Thank you for your consideration and please don't hesitate to contact us if you have any questions.

Yours truly,

Hon. Benes Z. Aldana (Ret.)
President
Aldana@judges.org
(202) 779-7444

cc: Jack Rives, Executive Director
    Bill Phelan, Senior Associate Executive Director and CFO

Kim D. Hogrefe, Esq.
Chair, Board of Trustees
kimdhogrefe@gmail.com
(201) 218-8041
Justification for Appeal

Organization: The National Judicial College

Founded: 1963 by a committee of the American Bar Association

ABA FY 2018 appropriation: $202,500
Provisional 2019 appropriation (after reduction): $102,500
Requested appropriation: $177,500

Scope and scale of the organization’s impact

The National Judicial College serves judges from all 50 states and several foreign countries each year. It is the oldest, most prestigious and most widely attended school for judges in the United States and is known as the gold standard in judicial education. In 2017, for the first time in its history, the NJC educated more than 10,000 judges and court staff through its courses offered in person and online.

ABA influence on operations

Members of the ABA Board of Governors (BOG) serve as members of the NJC Corporation and are valued stewards of the NJC. All members of the NJC Board of Trustees must be approved by the BOG. Also, the BOG and ABA Judicial Division each appoint one trustee each year for a continuing total of six trustees on the 21-member board. This close relationship ensures both organizations are committed to the long-term sustainability of the NJC.

Direct financial benefits to the ABA and its members

Scholarships for Judicial Division members: The NJC offers an unlimited number of $500 scholarships to all ABA members attending NJC courses. Since the program began at the end of 2016, the NJC has awarded more than $103,000 in scholarships to 164 ABA members.

Travel revenue: The NJC books hotel rooms through the ABA Leverage program, resulting in about $40,000 in commission revenue to the ABA for 2017 and $100,000 since the middle of 2016. The NJC is ABA Leverage’s top client.

ABA Membership: The NJC actively promotes ABA membership to all judges who attend NJC courses. Information that outlines the benefits of becoming an ABA member as well as the application form are included in the NJC enrollment packets. ABA Judicial Division membership information is available at all times in the NJC’s lobby and on information tables throughout the building. More than 25 NJC trustees and eligible staff are active ABA members.

ABA Partnerships: The Tort Trial and Insurance Practice Section (TIPS) continues to maintain a longstanding relationship with the College with several of its leaders currently serving on NJC’s Board of Trustees. In fact, Trustee Peter Neeson founded the TIPS Trial Academy held annually for the past 15 years on our Reno campus. In addition, the NJC has provided financial and programmatic support to the ABA Standing Committee on the American Judicial System for the Forum on Judicial Independence.
Publications: The NJC makes the ABA Judicial Division’s Judges Journal magazine available to judges attending courses on our campus and has contributed content to the magazine. In addition, the NJC publishes Judicial Edge, a monthly email newsletter with informative articles written by the NJC’s experienced faculty, staff and other experts in judicial matters.

Reason for requesting reconsideration

The NJC’s 2018 budget was developed long before the announcement of the reduction. The ABA Fiscal Year is from August 1 to July 31, but the NJC Fiscal Year follows the calendar year. This proposed reduction will directly impact the NJC 2018 budget.

Consequences of the reduction as proposed

ABA funding allows the NJC to develop new courses in response to emerging issues in America’s courtrooms, such as treatment programs to deal with the opioid crisis, the complexities of digital evidence, and the reliability of forensic evidence. Without such funding, course development will be curtailed.

In 2018, the NJC has provided scholarships to 61 ABA members. However, the proposed funding reduction will force the NJC to reevaluate the $500 guaranteed scholarships for ABA members. In addition, the proposed reduction in funding may require a reduction in personnel. A staff reduction will decrease the number of courses delivered, the number of judges educated, or the number of grant applications submitted by the NJC.

Replacement funds

As a quasi-independent organization, the NJC has continually strived to fund itself independently of the ABA but has not been successful. Potential sources include federal grants, foundation grants, fundraising appeals and tuition increases. But federal grant-making has declined over the past few years. To compensate for the reduction in federal grants, we have applied for more foundation grants and increased the frequency of our fundraising appeals. Neither of these tactics has compensated for the reduction in federal funds.

We recently expanded our development office with a grant writer and are interviewing for a major gifts officer, but we have not yet reaped the financial rewards from these investments. We have increased the number of grants we applied for this year and are awaiting decisions by grant-makers.

Constraints on other funds

Although the NJC has about $15 million (2017, unaudited) in funds, not all of those funds are available for operations. About $10.9 million in assets are tightly restricted to scholarships for judges and specific programs with $4 million set aside for our pension liability. To that end, they are not available to fund any operational shortfall that the College might face. The use of endowment funds is restricted to 7% per year of the three-year average balance by Nevada law.
The College understands the ABA’s desire to manage its outstanding pension liability proactively. Currently, the College has a reserve sufficient to meet the most recent projections of the actuary. Unexpected changes in our operational budget could force us to draw down from the reserves or cut important programs.

Summary

Our mutual friend Bill Robinson, who was chair of the NJC Board of Trustees at the time of his death last year, said the relationship between the NJC and ABA could be summed up in two words: mutually beneficial. “Simply put,” he wrote, “the ABA and NJC are in the same business with the same goals, and they share most of the same DNA.” The ABA’s four goals of service to members, improvement of our profession, elimination of bias and enhancement of diversity, and advancing the rule of law are the NJC’s goals. We look forward to many more years of mutual success.
Justification (provide other attachments as necessary)

1. The Standing Committee on Group and Prepaid Legal Services is dedicated to assuring meaningful access to justice for all persons. Over 122 million Americans are covered by some type of group or prepaid legal services plan. There remains a vast unserved and underserved moderate-income population existing between the indigent population which qualifies for legal aid and the upper-middle class with sufficient disposable income to address their legal needs. Group legal services meet that need by providing efficient low-cost legal services for everyday legal problems. The Standing Committee serves the entire industry by offering education, networking, and technical support to the legal plans, the provider attorneys, ERISA trustees and the administrators who run the plans. Plans currently cover groups as diverse as police and firefighters, school lunch attendants, fast food workers, auto workers, university and city employees, and ABA staff members.

2. ** If a full year 2019 amount is granted, the appeal amount is $31,495. The attached letter request explains that an alternative is temporary funding of $20,000 through December 31, 2018 to allow for wind down and reorganization to occur. For the full 2019 appeal amount, the discretionary funds available in this proposal are greatly limited to travel only for staff and committee members. The only other expense is the salary of a staff person. The salary could be split between the Standing Committee and another ABA entity or two entities. If half of the salary identified in detail item 00100 below is split, and the related GLSA entity is able to negotiate and sign an MOU with the ABA, the request for an appeal could be reduced to $5,000 for salary. See, salary of $56,958 / 2 = $28,979, supported by $24,000 from GLSA = $4979.00.

3. Participation with group legal services plans provides business development opportunities for lawyers. ABA members rely on them both for supplementary income and as the bread and butter of their law firms. In these times when many Americans face tremendous economic and legal uncertainty, any delivery mechanism that connects clients who need legal services with the attorneys can provide them should be important to the ABA.

4. The Standing Committee does invaluable access to justice work independently of any other ABA entity or affiliate, including the Group Legal Services Association with which it has worked on many other projects of financial value to ABA-GPSolo, the ABA Young Lawyers Division, and the ABA at large. Since 2015, the Standing Committee has collaborated with its current staff on several projects central to the core mission of the ABA: that is, access to justice for all. These projects include:
a. The Legal Plan Standards Resolution recently submitted by Standing Committee members Keri Coleman Norris and Steve Williams to the ABA House of Delegates. This project establishes the standards by which the ABA will accredit a group, entity or organization as a legal plan.

b. A comparative longitudinal study of legal plans, spearheaded by Standing Committee member Aastha Madaan in collaboration with ABA staff member Ramon Robinson. Packaged into a single online resource available to all ABA members, the information gleaned will provide ABA members with the transparency they need to pursue legal plan panel work wisely, and consumers with the transparency they need to wisely select one of many legal plans available to them. Without funding from the ABA for staff providing creative direction, knowledge capital developed from years of experience in the legal plans industry, and eagerness to serve as a liaison with other ABA entities, or funding for Standing Committee members to convene annually to work together on projects in ways that would be difficult to do exclusively by telephone and e-mail, the comparative longitudinal study of legal plans would have to be discontinued. Its discontinuation would necessitate the discontinuation of two other Standing Committee projects that depend upon the completion of this comparative longitudinal study:

i. The Legal Plan Matchmaker – a chatbot in development by ABA member Tom Martin (LawDroid) with the consultation of the full Standing Committee and its staff. The Legal Plan Matchmaker helps employers and individuals identify the right legal plans for their goals and apprises them of related options for efficiently pursuing access to justice. Like legal plans, it can be adapted to individual law firms. Proceeds from its sale would benefit LawDroid and the ABA Standing Committee on Group and Prepaid Legal Services, and they would be expected to fully the ABA’s expenses for the Standing Committee before 2021. The chatbot would be available for discounted sale through the ABA as a member benefit – thereby contributing to the ABA’s pool of non-dues revenue.

ii. The Legal Plan Innovation Challenge – a biennial competitive challenge promoting the creation of legal plans that allow diverse and niche clienteles affordable access to legal services. Competitors would be supported by free two-year virtual workshops led by one of the Standing Committee’s partners, law firm innovation agency ONE400, with a marketing and operational grant offered to the winning legal plan. Fundraising for this project, primarily through sponsorship, is already underway.

5. Annually since May 2015, Standing Committee members have teamed with ABA staff member Ramon Robinson to grow and diversify ABA conference attendance well beyond the ABA’s diversity requirements for its panels. Standing Committee members Alfreda Coward, Alyssa Ehrlich, Aastha Madaan, Keri Coleman Norris and Stephen Rosales have worked closely with Ramon to execute conference programs highlighting marginalized voices in the legal profession. Independently of the Standing Committee and its existing staff, ABA-GPSolo and the Group Legal Services Association would not have the resources (i.e., time and network connections) to bring together such a diverse group of people for its conferences. Most recently, in May 2018, the efforts of the Standing Committee and its current staff netted $18,350 in spring conference registration-based revenue for ABA-GPSolo.

6. The Committee’s projects provide a value-added benefit for group legal services plan provider attorneys, many of whom have been solo and small firm practitioners, and many others of whom work for larger law firms. The Standing Committee also provides concrete evidence of the ABA’s support of and dedication to its members. The committee keeps members informed as to developments in the field of group legal services, law practice management, client development and other substantive areas through the website and monthly electronic newsletter. The committee has worked with the General Practice, Solo and Small Firm Division and the Young Lawyers Division of the ABA to expand knowledge and information to attorneys about group legal services as a client development mechanism. It anticipates continuing this effort through its developing relationship with the ABA’s Center for Innovation. Ideally, the Standing Committee would not be eliminated or absorbed such that it can only continue to appeal to its existing base of ABA-GPSolo and Group Legal Services Association members.

7. The Standing Committee has followed the ABA’s reorganization and realignment plans closely, and it is eager to work closely with its existing staff, the ABA’s senior staff leadership and the Board of Governors to identify ways that it can contribute to the ABA’s goal of significantly increasing both its dues and non-dues revenue.
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*Please submit form to Christina.gazos@americanbar.org with a copy to Jack Rives and Bill Phelan.

Will there be a presentation of the appeal?  \[X\] Yes**  \[\] No

**Name of Presenter:  Keri Coleman Norris (Chair) and/or Steve Williams, President GLSA

For Department Use Only:  Resolution of Appeal  \[\] Approved  \[\] Denied
June 6, 2018

Christina Gazos, Director Finance Planning
Jack Rives, Executive Director
William Phelan, Senior Associate Executive Director

RE: Budget Appeal Form, Standing Committee Group & Prepaid Legal Services

I am writing in response to the Executive Committee’s recommendation that the General Operations funding for the Standing Committee be discontinued effective FY2019. On behalf of the members of the Standing Committee, I respectfully request reconsideration. The Standing Committee is not seeking reversal of the defunding of the total Committee budget; rather the Standing Committee is seeking a smaller, short term funding to allow for a transition and wind down to occur along with the discussion with other ABA entities for a possible merger and alignment.

The Appeals Form is submitted with this letter. In addition to the budget information in the form, I wanted to highlight the impact the proposed budget cut in full at one time would have on the Standing Committee at this time as well as the impact on the related entity, the Group Legal Services Association.

The 50 Year History of the ABA Standing Committee on Group and Prepaid Legal Services

The ABA, through its Standing Committee has a long history of supporting the provision of access to affordable, quality legal services through the mechanism of group legal services plans, industry cooperation and public awareness. The history of the Standing Committee, as the ABA’s connection to legal services plans, provider attorneys and ERISA plan trustees, goes back 50 years!

ABA support started in 1968, when the then ABA President, acting on the Stolz Report commissioned by the ABA Foundation, “... wrote to more than 80 local bar groups ... asking for cooperation in the establishment of a legal services insurance program and suggesting the availability of staff help, financial support and assistance...”, which eventually led to the ABA giving financial support and assistance to the establishment of the Shreveport Plan, in 1971 (see Louisiana Law Review, December, 1971).

Subsequently, in 1975, the ABA concluded that the best way to become a resource for its members - many of whom were already on legal plan attorney panels or directly employed by legal plans - was to join forces with these lawyers who were working in the field. This led to the ABA’s establishment of the American Prepaid Legal Services Institute (“API”), its combined board of elected members and ABA-appointed members (the Standing Committee), and the ABA’s administrative support for the organization.

API later changed its name to GLSA (Group Legal Services Association), but the primary, original by-laws of the organization, and its affiliation with the ABA have not changed. GLSA still has a combined board of elected members and ABA-appointed members (the Standing Committee), and the ABA has continued to provide administrative support for the organization. I believe the relationship between
the ABA, the Standing Committee and the GLSA is unique and invaluable to forwarding the mission of access to justice and affordable legal services.

The Memorandum of Understanding between the GLSA and the Standing Committee was terminated, effective September, 2018. Under the prior, now terminated MOU, the GLSA provided funds directly to the ABA to support staff salaries and travel expenses for the Standing Committee. The GLSA is currently working to negotiate a new MOU with the Standing Committee, or another entity in the ABA.

As part of the ongoing process the last year related to this anticipated reorganization and funding change in the ABA, the Standing Committee and the GLSA have been actively working to find new partners and places with the ABA structure. GLSA and the Standing Committee have been in discussions with leadership of GP-Solo about the possibility of the Standing Committee and/or the GLSA becoming a committee or other possible merger structure. To date, those conversations have not reached a conclusion and the Standing Committee requests temporary funding to allow staff, leaders and volunteers from all entities to discuss the possibilities and solutions.

**Impact of Defunding the Standing Committee**

Defunding the Standing Committee, and thereby defunding administrative support for the GLSA, has much more severe consequences than defunding almost any other ABA committee, because no other committee, as far as I am aware, is inextricably connected to an ongoing not-for-profit corporation that requires day-to-day administrative support to handle membership support, sponsorships, invoices, supplier payments, investments, cash flow, bookkeeping, accounting and government filings.

**Member Services and Sponsorship Services.** Most immediately, defunding the Standing Committee leaves the Committee Board members, the GLSA and the ABA in a situation with liability to vendors and members. The ABA is publicly affiliated with GLSA. GLSA with the Standing Committee’s board member’s approval sold individual memberships to people for this entire calendar year (ending December 31, 2018). Additionally, the GLSA sold sponsorships which do not end until April 2019. These sponsorships require some level of engagement by the Standing Committee, GLSA volunteers and staff to deliver the promised services (podcasts, blogs, advertising). The ABA has a duty to continue that affiliation that was sold to those members and sponsors. We believe the ABA is linked to the GLSA for this entire calendar year otherwise there has been misrepresentation to our members and sponsors.

**Planned and In Flight Projects and Initiatives.** The Standing Committee has a number of projects in flight and working for completion in 2019 and beyond. These projects are listed on the attached pages. Each represents the Standing Committee’s work to further the goals and objectives of the Committee and the ABA, as well as the GLSA. Defunding now does not give the Standing Committee volunteer members opportunity to complete projects and further the mission. A direct result will be a loss of focus, initiative and creative thinking about ways to make affordable legal services available to more Americans.

**Annual Conference.** Each year GLSA and the Standing Committee host a continuing legal education conference for members, and non members. The conference, drawing almost 250 attendees annually, focuses on providing lawyers involved in the legal services plan industry with education, support and
collaboration so that they may focus on the practice of law rather than the marketing of their law practices. Contracts for the spring 2019 conference have been executed. Failure to deliver a conference leaves GLSA and Standing Committee members at risk to contractual obligations without the time to plan for new terms or contingencies. With the little notice of this recommendation to defund the Standing Committee, the annual conference, and the related sponsorships are at risk, and put the board members and committee members at risk. The GLSA and the Standing Committee are discussing ways to meet with GP Solo for future meetings with independent funding outside the ABA. These partnerships are under consideration as part of the MOU being discussed by the Standing Committee and the GLSA.

Proposal for Recommendation
The Standing Committee respectfully requests the recommendation be overturned and the Standing Committee be funded to allow the Standing Committee, and the related GLSA, to find new partners, back up plans, relationships and opportunities to continue its mission while not exposing any entity to liability. The Standing Committee respectfully requests funding for 6 months, or until December 31, 2018, in the amount of $20,000. This would allow the Standing Committee, and the GLSA, time to find financial and personnel resources to deliver on all the expectations and obligations of members and sponsors.

Either I as Chair of the Standing Committee or Steve Williams as Chair of the Group Legal Services Association will be in Denver on June 20 to 22 to discuss this appeal.

Sincerely,

/ ss /

Keri Coleman Norris
Chair, Standing Committee Group & Prepaid Legal Services

cc: Lee DeHihns
   Janet Jackson
   Carri Kerber
   Standing Committee Members
   GLSA Executive Committee Members
<table>
<thead>
<tr>
<th>Project Name</th>
<th>Contributors</th>
<th>Description</th>
<th>Timeline</th>
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<tbody>
<tr>
<td>The Universal Plan Application</td>
<td>GLSA Board in collaboration with GLSA staff</td>
<td>This is an online form that fast-tracks attorneys’ pursuit of panel membership on 12+ legal plans at once. GLSA is working to grow the number of plans that attorneys can attempt to join through this form and to develop ethical and operational standards for plans on the form.</td>
<td>Ongoing</td>
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<tr>
<td>Annual Spring Conference</td>
<td>GLSA Board in collaboration with the Standing Committee on Group and Prepaid Legal Insurance; in 2014 and from 2016-2018, GLSA partnered with ABA-GPSolo for a joint spring conference <em>(with GLSA registrants accounting for 2/3 of all registrants in 2018)</em></td>
<td>Ever growing in its scope and impact, the GLSA Annual Spring meeting brings attorney, trustees, marketers, plan administrators, law tech professionals, and legal innovators together for 4 days of seminars, workshops, access to justice discussions, and networking through entertainment programs.</td>
<td>The next conference is scheduled for May 7-10, 2019 in Tampa, FL with possible front and backend side trips (Walt Disney World and an international cruise in talks). Location TBD for a 2020 conference – possibly Portland, OR.</td>
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<tr>
<td>GLSA Monthly Podcasts</td>
<td>Tom Martin in collaboration with GLSA members and influencers in law tech and innovation</td>
<td>GLSA’s monthly 1-hour podcasts address a range of topics including the impact of Bitcoin on legal services professionals; the future of website development for legal plan, solo and small law firms; ways to prioritize gender and racial diversity in law practices; the impact of the SCOTUS ruling on same-sex marriage on law practices that use</td>
<td>START: September 2015 Ongoing. Since September 2015, GLSA has produced one podcast per month without interruption.</td>
</tr>
<tr>
<td>GLSA Futures Committee</td>
<td>Ben Farrow, Nicolle Schippers, Will Petersen, and other GLSA and ABA members</td>
<td>The Futures Committee contributes to projects on standards, regulations, and the future of law with the stewardship of ABA staff directors and members of partner entities including the Young Lawyers Division (with whom GLSA partnered for a Fall 2015 conference), Lawyer Referral Information Services (LRIS – with whom GLSA partnered for a Fall 2016 conference) and ABA-GPSolo (with whom GLSA partnered for Spring 2014, Spring 2016, Spring 2017 and Spring 2018 conferences)</td>
<td>Fall 2014 – Present</td>
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<tr>
<td>“Working Volunteer Association” opportunities</td>
<td>Matt Hahne and Steve Williams in collaboration with GLSA members</td>
<td>GLSA provides attorneys, plan administrators, marketers, law tech innovators, and aspiring legal services professionals with opportunities to build their credentials within law practice and the legal plans industry through volunteer work on GLSA’s Futures, Marketing, Sponsorship, Membership,</td>
<td>Organization’s inception/Ongoing</td>
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<tr>
<td>The Regulation Reporter</td>
<td>GLSA Executive Director in collaboration with the GLSA Board and Futures Committee</td>
<td>This subscription journal documents changing regulations and codes of conduct in the legal plans industry; it is available to both ABA and GLSA members</td>
<td>Project to resume pending identification of a GLSA Executive Director or other staff lead</td>
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</tr>
<tr>
<td>ABA Membership Promotions to Panel Attorneys</td>
<td>The GLSA Board, Standing Committee and Membership Committee in collaboration with GLSA staff as the promotion’s administrator</td>
<td>In recognition of its valuable relationship with the ABA, GLSA has implemented and will continue to implement programs to promote ABA membership to its panel attorneys. Promotions to join GLSA at discount only after joining the ABA and GPSolo have been among the most successful.</td>
<td>2015 – Present</td>
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<tr>
<td>The Gold Star GLSA Members’ Service Program</td>
<td>Ramon Robinson in collaboration with the GLSA Board and Membership and Sponsorship chairs</td>
<td>The ‘Gold Star’ program allows attorneys who demonstrate deep commitment to affordable access to justice to use a free and discounted marketing/consulting services/office supplies plan featuring many of GLSA’s sponsors. This plan is available to selected members throughout the calendar year.</td>
<td>Work on this initiative begins in Fall 2018</td>
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### AMERICAN BAR ASSOCIATION
### BUDGET APPEAL FORM
### FY2019

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<th>Nicole VanderDoes</th>
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**Justification (provide other attachments as necessary):**

Please see the following attachments: SCAJS Budget Appeal Memo; Memo from Former Chairs of SCAJS, SCFJI, and SCJI; and Letter from Justice Rebecca Kourlis (Ret.), Executive Director, IAALS

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*Please submit form to Christina.gazos@americanbar.org with a copy to Jack Rives and Bill Phelan.

