MEMORANDUM

TO: 

FROM: 2019 Midyear Meeting of the American Bar Association and Meeting of the House of Delegates

DATE: March 6, 2019

REPORT ON THE ABA MIDYEAR MEETING

The 80th Midyear Meeting of the American Bar Association (the “ABA”) was held January 23-28, 2019, at the Caesars Palace Hotel, in Las Vegas, Nevada. A variety of programs were sponsored by committees, sections, divisions, and affiliated organizations.

The Nominating Committee sponsored a “Coffee with the Candidates” Forum on January 27, 2019. The following candidates seeking nomination at the 2020 Midyear Meeting gave speeches to the Nominating Committee and to the members of the Association present, followed by a question/answer session: Ruthe Catolico Ashley of California and Pauline A. Weaver of California, candidates for Secretary of the Association for the 2020-2023 term; Barbara J. Howard of Ohio and Rew R. Goodenow of Nevada, candidates for Chair of House of Delegates for 2020-2022 term; and Reginald M. Turner of Michigan, candidate for President-Elect for the 2020-2021 term.

THE HOUSE OF DELEGATES

The House of Delegates of the American Bar Association (the “House”) met on Monday, January 28, 2019. William R. Bay of Missouri presided as Chair of the House. The invocation for the House was delivered by Randall D. Noel of Tennessee. The Chair of the House Committee on Credentials and Admissions, Eileen M. Letts of Illinois, welcomed the new members of the House and moved that the signed roster be approved as the permanent roster for the meeting of the House. The motion was approved.

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

Christina Plum of Wisconsin, Chair of the Committee on Rules and Calendar, provided a report on the Final Calendar for the House. She stated that in an effort to conserve resources, all supplemental materials for the House were sent electronically and posted on the House’s webpage. She moved to adopt the final calendar which included the late-filed resolutions, and to approve the list of individuals who sought
privileges of the floor. All motions were approved. Ms. Plum noted the deadline for submission of Resolutions with Reports for the 2019 Annual Meeting is Tuesday, May 7, 2019, while the deadline for Informational Reports is Friday, June 7, 2019. She also noted the deadline for removing an item from the consent calendar. After the deadline had expired, Ms. Plum moved the items remaining on the consent calendar. The motion was approved.

Chair Bay recognized Mary L. Smith of Illinois, Secretary of the Association, for approval of the Summary of Action. No changes were proposed, and Secretary Smith moved that the Summary of Action be approved as the permanent record of the House for the 2018 Annual Meeting. The motion was approved.

Deceased members of the House were named by Secretary Smith and remembered by a moment of silence.

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

I. SPEECHES AND REPORTS MADE TO THE HOUSE OF DELEGATES

Statement by the Chair of the House of Delegates

William R. Bay of Missouri, Chair of the House of Delegates, recognized the Rules and Calendar Committee, chaired by Christina Plum of Wisconsin, as well as the staff that supports that Committee’s work. Chair Bay also recognized the House Tellers, chaired by Anna Romanskaya of California, a Young Lawyer Delegate.

Chair Bay also discussed the broad range of issues scheduled to go before the House, as well as the many competing demands on House members’ time. He emphasized the representative capacity each House member has, and the important perspectives that each House member brings to bear upon the deliberations of the body.

Statement by the ABA Secretary

Mary L. Smith of Illinois, Secretary of the Association, indicated that House members received by email Report 177, the Board of Governors’ informational report to the House. That report is provided in accordance with Section 48.2 of the House Rules of Procedure and summarizes the actions taken by the Board since the 2018 Annual Meeting. Secretary Smith noted that the Board did not consider or discuss any resolutions at its meeting. She also pointed House members to Report 177B, which contains the Association’s legislative priorities. Those priorities are now approved through the 2021 legislative term.
ABA President Robert M. Carlson of Montana thanked Chair Bay for his outstanding work in leading the House. President Carlson also thanked the members of the House. President Carlson appreciates the trust placed in him, as well as all of the hard work and service members have provided to this Association and to our profession. He said that our participation in the work of the House fortifies our united, strong, and respected voice that stands for professional excellence, equal justice, due process, and the rule of law. We must never take these values for granted and the American Bar Association must always be their champion.