**Will there be a presentation of the appeal?**

X Yes**

No

**Name of Presenter:** Judge Herbert B. Dixon, Jr. (Ret.), Chair, SCAJS; Judge Shira A. Scheindlin (Ret.), Chair, Subcommittee on Federal Courts; Dick Semerdjian, Chair, Subcommittee on State Courts

For Department Use Only:

Resolution of Appeal

Approved

Denied
The Standing Committee on the American Judicial System (SCAJS) submits this memorandum in support of its appeal of the recommendation to discontinue General Operations funding for the SCAJS effective FY2019.

Should General Operations funding for the SCAJS be discontinued for FY2019, the impact on the SCAJS would be its constructive elimination. The twenty-one members and two honorary chairs would hold their positions in name only, as there would be no funds available to carry out the work of the SCAJS. The positions of the SCAJS Chief Counsel and Program Associate would have to be eliminated, with their last day of work being August 31, 2018.

The impact on the ABA would be to diminish its reputation and ability to serve as a national voice on behalf of the judiciary. It would damage relationships the SCAJS maintains with other persons and organizations concerned with judicial reform and the judiciary, including, but not limited to the National Center for State Courts (NCSC), the Administrative Office of the United States Courts (AO), the Judicial Conference of the United States, the Federal Judicial Center, IAALS, the Institute for the Advancement of the American Legal System, the Brennan Center for Justice at NYU, and numerous state and federal courts and judges throughout the country.

In addition to the impact of the elimination of the SCAJS on its members, staff, and the reputation and voice of the ABA, it would also have a detrimental effect on the judiciary, the profession, and the public, because the prominent voice of the ABA, dedicated to improving and preserving fair courts, would be gone.

I. The SCAJS’s jurisdiction is central to the mission, purposes, and goals of the ABA and its elimination would be detrimental to the ABA and society

It is essential that the SCAJS be fully funded so it can accomplish the important work within its jurisdiction, all of which is central to the mission, purposes, and goals of the ABA. To eliminate funding to the SCAJS sends a message to Association members, non-member lawyers and judges, and to the public that the ABA is retreating from its support for the American judiciary and raises serious questions about the priorities and relevance of the ABA.

The mission of the ABA, “To serve equally our members, our profession and the public by defending liberty and delivering justice as the national representative of the legal profession,” guides the SCAJS’s work, as it should all ABA entities. “The purposes of the Association are to uphold and defend the Constitution of the United States . . . to promote throughout the nation the
administration of justice . . . to uphold the honor of the profession of law . . . to apply the knowledge and experience of the profession to the promotion of the public good . . . and to correlate and promote the activities of the bar organizations in the nation within these purposes and in the interests of the profession and of the public.”¹ The SCAJS carries out these purposes as they relate to the American judicial system.

The ABA achieves its mission and purposes by working towards the objectives set forth in its four goals. Although the SCAJS remains cognizant of all four goals, it provides unique value to the Association as one of the few entities with its jurisdiction aimed directly at Goal IV.

Goal IV: Advance the Rule of Law.
Objectives:
1. Increase public understanding of and respect for the rule of law, the legal process, and the role of the legal profession at home and throughout the world.
2. Hold governments accountable under law.
3. Work for just laws, including human rights, and a fair legal process.
4. Assure meaningful access to justice for all persons.
5. Preserve the independence of the legal profession and the judiciary.²

The work of the SCAJS ensures that the ABA is equipped to be the national voice on issues affecting fair and impartial courts and the administration of justice. Those issues include, but are not limited to: public perception and understanding of the role of judges, the judicial system, and the legal process; institutional threats to a fair legal process; limitations on access to the judicial system; threats to judicial independence and separation of powers; unjust attacks on judges and the judicial system; methods of judicial selection and retention; court funding and judicial compensation; creation and filling of judgeships; ethical issues affecting the judicial branch; and judicial administration.

Should the SCAJS be eliminated by the discontinuation of its funding, it will join the American Judicature Society (AJS) and Justice at Stake (JAS) as another entity devoted to fair courts that has met its demise. The Standing Committee on Judicial Independence (SCJI), one of the predecessor entities to the SCAJS, had a longstanding relationship with AJS, including collaboration on projects related to judicial selection and judicial ethics. Unfortunately, shortly after the SCAJS was created, AJS dissolved in 2014 after 101 years of service. JAS was a not-for-profit, nonpartisan national campaign that focused exclusively on keeping courts fair and impartial and was an important partner to the SCJI and then to the SCAJS. However, JAS suddenly ceased operations in mid-2016 and formally dissolved in 2017. Should the SCAJS be eliminated, it would increase the dearth of organizations devoted to protecting the American judicial system. Having lost those important partners, the continued existence and work of the SCAJS is more crucial than ever before. The ABA also has the opportunity to be an even more prominent voice should it choose to fully support the work of the SCAJS that is so central to the mission, purposes, and goals of the ABA.

¹ ABA Constitution § 1.2.
² ABA Policies and Procedures, Chapter 1, Section A. The current version of the Association goals was adopted by the House of Delegates at the 2008 Annual Meeting.
II. The SCAJS implements meaningful, successful projects that support and improve the American judicial system

In less than four years, the SCAJS has implemented many successful projects and continues to seek opportunities to engage in relevant and meaningful work. A few of the SCAJS’s most successful projects are described below.

In the fall of 2014, the SCAJS instituted the practice of convening informal “state of the judiciary” discussions with state and federal judges at each SCAJS business planning meeting. The panels typically consist of a federal court of appeals and federal district court judge, a state supreme court justice, and a state court judge who is either a chief judge at the trial level, a court of appeals judge with extensive prior experience at the trial court level, or a trial court judge who has undertaken innovative projects to improve the administration of justice. The judges share the greatest challenges facing their courts and ways the SCAJS and the ABA could contribute to solutions. This ensures that the SCAJS stays informed of both the unique and the universal challenges facing the judiciary across the country. In addition to the insight obtained from these panels, these discussions also serve as a valuable form of outreach and increase the perception by the judiciary that the ABA cares about the challenges judges face. The Standing Committee has heard from judges in North Carolina, Texas, Florida, Illinois, Tennessee, California, and Louisiana.

The Federal Courts Civil Data Project, which was initiated by the Standing Committee on Federal Judicial Improvements (SCFJI), was continued by the SCAJS and resulted in a roundtable meeting in October 2015 that was co-hosted with the Duke Law Center for Judicial Studies. The roundtable was composed of 29 participants, including representatives from the Federal Judicial Center, members of the United States Judicial Conference (including its Executive Committee and Committee on Information Technology), representatives of the AO (and judicial members of its Electronic Public Access Working Group), the Department of Justice, and the NCSC. Other participants included academics, litigators, and federal Judges, Magistrate Judges, and Clerks from United States Courts of Appeals, District Courts, and Bankruptcy Courts. Participants discussed data collection methods used by researchers employed by the courts and related entities; data collection purposes, processes and capabilities; the federal judiciary’s policy considerations related to research by academics; trends in state court data collection; the challenges faced by academics in accessing federal court data; lawyers’ need to obtain reliable data; judicial considerations; and next steps for the project. As a direct result of the roundtable, the AO created a streamlined process for academics seeking access to PACER to request fee waivers. This benefits judges, lawyers, and legal academics by improving the quality, accessibility, and usefulness of data about federal civil cases.

The SCAJS’s Fair Courts/Media Project seeks to improve public perception of courts and increase understanding of the role of courts by the public, the media, and policymakers in order to reduce the politicization of the judiciary and develop better support for the judicial system. The most significant accomplishment of the Fair Courts/Media Project has been the Judicial-Media Knowledge Exchange Workshop, which took place in Missouri. More than 80 judges and journalists from across the state attended this innovative workshop. Judicial participants
represented the Supreme Court of Missouri, more than two-thirds of the state’s circuit courts, all three appellate districts, and the United States District Court for the Eastern District of Missouri. Media participants represented daily and weekly newspapers, radio, television, legal media outlets, and the Missouri Press Association. The workshop facilitated the exchange of information directly between participants through roundtable discussions, structured question and answer sessions, and jointly presented programming. Not only did the workshop increase communication and understanding between the judicial branch and the media, but it also laid the groundwork for building relationships between the individuals who participated. The findings from the workshop and follow-up interviews with state and federal judges are being compiled to create a guide for courts that: (1) provides specific ideas for how to directly engage with the media to develop relationships that facilitate communication, (2) suggestions for ways to communicate with the public, and (3) information learned from public opinion research into how the public obtains information about the courts. This will serve all judges and lawyers, as well as the public, by improving the quality and accuracy of media coverage of the courts. This workshop was followed by a nationally available webinar publicizing the issues raised at the workshop and the suggestions for improvement in court-media relations.

One of the SCAJS’s accomplishments during Wm. T. (Bill) Robinson III’s unfortunately brief tenure as Chair was the creation of a narrated PowerPoint presentation about judicial independence, “Protecting Our Judiciary: What Judges Do And Why It Matters,” at the request of then-ABA President Linda Klein. The presentation and other resources are available at www.ambar.org/ProtectOurJudiciary. In addition, Mr. Robinson participated in the Judicial-Media Knowledge Exchange Workshop, oversaw follow-up public opinion polling, and encouraged the SCAJS to continue prioritizing its Fair Courts/Media Project. Mr. Robinson was also serving as President of the Board of The National Judicial College (NJC) at the time of his death. With the shared loss of Mr. Robinson’s leadership and friendship, and a shared interest in topics related to courts and the media, the NJC co-sponsored the 2017 Forum on Judicial Independence and a reception that followed. A highlight of the reception consisted of festive memorials and remembrances of Mr. Robinson to the delight of his spouse, Mrs. Joan Robinson, and law partner, Palmer G. (Gene) Vance. This collaboration by the NJC and SCAJS will continue at the 2018 Forum on Judicial Independence as these parties explore the possibility of future sustainable projects related to courts and the media.

In FY2018, the SCAJS undertook the “Defending Justice” online essay series in partnership with the ABA Journal. This weekly series has created a forum for thoughtful and thought-provoking essays about topics related to judicial independence written by prominent judges, lawyers, ABA members, and advocates for fair, impartial, effective courts. We have already published essays by ABA President Hilarie Bass, ABA President-Elect Robert M. Carlson, former ABA Presidents James R. Silkenat and William C. Hubbard, as well as many other leaders within the ABA and from partner organizations. In addition, we have received and are awaiting publication of essays by other former ABA Presidents, current state supreme court justices, and other luminaries in the legal profession.

The SCAJS has also undertaken a revision of its “Rapid Response” booklet, which is a valuable resource for bar association leaders when responding to unjust criticism of the judiciary. Each year at the Bar Leadership Institute, bar executives and presidents-elect eagerly take copies to
help guide them through the challenges that lie ahead. Among other updates, the revised version includes discussion of “fake news” and social media.

In fulfillment of its jurisdiction, the SCAJS makes recommendations to the House of Delegates to improve and enhance the American judicial system, support and protect fair and impartial courts, and ensure adequate funding of the American judicial system. Most recently, Resolution 104 was adopted at the 2017 Annual Meeting in opposition to restructuring the United States Court of Appeals for the Ninth Circuit. The Chief Judge of the Ninth Circuit expressed gratitude to the SCAJS for sponsoring the resolution, and just weeks after adoption of the resolution, former Chair of the ABA House of Delegates Patricia Lee Refo submitted a statement to the Senate Committee on the Judiciary Subcommittee on Privacy, Technology and the Law expressing the ABA’s opposition to restructuring the Ninth Circuit and urging Congress to fill vacancies and provide resources to improve the administration of justice. At the 2017 Midyear Meeting, the House of Delegates adopted Resolution 102, which provided a framework for courts to use in implementing the recommendations of the Conference of Chief Justices’ Civil Justice Improvements Committee as set forth in the report, Call to Action: Achieving Civil Justice for All. The SCAJS also worked closely with the Section of Litigation on Resolution 103B related to amending the federal diversity jurisdiction statute, which was adopted by the House of Delegates at the 2015 Annual Meeting.

III. The SCAJS is uniquely qualified to carry out its important work within the ABA

For nearly fifty years, since the establishment of the first of the SCAJS’s predecessor entities, it has filled a unique role within the Association by studying and making recommendations for improving the American judicial system. The first iteration of the SCFJI was created in 1971, at the urging of Chief Justice Warren E. Burger, and the first iteration of the SCJI was created in 1996. SCFJI and SCJI existed as Standing Committees since 1983 and 1999 respectively until they were consolidated in the SCAJS in 2014. The longstanding status of the SCAJS and its predecessors as standing committees reflects the Association’s long history of prioritizing the improvement and protection of an independent judiciary. The need for the SCAJS and its predecessors came about because of continuing issues of concern regarding the courts and the administration of justice on which other Association entities, including the Judicial Division, were constrained in their ability to advocate by ethical rules, possible perception of bias, and other limitations including ABA policy.

The SCAJS is able to speak on behalf of the federal and state judicial systems when these courts and judges cannot or should not speak for themselves, as well as when they need an ally to improve and protect the American judicial system. Instances when the SCAJS’s voice and expertise are needed range from defending against attacks on judicial independence, fair courts, and individual judges to advocating for adequate court funding at all levels of the judicial system to assisting with amicus briefs to proposing policy on issues such as judicial selection, judicial disqualification, court administration, and other issues affecting the state and federal judicial systems. The members of the SCAJS, the majority of whom cannot be judges, are appointed by the ABA President and possess the necessary expertise and experience to fulfill the SCAJS’s mission. There is no other entity within the ABA or outside that can carry out the SCAJS’s important work on behalf of the American judicial system.
IV. The SCAJS should be fully funded in at least the amount of $309,677

The SCAJS should be fully funded in at least the amount of $309,677, or whatever final amount results in no reduction of discretionary funding and fully funds all automatically populated staff-related expenses.

In FY2011, the combined discretionary budget (excluding automatically populated staff-related expenses) for the SCJI and the SCFJI was $134,400, which was reduced slightly to $133,700 in FY2012. The SCJI’s budget was cut by approximately 9% in FY2013, and the SCFJI’s budget was cut by approximately 27%, for a total discretionary budget of $114,231. The total discretionary budget was $115,168 in FY2014 and $116,078 in FY2015. The nominal increases of just more than $900 were due to reductions in automatically populated expenses after the total budget was approved. In FY2016 and FY2017, the SCAJS’s discretionary budget remained flat at $116,078. In FY2018, the SCAJS had its discretionary budget cut by over $27,000 to $88,864—a more than 23% reduction. The table below shows the total discretionary budget for the SCAJS Subcommittee on State Courts/SCJI and the Subcommittee on Federal Courts/SCFJI from FY2011 through FY2019 (budgeted expenses entered in ABACUS in May 2018).

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No other potential funding sources (investment balances, program support funds, and fundraising initiatives) are available to mitigate the proposed budget cut. From a practical standpoint, even if other funding sources were available—which they are not—the process of identifying and developing relationships with funders, submitting grant applications, and going through the grant process, usually takes in excess of a year. Standing Committees cannot maintain reserves, so the SCAJS has no investment balances. The SCAJS may consider proposing the creation of a Program Support Fund in the future if it identifies a multi-year project for which one would be appropriate. However, a Program Support Fund could not mitigate the proposed budget cut since such funds must advance public service and law-related education projects and/or programs, not salaries, fringe benefits, taxes, space allocations, member travel, staff travel, group functions, printing, postage, conference calls, and the other basic operations that are funded by the SCAJS’s General Operations budget.

Although significant outside funding is not currently an option, the SCAJS is always seeking ways to reduce expenses, which includes seeking funding from other sources. The cost of the Federal Courts Civil Data Project roundtable described above was shared with the Duke Law Center for Judicial Studies, without which it could not have taken place. The NJC covered the cost of the reception that followed the 2017 Forum on Judicial Independence using outside funds it received that were earmarked for projects related to courts and the media. At the 2017 Annual Meeting, the SCAJS met at the law firm of one of its liaisons to save money, and was grateful that the law firm covered the cost of catering. Similarly, the SCAJS met at a member’s law firm for its 2018 Spring Planning Meeting, and the member and his law firm covered various costs associated with the meeting.
The SCAJS received a generous grant from the Open Society Foundation (OSF) which allowed it to host the Judicial-Media Knowledge Exchange Workshop described above, and conduct focus groups and public opinion polling. Unfortunately, the OSF advised the SCAJS that its priority areas had changed and it would be unable to provide further grant funding. Prior to that shift in priorities, the program officer at the OSF, as well as program officers at other organizations that might support the work of the SCAJS such as the Joyce Foundation and the Piper/Proteus Fund, explicitly stated that they may be interested in funding new, ambitious projects, but only if the SCAJS’s staff expenses, meeting expenses, other basic operational expenses, and existing projects are fully funded by the ABA. If the SCAJS’s budget is restored for FY2019, it will actively investigate potential funding sources for new projects, but such funds would not mitigate any cuts now or in the future, because funders insist on adequate institutional support.

In recent years, first to be fiscally responsible, and then also to address budget cuts, the SCAJS has repeatedly reduced its expenses related to meetings and travel. The SCAJS has reduced the available member reimbursement, and currently provides up to $350 airfare/train/mileage, and up to $100 per diem for up to two days based on participation, for a maximum total reimbursement of $550. In FY2018, the SCAJS eliminated reimbursement for ground transportation. In its first year, FY2015, the SCAJS spent $42,521 on group functions. That amount was reduced to $38,411 in FY2016, to $28,751 in FY2017, and to a budgeted amount of $21,000 in FY2018. In addition, the SCAJS has increased the ticket price for its Committee Dinner at the Annual Meeting and has begun charging for dinner at its stand-alone business planning meetings.

In its FY2019 Annual Plan, the SCAJS confirmed that, as it had warned in its FY2018 Annual Plan, the only way to absorb such a significant cut was the elimination of one of its business meetings, as a result of which it discontinued its participation in the Midyear Meeting. In response to a request for more information about the SCAJS’s meetings, on May 1, 2018, it reported that until FY2018, the SCAJS met four times per year for business planning meetings (as did each of its two predecessor entities, the SCFJI and SCJI, for a total of eight meetings per year prior to FY2015). The SCAJS explained that, once it became clear that a meeting would have to be eliminated, it was an easy decision not to meet at the Midyear Meeting, because that was the only way to preserve the SCAJS’s stand-alone meetings. The SCAJS accomplishes significantly more at its stand-alone Fall and Spring Planning Meetings because members are focused on the work of the SCAJS rather than coming and going from the SCAJS meeting due to other ABA obligations. The SCAJS business planning meetings are highly interactive and consist primarily of group discussions, including the “state of the judiciary” discussions with state and federal judges described above, so it is important that members can participate fully without distractions. In addition, the costs are lower for the SCAJS’s stand-alone meetings because it can negotiate with hotels and caterers to best meet its needs. For example, compared to Midyear and Annual, at its stand-alone meetings the SCAJS obtains lower hotel room rates, free Wi-Fi in meeting rooms, never has to pay for electricity to plug in laptops in meeting rooms, can select locations with lower service fees and taxes, always selects hotels with lower-priced food and beverage, can get last-minute materials printed by the hotel at no cost, and can sometimes earn small commissions on its hotel room block.
In choosing between Midyear and Annual, it made more sense not to participate in the Midyear Meeting, because the turnout is lower than at Annual, there are fewer resolutions before the House, and the SCAJS does not typically present programs at Midyear. The primary factors weighing in favor of Midyear over Annual are that members have even more conflicting obligations at Annual and, most importantly, the Annual Meeting is held in significantly more expensive cities with respect to hotel room rates, A/V costs, food and beverage costs, and service fees and taxes. Like the Midyear Meeting, the Annual Meeting is also less productive than the SCAJS’s stand-alone meetings due to members’ other ABA obligations and the dispersion of meetings and programs at locations not always in close proximity. However, for now it would be difficult to eliminate participation in the Annual Meeting, because members would be upset, there are often resolutions before the House that are of interest to the SCAJS (some of which require votes on whether to support in the days just beforehand), there are valuable opportunities to connect with ABA leaders and leaders of partner organizations, and because the SCAJS very much wants to continue presenting its successful Annual Forum on Judicial Independence, which will be presented for the eighth consecutive year in 2018.

We urge the Finance Committee to recommend FY2019 full funding for the SCAJS in at least the amount of $309,677 so the SCAJS can continue doing its important work and the ABA can continue to be seen as a strong supporter of the American judicial system.
To: ABA Board of Governors  
From: Former Chairs of the SCAJS, SCJI, and SCFJI  
Date: June 6, 2018  
Re: Objections to discontinuing or reducing funding for the Standing Committee on the American Judicial System in FY2019

As former Chairs of the Standing Committee on the American Judicial System, the Standing Committee on Federal Judicial Improvements, and the Standing Committee on Judicial Independence, as well as being ABA members who care about fair courts and the rule of law, we write to express our dismay that the Finance Committee has recommended discontinuing funding for the Standing Committee on the American Judicial System (SCAJS) for FY2019, beginning in September 2018. The effective elimination of the SCAJS, which addresses some of the most fundamental issues to the ABA and the preservation of the rule of law, would permanently undermine the relevance of the Association and its unique role as the voice of thousands of lawyers throughout the country.