President Carlson spoke of the sudden loss of John Bouma. As the Arizona State Delegate and a leader of his firm and the bar, Mr. Bouma was a mentor to President Carlson and so many other members of the House. He epitomized service to our profession and the values we hold dear. President Carlson expressed condolences to Mr. Bouma’s wife, Bonnie, their children and grandchildren, his colleagues at Snell & Wilmer, the Arizona delegation and all his friends here.

President Carlson thanked Chief Justice Reiber of the Vermont Supreme Court, who also serves as the Chair of the Conference of Chief Justices.

President Carlson also recognized the “Jackrabbit Bar Conference”, comprised of delegates from the states of Idaho, Montana, Nevada, New Mexico, North Dakota, Utah, and Wyoming. He observed that it is not often that the ABA President is from a Jackrabbit Bar Conference state, and that it is likewise rare that the House meets in a Jackrabbit Bar Conference state. President Carlson asked members of the Jackrabbit Bar Conference states to stand and be recognized.

President Carlson also thanked the State Bar of Nevada for hosting a recent roundtable for ABA leadership and managing partners of Nevada law firms. Such meetings enable ABA leadership to learn what is on the minds of local lawyers and determine how best to continue to deliver on the promise of member services and member benefits. President Carlson also recognized the Chair of the Litigation Section, Gene Vance, as well as Kevin Henderson and Joseph Brownlee from the Membership Division for their assistance with that meeting.

President Carlson reminded House members that the ABA influences the daily life of all lawyers in America. He said that if you consider all the lawyers who belong to the multitude of bar associations represented by the delegates in the House, the ABA speaks for more than a million lawyers across the country. He indicated that all lawyers share common priorities and interests. Lawyers understand that public service is the cornerstone of civilized society. President Carlson is relieved that the nation’s leaders have reached a tentative agreement to end the government shutdown. President Carlson voiced appreciation for the sacrifices of all those who were affected, including members of the military and employees in public safety and law enforcement. He stated that failure to fund the federal courts and the institutions of justice is an attack on the rule of law and
independence of the judiciary.

The ABA advocates for public service through our Standing Committee on Pro Bono and Public Service, which organized a marvelous event this year at Georgetown Law School in October for Pro Bono Week. They discussed issues of common ground, and those things that unite us as lawyers. Justice Kagan served as the Honorary Chair and spoke of her father, who was a solo and small firm lawyer who always made time for pro bono representation and community service. Everyone in this House has a role model, and everyone in this House is a role model. President Carlson reminded members of this House that the next generation of lawyers is watching us and learning from us. President Carlson thanked Judge Elizabeth Strong of the New York delegation for facilitating the Association’s invitation to Justice Kagan, and Tennessee Bar Association Delegate George T. Lewis who Chairs the Commission and worked with ABA staff to put together a successful event.

This year’s pro bono celebration focused on disaster legal services. Disaster survivors eventually need legal assistance with housing, employment, credit and many other issues. The ABA once again showed that pro bono lawyers are there for them. Our Young Lawyers Division works with FEMA and provides invaluable expertise to state and local organizations to quickly implement disaster legal service hotlines. With the ABA’s backing, these lawyers show communities and our nation the incredible role that a pro bono legal service program provides to our communities. President Carlson expressed indebtedness to the ABA YLD, the state and local bars, and others who have stepped up, as well as to ABA YLD member Andrew VanSingel for his long-time service.

Lawyers have a shared value of fairness and due process under law for all. This value is under attack in the immigration courts. President Carlson observed that we need more judges and personnel to eliminate the backlog of more than 800,000 cases in immigration courts. Nothing should impede access to counsel in these proceedings. The Department of Homeland Security must rescind its rule to send asylum seekers to Mexico as this violates due process and longstanding legal provisions. The ABA also insists on ending the practice of separating children from their families. President Carlson pledged to continue fighting until all children are reunited with their parents.

Thanks to J.K. Rowling’s Lumos Foundation’s support, the Association pro bono immigration lawyers at the border can now team with social workers to give reuniting families the range of help that they need. In a very recent development, the American Bar Endowment is supporting the ABA’s effort with a $150,000 opportunity grant that will enable the Association to hire a pro bono coordination at the border. President Carlson thanked ABE President (and former ABA President) Stephen N. Zack, the Grant’s Committee Chair Jonathan Cole, members of the ABE Board, and the ABA Board of Governors and President-Elect Judy Perry Martinez for making this possible.

As the voice of America’s lawyers, it is our duty to defend our nation’s court system when dedicated judges are attacked by public officials at the highest level and to stand behind those who are attacked. The ABA’s non-partisan evaluation of federal judicial
nominees contributes immensely to our voice for fair and impartial courts. President Carlson thanked Chair Paul Moxley and the Standing Committee on the Federal Judiciary for all their work.

President Carlson reminded the House that the ABA is the gold standard for international rule of law work through the efforts of our Rule of Law initiative, the Section on International Law and the Center for Human Rights. Last week we marked the International Day of the Endangered Lawyer, honoring prosecutors, judges, and human rights defenders around the globe who often confront brave risks because of their jobs. We support these individuals who embody the highest ideals of our profession and breathe life into the rule of law every day.

Our Center for Diversity is a national leader and valuable voice as we promote our profession’s core values of diversity and inclusion for all. Work continues on the project begun under immediate past-President Hilarie Bass to promote long-term careers for women in the law and our diversity entities constantly work to enrich the ABA’s programming, policies, leadership, relationships, and development of diverse lawyers across all categories.

President Carlson also discussed lawyer wellness. We are the nation’s leader in raising awareness of issues related to substance use and abuse, as well as anxiety, depression, and other mental illnesses in our profession. Lawyer wellness is not a fad, it is a movement born out of recognition that too many of our colleagues and their loved ones are suffering. We must act. We must start in the law schools, and continue to spread the word about the ABA working group to advance well-being in the legal profession. President Carlson urged everyone to sign the pledge, and indicated that his law firm has already signed on.

ABA Blueprint, an idea created by Past President Linda Klein when she was President, is also setting the gold standard. Sections, divisions, and forums of the Association are providing our members with the latest information and national expertise in their areas of law with this program. President Carlson thanked the Chairs of the Law Practice Division, the Solo, Small Firm and General Practice Division, the Section of Litigation, and the Young Lawyers Division for the work their Divisions and Sections have put into developing content for this initiative.

Law school enrollments are slowly increasing after years of decline, and Merriam Webster’s word of the year last year was “justice.” At the same time, we face challenges as a nation. At times, it seems a compromise is beyond reach and our great experience in democracy could fail. But we must remember that the powerful institutions of our democracy, including an independent and impartial judiciary, rule of law, free speech, and a free press have helped us weather political scandals and extremism. Our institutions are strong but they are not invincible. We may not agree on everything, but we must stand together for a strong, vibrant bar American Bar Association. President Carlson believes the steps we are taking to make the association more accessible, relevant, valuable and cost-effective are courageous and bold and will convince more lawyers than
ever that the ABA is the place to be in our profession.

President Carlson thanked the officers, Board of Governors, the sections, state and local bar leadership, and members who have stepped up and are running to lead our Association. President Carlson’s wife Cindy, as well as their daughter Mikael and her husband Kevin were in attendance. President Carlson thanked everyone for the work they do in contributing to promoting justice and the rule of law as the voice of the American legal profession.