We urge the Finance Committee and the Board of Governors to maintain the FY2018 level of funding, particularly given that the SCAJS has already sustained significant budget cuts over the past few years.

The SCAJS fills a critical role on major issues affecting the judiciary. Along with the ABA’s President and Governmental Affairs Office, the SCAJS is able to advocate on behalf of the federal and state judicial systems when these courts and judges cannot or should not speak for themselves, as well as when they need an ally to improve and protect the American judicial system. Instances when the SCAJS’s voice and expertise are needed range from defending against attacks on judicial independence, fair courts, and individual judges to interacting with the members of the media to improve their understanding of judicial proceedings, advocating for adequate court funding at all levels of the judicial system, including administrative courts such as the immigration courts, to assisting with amicus briefs, to proposing policy on issues such as judicial selection, judicial disqualification, court administration, and other issues impacting the state and federal judicial systems. The President and the GAO must tackle many issues, while the SCAJS remains focused on the courts.

When the House of Delegates created the SCAJS less than four years ago, expanding the jurisdiction of the SCAJS’s predecessors, adding honorary co-chairs, and naming it the Standing Committee on the American Judicial System to reflect its broad charge, it sent a strong message that being a national voice on behalf of the American judicial system was among the Association’s highest priorities. Building upon the accomplishments of our its predecessors, the SCAJS has quickly achieved success, even while being subject to budget cuts, staff reductions, and other challenges the past few years.

Part of the success of the SCAJS can be attributed to the leadership of its first three Chairs. The inaugural Chair, David F. Levi, former Chief Judge of the Eastern District of California, Dean at Duke Law from 2007–2018, and now President of the American Law Institute, quickly elevated the stature of the SCAJS, and strengthened relationships with the Administrative Office of the United State Courts, the Federal Judicial Center, leadership of the United States Judicial
Conference, and state and federal judges across the country who were invited to the SCAJS business planning meetings—including many of the signatories to this letter. Former ABA President Wm. T. (Bill) Robinson III served as Chair of the SCAJS from August 2016 until his untimely death in May 2017. He brought to the SCAJS a lifetime of service to the courts and the bar, and his passion helped continue to propel the SCAJS forward. Since Judge Herbert B. Dixon, Jr. (Ret.) became the Chair in August 2017, the highest profile project he has spearheaded has been the weekly “Defending Justice” online essay series in partnership with the ABA Journal, which has shone a spotlight on issues related to judicial independence. Two of us have written essays, and we all appreciate that, through this series, the ABA is ensuring there is an ongoing, public dialogue about such a critical topic.

An important value of the SCAJS to the ABA and others is coordination of activities with other entities engaged in related work. National organizations, court-related entities, state and local bar associations, and others concerned with issues impacting the judiciary send liaisons to the SCAJS business planning meetings, seek substantive input from the SCAJS, collaborate with the SCAJS on projects and programs, and consider the SCAJS an invaluable partner in the important work of preserving a fair, independent, effective judicial system.

As a result of the work of the SCAJS, the ABA is recognized for its leadership role in defending the independence of the American judicial system and vigorously responding to unfair attacks on the judiciary. By this action to defund the SCAJS, the Finance Committee has created a perception, which alarms us greatly, that the Association is not just retreating from those leadership roles, but abandoning its long-standing commitment to support and defend the American judicial system.

As the People increasingly look to the courts to preserve the rule of law and our democratic values, how will it appear to the public and our members if the ABA defunds the sole committee of lawyers within the ABA dedicated to supporting and defending the courts?

At a time when our state and federal courts are subject to political attacks, budget reductions, and increasing caseloads, the recommendation to defund and render impotent the ABA’s Standing Committee best suited to protect and defend the American Judicial System is shortsighted at best. We urge the Finance Committee to withdraw its recommendations and maintain the FY2018 funding level.

Sincerely,

David F. Levi
Chair, Standing Committee on the American Judicial System (2014–2016)

Michael H. Reed
Chair, SCAJS Subcommittee on Federal Courts (2014–2017)
Chair, Standing Committee on Federal Judicial Improvements (2013–2014)
Alan T. Dimond
Chair, SCAJS Subcommittee on State Courts (2014–2016)

Peter Bennett
Chair, Standing Committee on Judicial Independence (2011–2014)

William K. Weisenberg
Chair, Standing Committee on Judicial Independence (2008–2011)

Thomas Z. Hayward, Jr.
Chair, Standing Committee on Federal Judicial Improvements (2001–2003)
June 5, 2018

Dear Members of the Board of Governors:

I was dismayed to learn of the recommendation to discontinue funding to the Standing Committee on the American Judicial System ("SCAJS"). The American legal system is in crisis, and the SCAJS is an important partner in working to ensure that courts are a place where all people have confidence that they will be treated fairly.

When I left the bench of the Colorado Supreme Court in 2006 to establish IAALS, it was because I made a commitment to do everything I could to make the courts trusted and trustworthy. IAALS, the Institute for the Advancement of the American Legal System, is a national, independent research center at the University of Denver dedicated to facilitating continuous improvement and advancing excellence in the American legal system. Our mission is to forge innovative and practical solutions to problems in our system in collaboration with the best minds in the country. It would be a shame to no longer work in collaboration with the SCAJS.

As part of our DIALOGUES series, IAALS brings together judges, attorneys, scholars, and citizens from around the country to take on the challenges facing our legal system and develop recommendations and solutions. The SCAJS has been our partner on a number of occasions in those efforts. Most recently, the SCAJS participated in a convening on Goals and Principles for Judicial Disciplinary Systems that IAALS hosted in March 2018. In late 2016, the SCAJS participated in a convening to consider best practices for judicial recusal procedures. Should the SCAJS’s funding be eliminated, the institutional knowledge and insights that the SCAJS brings to these convenings would be lost.

As we all know, the civil justice system is in desperate need of reform. In 2013, the Conference of Chief Justices created a 23-member Civil Justice Improvements ("CJI") Committee with the assistance of IAALS and the National Center for State Courts. The recommendations of that Committee as set forth in the report, Call to Action: Achieving Justice for All, were adopted by the Conference of Chiefs in July 2016. Fundamental to the recommendations is that courts take definitive responsibility for managing civil cases from filing to disposition. However, the recommendations also make clear that lawyers and bar associations have an important role to play. Working in collaboration with IAALS and the National Center for State Courts, the SCAJS brought those recommendations to the American Bar Association at the 2017 Midyear Meeting, when it sponsored a resolution which urged all courts to consider the CJI recommendations, urged all courts to develop and implement a civil justice improvements plan, and urged bar associations to promote the CJI recommendations and to collaborate to improve the delivery of civil justice.

The SCAJS also hosted a CLE program at the 2017 Midyear Meeting at which the recommendations were publicly presented for the first time. The panelists included Chief Justice Thomas A. Balmer of the Supreme Court of Oregon, Administrative Judge Jennifer D. Bailey of the 11th Judicial Circuit Court of Florida, Chief Justice Wallace B. Jefferson (Ret.) of the Supreme Court of Texas, and
Hannah Lieberman, Associate Dean for Clinical and Experiential Programs at the David A. Clarke School of Law. Chief Justice Balmer served as Chair of the CJI Committee, Judge Bailey was Chair of the CJI Court Operations Subcommittee, and Chief Justice Jefferson and Dean Lieberman were members of the CJI Committee. The moderator was Don Bivens, former Chair of the Section of Litigation and Chair of the Arizona Committee on Civil Justice Reform. By sponsoring the resolution and program, the SCAJS played an important role in disseminating and promoting the CJI recommendations. Without the SCAJS, there would be no natural partner within the ABA to share future recommendations.

The crisis in the American judicial system requires the attention of all stakeholders, including the American Bar Association. The SCAJS is an important national partner in the pursuit of justice for all – and we urge you to prioritize their continuing work.

Thank you for your time.

Sincerely,

Rebecca L. Kourlis  
Executive Director

RLK:cb
The Standing Committee on Disaster Response and Preparedness is appealing the full amount of the $116,000 reduction contained in the provisional recommendation made by the Executive Committee to merge the work of the Standing Committee into the Law Practice and Technology Group.

The Standing Committee is appealing the provisional recommendation based on the following factors: (A detailed memo, explaining our rationale is attached to this form)

1) Due Process – The Standing Committee received no notice that the Board was considering sunsetting or combining its work with another entity. It was not part of a list of other entities that received an entity questionnaire from the Member Services Group of the Board in September 2017.

2) Diluted Interests – The work of the Standing Committee goes beyond the scope of the focus of the entities in the Law Practice Management Group. Since late August 2017, the Standing Committee has been focused on raising the profile of all aspects of the ABA’s response to disasters, which extends beyond the excellent and necessary work of the Young Lawyers Division (YLD) Disaster Legal Services (DLS) program, which we fully support in our work and outreach efforts.

3) Unique Nature of the Standing Committee – The Standing Committee plays a unique role in the ABA’s role of disaster legal relief and it should continue as a separate entity. The Standing Committee’s focus on disaster response serves existing members and has attracted new members because of its external and outward, community-facing work, and it also serves as a crucial coordinator of ABA efforts and facilitator of projects and fundraising as an independent, presidentially appointed entity.

4) Revenue Potential of the Standing Committee – The Standing Committee was not created with the mission of raising external funding, instead its work has focused on providing resources to lawyers, law firms, and the public. Though, we have worked with ABA CLE on developing CLE programming, and in fact following the 2017 hurricane season, we developed a series of webinars focused on disaster relief.

The Standing Committee believes that in order for the ABA to remain an effective leader and voice on the important subject of disaster legal relief that it should remain an independent, presidentially-appointed entity so that it may continue to advance all aspects of ABA work in this important area of disaster legal relief. At the current time, we are requesting full restoration of our FY2018-2019 funding, but given time and the opportunity to discuss other options are willing to take a reduction in general operations funding.

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*Please submit form to Christina.gazos@americanbar.org with a copy to Jack Rives and Bill Phelan.

Will there be a presentation of the appeal?  
- Yes**  
- No

**Name of Presenter:

For Department Use Only:  
Resolution of Appeal  
- Approved  
- Denied
The Standing Committee on Disaster Response and Preparedness (Standing Committee) is appealing the provisional recommendation of the Executive Committee that the work of the Standing Committee be merged into the Law Practice and Technology Group (LP&TG) as well as the reduction of $116,000 from its general operations funding. It is our understanding that this reduction includes costs of $80,270 associated with the salary of our Director, Elizabeth Yang, a 22-year employee of the ABA, in addition to the $35,730 discretionary budget contained in the committee’s Basic Support budget.

The work of this Standing Committee is directly connected to the welfare of the legal community in this country, the promotion of the rule of law, especially for those who are underprivileged and immigrants during times of disaster, and the fair and just administration of our legal system. We believe that the recommendation to merge the Standing Committee should be withdrawn and our appeal should be granted based on the following important factors: Lack of Due Process, Diluted Interests, Unique Nature of the Standing Committee, and Revenue Potential of the Standing Committee.

Lack of Due Process

The Standing Committee received no notice or warning that the Board of Governors (Board) was considering sunsetting or combining its work with another entity. As you are aware, the Standing Committee was created by the House of Delegates in 2013 and cannot be dissolved by the Board. Therefore, at the very least, the Standing Committee should have received prior notice of the Board’s recommendation and given the opportunity to defend its existence before the Board. The Standing Committee was not part of a list of other entities that received an entity questionnaire from the Member Services or Profession, Public Service, and Diversity Committee (Board Committee) in September 2017. Other entities were afforded an opportunity, beyond the normal and routine process of annual planning, to explain in greater detail their focus of work, whether duplicative or not, and to make an argument against being combined with another entity or being sunset. It is our understanding that these entities were given the opportunity to respond to the following questions below:

1. How does this program/activity serve existing members?
2. Does this program/activity attract new members? If so, how?
3. What impact does this program/activity have on membership/dues?
4. Does this exhibit the uniqueness of the ABA (or are there other external programs that address the same issues)?
5. Is this program/activity duplicative or redundant of an existing program/activity within the Association?
6. Is this program/activity duplicative or redundant of an existing program/activity outside of the Association?

7. Are there other programs/activities that could be combined with this one to increase the effectiveness of the ABA in this area? If so, please name and explain the potential relationship.

8. What would the impact, if any, be on the Association/profession/justice system/public if this program/activity was sunset?

We believe that had we been given the opportunity to provide in-depth written responses and then provide follow-up verbal responses to questions by reviewers that this provisional recommendation would not have been made. Our inclusion in the Board Committee inquiry would have afforded the Board the opportunity to understand the work of the Standing Committee and how it impacts the ABA, our members, and the public. We will attempt to answer as many of the above questions as we can in the remainder of this appeal. However, in light of the deadline of the appeal and a combination of already planned travel and work schedules of staff and members, we regret that timing will not allow us to provide as in-depth a response as we could have provided as part of the Board Committee review process.

The work of the Standing Committee has been successful and we continue to meet our mission and expand the scope of our work. Notably, the Standing Committee has never received a negative review from the Committee on Scope and Correlation of Work nor have we received any prior directives that the mission and focus of the Standing Committee should change. In fact, it was based on the recommendation of SCOPE in its 2013 (only 5 years ago) review of the Standing Committee, then the Special Committee on Disaster Response and Preparedness, that the Special Committee apply to become a Standing Committee based on the importance of its work. Also, in the horrific aftermath of the 2017 hurricane season, the Standing Committee was lauded for its work and response, on behalf of all parts of the ABA working on legal disaster relief, from all sectors of the Association, including leadership, staff, volunteers, and ABA groups.

We urge the Board to not adopt the provisional recommendation of the Executive Committee and not to merge one of its most valuable Standing Committees due to a lack of due process. We should be afforded the opportunity to explain the breadth and depth of our work before any decision is made to merge the work of the Standing Committee and reduce its general operations funding.

Diluted Interests

Merging the work of the Standing Committee to LP&TG will have the unintended consequence of diluting the strength of the ABA’s disaster work because the work of the Standing Committee goes far beyond the scope of the entities in LP&TG. Since late August 2017, together with our Director, who has spent over two decades facilitating and building relationships across all sectors of the ABA (staff, entities, volunteers, and leadership), we have been focused on raising the profile of all aspects of the ABA’s response to disasters, which extends beyond the excellent and necessary work of the Young Lawyers Division (YLD) Disaster Legal Services (DLS) program, which we fully support in our work and outreach efforts. We also know that the Law Practice Management Section (LPM) has focused much valuable time and effort on preparedness for and assisting lawyers and their law practice recover from disasters. There is no doubt that programs that focus on efforts that will assist lawyers in need are crucial and a necessary role for the ABA. In fact, in the aftermath of the disasters this past year, our Director reached out to ABA Member Advantage to see what discounts we could offer lawyers who had been impacted by the various disasters that had occurred. Also, the General Counsel of the Small Business Administration (SBA) contacted our
Director, and both have been working to draft a strategy and possible collaborative efforts between the ABA and the SBA going forward during a disaster. We facilitated postings of temporary job opportunities related to SBA applications following a disaster for lawyers and law firm personnel and worked with the SBA to give priority to survivors of disasters. Additionally, through the Standing Committee, the Senior Lawyers Division (SLD) has expressed interest in playing a role in disaster relief and recovery. Our Director has been working with the Chair of SLD to develop an opportunity for the SLD in disaster legal relief. In fact, following an invitation from the Hispanic Bar of Pennsylvania, our Director presented on the ABA role in disaster legal relief at a CLE on aiding Puerto Rican survivors of Hurricane Maria that have evacuated to Philadelphia. Following this presentation, our Director reached out to the SLD and proposed a program for SLD to assist disaster evacuees who have fled to the mainland. This program is still in the stage of exploration, but our Director and the Chair of SLD were able to meet with the pro bono counsel at Pepper Hamilton in Philadelphia to develop a plan and strategy going forward.

We applaud the work of the LP&TG in disaster legal relief, but we know that the focus of ABA disaster efforts is not just limited to the important work of that Group. Without a doubt the DLS program is the linchpin of ABA efforts, but there is also so much more that has been done by the Standing Committee and will be done in this area that cannot be confined to the efforts of LP&TG. The Center for Pro Bono (Center) also plays a valuable role in disaster legal relief, and at present time we are working very closely with the Center on the 2018 National Celebration of Pro Bono which will feature disaster legal relief and recovery. This theme came about from discussions between our Director and staff of the Center. At present time, our Director is working with the Center to solicit and create a library of CLE offerings to assist pro bono lawyers who would like to offer disaster legal relief. The Section of State and Local Government Law (State and Local) is also very active in disaster relief and recovery and about resilience and prevention – we also work very closely with State and Local on publications relating to resilience. And certainly, the Sections of Tort Trial and Insurance Practice, Litigation, Taxation, and many other ABA entities also offer CLE and publications on the topic as well. Additionally, the Center for Innovation has developed Flood Proof, an app created following flooding in Baton Rouge, which assists survivors in proving heirship rights to property in order to file for Federal Emergency Management Agency (FEMA) assistance following a disaster. We have also been working with the Center for Innovation on expanding Flood Proof beyond heirship rights by soliciting additional funding and assisting in contacts with bar associations and legal service providers to help further development and implementation of the app. The breadth and scope of ABA disaster work is growing, especially considering the 2017 disaster season, including hurricanes and wildfires in the west, and will only expand further as there are unfortunate predictions of more devastating disasters on the horizon. We believe that placing the work of the Standing Committee in a single entity, especially one that houses the DLS program, would have the effect of diluting the efforts of the Standing Committee in this last year to work across ABA silos and to develop strong and growing relationships between all parts of the ABA. The Standing Committee and its Director have worked very hard this past year to publicize all ABA efforts in disaster legal relief and to place the ABA as a leader in this important area of the law.

Unique Nature of the Standing Committee

The Standing Committee plays a unique role in the ABA’s role of disaster legal relief and it should continue as a separate entity. The Standing Committee’s focus on disaster response serves existing members and has attracted new members because of its external and outward, community-facing work, and it also
serves as a crucial coordinator of ABA efforts and facilitator of projects and fundraising as an independent, presidentially appointed entity.

In 2005, when Hurricane Katrina struck New Orleans, LA, there was no ABA entity uniquely suited to address issues facing attorneys affected by disasters. The Standing Committee was born as a Special Committee and because of the increasing need for resources for lawyers in areas affected by disaster, it was promoted to a Standing Committee. Since that time, disasters have increased and so have the needs of lawyers in this area. As a result, other ABA Committees, Sections and Divisions have heavily relied on resources provided by the Standing Committee to address disaster response and preparedness of their members. The Committee has a unique relationship with Legal Services Corporation and FEMA that is unparalleled in the ABA. Additionally, the Standing Committee has hosted disaster poverty simulations in numerous cities across this country. Importantly, in April 2018, we hosted our inaugural Disaster Legal Relief Roundtable in Houston, bringing together national, state, and local experts to discuss a strategy for disaster legal relief going forward. Such events raise the stature of the ABA in the disaster legal relief arena and place it as a proactive thought leader and convener of thoughtful change. We encouraged members of the legal community who were not ABA members to join. We strongly believe that grassroot efforts such as these are a wonderful membership incentive and allow the ABA to shine in the community.

Disaster recovery is largely publicly-funded and requires relevant legal professionals to engage with non-legal survivors, administrators and elected officials. Many aspects of disaster recovery require public and private lawyers to work in tandem for efficient outcomes. In fact, the structure and the make-up of individuals who are appointed to the Standing Committee reflect this reality. We are proud to have on our committee a unique host of disaster preparation experts who work in government, the private bar, and other legal organizations, all of whom bring together their collective experience working in and out of the legal profession for disaster relief. Our current roster includes a former general counsel of FEMA, a legal service provider, a risk and mitigation expert, a representative from the CDC, as well as other members of the private bar. As such, the lens of the Standing Committee is broad and varied, as it is rooted and touches upon all aspects of disaster relief and expands upon partnerships with other professions to address these realities and serves to only improve the important role the ABA plays in disaster planning, response, and recovery.

The Standing Committee’s role in the ABA is not duplicative nor does it overlap with other programs. In fact, we are the leader in providing resources to lawyers in disaster preparation and response. The Standing Committee is also unique in that its placement as an independent entity allows it to serve as impartial broker of projects and relationships among interested entities with an interest in providing disaster relief services. In fact, in early 2018, as part of a staff and volunteer gathering of entities with a focus on disaster relief and recovery, it was determined that the Standing Committee and its Director, as experts in varied disaster response areas, was the appropriate coordinator and facilitator of providing information, resources, and more partnerships on ABA efforts. The 2018 National Celebration of Pro Bono is indicative of the success of that strategy. The Celebration will focus on partnerships between ABA entities and external entities. Our Director, utilizing relationships built in the aftermath of the 2017 hurricane season, with ABA entities, various state and local bar association, legal services providers, government entities, and non-governmental organizations, is working on a repository of CLE materials and initiatives and programming that will provide less duplication of effort and more effective disaster legal relief and recovery going forward.
Additionally, the Standing Committee, through its Director, has been working very closely with the ABA Director of Development and the Fund for Justice and Education (FJE) on soliciting funding for ABA efforts on disaster relief. Our Director has worked with the FJE on drafting a development strategy for disaster legal relief, spoken with potential funders, and worked with the FJE on ensuring that funds collected are distributed in a manner that maximizes ABA efforts in this important area of the law. We have worked together to direct funding toward the DLS program, Center for Innovation, and various state and local bar associations and legal services providers in Puerto Rico, US Virgin Islands, and American Samoa.

The work of this uniquely placed Standing Committee has resulted in the provision of materials to ABA members to help them prepare for a disaster. Continued trainings and programming provided by and facilitated by the Standing Committee keeps this important issue in the forefront of the legal profession and lets the public and our members know of our commitment to disaster legal relief. The Standing Committee also brings together attorneys to help survivors of a disaster, which benefits the public and hopefully mitigates some of the negative PR in which the profession is sometimes perceived. The Standing Committee’s impact on membership and its work are crucial to the public good and our legal profession and should not be discontinued, merged, limited or otherwise impeded.

**Revenue Potential of the Standing Committee**

The Standing Committee has never received prior notice that being a non-revenue generating entity was a detriment or that it could result in the merger of this Committee into another entity. If given the opportunity, the Committee is very capable of becoming a revenue generating entity. In light of its mission, our focus has been providing resources as membership incentives at no cost. For example, in 2017 the Committee held a successful webinar series co-sponsored by several entities, including the Section of Litigation and others. Over 300 attorneys participated in the webinar. In response to the 2017 Hurricane Season, the Committee was approached by ABA leadership to create a website for disaster relief. Immediately, the Standing Committee organized a 3-part webinar series at a major discount on disaster response and preparedness with speakers from the US Virgin Islands, Houston, Puerto Rico, New Orleans as well as representation from small firms. Any of these webinars could have been offered at the competitive CLE rate in order to generate more non-dues revenue. We are also working with the Section of State and Local Government Law on a publication on resiliency. The Committee is planning to revise its 2013 Disaster Toolkit. This toolkit was previously provided as a free resource to ABA members and the public. This is an excellent revenue opportunity that the Standing Committee can offer. Additionally, as stated above, the Standing Committee, through its Director, has been working with the FJE soliciting and securing contributions toward disaster legal relief on behalf of the ABA. Certainly, given notice and the opportunity, the Standing Committee could begin to apply for grant funding to support its work.

The Standing Committee is very aware of the financial constraints of the Association and the need for meaningful change that will ensure the success and financial stability of the ABA going forward. The Standing Committee is willing to create new opportunities to generate revenue and we are very able to expand our mission to include a plan to generate non-dues revenue, but we should be given the chance to do so. Our funding should be restored to a level to allow us to move forward and attempt to secure outside funding, if necessary. Additionally, we are very willing to work with staff to streamline our budget in various ways, including reducing the number of face to face meetings, conducting more telephone meetings, and/or limiting our meetings to Annual or Mid-Year Meeting.
**Conclusion**

The existence of the Standing Committee as a separate entity has been an invaluable asset to ABA members. We believe that given the opportunity to continue in FY2018-2019, with our staffing intact, that we can continue to provide the necessary leadership to the Association on this important topic of disaster legal relief and also that we can begin to become a self-supporting entity. Therefore, we ask that the Board reject the provisional recommendation to merge the work of the Standing Committee on Disaster Response and Preparedness into the Law Practice and Technology Group and preserve funding to allow us to create the proper framework that will benefit all ABA efforts in disaster legal relief moving forward.

cc: Scott LaBarre, Board of Governors Liaison  
    Jack L. Rives, Executive Director  
    Jim Dimos, Deputy Executive Director  
    Bill Phelan, Senior Associate Executive Director and CFO  
    Elizabeth M. Yang, Director, Standing Committee on Election Law  
    Christina Gazos, Director, Finance Planning
Requestor Name: Elizabeth Yang
Phone Extension: 1692
Department Name: Division for Public Services
Senior Manager: Jim Dimos
Name of Chairperson: Christopher Saucedo
Account String (Entity, Fund, Responsibility, and Line of Business):
01.04.13570.7010001
01.04.12310.0000000
Total FY 2019 Appeal Amount: $95,000
Program Support Fund(s) and/or Endowment Balance (Ending Net Assets) as of most recent month end, if applicable: n/a

Justification (provide other attachments as necessary)

The Standing Committee on Election Law is appealing the full amount, $95,000, of the discontinuation of its general operations funding as provisionally recommended by the Executive Committee. The Standing Committee appeals this recommendation based on the following factors: (A more detailed explanation, including how the work of the Standing Committee meets the goals and mission of the Association, is attached to this appeal.)

1) Lack of Due Process – The Standing Committee understands that in the Fall of 2017 that the Members Services Group of the Board of Governors (Board) reached out to several entities with an entity questionnaire that focused on gathering information about each entity, including providing arguments about whether or not each entity should be sunset or combined with another entity. This process was separate from the normal and routine annual planning process and the Standing Committee was not included, and thus was not given the opportunity, that was given to other entities, to explain its work in greater detail to the Board.

2) Unique Nature of the Standing Committee – The Standing Committee is a unique entity in the ABA, in that is purposely comprised with a partisan balance in mind. This ensures balanced programming and policy recommendations.

3) National Voice and Initiatives on Behalf of the ABA – The Standing Committee has served as the lead on several presidential initiatives on election law, spearheading the ABA response to various election law reforms or calls for civic participation. All of this work, in addition to the Standing Committee’s own projects, have brought national attention to the ABA’s work in election law, thereby positioning the ABA as a leader in this area of the law.

The Standing Committee believes that in this current time, when confidence in our electoral process is under attack, this is not the appropriate time to discontinue general operations funding for its important work on behalf of the Association, our members, and our nation. We understand greatly the financial difficulties faced by the ABA, and we can make a commitment to attempt to raise external funds going forward, but we ask at the current time that the Board not discontinue our general operations funding.

Detail by Expense Type of Appeal Amounts

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*Please submit form to Christina.gazos@americanbar.org with a copy to Jack Rives and Bill Phelan.*

Will there be a presentation of the appeal?  
- **Yes**  
- **No**

**Name of Presenter:** Christopher Saucedo, Chair, Standing Committee on Election Law

For Department Use Only:  
- Resolution of Appeal  
  - **Approved**  
  - **Denied**
Memorandum

TO:       Board of Governors
FROM:    Christopher T. Saucedo, Chair
            Standing Committee on Election Law
RE:      Budget Appeal of the Standing Committee on Election Law
DATE:    June 6, 2018

The Standing Committee on Election Law is appealing the full amount, $95,000, of the discontinuation of its general operations funding, which we assume to include staffing as well as our discretionary funding of $15,202 as provisionally recommended by the Executive Committee. The Standing Committee appeals this recommendation based on the following factors: lack of due process; the unique nature of the Standing Committee; and the role of the Standing Committee as the home of ABA presidential election law initiatives, and as a national voice and leader in election law.

Lack of Due Process

The Standing Committee understands that in the Fall of 2017 that the Members Services and Profession, Public Service, and Diversity Committee (Board Committee) of the Board of Governors (Board) reached out to several entities with an entity questionnaire that focused on gathering information about each entity, including providing arguments about whether or not each entity should be sunset or combined with another entity. This process was separate from the normal and routine annual planning process and the Standing Committee was not included, and thus was not given the opportunity, that was given to other entities, to explain its work in greater detail to the Board.

Simply put, we were not included in part of the rather lengthy and far-reaching Board Committee review, as evidenced by the questions below. We believe that had we been given the opportunity to provide in-depth written responses and then follow-up verbal responses to questions by reviewers that this provisional recommendation would not have been made. Our inclusion in the Board Committee inquiry would have afforded the Board the opportunity to understand the work of the Standing Committee and how it impacts the ABA, our members, and the public.

1. How does this program/activity serve existing members?
2. Does this program/activity attract new members? If so, how?
3. What impact does this program/activity have on membership/dues?
4. Does this exhibit the uniqueness of the ABA (or are there other external programs that address the same issues)?
5. Is this program/activity duplicative or redundant of an existing program/activity within the Association?
6. Is this program/activity duplicative or redundant of an existing program/activity outside of the Association?
7. Are there other programs/activities that could be combined with this one to increase the effectiveness of the ABA in this area? If so, please name and explain the potential relationship.
8. What would the impact, if any, be on the Association/profession/justice system/public if this program/activity was sunset?
We will attempt to answer as many of the above questions as we can in the remainder of this response. But, owing to the deadline of the appeal and a combination of already planned travel and work schedules of staff and members, we regret that timing will not allow us to provide as in-depth a response as we could have provided as part of the Board Committee review process. Additionally, the Standing Committee has never received a negative review from the Committee on Scope and Correlation of Work. In short, we feel that we received no prior notice that the work of the Standing Committee was in danger of being discontinued and that we should be afforded the opportunity to explain the breadth and depth of our work before any decision is made to discontinue our general operations funding.

Unique Nature of the Standing Committee on Election Law

The Standing Committee is unique vis-à-vis the ABA world in that its composition is intentionally different than other ABA entities. The Standing Committee is structured to represent a balance of political ideologies. Thus, appointments are made with the intention of ensuring equal political representation. The careful attention to bipartisan membership of the Standing Committee and its Advisory Commission allows for the formulation and recommendation of non-partisan positions for the ABA in the highly politicized area of election law. Members are chosen for their strong background in election law and the electoral process, and their ability to promote consensus and advance the non-partisan goals of the Standing Committee and the ABA. It is this uncommon, in the political process, mix of individuals from all sides of the political spectrum which has led to the Standing Committee’s reputation as a national expert on the topic of the electoral process. The composition of the Committee provides a delicate symmetry of opinions and ideas that are indicative of the Association and the Standing Committee’s ability to provide the most balanced and respected recommendations and programs on the political process. The work of the Standing Committee is rooted in the rule of law and centers on all aspects of the electoral process, thus, as advances in technology and changes in the electorate occur, the Committee remains committed to providing the Association with the most current programming and policy recommendations.

The Standing Committee on Election Law was created in 1973 with the purpose of developing and examining ways to improve the federal electoral process. Federal elections are administered on a state and local level and the process of voting also involves a myriad of issues related to technology, civil rights, and the government to name a few. Accordingly, there are ABA entities that focus in some part on the various aspects of election law that fall within their bailiwick, such as the sections of Administrative Law and Regulatory Practice, Civil Rights and Social Justice, Science & Technology Law, and State and Local Government Law. The Standing Committee works collaboratively with those entities on programming and policy as necessary in a co-sponsorship or consultative role as appropriate. However, the Standing Committee is the only ABA entity whose work is focused broadly and solely on election law. As such, the Standing Committee is charged with representing the Association’s commitment that the federal and each state’s election laws be legally sound and permit the broadest, least restrictive access by American citizens to the ballot box. Through its programming, policy development, and initiatives the Standing Committee has exhibited and dedicated a long and continuing history of direct service to the public as well as to members of the Association. As such, the work of the Standing Committee centers on all aspects of the electoral process, and as advances in technology and changes in the electorate and election administration occur, the Committee remains committed to
providing the Association with the most current programming, publications, initiatives, and policy recommendations.

This structure of the Standing Committee also inures to the benefit of ABA membership. There are many who perceive the Association to be a left-of-center organization, the Standing Committee ensures that the ABA’s work in election law is considered a bi-partisan effort that seeks greater participation in the electoral process, with no perceived ideological viewpoint, and reflects an inclusive organization that values the outlook and viewpoint of all lawyers. In addition, the work of the Standing Committee in this important area of our nation’s democracy is a means of recruiting and retaining members as our programming and activities stress the priority that the ABA places on ensuring that our electoral process is inclusive while adhering to the rule of law.

National Voice and Initiatives on Behalf of the ABA

The Standing Committee has served as the lead on several presidential initiatives on election law, spearheading the ABA’s role in election law reforms or calls for civic participation. All of this work, in addition to the Standing Committee’s own projects, have brought national attention to the ABA’s work in election law, thereby positioning the ABA as a leader in this important area of the law, which represents the cornerstone of our democracy. This extensive body of work is a tangible and meaningful benefit to members, it lets them know that the ABA cares about the integrity of our electoral process and is committed to the rule of law as it relates to our democracy.

The Standing Committee on Election Law has been the voice and impetus for the ABA role in election reform since its inception in 1973 with the purpose of developing and examining ways to improve the federal electoral process. The Standing Committee has been proud to answer the call of ABA Presidents to develop initiatives and programming to place the Association in the forefront of efforts to protect our democracy and the rule of law and to promote voter participation and civic engagement. Following Bush v. Gore in 2000, at the request of President Martha Barnett, we created a voter rights and responsibility card. Many organizations created a voter rights card, but the Standing Committee created a voter rights and responsibilities card. We also developed Election Administration Guidelines and Commentary in 2000 (Guidelines), which was adopted as ABA policy, and is updated as necessary. The Guidelines cover a broad range of electoral issues, including such topics as voter education, registration, voting, and post-election issues, that can be applied to all elections. Although these guidelines cover federal elections, they are directed at the election administrators and officials at the state, local, and territorial level, who hold primary responsibility for election activities, both before, during and after the actual election. The Guidelines are meant to enhance the integrity and public perception of the electoral process and are aspirations for the necessary reform of our electoral process and are intended to ensure that all citizens, who are eligible to vote, have the greatest access to the ballot box. In recent years, we have supplemented this policy with Ballot Counting Standards (August 2016); Voter Wait Times (August 2015) at the request of President William C. Hubbard; Preservation of Election Process in Emergencies (August 2014); Accessibility of Electoral Process (August 2014); Election Delays (August 2013); and Improvements to Voter Registration Practice (August 2011).

Beginning in early Spring 2014, as part of President James R. Silkenat’s election law initiative, and continuing to the present, the Standing Committee has hosted several town halls with a particular focus on election reform. The Town Halls were created with the purpose of promoting a dialogue on election reform within the States with members of state and local bar associations, state and local election
administrators and civic groups, local election lawyers, as well as representatives of both political parties. Elections are administered at a state and local level, thus our meetings with local officials, administrators, and groups is essential, and these town halls provide a venue to facilitate and develop relationships with stakeholders in the electoral process. All of this allows the ABA to be seen as a logical and legitimate convener of gatherings of interested election law topics, which in turn burnishes the ABA reputation as a leader in this aspect of the law. Additionally, in 2014, we rallied ABA members to serve as poll workers as part of our Lawyer as Citizen initiative and worked with the Division for Public Education on Law Day 2014 which focused on “American Democracy and the Rule of Law: Why Every Vote Matters.”

Below, please find a listing of town halls to date:

**Washington, DC** (April 2017)
ABA Washington Office
*Integrity of the Electoral Process*

**Miami, Florida** (February 2017)
ABA Midyear Meeting
*Election Reform*

**Albuquerque, NM** (December 2016)
State Bar of New Mexico
*Voting Convenience Centers*

**Houston, Texas** (February 2015)
George R. Brown Convention Center
*Money and Politics*

**Tempe, Arizona** (May 2014)
Arizona State University Sandra Day O'Connor College of Law
*Election Reform and Next Steps*

**Austin, Texas** (March 2014)
Austin Bar Association
*Redistricting and Election Administration*

**Columbus, Ohio** (February 2014)
Ohio State University Moritz College of Law
*Voter Registration and Election Administration*

**Philadelphia, Pennsylvania** (February 2014)
Philadelphia Bar Association
*Voter Identification*

**Miami, Florida** (February 2014)
University of Miami School of Law
*Election Day and Early Voting*
In particular, our Town Hall on the Integrity of the Electoral Process which was held in Spring 2017 in Washington, DC in the ABA Washington Office was very successful. Topics discussed at the Town Hall included electronic ballots, voting machines, the tabulation process, as well as the related issue of Russian hacking and the misconception and perception of such allegations. Participants included members of the Standing Committee and its Advisory Commission as well as a mix of local and national experts with a vast depth of expertise in our electoral process. Outside experts included Matthew Masterson, a Commissioner with the Election Assistance Commission, the federal bipartisan commission charged with developing guidance to meet Help America Vote Act of 2002 requirements; Leslie Reynolds, the Executive Director of the National Association of Secretaries of States; Steve Walther, Chair of the Federal Election Commission; Paul Aumayr, Director of Voting Systems for the Maryland State Board of Elections; Geoffrey Hale, Information Security Strategist in the Office of Cybersecurity and Communications in the Department of Homeland Security; Jeremy Epstein, Deputy Division Director, CISE/CNS of the National Science Foundation; and Tammy Patrick, Democracy Project Fellow of the Bipartisan Policy Center. The Town Hall was used to engage in a dialogue about the integrity of our voting system, which is the bedrock of our democracy, as well as to develop relationships for the Association, and the Standing Committee going forward, as we continue our study of this important area of the law.

Most recently in 2016, the Standing Committee took the lead on President Linda A. Klein’s election law initiative. We debuted our Vote Your Voice Now initiative through our www.voteyourvoicenow.org website (providing voter information and resources for all 50 states and territories); Will Your Voice be Heard on Election Day? Card; and voter education video, which we co-sponsored with the Division for Public Education, for secondary students at the 2016 Annual Meeting. All were well received by members attending the meeting and most commented that they were pleased to know that the ABA was promoting such activity.

The Standing Committee also represented the ABA’s involvement in the creation of the 25th Amendment. On 10 May 2017, at the request of ABA leadership, the Standing Committee in partnership with the Bipartisan Policy Center and Fordham University School of Law, presented The First 50 Years of the 25th Amendment which was held at the Bipartisan Policy Center in Washington, DC. At the start of the program, Linda Klein presented an ABA Presidential Citation Award to former U.S. Senator Birch Bayh, a lawyer and the only non-founding father to draft two enacted amendments to the U.S. Constitution, in acknowledgment of his monumental and unwavering commitment to public service and government. The program consisted of two panels. The first panel, “The Origins of the 25th Amendment and Role of Lawyers in Public Service,” focused on the ABA’s prominent role in the drafting, passage, and ratification of the 25th Amendment and was moderated by John Rogan of Fordham University School of Law. Panelists included John Feerick, Dean Emeritus of Fordham University School of Law; Lowell Beck, former Assistant Director of the Washington Office and Deputy Executive Director of the American Bar Association; Jayson Berman, former Chief of Staff to Senator Birch Bayh and Director, Senate Subcommittee on Constitutional Amendments; and Linda Klein. The second panel, entitled “The 25th Amendment, Vice Presidential Selection and Remaining Issues in Presidential Succession,” was moderated by John Fortier, Director of the Democracy Project of the Bipartisan Policy Center, and panelists included Robert F. Bauer, former White House Counsel for President Barack Obama and Partner, Perkins Coie; Arthur B. Culvahouse, Jr., former White House Counsel for President Ronald Reagan and Partner, O’Melveny Myers; Dean Emeritus John Feerick, and Joel Goldstein, Vincent C.
Immel Professor of Law at Saint Louis University School of Law. The program was extremely well attended. Video of the program is available on the Standing Committee’s website and was also on display at the ABA Expo at the 2017 Annual Meeting.

Currently, the Standing Committee is also supporting the ABA’s efforts in celebration of the centennial of the 19th Amendment. The Standing Committee remains committed to partnerships with other ABA entities, and the Governmental Affairs Office, Media Relations, and the Office of the ABA President to continue our efforts to place the ABA as a defender of the rule of law in our electoral process.

**Conclusion**

The Standing Committee believes that in this current time, when confidence in our electoral process is under attack, this is not the appropriate time to discontinue general operations funding for its important work on behalf of the Association, our members, and our nation.

We understand greatly the financial difficulties faced by the ABA, as part of our appeal we are asking for the opportunity to create a viable plan moving forward that allows the Standing Committee to continue its good work and to be part of a solution going forward that is also fiscally responsible. At present time, we can absolutely make a commitment to raise external funds. With respect to the discretionary portion of our general operations funding, we can 1) make an adjustment to our meetings, to only meet in person at Midyear and Annual Meetings, as is being required of all ABA committees; and 2) make other reductions in our discretionary budget. As to the staffing portion of our budget, we are struggling to understand how the remaining $79,798 is allocated, whether it is a percentage of our Director, or inclusive of other staff, we have inquired but have not received a detailed breakdown of the full cut. Absent specific information, it is difficult for us to explore reductions in the remaining general operations funding.

Also, we understand that as part of the Board Committee review process that occurred in the Fall, some questions focused on merging the work of committees with other entities. Again, absent specific information and the time and opportunity to discuss with other entities, we are unable to determine if this would be a worthwhile alternative or option going forward.

We are committed to continue to provide a voice for the ABA as a national leader in election law and rule of law in elections. We know that if we are given a chance to continue in FY2018-2019, with our staff and with reduced discretionary funding, that we will be able to find a solution that will benefit the Standing Committee, the ABA, and our electoral process.

cc: Benjamin E. Griffith, Board of Governors Liaison
    Jack L. Rives, Executive Director
    Jim Dimos, Deputy Executive Director
    Bill Phelan, Senior Associate Executive Director and CFO
    Elizabeth M. Yang, Director, Standing Committee on Election Law
    Christina Gazos, Director, Finance Planning
Requestor Name: Sharon Terrill

Phone Extension: *1970

Department Name: Standing Committee on Gun Violence

Senior Manager: Jim Dimos

Name of Chairperson: Joshu Harris

Account String (Entity, Fund, Responsibility, and Line of Business): 01.04.13530.7000000

Total FY 2019 Appeal Amount: $5510

Program Support Fund(s) and/or Endowment Balance (Ending Net Assets) as of most recent month end, if applicable:

Attached is an application to create a PSF for the Standing Committee.

Justification (provide other attachments as necessary)

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*Please submit form to Christina.gazos@americanbar.org with a copy to Jack Rives and Bill Phelan.

Will there be a presentation of the appeal?  