When forces inside and outside this country attack the judiciary and seek to marginalize our justice system, when they ignore due process and the rule of law, the ABA will speak out. President Carlson said that we will do this from a position of strength, bolstered by the work done in this House. We will bend the moral arc of the universe towards justice.

Remarks by the President of the Conference of Chief Justices

The Honorable Paul L. Reiber, Chief Justice of Supreme Court of Vermont, and President of the Conference of Chief Justices, addressed the House on behalf of the Conference of Chief Justices.

Chief Justice Reiber thanked Chair Bay, President Carlson, President-elect Martinez, and all the members of the House. This is the tenth year the President of the Conference of Chief Justices provided remarks to the House, which reinforces the strong alliance between the American Bar Association and all of our state courts. The Bar plays a key role in the justice system. We educate citizens about how it works and help enable access for all. The Conference of Chief Justices appreciates the work the Association does.

Chief Justice Reiber acknowledged that we have regional differences in this country, but more importantly we are all engaged in a common purpose: justice under the law. The Conference of Chief Justices is a collection of Chiefs from all corners of our country and beyond. The territories also are represented. When they meet, they collaborate on common problems and form lifelong friendships. Despite their differences, they work toward the same goal: equal justice under the law. That is the promise of our constitutions. Chief Justice Reiber’s State Constitution puts it this way: “That frequent recurrence to fundamental principles, and a firm adherence to justice, moderation, temperance, industry, and frugality, are absolutely necessary to preserve the blessings of liberty, and keep government free.”

Chief Justice Reiber is disappointed that a color is often used to reference a state. Characterizing an entire people in a place as a color, blue or red, perpetuates a culture that we in the law work hard to deny—the dehumanizing of others. But he acknowledged that there are differences. For instance, Chief Justice Reiber is from Vermont, where there were until recently more cows than people. Chief Justice Reiber said we have differences, but more importantly, common goals.
Chief Justice Reiber also spoke about the opioid crisis. Some state courts address the problems and are good at providing a kind of relief valve and leveling mechanism to promote harmony through fairness and justice. But recently we have seen large caseloads in the areas of addiction-related crime and child protection. We have seen opioids killing children and families across the country. This human tragedy is also a crisis in the courts. Judges face decisions about whether victims of opioid abuse should go to jail or treatment, as well as where affected children should live. In family court, the impact of opioid addiction is most visible in the dependency docket. There is nothing more important than finding good homes for the children, but there are not always good options. To respond to the need, they have created a Commission on Family Treatment Dockets. The Commission includes public representation from all three branches of state government. They have also joined in a regional project focused on this problem. But there is much work to do.

Nationally, the National Judicial Opioid Taskforce created a resource center with support from the National Center for State Courts. The Resource Center has information for judges and administrators about opioid-related addiction treatment methods and much more. But doing so requires collaboration from all stakeholders. We need judges, legislators, mayors and governors, police and jailers, doctors, hospital administrators and treatment center directors. Chief Justice Reiber thanked those who are already involved in these efforts.

Chief Justice Reiber also highlighted equal access to justice in our civil dockets. Our ability to make good on this promise is sorely distressed. Justice Thurgood Marshall said he was not going to celebrate the US Constitution of 1787 as a success, but rather as the foundation for ongoing work towards equal justice for all. Justice Marshall noted the striking role that legal principles have played throughout America’s history and said the progress has been dramatic and must continue.

Most people in our country trust our legal system, and that trust is growing. Although 71 percent of low income households in this country experienced at least one civil legal problem in the last year, 86 percent of the civil legal problems reported by low income Americans received inadequate or no legal help. Chief Justice Reiber identified joint ventures in Vermont and elsewhere that are working towards access to justice. However, he acknowledged that we need to be doing more—much more. We must narrow the access to justice gap and secure the promise of equal access to justice.