☐ Yes**  ☐ No

**Name of Presenter:  David Clark

For Department Use Only:

Resolution of Appeal  

☐ Approved  ☐ Denied
As the ABA enters an era of increased fiscal restraint, the Standing Committee on Gun Violence is poised to serve as a model entity. In recent years, the Committee has engaged thousands of ABA members, pursued dozens of collaborations, and helped raise the public profile of the ABA as the voice of the legal profession. Consistently, we have secured outside funding or found ways to work without incurring any costs. But, occasionally, it is necessary and unavoidable for the Standing Committee to incur small expenditures in order to make its externally funded and no-cost work possible. Accordingly, we appeal the Finance Committee’s provisional recommendation to discontinue General Operations funding for the Standing Committee.

In the 55 years since the assassination of President John F. Kennedy, the Standing Committee and its predecessors have enabled the ABA to serve as a leading voice in the public debate around law and policy relating to gun violence. The ABA’s role as the voice of the legal profession has been particularly essential, given the centrality of the Second Amendment in that debate. Even more so in the last decade, as District of Columbia v. Heller catalyzed a proliferation of new Second Amendment jurisprudence and the public debate around guns has quickly intensified and polarized.

The Standing Committee has stepped up in this historical moment with an ambitious agenda of policy, programming, education, and outreach.

The Standing Committee’s programming consistently has involved collaboration and cost-sharing. For example, just last month the Standing Committee presented a live CLE on mental health and gun violence in collaboration with the Coalition to Stop Gun Violence: the ABA provided space, while the Coalition provided space and funding for livestreaming of the event. The event was popular and has already generated about $1000 in revenue. Currently, the Standing Committee is developing a 10-year retrospective CLE on Heller in collaboration with the American Constitution Society and the Federalist Society that will involve cost-sharing but is also expected to bring in revenue. Similarly, the Standing Committee has presented programs in recent years in partnership with law schools, medical schools, churches, and other professional associations, including the American Medical Association. Moreover, ABA entities and outside organizations have regularly recognized the Standing Committee’s unique subject matter expertise by requesting assistance with programming and policy. For example, the Criminal Justice Section invited the Standing Committee last year to replicate a program on legal and public health perspectives on gun violence. Likewise, this May the Section of Litigation had the
Standing Committee provide a well attended program at the Section’s Annual Meeting.

The Standing Committee’s incorporation of public health perspectives has been important because medical associations—including the AMA, the American College of Physicians, and the American Academy of Pediatrics—have become increasingly vocal about gun violence as it has been recognized as a public health epidemic. They have looked to the ABA as a partner, in order to help navigate Second Amendment and other legal boundaries, and the Standing Committee has taken the lead for the ABA in building that partnership. In addition to a joint program with the AMA, that relationship has led to a joint publication by the Standing Committee with eight medical professional associations that was later joined by another 50 medical and civic groups.

At the same time, the Standing Committee has submitted resolutions in both 2017 and 2018 that garnered support from a diverse array of ABA entities including Criminal Justice, Civil Rights and Social Justice, Litigation, Young Lawyers, and Domestic & Sexual Violence. At the invitation of Youth at Risk, the Standing Committee is currently assisting with the development of policy relating to gun violence and school safety, a response to the high-profile mass shooting in Parkland, Florida. The Standing Committee’s extensive collaboration with a wide variety of entities on policy and programming is a testament to widespread interest in gun violence within the ABA and across the legal community in general. The Standing Committee’s collective expertise and capacity is critical to serving that broad constituency.

Throughout its history, the Standing Committee has been an efficient consumer of resources. It meets in person only at Annual and Midyear Meetings, otherwise conferring regularly via conference call and email. The Standing Committee does enjoy a very small amount of support from its invaluable administrative staffer, Sharon Terrill, who helps with scheduling, paperwork, and other logistics, but the substantive work of the Standing Committee is carried out by its members. Several of the members of the Standing Committee not only generously contribute their time but also staff time from their respective firms and organizations. Only chair travel is reimbursed, and whenever possible, the chair has found alternate sources of funding for travel; for example, the current chair receives funding for travel to Annual and Midyear meetings as a member of Criminal Justice Section leadership.
The Standing Committee has also explored external sources of funding beyond its various successful collaborations with program partners. While those efforts have had limited success, the Standing Committee will continue and expand its commitment to doing so. To that end, an application for establishment of a program support fund, signed by Jackie Casey, is attached to this appeal.

While the Standing Committee has succeeded in carrying out most of its work at little to no cost, most of its successes would not have been possible without a small amount of General Operations funding. When the prior chair was forging relationships with medical associations, he traveled for some meetings and conferences that he could not have attended via audio/video conferencing. When the Standing Committee convenes at Midyear and Annual Meetings, funds for meeting space and conference call capability allow us to coordinate and plan. Unfortunately, we often find ourselves scrambling to respond to tragedies like mass shootings. Those responses can require modest expenditures on a timeline that does not allow us to petition for grant funding. Indeed, after the 2015 massacre at Mother Emanuel AME Church in Charleston, South Carolina, we quickly put together a program at the church; College of Charleston covered half of the event costs, but the program would not have been possible without a modest amount of general operating funding to make up the difference. The importance of modest funding allocation for items such as travel by the chair, conferencing abilities, and last-minute programming costs is particularly great because the Standing Committee includes a number of young, solo, and public sector lawyers, including the current chair, who is a government lawyer.

For these reasons, the Standing Committee’s ability to fulfill its critically important service to ABA members, fellow ABA entities, and the public require full funding of its FY19 request of $5,510 (itemized below on the appeal form, with more detail available on request). As such, the Standing Committee respectfully requests that the Finance Committee reconsider its provisional recommendation.
APPLICATION FOR
PROGRAM SUPPORT FUND ESTABLISHMENT

Submitting Entity Information:

Name of ABA Section, Division or Entity Seeking PSF Approval: Standing Committee on Gun Violence
Entity Director: Sharon Terrill
Entity Member Leader: Joshu Harris
Senior Manager: Jim Dimos

Introduction: A Program Support Fund (PSF) is a charitable fund that allows ABA entities to collect and spend charitable contributions from individuals, law firms, corporations and foundations. PSFs and endowments are financially a part of the ABA Fund for Justice and Education (ABA/FJE). These accounts are maintained separately and apart from the ABA’s membership activities as a 501(c)(6) organization. All activities supported by PSFs and endowments must be approved for 501(c)(3) eligibility by the ABA General Counsel’s Office. In collaboration with entity staff and leaders, the ABA/FJE provides PSF and endowment monitoring for policy compliance as advisors to the Profession, Public Services and Diversity Committee (PPSD Committee) of the ABA Board of Governors (BOG) or equivalent BOG Committee, and to the BOG. PSFs are governed by ABA Policy on Program Support Funds and Endowments.

Instructions: Please answer the following questions regarding your proposed PSF and Summit this to the Director of the ABA Fund for Justice and Education. The ABA/FJE will then review and submit to the Board for approval.

By submitting this application, the entity is committing to trying to raise at least $10,000 in revenue in the first 2 years of the PSF’s existence. The entity director is also acknowledging that he/she has read and understood the PSF policy and its provisions PSF usage. The policy can be found in Chapter 9, Section G of the ABA Green Book.

By submitting this application, you are also requesting approval from the Board to seek outside funding in support of the PSF and its projects and programs. As a reminder, all new projects or programs do require Board approval. Those listed in this application will receive Board approval at the time the PSF application is approved.

Application:

1. What is the general purpose for which the PSF funds may be used?
This PSF will raise funds needed by the Standing Committee to serve as the focal point for activity within the ABA on issues related to gun violence – education, best practice, policy, and prevention.

2. Identify examples of types of projects, programs or initiatives that will be supported by the PSF?
   - Educational programs (midyear, Annual, Section meetings, or public facing, on public health issues using the educational materials created as part of the Enterprise Fund in FY16-17).
   - Monitoring and education about legislation that is consistent with ABA policy on the state and federal levels.
   - Meeting to discuss, plan, and draft new ABA policy resolutions for the House consideration.

3. Identify the potential sources of revenue for this PSF? Be as specific as possible?
   Once approved, specific donors should be reviewed with the ABA/FJE staff to ascertain possible fundraising conflicts and to let the entity know how specific donors are already engaged with the ABA.
   Individual law firms and practitioner donations, revenue from CLE partnering Sections, external entities that work on the issue of gun violence (eg. Everytown for Gun Safety, Joyce Foundation, Coalition to Stop Gun Violence).

4. Identify the anticipated types of expenses that will be supported by the PSF (e.g. personnel, printing, postage, CLE fees, etc.)
   Conference calls, group functions (meeting at midyear and Annual), supplies, travel, minimal staff support.

5. Identify the specific ABA goal that will be served by the activities supported through the PSF; how the justice system is improved by the supported projects or programs and how the proposed programs or projects to be supported by the PSF correspond to the sponsoring entity’s jurisdiction and purpose?
   Goal IV, supporting the rule of law. The rule of law in this area is critical to the well-being of society. The Committee pursues Goal IV by monitoring and advocating, consistent with ABA policy, for or against legislation at the state and federal levels, monitoring related litigation, and providing background information on ABA policy to policy makers and others. The Committee’s consistent approach to the often controversial topic of “gun control” is that of public safety and reduction of gun violence. The Committee co-authored a paper in 2015 with eight medical associations and societies to discuss the public health issue of gun violence, and based upon common approved policies of all of our entities. Since its publishing, over 50 other medical entities have endorsed the paper.

Little in the public policy arena can have greater impact on societal well-being than issues of gun violence. By advocating for policies focused on public safety, e.g.,
reasonable regulation of firearms; more attention to the societal issues that contribute to a culture of gun violence; a comprehensive approach to gun violence by young persons in schools, such as educational curricula; and stronger enforcement of gun laws, including greater funding of programs devoted to enforcement of existing laws dealing with illegal trafficking in arms, the ABA, through the Committee’s efforts, has a meaningful voice in this national dialogue.

6. Will there be an overlap between the programs or projects that will benefit from the PSF and the activities of other ABA entities? If so, explain any apparent conflict with the jurisdiction of another ABA entity and whether partnership/collaboration with those entities has been sought and if not, why. While other ABA entities may address gun related issues, none take this comprehensive and holistic approach of public safety. The Committee has always worked closely with ABA entities that have a piece of the gun violence debate, such as Criminal Justice, TTIPS, and the Commissions on Domestic and Sexual Violence and Youth at Risk, and we would continue to seek partnerships with them, as well as other ABA entities.

Entity Director Signature

Jackie Casey, Director
ABA Fund for Justice and Education
(certifying the purpose of the PSF is 501(c)(3) eligible)

_6/6/18_________________________
Date

_6/6/18_________________________
Date
To: ABA Board of Governors

From: Chair, Solo, Small Firm and General Practice Division

Date: April 18, 2018

Re:

The Solo, Small Firm and General Practice Division (GPSolo) request the approval to make a onetime contribution of $2,000, derived from Division funds, to the National Judicial College (NJC). This contribution will be directed toward the Wm. T. (Bill) Robinson III Scholarship Endowment to honor Past ABA President Bill Robinson’s enduring spirit. The fund will provide financial support for judges to attend courses at the College for as long as judicial education exists. GPSolo Council approved the request for the donation to the NJC at its Council Meeting on February 3, 2018 in Vancouver, British Columbia, Canada.

GPSolo respectfully request the approval of the ABA Board of Governors of this donation to the NJC. Thank you for your consideration.
MEMORANDUM

TO: ABA Board of Governors

FROM: Wendy Kennedy Venoit, Chair, Forum on Construction Law

DATE: May 16, 2018

RE: Request for Approval of Charitable Contribution – ACE Mentor Program ($10,000)

On behalf of the Forum on Construction Law (FCL), I request the Board’s approval of the following charitable donation to be incurred in the 2018-19 bar year. This donation was approved on April 11, 2018 by the FCL Governing Committee and are briefly described below.

ACE Mentor Program

ACE Mentor is an after school program designed to introduce high school students to the Architecture, Construction and Engineering industries and to encourage them to consider a career in the construction industry. Over 8,700 students have gone through the ACE program and a high percentage have gone on to careers in these industries. In effect, ACE graduates are next-generation potential clients of FCL members. Indeed, FCL Young Lawyers developed the “Negotiation” segment of the ACE program that is used by ACE chapters nationwide.

FCL has supported ACE Mentor with a $50,000 annual donation since 2007 (except for 2017 and 2018 when the donation was reduced to $10,000), all with the requisite BOG approval. FCL’s financial support, along with the support of other leading industry organizations, has helped ACE to grow into a thriving organization. The Program, however, is still in need of continuing financial support.
The FCL Governing Committee has approved, and we request approval for a $10,000 donation, derived from FCL funds, for the 2018-19 bar year. This amount is identical to the reduced 2017 and 2018 donation, reflecting both the maturity of the ACE Mentor and FCL’s desire to diversify its charitable support. It is anticipated that this level of support will continue in future years, although future years are not covered by this approval request.

The requested donation fits easily within two of the four Goals of the ABA Mission Statement:

*To Serve ABA Members:* to provide benefits, programs and services which promote members’ professional growth and quality of life.

*To Improve Our Profession:* including the objective of promoting pro bono and public service by the legal profession.

Finally, FCL is in excellent financial health and the requested donation will have no adverse impact on its finances.

On behalf of the FCL and its Governing Committee, we thank you for your consideration and hope that you will see fit to approve our support of this program as requested.

Cc: Yolanda Muhammad
Tamara Harrington
MEMORANDUM

To: ABA Board of Governors

From: Robert A. Clifford, Chair
ABA Fund for Justice and Education

Date: May 18, 2018

Subject: ABA Budget Line Item Extension for ABA Legal Opportunity Scholarship

RECOMMENDATION

The ABA Fund for Justice and Education (ABA FJE) respectfully requests that the ABA Board of Governors approve the extension of the current ABA Legal Opportunity Scholarship (the Scholarship) budget line item through FY30. The existing budget line item has a timeframe of FY09 thru FY20. Under the current budget authority, with no extension made to it by the ABA Board of Governors, the program would need to change significantly; entailing a meaningful reduction in the number of Scholarship recipients and the award amount or its duration, beginning in FY19. These young people will be affected by the FY20

BACKGROUND

The Scholarship Fund grants 20 incoming diverse law students with $15,000 of financial assistance over the course of their three years in law school. During his term as ABA President, William G. Paul initiated the Scholarship to encourage racially and ethnically diverse students to apply to and attend law school, under Goal III. Since its inception, 380 students from across the country have received the Scholarship. These exceptional recipients have overcome adversity, proven themselves through academic success and public service, and demonstrated the tenacity to excel within the profession. The Scholarship Fund has become one of the ABA's best-known diversity efforts and one that is universally admired within the legal profession.

For the first few years of the Scholarship, William and Barbara Paul, and a host of law firms along with ABA Sections (Litigation, Business Law, and Real Property) funded the entire $300,000 needed annually for 60 scholars to receive $5,000 each. By the end of 2008, these initial funding sources had proven insufficient and the Scholarship's Fundraising Committee, chaired by Jim Silkenat, approached the ABA Board of Governors with a request for $150,000 so that the ABA itself would be actively supportive of the Scholarship Fund. Before then, the
ABA had not contributed to the Fund, under its own auspices. The Board approved up to $150,000 in Dues Warehouse funding for that year. The Board also approved the creation of a line-item in the budget process for the next eleven years, through FY20.

PURPOSE

While progress has been made in diversifying the legal profession, it is obvious that much more work is needed. For racial and ethnic minorities, disparities in the legal field begin during law school. While overall, the percentage of non-white students has hovered around 26% - 28% (2012-2014), according to the ABA Section of Legal Education and Admissions to the Bar, the minority student attrition rate (15%) in 2013 was more than triple that of law students overall (4%) in 2013.

The demographics of law firms, corporations and universities overall have not kept pace with a growing racially diverse talent pool. The percent of law school graduates of color has almost doubled in the past two decades to just over 25 percent. Yet, lawyers of color accounted for only 7 percent of partners in the national top 200 law firms, 7 percent of all law school deans and 9 percent of all general counsel (NALP 2014).

Lawyers of color make up barely 12% of the entire legal profession, while minorities comprise 38% of the entire population, according to the 2014 Census Report. The Census projects that the U.S. population will become majority-minority in 2044. Minorities are projected to rise to 56 percent of the total by 2060. Under Goal III, the ABA is duty-bound to eliminate this disproportion; it poses a threat to the rule of law and to the administration of justice. The Scholarship, and the ABA’s leadership participation in it, must remain in place or even grow to help bring about a more diverse, inclusive and representative legal profession.

In efforts to better assess the impact of the Scholarship, this program for selecting and funding minority law students is currently being evaluated through a grant from AccessLex. Early results show that the Scholarship continues to be meaningful. Nearly 70 percent of survey respondents felt that the award was extremely or very important to their decision to enroll and remain in law school. While nearly 90 percent agreed that the Scholarship money allowed them to borrow less money for their education, less than half felt that the award was sufficient to supplement their law school expenses even when added to other forms of assistance. Even with the Scholarship and other sources of funding in place, more than half of survey respondents reported having tens of thousands in loans to repay for law school.

FUNDRAISING REVENUES

While over the past decade, the Scholarship Fundraising Committee has endeavored to amass $150,000 of the total $300,000 needed annually for 60 scholars to receive $5,000 each, this pursuit meets with several challenges, namely:

- Many ABA Sections have developed and are funding their own diversity and inclusion initiatives under Goal III and, with the exclusion of Business and Health Law, have pursued their own respective diversity fellowship programs.
• A majority of large law firms have begun offering their own internal internships and scholarships to minority law students endeavoring to groom these individuals for future employment in their respective firm.

However, because of new initiatives undertaken by the Scholarship Fundraising Committee, the trajectory for fund development is increasing. During Jonathan Wolfe’s term as Chair (FY16-FY18), this Committee has established these fundraising initiatives in addition to its annual solicitations of individuals and various organizations:

• The Saul Wolfe Tribute -- Is on track to raise $90,000 between FY16 and FY18 inclusive; half of this amount has been matched by his sons, Jonathan and David.
• The ABA Legal Opportunity Firm Scholarships – Recognizes law firms and corporations that make a three-year pledge of $15,000 to provide full scholarships; six firms have signed on to date with several other prospects identified.
• The Past ABA Presidents Legal Opportunity Scholarship Giving Circle – Is soliciting contributions from other past and present ABA leaders after a number of past ABA Presidents have each made a contribution of $1,000 or more.
• The Tan Family Education Foundation – Contributes $15,000 annually for up to two Asian-American students selected to receive the Scholarship per year.

With these strategies underway, the Scholarship Fundraising Committee expects to achieve its $150,000 target not only by August 31, 2018 but annually over the next 12 years as well. It is committed to this endeavor because past Scholarship recipients have shown themselves to be: resourceful during law school, successful attorneys after graduation and dedicated to serving their community’s legal needs over the long term. The attached appeal letter from Katie Eichner, a former awardee, demonstrates both her gratitude for the Scholarship, as well as her eagerness to assist with the Committee’s continued fundraising efforts.

CONCLUSION

The ABA FJE strongly encourages the ABA Board of Governors to extend the budget line item through FY30 for the ABA Legal Opportunity Scholarship in pursuit of ABA Goal III and to continue the ABA’s leadership role in bringing about a more diverse and inclusive legal profession.
PLEASE SCROLL DOWN TO READ THE TESTIMONIAL LETTER FROM A PAST RECIPIENT.
June 2018

Dear Title Last Name:

Neither of my parents went to college, but they were committed to sending me there. My mom knew my potential before I did. Whenever we passed someone in a suit, which wasn’t very often in our rural farming community, my mom would say to me:

“Katie you’re going to wear clothes like that someday. You are going to do something big!”

We law school graduates are our parents’ dreams deferred, what they’ve sacrificed for, and their hope for a better future. Your charitable gift to the ABA Legal Opportunity Scholarship will help ensure that those who follow us are well-equipped to bring about a more just and decent society.

Receiving this coveted scholarship meant I could quit the two jobs I worked during college and focus on studying the law. While at Stanford Law School, I was able to volunteer at the Domestic Violence Law Clinic, to lead the Native American Law Students Association, and to be an editor of the Environmental Law Journal. More importantly, it was the clear message from the ABA that came with the check. It said,

Katie, we stand with you, and we want you to succeed.
You’re going to be a lawyer.

I can’t begin to express how much that support meant to me. It fueled my success in law school and laid the groundwork for success in my legal career. Now a litigator with the Law firm of Lindsay Hart and Director of the Board of Oregon Association’s Defense Council, I am also a founding board member for the Native Amicus Briefing Project, which is dedicated to fostering a greater understanding of federal Indian law and tribal law in the courts and the broader legal community. That’s the support the scholarship provides for students like me. That’s what receiving it means.

Each year the ABA selects 20 students for its distinguished Scholarship; recipients are awarded $15,000 over their three years in law school.

Annually, $300,000 is needed in charitable support for 60 students.

Just as I did, recipients have overcome adversity, proven our potential through academic success and public service, and demonstrated the tenacity to excel within the legal profession.

Generous giving to the Scholarship engenders a more racially and ethnically representative legal profession; this is imperative.
Charitable gifts to the Legal Opportunity Scholarship express to underrepresented law students that diversity is valued, that they are seen, a message that is not often forthcoming. If you have questions about the ABA Legal Opportunity Scholarship, please contact the ABA Fund for Justice and Education at 312-988-5420.

Your choice to support this scholarship, by making a charitable contribution, is a choice to shape the future of this profession. I hope you will join me in this effort.

Thank you!

Katie Eichner, Past Recipient
ABA Legal Opportunity Scholarship
MEMORANDUM

To: ABA Board of Governors

From: Koji F. Fukumura
Chair, Section of Litigation

Date: May 18, 2018

Subject: Approval of Request to Immediately Amend Fundraising Terms for the Benjamin R. Civiletti Endowment

Recommendation

The Council of the ABA Section of Litigation respectfully requests approval to modify the principal goal of the Benjamin R. Civiletti Endowment from $1 million to $750,000.

Endowed Funds Policy

In 1983, the ABA Board of Governors, serving as the Board of the ABA Fund for Justice and Education (“ABA FJE”), established a program to create named endowment funds to honor those “whose careers have demonstrated dedication to the pursuit of justice and outstanding service to the profession and the public.” These endowed funds, called justice funds, may be created when $25,000 or more has been committed by a donor or donors.

If contributions to the fund reach $100,000 or more, the annual income from the justice fund may be designated to support a specific ABA FJE program or activity in an area of particular interest to the honored individual. Traditionally, entities that create justice funds are given five years to reach the designation threshold. The justice funds were created to enable the ABA and its members to honor leaders in the profession.

Benjamin R. Civiletti Endowment

Benjamin R. Civiletti is a former Attorney General of the United States and past Chair of the Section of Litigation; this fund recognizes Mr. Civiletti’s interest in and dedication to public service. In 2013, the ABA Board of Governors approved the ABA FJE Council’s recommendation to create the Benjamin R. Civiletti Justice Fund honoring Mr. Civiletti. In 2015, the Board of Governors further approved the immediate designation of the Civiletti Justice Fund to a permanent endowment.
The endowment represents a sustainable platform to support Section of Litigation philanthropic projects and programs that demonstrate a strong emphasis toward serving underrepresented or marginalized populations. The Section of Litigation will develop and maintain the programs that benefit from the endowment and has the authority to allocate the eventual income from the endowment to those programs based on criteria it establishes.

**Funding of the Benjamin R. Civiletti Justice Endowment**

The Section of Litigation established the Benjamin R. Civiletti Justice Fund with an initial contribution of $50,000 and another $100,000, to match funds raised independently, with the understanding that this fund would convert to a Program Support Fund if $1 million was not raised within five years. Under its conversion to a permanent endowment, any investment income is to be left in the endowment until the principal balance reaches the $1 million target, at which point income earned can be used to support the Section’s Good Works initiatives and projects.

As of the end of April 2018, the final year of fundraising, the endowment has a total balance of $742,014. With the agreement of Mr. Civiletti, Section leadership has proposed the lowering of the principal target to $750,000. With this revised target, the endowment will still receive contributions; however, earned income will be accessed and directed in a shorter timetable. Section Council approved this modification at its January 2018 Leadership Meeting.

**Conclusion**

The Section of Litigation Council respectfully requests that the Board of Governors approve the immediate modification to the Benjamin R. Civiletti Endowment Fund to benefit the Section’s public service and legal advocacy efforts.

Cc: Ronald W. Breaux, Chair, Civiletti Fund
Wayne J. Positan, Chair, Civiletti Fund
Lea Snipes, Assistant Director, FJE
Ceilanne Libber, Assistant Director of Entity Fundraising, FJE
Cecilia Kukenis, Director, Section of Litigation
Madalyn Messer-Brooks, Business Development Manager, Section of Litigation
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<td>22%</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Information Technology</td>
<td>5</td>
<td>IT General and Application Controls(^1)</td>
<td>IT</td>
<td>360</td>
<td>18%</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Other</td>
<td>6</td>
<td>Payroll/Timesheet Processing (Dayforce Post-Implementation Review)(^2)</td>
<td>F/O/IT/C</td>
<td>300</td>
<td>15%</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Ethics Office(^2)</td>
<td></td>
<td>15</td>
<td>1%</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Contingent-Reserved for Management/Audit Committee Requests</td>
<td></td>
<td>285</td>
<td>15%</td>
<td>As Needed</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td></td>
<td></td>
<td>1960</td>
<td>100%</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

\(^1\) To be completed by external resources.

\(^2\) EthicsPoint Maintenance and production of quarterly updates.

\(^3\) May request additional IT resources to confirm operational effectiveness of system.

**Key:**
- C - Compliance
- O - Operational
- F - Financial
- IT - Information Technology

*Prepared by: Janae LeFlore, Director Internal Audit (5/24/18)*
AMERICAN BAR ASSOCIATION

INTERNAL AUDIT POLICY STATEMENT

The purpose of the Internal Audit Policy Statement is to set forth the mission, authority and responsibilities of the internal audit function in the ABA. In addition, the responsibilities of management with respect to Internal Audit are outlined.

Mission

Internal audit is an independent appraisal activity under the supervision of a Director of Internal Audit established to assist the Standing Committee on Audit (Audit Committee), the Finance Committee and the Executive Director in the effective discharge of their responsibilities. In fulfilling its assignment, Internal Audit works with management and staff throughout the Association to identify major exposures, review current controls, and evaluate corresponding risks.

Authority

The Board of Governors, through the Audit Committee and the Finance Committee, has given the Director of Internal Audit the authority to direct a continuing, broad and comprehensive program of internal audits within the ABA. In that regard, the Audit Committee and the Finance Committee have adopted a multi-year Audit Plan as a framework and guideline for the development of annual audit plans that will utilize both internal and outside resources to conduct audits within the ABA. The Audit Committee reviews and approves the appointment or discharge of the Director of Internal Audit in coordination with the Executive Director and the Board of Governors, through its Finance Committee. The administrative aspects of hiring and discharging the Director of Internal Audit are handled by the Executive Director in consultation with the Audit Committee. The Director of Internal Audit shall report directly to and be supervised by the Audit Committee. The Executive Director shall be responsible for handling the administrative aspects of the Director of Internal Audit's requirements to fulfill the internal audit function. The Executive Director shall be responsible to the Audit Committee for the ongoing oversight of the Director of Internal Audit and of the internal audit function in order to prepare the annual Performance Review of the Director of Internal Audit. The annual Performance Review of the Director of Internal Audit prepared by the Executive Director shall be reviewed with the Audit Committee and, if necessary, revised before discussion with the Director of Internal Audit and shall be presented to the Director of Internal Audit by both the Executive Director and the Chair of the Audit Committee.
Scope

The scope of activities and specific areas to be reviewed during each fiscal year shall be based primarily on the assessment of risks and the guidelines set forth in the multi-year Audit Plan approved by the Audit Committee and the Finance Committee and shall be developed into an approved Annual Internal Audit Plan as follows: (1) prior to the meeting of the Finance Committee immediately preceding the Annual Meeting of the Association, the Director of Internal Audit, in consultation with the Executive Director and the Audit Committee, shall prepare a preliminary version of the Annual Internal Audit Plan for the next fiscal year; (2) the Audit Committee shall present the preliminary Annual Internal Audit Plan to the Finance Committee for review and comment at the meeting of the Finance Committee immediately preceding the Annual Meeting of the Association; (3) the preliminary Annual Internal Audit Plan shall then be finalized and approved by the Audit Committee, taking into consideration the comments of the Finance Committee. Provided there are no comments from the Finance Committee, the Audit Committee shall present the approved Annual Internal Audit Plan to the Board of Governors at the Board of Governors meeting immediately preceding the Annual Meeting of the Association, for approval. In the event that there are proposed changes to the plan by the Finance Committee or the Board of Governors, as they consider appropriate, then such changes shall be reported to the Audit Committee for consideration. The revised Annual Internal Audit Plan shall then be resubmitted to the Board of Governors for its approval at the Annual Meeting of the Association. The scope and frequency of audits depends primarily on the assessment of risks established in the approved multi-year Audit Plan. The multi-year Audit Plan shall be reviewed and updated on an annual basis by the Audit Committee and the Finance Committee.

Internal Control

Internal control is the responsibility of all ABA employees. Internal auditors evaluate, examine, and monitor the adequacy and effectiveness of internal control systems and recommend improvements. Internal control is broadly defined by the Committee of Sponsoring Organizations of the Treadway Commission (COSO), as a process, effected by an entity's board of governors, management and other personnel, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:
- Effectiveness and efficiency of operations.
- Reliability of financial reporting.
- Compliance with laws and regulations.
Responsibilities of Internal Audit

Internal Audit shall adhere to the Standards for the Professional Practice of Internal Auditing as issued by the Institute of Internal Auditors, Inc.

The following responsibilities are consistent with these standards:

1. Monitor the internal control systems of the ABA established to ensure compliance with applicable policies, plans, procedures, laws, and regulations, and evaluate their ability to deter and detect error and fraud.

2. Review the means of safeguarding the ABA's assets and, as appropriate, verify the existence of these assets.

3. Appraise the effectiveness and efficiency with which ABA resources are employed.

4. Monitor ABA operations and projects to ascertain whether results are consistent with the ABA's objectives and goals and whether the operations and projects are being carried out as planned.

5. Evaluate the ABA's information and communications systems to determine if pertinent information is being identified, collected and communicated in a form and time frame that enables personnel to carry out their responsibilities.

6. Examine new entities and projects to assure that adequate controls are in place.

7. Participate in the plan, design, and development of information systems to assure that adequate controls are incorporated.

8. Conduct follow-up reviews subsequent to an audit to determine that corrective action agreed to by management has occurred. Report results of follow-up to Audit Committee to ensure that all Committee concerns are addressed.

9. Report results to Senior Management and Executive Director for corrective action as needed. Summarize results and corrective action for Audit Committee review each quarter.

10. The Director of Internal Audit maintains direct access to the Finance Committee and the Audit Committee through the respective Chairpersons for items that warrant immediate consideration. This is in addition to the regular quarterly reports of internal audit activities.

11. Coordinate activities with the Finance staff and the external auditors to achieve maximum coverage with minimum duplication of effort.
12. Evaluate and provide objective assurance to the Board on the effectiveness of Management’s process to identify, assess, and manage enterprise risks.

Responsibilities of Management

As noted above, internal control is the responsibility of all ABA employees. Also, management is one of the key participants per the COSO definition of internal control. Management serves a critical role in the effectiveness of Internal Audit.

Management responsibilities include the following:

- Support and cooperate with Internal Audit.

- Communicate the mission and responsibilities of Internal Audit to staff under their supervision.

- Assist in the audit process.

- Advise Internal Audit of all matters that affect the fulfillment of their responsibilities, including the distribution of new approved policies and procedures.

- Notify Internal Audit of any known or suspected activities of an illegal or unethical nature, including activities that appear to represent a conflict of interest.

- Respond in writing to any findings and recommendations of Internal Audit that require any corrective action, including the time frame within which such corrective action shall be completed.
AMERICAN BAR ASSOCIATION
INVESTMENT POLICY STATEMENT

(Approved Month 2018)

A. INTRODUCTION

The purpose of this Investment Policy Statement (“Policy”) is to set forth a clear understanding as to the investment objectives and policies applicable to the American Bar Association’s (“Association”) long-term investment assets.\(^1\) Such assets consist of stocks, bonds, and other securities (collectively, the “Pool”) and include funds of the Permanent Reserve, General Funds, FJE Endowment Funds, and Section, Division and Forum Funds.\(^2\)

This Policy:

- establishes reasonable expectations, objectives, and guidelines for the investment of the Pool.
- outlines roles and responsibilities of those involved in the management and oversight of the Pool.
- sets forth an investment structure based on asset roles and details the permitted allocations of those within the Pool.
- creates the framework for a well-diversified asset mix that is expected to generate acceptable returns at suitable levels of risk.
- is crafted to provide guidance but not imperatives and acknowledges that fiduciaries may make decisions on a basis that differs from that outlined if circumstances require it.

B. ROLES AND RESPONSIBILITIES

The Board of Governors of the Association delegates to the Finance Committee the responsibility for overseeing the long-term investment assets based on the Board-approved investment policy. The Finance Committee has established an Investment Subcommittee (“Subcommittee”) composed of nine members, including the Treasurer, Finance Chair, and a designated Section liaison appointed by the Chair of the Section Officers Conference, and three Association members who are not members of the Board. The Subcommittee will oversee the investments, report results to the Finance Committee, and make recommendations to the Finance Committee to modify the investment policy, change the Investment Consultant, or any other matter the Subcommittee deems appropriate. The Finance Committee will then consider such

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1 This Investment Policy Statement does not address short investments (cash and cash equivalents) of the Association.

2 This Investment Policy Statement does not cover assets of the National Judicial College where the Association serves only as Custodian.
recommendations and make them to the Board of Governors as the Committee deems appropriate.

In appointing members to the Subcommittee, the Finance Chair shall solicit and consider resumes of the potential members and shall appoint Association members whose background and experience demonstrate knowledge concerning investment management, fiduciary responsibility, the mandates and work of the Subcommittee, and the investment needs and objectives of the Association.

The three members of the Subcommittee who are not Board members shall serve staggered three-year terms and will be eligible for re-appointment, at the discretion of the Finance Chair. To the greatest extent possible, the members of the Finance Committee appointed to the Subcommittee shall also serve staggered terms. In appointing Finance Committee members to the Subcommittee, the Finance Chair shall make every effort to appoint members who are in a position to serve their full three-year Board terms of the office on the Subcommittee to encourage longevity among the members of the Subcommittee.

**Investment Subcommittee**

The Subcommittee will be responsible for:

1. Overseeing and monitoring the Pool based on the stated objectives of this policy.
2. Meeting regularly, endeavoring to do so quarterly, to review the investment performance, investment managers and custodians.
3. Monitoring the investment goals, quality of investments and the Asset Allocation Guidelines, if deemed appropriate.
4. Recommending to the Finance Committee an independent investment consultant/OCIO to assist in the selection and monitoring of the Pool according to the investment policy.
5. Reviewing on an annual basis the performance of the independent consultant/OCIO.
6. Reporting to the Finance Committee on the performance of the Pool.
7. Recommending to the Finance Committee any changes to the investment policy.

**Investment Consultant/Outsourced Chief Investment Officer (OCIO)**

The Investment Consultant/OCIO will be responsible for:

1. Monitoring the investment managers on an ongoing basis and evaluating their performance to assure adherence to policy guidelines.
2. Communicating to the Investment Subcommittee and the Financial Services staff any changes by the investment managers in their economic outlook, investment strategy, or any other factors that affect the investment objectives of the fund.
3. Notifying the Subcommittee about additions, replacements or eliminations of managers or custodians
4. Providing a current offering memorandum for each investment fund proposed for the Pool.
5. Being available to meet with the Subcommittee, Sections, Divisions and Forums as required to review structure, allocations and performance of the Pool.
6. Preparing formal reports monthly and quarterly, and providing account information throughout the reporting period.
7. Advising on the prudence of entity investment allocations and investment policies.

Financial Services Division

The Financial Services Division will be responsible for:

1. The day-to-day oversight of the Pool.
2. Communicating with the Investment Consultant/OCIO on any questions or concerns on the Pool.
3. The recordkeeping of the Pool including allocating the percentage share of the Pool to the individual ABA Funds.
4. Monitoring and communicating with the Investment Consultant/OCIO on the need for adjustment to ensure adherence to the Asset Allocation Guidelines.
5. Responding to inquiries and providing financial information to individual entities participating in the Pool.

C. INVESTMENT OBJECTIVES

The Association seeks to obtain a desired level of return for the Pool without assuming more risk than necessary. The Pool should benefit both the existing and future needs of Association. The investment objectives of the Pool are:

1. Preservation of capital
2. Growth in real value with the goal being a long-term return that is equal to or greater than the CPI plus 5.0%
3. Diversification
4. Maintaining appropriate liquidity

The purpose of the Association’s long-term investment assets is to provide financial stability, fund necessary investments, and support annual operations. Such assets are available for future
unforeseen contingencies and to offset the effects of inflation on the purchasing power of the Association.

Acknowledging the goal of growing the real value of the portfolio, target spending in support of annual operations will be 3.5% of the average value of the portfolio as of December 31st using the twelve-calendar quarter ending balances through that date. This policy does not apply to Sections, Divisions and Forums.

The invested assets should be diversified among investment strategies and securities that ensure broad market participation so as to limit the impact of losses from any single asset class, sector, etc. and to minimize the aggregate level of risk necessary to achieve the desired return objectives. The asset allocation guidelines have been developed with a view to balancing the rewards of long-term growth with the risks of adverse, short-term market conditions and acknowledging that there is risk of the return objectives not being met. These guidelines will be reviewed on an annual basis by the Subcommittee to ensure that the Pool is invested in alignment with the above goals.

D. LONG-TERM ASSET ALLOCATION FRAMEWORK

Asset allocation is the principal method through which the Pool aims to achieve the above long-term objectives. The allocation is based upon applicable investment time horizon and the limits of appropriate and acceptable risk. A roles-based approach establishes the strategic direction and composition of the Pool via asset roles to achieve long-term objectives, thus allowing for sufficient breadth and flexibility in implementation. The framework broadly classifies asset classes and investment strategies into three portfolio roles: Growth, Return Enhancement, and Risk Reducing / Diversifying. All funds that make up the Pool will be allocation as follows outside of what is allowed as outlined in Section I. Further details on the roles framework can be found in Appendices A through C.

<table>
<thead>
<tr>
<th>Asset Role</th>
<th>Target Allocation</th>
<th>Approved Range</th>
</tr>
</thead>
<tbody>
<tr>
<td>Growth (liquid)</td>
<td>70%</td>
<td>60-80%</td>
</tr>
<tr>
<td>Return Enhancement</td>
<td>0%</td>
<td>0-10%</td>
</tr>
<tr>
<td>Risk Reducing / Diversifying</td>
<td>30%</td>
<td>20-40%</td>
</tr>
<tr>
<td>Total</td>
<td>100%</td>
<td></td>
</tr>
</tbody>
</table>
E. INVESTMENT VEHICLES
The Association will invest long-term assets in asset classes that are consistent with the investment objectives and asset allocation guidelines. This may be accomplished through passive vehicles such as index funds or actively managed vehicles such as institutional quality commingled funds, mutual funds, multi-manager funds, private placements, or separate accounts. In general, these investment vehicles should be reasonably liquid in nature, providing a source of cash, if needed, within a short period of time. No investment vehicle should be selected that meaningfully invests in asset classes outside those identified in the asset allocation guidelines (or appendices) of this investment policy statement, understanding that managers from time to time may have small exposures to investments not explicitly called out in this statement.

The Association will use an investment consultant/OCIO to receive high quality investment advice regarding the asset allocation, the types of investments and the performance of such investments. The Financial Service staff, with the assistance of the investment consultant/OCIO, will periodically review the prospectuses and/or governing plan documents of investment vehicles to ensure that the underlying investments comply with the asset allocation type.

F. RE-BALANCING PROCEDURES
Market value changes of each investment vehicle will require periodic rebalancing of the investments to stay within reasonable proximity to the target allocation and ultimately to comply with the guidelines. If the actual weighting varies by 5% or more from the target weighting (e.g. a 10% allocation to be less than 5% or greater than 15% of total assets), the investments will be adjusted to stay within the range. The Financial Service staff will review the actual allocation on a quarterly basis with the investment consultant/OCIO and make recommendations to reallocate the assets in order to maintain an allocation percentage within the range for each asset role. The Finance Committee will review the investment vehicles and Asset Allocation Guidelines on an annual basis to determine if such vehicles and Guidelines meet the goals of this Policy.

G. PROXY VOTING
The Finance Committee delegates the responsibility for voting proxies to the OCIO and/or individual investment managers

H. REVIEW OF PERFORMANCE
Qualitative and quantitative factors will be considered when monitoring performance. The rate of return (net of all fees) earned by an investment fund over reasonable measurement periods should equal or exceed:

A. The market index, or blended market index, that most closely corresponds to the style of the fund, and

B. The median return in a universe of funds with similar asset allocations.
The investment consultant/OCIO will review and provide to the Subcommittee monthly reports that show all investments with market values and income earned and provide comparisons based on the agreed upon benchmarks for each fund manager. This benchmark will be made up of various indices that represent the approximate asset allocation of the portfolio, and can change as the goals and allocations of the portfolio change.

I. SECTION, DIVISION AND FORUM FUNDS

ABA Sections, Divisions and Forums which are not reported in the ABA’s General Operations segment have three alternatives from which they can select to manage their long-term invested assets. A Section, Division or Forum may elect from one of the alternatives and change that election as the entity sees fit so long as the changes are no more frequent than annually. The three alternatives are:

1. **Delegate management of their invested assets to the investment consultant/OCIO and ABA Investment Subcommittee**;
2. **Utilize the ABA Investment Policy but select the specific investment options and asset allocations to implement this policy for their entity**; or
3. **Develop and implement an alternate investment policy based on the entity’s desires**.

The responsibilities and requirements for each of the alternatives are described below.

1. **Delegate management of their invested assets to the investment consultant/OCIO and ABA Investment Subcommittee**
   a. In this alternative, the entity’s investments would be invested consistent with the ABA General Operations investments (same investment options and same percentage of the entity’s portfolio allocated to those investments).
      i. The investment consultant/OCIO would be responsible for managing the investments.
      ii. The ABA Investment Subcommittee would retain oversight responsibility.
   b. Under this alternative, the entity is not required to have an Investment Committee nor to meet with the Investment consultant/OCIO.

2. **Utilize the ABA Investment Policy but select the specific investment options and asset allocations to implement this policy for their entity**
   a. In this alternative, the entity is subject to this ABA Investment Policy but can elect the specific investment options and amount allocated to each provided:
      i. The entity’s investments comply with the target allocations and approved ranges as described in paragraph D of this policy;
      ii. The entity uses the available investment vehicles selected by the ABA; and
      iii. Entities should be diversified across investment strategies to ensure broad market participation to minimize the aggregate level of risk necessary to achieve the desire return objectives. *Please see the Asset Allocation Strategy: Diversification Guidance chart included in Appendix D.* Entities
are encouraged to rebalance their portfolios regularly and periodically meet with the investment consultant/OCIO to discuss their strategy.

b. Under this alternative the entity is required to formally designate the responsible person for the entity (e.g. budget officer) that has the responsibility to oversee the entity’s investment performance and ensure that the entity complies with this policy.
   i. It is recommended, but not required, that the entity meet with the investment consultant/OCIO to select the investment options.
   ii. The investment consultant/OCIO will review the entity’s asset allocation on a quarterly basis as part of their procedures performed on the overall ABA investment portfolio. If the investment consultant/OCIO identifies any instances of investment allocations that they do not believe are prudent, such instances will be reported to the ABA Investment Subcommittee. The ABA Investment Subcommittee will notify the entity of the issue and work with the entity to resolve the matter.

3. Develop and implement an alternate investment policy based on the entity’s desires.
   a. An ABA entity may elect to develop its own investment policy to address its investment goals and objectives provided:
      i. Entity leadership meet with the investment consultant/OCIO to review an appropriate asset allocation strategy using the investment vehicles selected by the ABA. Based on this review, the investment consultant/OCIO will give an opinion as to whether the investment policy is prudent based on the objectives of the entity;
      ii. A written investment policy for the entity documenting its objectives and asset allocation strategy and ranges be on file with the OCIO and the ABA Investment Subcommittee;
      iii. The entity reviews and updates and/or reaffirms the policy at least every third year; and
      iv. The entity formally designates a responsible person for the entity (e.g. investment committee, budget officer) that has the responsibility to oversee the entity’s investment performance and ensure that the entity complies with its adopted investment policy.
   b. Should the investment consultant/OCIO and the entity disagree as to whether the entity’s investment policy is prudent, the entity and investment consultant/OCIO will reasonably and promptly discuss the entity’s investment policy with the ABA Investment Subcommittee. If the disagreement(s) cannot be resolved after discussion with the ABA Investment Subcommittee, the entity’s investment policy and the remaining disagreement(s) will be presented to, and decided by, the ABA Board of Governors (“BOG”) in a reasonably prompt fashion. At the presentation to the BOG, the entity, the investment consultant/OCIO, and the
ABA Investment Subcommittee shall each have the opportunity to present their positions in writing and in person.

**Use of Investments/Spending**

ABA Sections, Divisions and Forums are encouraged to develop a policy regarding the use of investment to support the operations or capital needs of the entity. Entities are not subject to the spending policy outlined in Section C of this Policy.
Appendix A
Portfolio Investment Role Strategy Statement - Growth

The purpose of this Statement is to further define asset classes and investment strategies that serve the “Growth” role within the Organization’s Policy and to set forth the respective investment objectives and strategic guidelines.

Strategic Role
- Invest in a diversified portfolio that may include, but not limited to: Global Equities including Domestic, International Developed, Emerging Markets, liquid real assets such as listed infrastructure, Real Estate Investment Trusts (REITs), and Commodities, return-seeking fixed income such as high yield, emerging market debt, and long/short equity strategies.
- Achieve returns in excess of passive indexes through the selective use of active investment strategies and investment managers, where active management is deemed appropriate by the Manager.

Strategies
- Opportunistic approach to investing “Growth” assets, which are dominated by equity market beta, by combining funds and separate accounts invested in a dynamic mix of asset classes and strategies for long-term asset growth, which may include making frequent or minor adjustments to the portfolio as relative investment opportunities arise in light of current and projected investment environments.
- Retain active management for the purpose of achieving added value, with diversification provided through multiple investment managers/strategies; emphasize active management in areas where the market is deemed less efficient and passive management in areas where the market is deemed more efficient.

Investment Objectives
- The investment objective is to provide a total return greater than the designated Growth composite benchmark.
- Peer-relative performance comparisons with managers employing similar styles may also be considered, especially when performance deviates meaningfully from market indices.
- These investment objectives are expected to be achieved over the long term and are measured over a full market cycle.

Monitoring and Control
- The returns and portfolio characteristics for the strategy are reported quarterly to monitor progress towards longer-term investment objectives.
- Due diligence meetings with investment managers may be held at least annually by the Manager to review portfolio results, as well as to discuss guidelines and expectations.
- Consistent inability to meet investment objectives or significant organizational events will trigger a review of an investment manager/strategy by the Manager.
Appendix B  
Portfolio Investment Role Strategy Statement – Return Enhancement

The purpose of this Statement is to further define asset classes and investment strategies that serve the “Return Enhancement” role within the Organization’s Policy and to set forth the respective investment objectives and strategic guidelines.

Strategic Role

- Invest in a portfolio, on an as-needed basis as opportunities arise in the market that are either not included in the “Growth” portfolio or not at the desired allocation. These may include, but not limited to: private equity such as buyout and venture capital, private real estate, and other opportunistic investment strategies that aim to maximize total return potential at reasonable levels of risk relative to the “Growth” portfolio (e.g. certain hedge fund strategies that fit this description).
- Access to global opportunities and investments with idiosyncratic risk/return profiles, leverage market dislocations and compensation for illiquidity through the use of active investment strategies and investment vehicles, as deemed appropriate by the Manager.

Strategies

- Opportunistic approach to investing “Return Enhancement” assets, based on market dislocations, which have the potential to significantly increase total return potential of the overall Portfolio primarily via alpha or manager skill.
- Emphasize active management with diversification provided through utilization of strategies where alpha opportunity is market-sensitive, less liquid than “Growth” strategies and predominantly idiosyncratic

Investment Objectives

- The investment objective is to provide a total return greater than the designated Return Enhancement composite benchmark.
- Peer-relative performance comparisons with managers employing similar styles may also be considered, especially when performance deviates meaningfully from market indices.
- These investment objectives are expected to be achieved over the long term and are measured over a full market cycle.

Monitoring and Control

- The returns and portfolio characteristics for the strategy are reported quarterly to monitor progress towards longer-term investment objectives.
- Due diligence meetings with investment managers may be held at least annually by the Manager to review portfolio results, as well as to discuss guidelines and expectations.
- Consistent inability to meet investment objectives or significant organizational events will trigger a review of an investment manager/strategy by the Manager.
Appendix C

Portfolio Investment Role Strategy Statement – Risk Reducing / Diversifying

The purpose of this Statement is to further define asset classes and investment strategies that serve the “Risk Reducing/Diversifying” role within the Organization’s Policy and to set forth the respective investment objectives and strategic guidelines.

Strategic Role

- Invest in a portfolio that may include, but not limited to: core and core plus intermediate fixed income, global fixed income, low duration fixed income, absolute return bond strategies, and low volatility hedge funds.
- Diversify the Organization’s “Growth” and “Return Enhancement” portfolios by investing in investment strategies and securities that exhibit a lower correlation to equity market beta, lower volatility and/or greater downside protection in periods of stress environments.
- Enhance the total portfolio’s risk/return profile through responding to changing market conditions and macro environments.
- Maintain a diversified exposure within the “Risk Reducing/Diversifying” portfolio and achieve returns in excess of passive indexes through the use of active investment managers and strategies.

Strategies

- Diversify the portfolio across investment strategies and securities that ensure broad participation in consistent yield and total return generation at lower absolute volatility than other segments of the total portfolio.
- Opportunistically increase risk reducing effect through risk hedging implementation strategies based on forward-looking market conditions and as deemed appropriate by the Manager.

Investment Objectives

- The investment objective is to provide a total return greater than the designated Risk Reducing/Diversifying composite benchmark. It should also provide effective diversification against market beta risk and a stable level of cash flow.
- These investment objectives are expected to be achieved over the long term and are measured over a full market cycle.

Monitoring and Control

- The returns and portfolio characteristics for the strategy are reported quarterly to monitor progress towards longer-term investment objectives.
- Due diligence meetings with investment managers may be held at least annually by the Manager to review portfolio results, as well as to discuss guidelines and expectations.
- Consistent inability to meet investment objectives or significant organizational events will trigger a review of an investment manager/strategy by the Manager.
# Appendix D
## Asset Allocation Strategy: Diversification Guidance

<table>
<thead>
<tr>
<th>Growth Strategies</th>
<th>Description</th>
<th>MAXIMUM suggested allocation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>% of Total Portfolio</td>
</tr>
<tr>
<td>RIIFL Multi-Asset Core Plus Fund</td>
<td>Diversified Growth Strategy with exposures to equities, real assets, and return-seeking fixed income; appropriate for entirety of growth strategy</td>
<td>≤85%</td>
</tr>
<tr>
<td>RIIFL Large Cap U.S. Equity Fund</td>
<td>Active Core U.S. Large Cap Equities</td>
<td>≤50% combined</td>
</tr>
<tr>
<td>RIIFL Defensive Equity Fund</td>
<td>Active Defensive U.S. Large Cap Equities</td>
<td></td>
</tr>
<tr>
<td>Vanguard Russell 1000 Index Fund</td>
<td>Passive Core U.S. Large Cap Equities</td>
<td></td>
</tr>
<tr>
<td>RIIFL Small Cap U.S. Equity Fund</td>
<td>Active U.S. Small Cap Equities</td>
<td>≤12% combined</td>
</tr>
<tr>
<td>Vanguard Russell 2000 Index Fund</td>
<td>Passive U.S. Small Cap Equities</td>
<td></td>
</tr>
<tr>
<td>RIIFL International Equity Fund</td>
<td>Active Non-U.S. Developed Equities</td>
<td>≤10% combined</td>
</tr>
<tr>
<td>Vanguard Developed Markets Index Fund</td>
<td>Passive Non-U.S. Developed Equities</td>
<td>≤40% combined</td>
</tr>
<tr>
<td>RIIFL Emerging Markets Equity Plus Fund</td>
<td>Emerging Markets Equities</td>
<td>≤15%</td>
</tr>
<tr>
<td>RIIFL Global Real Estate Securities Fund</td>
<td>Listed Global Real Estate</td>
<td>≤10%</td>
</tr>
<tr>
<td>RIIFL Global Listed Infrastructure Fund</td>
<td>Listed Infrastructure</td>
<td>≤10%</td>
</tr>
<tr>
<td>RIIFL Dynamic Commodity Strategies Fund</td>
<td>Commodities</td>
<td>≤10%</td>
</tr>
<tr>
<td>RIIFL High Yield Bond Fund</td>
<td>High Yield Bonds</td>
<td>≤10%</td>
</tr>
</tbody>
</table>

### Return Enhancement Strategies (no strategies currently offered)

<table>
<thead>
<tr>
<th>Risk Reducing / Diversifying Strategies</th>
<th>Description</th>
<th>MAXIMUM suggested allocation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>% of Total Portfolio</td>
</tr>
<tr>
<td>RIIFL Core Bond Fund</td>
<td>Intermediate Diversified Fixed Income</td>
<td>≤40%</td>
</tr>
<tr>
<td>RIIFL Low Duration Bond Fund</td>
<td>Low Duration Fixed Income</td>
<td>≤20%</td>
</tr>
<tr>
<td>RIIFL Absolute Return Fixed Income Fund</td>
<td>Long/short Fixed Income Strategy</td>
<td>≤10%</td>
</tr>
<tr>
<td>SSGA Instl Treasury Plus Money Market Fund</td>
<td>Money Market Fund</td>
<td>Not generally used for long-term assets</td>
</tr>
</tbody>
</table>

Additional guidance is available via the Investment Consultant/OCIO
FY2019 Proposed Budget, Consolidated and Capital/Budget Appeals/Sections, Divisions, Forums Financial Trends Update
TO: Operations and Communications Committee  
ABA Board of Governors

FROM: Thomas Kim - Chair, Law Student Division  
Austin Groothuis – Director, Law Student Division

DATE: May 18, 2018

SUBJECT: Reimbursement of the Law Student Division Council  
Annual Meeting 2018 – Chicago, IL

The Law Student Division respectfully requests that the ABA Board of Governors authorize partial reimbursement of expenses, up to a maximum total of $15,000, incurred by members of the Law Student Division Council for attendance at Division meetings to be held in conjunction with the ABA Annual Meeting, August 2-7, 2018 in Chicago.

The Board of Governors recognizes that participation in Association activities creates a greater financial hardship for law students than for other Association members. Consequently, the Board of Governors has previously approved "reimbursement of travel costs to Annual Meeting and a per diem allowance (to be) approved by the Finance Committee for each Annual Meeting" for members of the Division Council. Since 1979, the Division has allocated funds in the Division’s budget for Council travel to the Annual Meeting; and since 1979, the Board of Governors has approved the expenditure of the allocated funds from the Division for the Division Council’s travel to the Annual Meeting.

The 2017-18 Division budget has $15,000 allocated for the purpose of reimbursing the Division Council members attending the 2018 Annual Meeting.

The Division Council seeks authorization to reimburse its members for:
1) air travel (lowest available discounted coach airfare);
2) a maximum of 50% of the actual hotel sleeping room expense (members share rooms);
3) $50 ground transportation to/from terminals;
4) $25 per diem for meals/additional ground transportation expenses.

A detailed breakdown of expenses is attached.

The Division is hopeful that the Board will, as it has in the past, approve its request for partial reimbursement of the law students most actively involved in the Division’s leadership. If you have any questions about the above matters, please do not hesitate to contact Austin Groothuis, Director at 312.988.5591.
The Division requests authorization to reimburse in this manner the following persons:

### 2017-2018 Law Student Division Council
- (4) National Officers
- (3) National Officers-Elect
- (3) Division Delegates
- (3) Division Delegates-Elect
- (1) Student Editor

Total - (14) student members of the Council

#### Estimated Summary of Costs

**A. Airfare for (11) LSD Council Members (Avg. cost $500)**
- (3) Delegates-elect receive airline change fee of $150

<table>
<thead>
<tr>
<th>Description</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Airfare for (11) LSD Council Members (Avg. cost $500)</td>
<td>$5,500</td>
</tr>
<tr>
<td>(3) Delegates-elect receive airline change fee of $150</td>
<td>$450</td>
</tr>
</tbody>
</table>

**B. Per Diem & Lodging for Council Members**

- **Hotel (50% of room rate – members share rooms - $129.73)**
  - $129.73 x 4 nights x 6 members: $3,114
  - $129.73 x 6 nights x 3 members: $2,335
  - $129.73 x 2 nights x 2 members: $519
  - $129.73 x 2 nights x 3 members: $778

- **Per Diem ($25 per day)**
  - $25 x 4 nights x 6 members: $600
  - $25 x 6 nights x 3 members: $450
  - $25 x 2 nights x 2 members: $100
  - $25 x 2 nights x 3 members: $150

**C. Ground Transportation (14 students x $50)**

<table>
<thead>
<tr>
<th>Description</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ground Transportation (14 students x $50)</td>
<td>$700</td>
</tr>
</tbody>
</table>

Total Annual Meeting Travel Expenses: $14,696

cc: Meredith Parnell
    Mary Ann Foley
    Matthew Wallace
    Josh Poje
    Amy Eggert

---

1 The 2018-19 Division Delegates are elected during the 2018 Annual Meeting. The three successful candidates are provided up to $150 in reimbursement toward their airline change fee so they may adjust their departure date from Sunday (end of Law Student Division programming) to Tuesday in order to attend/observe the ABA House of Delegates Meeting.
June 6, 2018

MEMORANDUM

To: ABA Board of Governors

From: Jack L. Rives

RE: Request for Reconstitution of A-E-F-C Pension Plan Administration Committee

As described below, I request the Board of Governors reconstitute the A-E-F-C Pension Plan ("Plan") Administrative Committee ("Committee") effective at the conclusion of the 2018 Annual Meeting. In recent years, significant improvements have been achieved in both management and administration of the Committee thanks to the dedicated service of the past and present member volunteers and staff. Now is the time to take further actions to avoid unnecessary costs and to improve the effectiveness and efficiency of the Committee.

The Plan has approximately $140 million in assets. The Board of Governors has delegated responsibility for administration of the Plan to the Committee. The Plan is administered by a team of professional service providers overseen by the Committee. Benefit administration, actuarial, audit, trustee and investment management services are now wholly outsourced to highly qualified industry professionals. The current Committee structure -- nine members from various practice backgrounds and geographic areas who are not employees of the ABA or any participating employer -- cannot be expected to manage the professional service providers as efficiently or effectively as our in-house staff of employees. Quarterly Committee meetings, which currently span two days and for which volunteer members are reimbursed from Plan assets, result in significantly higher Plan expenses (e.g., travel, lodging, and meals) than are necessary in today’s budget-sensitive and constrained environment. Meeting expenses for the Plan total approximately $40,000 annually. Notably, the Committee retains separate outside counsel who attends all meetings in person and advises on all matters. In 2016 the Plan’s legal expenses totaled $233,820. According to a benchmarking study of the Plan’s 2016 expenses, the Plan’s legal expenses are higher than legal expenses paid by 99% of similar plans. In 2017, the bill for Plan legal expenses grew to over $298,500, a 28% increase that is not only unsustainable, but simply is not necessary. I note as well that ABA Retirement Funds, which oversees $6 billion in assets for thousands of law firms, has averaged only $40,000 in annual legal fees over the past three calendar years.
We have a highly qualified in-house ERISA counsel (former Winston & Strawn employee benefits partner with 25 years’ experience) in the ABA Office of General Counsel who can address virtually all Plan legal matters. Outside counsel can be retained on an as-needed basis should separate representation of the Plan become necessary. The current practice of outside counsel involvement on every matter on an ongoing basis is simply unnecessary -- and extraordinarily costly. The Committee has a fiduciary obligation (“the highest known to the law”1) to Plan beneficiaries to control expenses and to exercise prudence in the use of Plan assets. Under the Plan, the Board of Governors acts as an agent authorized by the employers to appoint and remove the Committee members and to oversee the Committee on behalf of the employers. As an agent charged with monitoring the Committee, the Board has the duty to direct the Committee as appropriate to assure the Committee is meeting its fiduciary obligations.

I propose the Pension Committee be reconstituted to comprise six staff representatives of the four participating employers, the ABA Treasurer, and two additional volunteer members nominated by the President-Elect. To effect this change, I recommend the Board (1) remove three of the four members whose terms are not expiring in August; (2) appoint six new members by staff position [specifically the ABA Deputy Executive Director; the ABA Chief Financial Officer; the ABA Chief Governance Officer; the American Bar Endowment (“ABE”) Executive Director; the American Bar Foundation (“ABF”) Executive Director or his designee; and the National Judicial College (“NJC”) Chief Financial Officer]; (3) retain current volunteer member Kathryn Kennedy, Secretary of the Committee, whose term expires at the conclusion of the 2020 Annual Meeting; and (4) appoint one new volunteer member nominated by the President-Elect. The requested reconstituted Committee will be similar to the ABA Thrift Plan administrative committee (the “401(k) Committee”) structure, and will be shaped to allow for continuity in the transition to the new structure. The 401(k) Committee is the fiduciary responsible for administration of the Thrift Plan, which also has approximately $140 million in assets. Since 2015, the 401(k) Committee has been composed of the incumbents in seven positions: ABA Deputy Executive Director, Chief Financial Officer, Human Relations Director, and Chief Governance Officer; ABE Executive Director; NJC Chief Financial Officer, and the ABA Treasurer. [The ABF no longer participates in the Thrift Plan.] The 401(k) Committee meets quarterly and oversees a team of service providers. The 401(k) Committee is supported by two ABA Human Resources staff members and the ABA Senior Associate General Counsel-Employee Benefits. As illustrated on the attached ABA Retirement Plan Expenses schedule, annual expenses for the Thrift Plan are less than 30% of annual expenses for the Pension Plan (excluding PBGC premiums)2. No expenses are incurred for 401(k) Committee meetings, which are generally conducted in less than two hours in our Chicago office. Since its reconstitution in 2015 the 401(k) Committee has incurred no outside counsel expenses -- because we are able to rely on experienced in-house benefits counsel. ABA Human Resources and Finance staff are skilled at managing both pension and 401(k) plan service providers and are unquestionably capable of supporting the reconstituted Committee.

In conclusion, I respectfully request that you reconstitute the A-E-F-C Pension Plan Administration Committee by adopting the following resolutions:

---

1 Donovan v. Bierwirth, 680 F.2d 263, 273 n.8 (2d Cir. 1982).
2 Calendar year 2016 Thrift Plan expenses were $582,000, compared to Pension Plan expenses (excluding PBGC premiums) of $1,992,000. (Attachment A)
RESOLVED, that the Board of Governors extends its appreciation and gratitude to the volunteer members of the Committee for their faithful service.

FURTHER RESOLVED, that pursuant to Section 6.3 of the A-E-F-C Pension Plan, the following members of the Committee are removed effective at the conclusion of the ABA 2018 Annual Meeting:

Barry C. Hawkins  
Alan S. Rachlin  
Howard H. Vogel

FURTHER RESOLVED, that pursuant to Section 6.3 of the A-E-F-C Pension Plan, effective at the conclusion of the ABA 2018 Annual Meeting the Committee shall be composed as follows: (1) ABA Treasurer; (2) ABA Deputy Executive Director (or the functional equivalent); (3) ABA Senior Associate Executive Director and Chief Financial Officer (or the functional equivalent); (4) ABA Senior Associate Executive Director and Chief Governance Officer (or the functional equivalent); (5) Chief Financial Officer, National Judicial College; (6) Executive Director, American Bar Endowment; (7) Executive Director or designated staff representative, American Bar Foundation; (8) volunteer member Kathryn Kennedy and (9) one volunteer member nominated by the President-Elect.

FURTHER RESOLVED, that pursuant to Section 6.3 of the A-E-F-C Pension Plan (the “Plan”), effective at the conclusion of the ABA 2018 Annual Meeting, individuals serve on the Committee for a term that lasts from the day the person assumes the position until the earliest any of the following occurs: (1) the person ceases performing in the position (to be automatically replaced by the successor in accordance with the Plan) or, for volunteer members not serving by position, the expiration of the three year period commencing with the effective date of appointment (or, if earlier, the expiration of the unexpired term to which such member was appointed); (2) the person resigns as a Committee member pursuant to the terms of the Plan; or (3) the Board elects to remove any person, position, or otherwise alter the composition of the Committee pursuant to the terms of the Plan.

JLR/ae
Attachment – ABA Retirement Plan Expenses
## ABA Retirement Plans
### Plan Expenses

All Amounts Except Participants in Thousands

<table>
<thead>
<tr>
<th></th>
<th>Thrift Plan (1)</th>
<th>Pension Plan (2)</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Approximate Plan Size:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dollar amount</td>
<td>$140,000</td>
<td>$140,000</td>
<td>Both plans are approximately $140 million</td>
</tr>
<tr>
<td>Number of participants</td>
<td>1,400</td>
<td>1,200</td>
<td>Pension plan had 1,200 participants in 2016, currently less than 1,100</td>
</tr>
<tr>
<td><strong>Investments:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Custodial &amp; account maintenance</td>
<td>$140</td>
<td>$ -</td>
<td>Paid to Fidelity by plan participants; includes admin services</td>
</tr>
<tr>
<td>Fiduciary oversight</td>
<td>70</td>
<td>-</td>
<td>Paid to Wilshire for 3(38) services</td>
</tr>
<tr>
<td>Mutual fund fees</td>
<td>304</td>
<td>-</td>
<td>Paid by plan participants, dollar weighted average is 22 bp</td>
</tr>
<tr>
<td>Investment management - Cambridge</td>
<td>-</td>
<td>368</td>
<td>Paid to Cambridge</td>
</tr>
<tr>
<td>Investment management - managers</td>
<td>-</td>
<td>910</td>
<td>Per Cambridge, individual managers charge 65 bp on avg.</td>
</tr>
<tr>
<td>Custodial</td>
<td>-</td>
<td>105</td>
<td>Paid to Northern Trust</td>
</tr>
<tr>
<td><strong>Administration:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fiduciary Services</td>
<td>45</td>
<td>-</td>
<td>Paid to NPPG for 3(16) services; staff handles all other admin matters</td>
</tr>
<tr>
<td>Administration</td>
<td>-</td>
<td>183</td>
<td>Paid to Hewitt, which administers the pension</td>
</tr>
<tr>
<td><strong>Legal</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>-</td>
<td>23</td>
<td>22</td>
<td>Pension legal costs increased to $299 in 2017</td>
</tr>
<tr>
<td><strong>Actuarial Services</strong></td>
<td>-</td>
<td>127</td>
<td>Paid to Aon</td>
</tr>
<tr>
<td><strong>Committee meeting costs</strong></td>
<td>-</td>
<td>40</td>
<td></td>
</tr>
<tr>
<td><strong>Audit</strong></td>
<td>23</td>
<td>22</td>
<td></td>
</tr>
<tr>
<td><strong>Total plan expenses before PBGC fees</strong></td>
<td>$582</td>
<td>$1,993</td>
<td></td>
</tr>
<tr>
<td><strong>PBGC Premiums</strong></td>
<td>-</td>
<td>700</td>
<td>PBGC premiums only apply to pensions and are a function of funding level</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$582</td>
<td>$2,693</td>
<td></td>
</tr>
</tbody>
</table>

(1) Thrift Plan expenses are proforma annual costs for new plan design as administration was transferred from Voya to Fidelity effective Jan. 1, 2018
(2) Pension Plan expenses are the actual for calendar year 2016
Attached is the Benchmarking Study that supports Exhibit 5.10, the “Request for Reconstitution of A-E-F-C Pension Plan Administration Committee.” The study was provided to the Pension Committee for its meeting on January 23, 2018, and the concerns were discussed in Executive Session with the Committee at that meeting. Below, FYI, is the transmittal of the report to the Chair of the Pension Committee:

Sent: Wednesday, January 17, 2018 9:59 AM
To: Ryan, Priscilla E. <pryan@sidley.com>; Phelan, Bill <Bill.Phelan@americanbar.org>
Cc: Serota, Susan P. <susan.serota@pillsburylaw.com>; Sanborn, Jarisse <Jarisse.Sanborn@americanbar.org>
Subject: Pension Plan Expense Benchmarking Report

Priscilla and Bill,

Attached for your review in advance of next week’s Pension Plan meeting is the Expense Benchmarking Report recently prepared by Penbridge Consulting. Penbridge advises defined benefit pension plans in comparing their expenses with those of similar plans. As a complimentary service, Penbridge prepared the Report on behalf of the Pension Plan.

The Benchmarks Report reveals that the Pension Plan’s expenses are significantly higher than average. Amounts paid for investment management services exceed 85% of all respondents. Amounts paid for legal services exceed 95% of all respondents. The Plan’s total expense ratio exceeds 2.0% of plan assets. Similarly sized plans in the survey have a total expense ratio typically under 1.0% of plan assets.

The Report is based on the expenses paid for the Plan in 2016. It does not include the cost of services provided by in-house ABA staff, such as legal and administrative. Including those costs would, of course, increase the Plan’s expenses for those categories.

Steve Keating, who operates Penbridge, discussed the report with me. He pointed out that administrative fees came to $150 per participant in 2016. That is a relatively high number. A typical per participant charge for plan administration by a provider like Aon Hewitt is $50 - $100. Cambridge Associates’ fee is also relatively high. There are advisors of similar quality who would charge less. If the Pension Plan would like assistance in negotiating lower fees, Penbridge can do so in one category or several. The scope can be narrow, such as simply calling Aon Hewitt and asking for a lower fee, or broader, such as conducting an RFI across many vendors for comparison. Their charge is a flat fee of $10,000 - $15,000 plus 25% of the first year’s savings. Lowering the Plan’s expenses to 1.0% would reduce expenses by $1,000,000 per year.

I will be happy to discuss the Report at the Executive Session next week.

Deborah
Deborah K. Boling
Senior Associate General Counsel, Office of the General Counsel

American Bar Association | 321 North Clark Street | Chicago, IL 60654
T: 312.988.6711 | F: 312.988.5217
deborah.boling@americanbar.org | www.americanbar.org
Plan Sponsor Profile

Respondent Information

<table>
<thead>
<tr>
<th>Name</th>
<th>Deborah Boling</th>
</tr>
</thead>
<tbody>
<tr>
<td>Title</td>
<td>Senior Associate General Counsel</td>
</tr>
<tr>
<td>Company</td>
<td>American Bar Association</td>
</tr>
<tr>
<td>Phone</td>
<td>312-988-6711</td>
</tr>
<tr>
<td>Email</td>
<td><a href="mailto:Deborah.Boling@americanbar.org">Deborah.Boling@americanbar.org</a></td>
</tr>
</tbody>
</table>

DB Plan Information

<table>
<thead>
<tr>
<th>Plan Name</th>
<th>A-E-F-C Pension Plan</th>
</tr>
</thead>
<tbody>
<tr>
<td>Plan Assets</td>
<td>$138,006,000</td>
</tr>
<tr>
<td>Plan Liabilities (PBO)</td>
<td>$148,237,000</td>
</tr>
<tr>
<td>Reporting Period</td>
<td>01/01/2016 – 12/31/2016</td>
</tr>
<tr>
<td>Survey Completion Date</td>
<td>01/03/2018</td>
</tr>
</tbody>
</table>

DB Plan Expenses by Category

<table>
<thead>
<tr>
<th>Category</th>
<th>DB Plan Expenses</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Trust and Custody</td>
<td>$105,050</td>
</tr>
<tr>
<td>b. Administration</td>
<td>$182,780</td>
</tr>
<tr>
<td>c. Actuarial</td>
<td>$126,560</td>
</tr>
<tr>
<td>d. Investment Management</td>
<td>$1,090,530</td>
</tr>
<tr>
<td>e. Investment Advisory – Non-Discretionary</td>
<td>NA</td>
</tr>
<tr>
<td>f. Investment Advisory – Discretionary</td>
<td>$368,020</td>
</tr>
<tr>
<td>g. Total PBGC Premium</td>
<td>$726,050</td>
</tr>
<tr>
<td>h. Legal</td>
<td>$233,820</td>
</tr>
<tr>
<td>i. Plan Audit</td>
<td>$20,600</td>
</tr>
<tr>
<td>j. Insurance (operational)</td>
<td>$2,570</td>
</tr>
<tr>
<td>k. Other</td>
<td>$0</td>
</tr>
<tr>
<td>Total</td>
<td>$2,855,980</td>
</tr>
</tbody>
</table>

NA – Not applicable.

Total Expense Ratio by Plan Size (n=31)

1 American Bar Association responses to Defined Benefit Expense Survey.

2 Total Expense Ratio is defined as total DB plan expenses divided by assets. Excludes survey respondents that did not supply a response for all expense categories. Responses of 'NA' were treated as zero expense.
Expense Ratio by Category

Percentile Ranking by Category

---

3 Shows only categories for which American Bar Association provided a response. Includes responses of 'NA', which were treated as zero expense.

4 Shows only categories for which American Bar Association provided a response. Excludes responses of 'NA' or zero expense.
Additional Survey Responses

Plan Asset Size (n=33)
- Less than $100 million: 36%
- $100 million – $1 billion: 24%
- More than $1 billion: 39%

Plan’s Type of Benefit Formula (n=33)
- Final average pay: 33%
- Career average: 36%
- Cash balance: 21%
- Other: 9%

Current Plan Status (n=33)
- Open to new entrants, and continuing to accrue benefits: 42%
- Closed to new entrants, but continuing to accrue benefits for existing participants: 33%
- Frozen; no longer accruing benefits: 24%

Plan Demographics (n=33)
- American Bar Association
  - Actives Accruing: 34%
  - Retirees: 34%
  - Terminated Vested: 22%
  - Actives Non-Accruing: 34%

Asset Allocation (n=33)
- Domestic Equities
- International Equities
- Short Duration U.S. Fixed Income
- Intermediate Duration U.S. Fixed Income
- Long Duration U.S. Fixed Income
- International Fixed Income
- High Yield Fixed Income
- Alternatives
- Cash
- Other

Management Style (n=33)
- Active Management
- Passive Management

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The Finance Committee met on Thursday, February 1, 2018 at the Vancouver Convention Centre West in Vancouver, British Columbia, Canada. Chair Ilene Knable Gotts presided. Committee members present for all or a portion of the meeting were ABA Treasurer Michelle A. Behnke, Linda A. Klein, E. Fitzgerald Parnell, Linda L. Randall, Paula A. Boggs, Mary Ann E. Foley, Benjamin A. Griffith, Allan C. Goolsby, W. Anthony Jenkins, Frank H. Langrock, Myles V. Lynk and Randall D. Noel. ABA Members also present for all or a portion of the meeting were ABA President Hilarie Bass; ABA President-Elect Robert M. Carlson; ABA Secretary Mary L. Smith; Chair, Standing Committee on Audit Allan J. Tanenbaum; Chair, Section Officers Conference Michael Bergman; and G. Nicholas Casey, Jr.

ABA Staff present for all or a portion of the meeting were Executive Director and Chief Operating Officer Jack L. Rives; Senior Associate Executive Director and Chief Financial Officer William K. Phelan; Deputy Chief Financial Officer and Controller Jerry Kiska; General Counsel and Associate Executive Director Jarisse Sanborn; Associate Executive Director DC Operations Holly O’Grady Cook; Associate Executive Director Rule of Law Initiative Elizabeth Andersen; Chief Membership Officer Michael Kreisberg; Director, Internal Audit Janae Leflore; Associate Executive Director Governmental Affairs Thomas M. Susman; Chief of Staff Amy Eggert; Director, Professional Division – DC Robert Horowitz; Editor and Publisher Molly McDonough; Senior Presidential Advisor Bethany Myles, Director Professional Services – Chicago Maria Enright; Director, Fund for Justice and Education Jackie Casey; Associate Director, Fund for Justice and Education Lea Snipes; and Program Manager Nadine Nunley. Also present for all or a portion of the meeting were Executive Director, American Bar Endowment Joanne Martin and Executive Director, American Bar Foundation Ajay K. Mehrotra.
Exhibit 4.2 - Request from ABA Fund for Justice and Education to Approve Revised Program Support Fund and Endowment Policy

The ABA Fund for Justice and Education (FJE) requests approval for the newly revised Program Support Fund (PSF) and Endowment Policy which includes a more robust role for the FJE as a partner to the Board of Governors. The FJE will more effectively monitor these accounts for timely use of funds and adherence to donor intent, as well as ensure that our 501(c)(3) tax status is maintained and that ABA/FJE can continue to raise charitable dollars.

The three main changes from the policy are:

1) The inclusion of endowments into the PSF policy. This allows one policy to address the overlapping need for monitoring of the accounts and review of their annual usage.

2) A defined role for the FJE in the monitoring and compliance of the policy. This includes regular review of the accounts, an annual educational series for leaders and entity staff, and suggested recommendation to the Profession, Public Service, and Diversity Committee and Finance Committee if an entity is out of compliance with the policy.

3) Suggested actions the Committees may recommend to the Board if an entity is not in compliance with the policy. Recommendations will be based upon the analysis conducted by the FJE of each PSF and endowment after conversations with each entity that is not in compliance with the policy.

RECOMMENDATION:

The Finance Committee request this item be withdrawn to allow review and comment by the entities that have Program Support Funds.

Exhibit 4.15a - Section of Antitrust Law

The Finance Committee considered the request from the Section of Antitrust Law to renew its co-sponsorship of the International Competition Network’s Training on Demand Project for FY2018-2020. The mission of the project is to create comprehensive curriculum of training materials to serve as a virtual university competition law and practice for competition agency officials, especially those from developing countries. At its 2017 Spring Meeting, the Section of Antitrust Law Council approved funding for this project from its Section budget in the amount of $25,000 per year for FY2018-2020.
RECOMMENDATION:

The Finance Committee recommends the Board of Governors approve the Section of Antitrust Law request to co-sponsorship the International Competition Network’s Training on Demand Project.

Exhibit 4.15g  -  Section of Environment, Energy, and Resources

The Finance Committee considered the request of the Section of Environment, Energy, and Resources to co-sponsor and financially support with up to $7,000 the Jeffrey G. Miller Pace National Environmental Law Moot Court Competition with Pace Law School for the 2018, 2019, and 2020 years which is scheduled for February 22-24, 2018. The Jeffrey G. Miller Pace National Environmental Law Moot Court Competition is recognized as the preeminent environmental law moot court competition in the United States and tests skills in appellate brief writing and oral advocacy involving issues drawn from real cases, providing experience in environmental litigation first hand.

RECOMMENDATION:

The Finance Committee recommends the Board of Governors approve the request of the Section of Environment, Energy, and Resources to co-sponsor and financially support with up to $7,000 the Jeffrey G. Miller Pace National Environmental Law Moot Court Competition with Pace Law School for the 2018, 2019, and 2020 years which is scheduled for February 22-24, 2018.

Exhibit 4.15h  -  Section of Public Contract Law and Forum on Construction Law

The Finance Committee considered the request of the Section of Public Contract Law and Forum on Construction Law to co-sponsor a two-hour panel workshop on Federal Regulation at the Associated General Contractors of America (AGC) upcoming Federal Contractors Conference to be held on May 1-3, 2018, in Washington, D.C. The Section will pay a $7,500 sponsorship fee for the 2-hour workshop panel spot which will be sponsored by a couple of member firms and a contractor of the Section and Forum. The $7,500 sponsorship could be waived if 15 Section and/or Forum members register for the AGC conference.

RECOMMENDATION:

The Finance Committee recommends the Board of Governors approve the Section of Public Contract Law and Forum on Construction Law to co-
sponsor a two-hour panel workshop on Federal Regulation at the Associated General Contractors of America (AGC) upcoming Federal Contractors Conference to be held on May 1-3, 2018, in Washington, D.C.

Exhibit 5.1 - Request from the Section of Family Law to Make Contribution to Jean Crowe Advocacy Center

The Finance Committee considered the request of the Section of Family Law to make a contribution of $1,000, derived from Section funds, to Jean Crowe Advocacy Center (Center). The Section will hold its 2018 Spring CLE Conference in Nashville, Tennessee on May 9-12, 2018. The Center aids survivors of domestic violence as they navigate through the criminal and civil court systems in Davidson County, Tennessee.

RECOMMENDATION:

The Finance Committee recommends the Board of Governors approve the Section of Family Law to make a contribution of $1,000 derived from Section funds to the Jean Crowe Advocacy Center.

Exhibit 5.2 - Request from Standing Committee on Audit Regarding Acceptance and Approval of Audited Financial Statements

The Finance Committee requested the Board of Governors acceptance of the consolidated financial statement, details of consolidation and other information for the years ended August 31, 2017, and 2016 as prepared by Grant Thornton, our independent auditors, and contained within the agenda materials.

RECOMMENDATION:

The Finance Committee received and recommends that the American Bar Association consolidated financial statements, details of consolidation and other information for the years ended August 31, 2017, and 2016 with the report of the independent auditor (Financial Statements) in the form presented to the Finance Committee be submitted to the Board of Governors with the recommendation that the Board of Governors accept the Financial Statements.

The Finance Committee further recommends that the Single Audit Reports for the American Bar Association for the year ended August 31, 2017, with the reports of the independent auditor in the form presented to the Finance Committee (Single Audit Report) be submitted to the Board of Governors with the recommendation that the Board of Governors accept the Single
Audit Reports.

The Committee recommends approval with the understanding the Standing Committee on Audit will not have a formal review with the external auditors until Saturday after the Finance and Board of Governors have met. Further the Standing Committee on Audit will inform the Board and Finance Committee if any changes are required after their review.

Exhibit 5.3 - Revised Investment Policy

This request was withdrawn and will be considered at the June 2018 Board meeting.

Exhibit 5.4 - Gift Awards/Modification Report (Board Acceptance)

The Finance Committee request Board acceptance of the Fund for Justice and Education restricted grants and contributions received or awarded through December 31, 2017, and not previously reported, as requested by the Association’s Financial Services Division.

RECOMMENDATION:

The Finance Committee recommends the Board of Governors accept the restricted grants and contributions received or awarded through December 31, 2017 in the amount of $16,918,128.

Exhibit 5.6 - Request from Standing Committee on Audit for Board for Endorsement of Bylaw Amendment

The Finance Committee through the ABA Standing Committee on Audit (Committee) is proposing that the House of Delegates amend Article 31.7 of the ABA Constitution and Bylaws (C&B) at the 2018 Annual Meeting to more completely and accurately reflect the Committee’s duties as they have been assigned by the Board of Governors. Currently, Article 31.7 requires the Audit Committee to:

1. recommend the selection, retention, and compensation of the Association’s independent auditors for approval by the Board of Governors;
2. ascertain that the Association’s auditors are independent from the Association and its management and are ultimately accountable to the Board of Governors;
3. review for the Association and all organizations required to be consolidated with the Association under generally accepted accounting principles (a) the results of the annual external audits of all financial statements and records; (b)
the reports of independent auditors on the applicable financial statements; (c) any matters required to be communicated to the Committee by the independent auditors under generally accepted auditing standards and the disclosure requirements of the Independence Standards Board; (d) the system of internal controls; (e) the independent auditors’ letter of recommendations; and (f) the Association’s responses to the letter of recommendations;

(4) review the internal audit function of the Association including (a) the independence and authority of its reporting obligations; (b) the proposed internal audit plan for each fiscal year; and (c) all reports issued by the internal audit department; and

(5) receive, investigate when necessary, and cause response to be made to inquiries or complaints by any member or employee of the Association concerning financial operations of the Association.

The Committee’s currently authorized responsibilities, as outlined above, are primarily limited to oversight of matters related to the financial operations of the Association. However, the need for additional oversight of internal controls, risk management, and staff/member conduct as it may implicate or impact such matters has required the Committee to perform functions outside of its originally defined scope. Although the Committee has been acting in this unofficially “expanded” capacity for many years, specific authority to do so has not been formally reflected in the Constitution and Bylaws of the Association.

Consequently, the Committee is proposing that Article 31.7 of the Constitution and Bylaws be amended to include a sixth responsibility and requests the Board to endorse this request. The amendment is proposed to read as follows:

The Audit Committee shall

(6) assist the Board of Governors in fulfilling its oversight responsibility relating to (i) the integrity of the Association’s financial statements and financial reporting process and the effectiveness of the Association’s system of internal accounting and financial controls; ii) the evaluation of management’s processes to identify, assess and manage the Association’s enterprise risk issues; (iii) the administration of the Association’s Business Conduct Standards, compliance process and activities through the Association’s Ethics Office; and (if) such other matters as may be delegated to it by the Board of Governors from time to time”.

RECOMMENDATION:

The Finance Committee has reviewed the amendments proposed by the Standing Committee on Audit to Article 31.7 of the ABA Constitution &
Bylaws. The Finance Committee agrees with the proposed amendments and they recommend that the Board of Governors similarly support the amendments and recommend that they be approved by the House of Delegates at the 2018 Annual Meeting.

Exhibit 5.20 - Minutes of the Previous Meeting

The minutes of the previous meeting held on Thursday, October 19, 2017 were approved as presented.

In addition, the Finance Committee received the following informational reports and took no action:

- Treasurer’s Report
- Subcommittee on Investments Update
- Section/Division/Forum Financial Trends
- 1st Quarter FYTD Variance to Budget Reports

There being no further business to come before the Committee, the meeting was adjourned.

Respectfully submitted,

Ilene Knable Gotts, Chair

IKG:nn
I. Minutes of the Previous Meeting
II. Acceptance of Grants and Awards to the Fund for Justice and Education

The Committee reviewed the list of grants and awards proposed to support the projects of the ABA which are supported by outside funds.

RECOMMENDATION:

The Finance Committee of the Board of Governors of the ABA Fund for Justice and Education recommends that the Board of Governors accept the grants and awards totaling $16,918,128 which had been received since December 31, 2017.

There being no further business to come before the Committee, the meeting was adjourned.

Respectfully submitted,

Ilene Knable Gotts, Chair

IKG:nn