In closing, Chief Justice Reiber told the House that the Conference of Chief Justices looks forward to continuing the collaborative efforts with the ABA’s Center for Legal Innovation towards developing (with the New York State Bar) best practices and guidelines for online document preparers. Chief Justice Reiber voiced an interest in withdrawn Resolution 10A, and a hope that further work is done on that important issue. Chief Justice Reiber also thinks it is vitally important that the House continue its support of an independent, a-political judiciary by giving recommendations for state and federal judges. This has never been more important, and he is very grateful for what the House
has been doing. Chief Justice Reiber closed with the hope that in 2019, we will see the continued cooperation and collaboration through this great Association and the state courts of this great land.

Statement by the ABA Treasurer

ABA Treasurer, Michelle A. Behnke of Wisconsin addressed the House.

Treasurer Behnke started by reviewing Fiscal Year 2018 year-end results. Those results showed $3.7 million added to our net assets, ending the year on a consolidated basis with total net assets of $175.4 million. The net operating revenue was $199.4 million against a budget of $203.3 million, resulting in a shortfall in our revenue for 2018 of $3.9 million. Dues, gifts, contributions and sponsorships, meeting fees, advertising, and royalties all contributed to that shortfall. Sections also saw a shortfall in revenue and that shortfall mostly came in the area of meeting fees.

Turning to the expense line, total expenses were $209.3 million against a budget of $210.9 million, resulting in a positive variance for our expenses. The expense favorability was primarily due to Section performance. Sections enjoyed savings in the compensation and fringe benefits area, as well as meetings & travel and publishing. Fiscal Year 2018 expenses were actually lower than in Fiscal 2017.

However, when you look at the revenue versus expenses for Fiscal Year 2018, you will see that, on an operating basis, we suffered a deficit of $9.9 million. However, moving down to the non-operating section of our statement, we enjoyed a healthy return on our investments of almost $10.3 million not budgeted into the operating line. But we spent more than $6.7 million on our VIP program. So with that piece of the non-operating activity, we were still in a deficit position of $4.6 million.

The final piece of our financial statement is the adjustment to our pension plan. Last year, we enjoyed increased interest rates, which resulted in a decrease to our pension liability of $8.3 million, thereby giving us an addition to our net assets of $3.7 million. The 2018 audit is now complete with an unqualified audit opinion from Grant Thornton for the fiscal year ended August 31, 2018. That audit also included an audit of our government grants.

Turning to the first quarter of Fiscal Year 2019, the budgeted income was $51.3 million. Thus far, the actual revenue is only $46.9 million. This is something to pay attention to because we lowered our revenue expectation in the Fiscal Year 2019 budget. On the expense side, our year-to-date results are positive against budget. Budgeted expenses were $54.4 million, while actual expenses were only $45.6 million. This is also worth noting in light of the significant reductions that we’ve made over the last couple of years in our budget – a total of $17 million over the last two years. Despite those reductions, we have still been able to manage our way on the expense side. Expense favorability will have to be managed and watched because this budget has an expectation of expenses associated with our new membership model implementation which for the
most part have not come through yet. As we begin to incur those expenses, we are likely
to see some of that favorability dissipate.

For the first quarter of Fiscal Year 2019, we are currently $4.3 million positive to
budget. However, the end of last year brought a good deal of market volatility, and
through the first quarter, we are showing a loss of investment income of $13.7 million.
That market volatility is another item we will have to watch, while also requiring that we
be more vigilant in how we budget and what we spend from our investments so that we
have those assets to apply to important projects going forward.

Through the first quarter of Fiscal Year 2019, total assets are $316.9 million.
However, our liabilities are $154.6 million, including our liability for the pension and the
loans used to fund the pension, leaving us with net assets of $162.4 million.

With that information and recognizing that we are about to implement our new
membership model, we are beginning the budgeting process early for Fiscal Year 2020.
We are fortunate to have significant assets and have determined that we will apply some
of those towards our new membership model. But 2020 will be the year of the highest
expense associated with the new membership model. Just from the repricing, we will see
our dues revenues decrease by somewhere around $8.6 million. In addition, there will
be implementation expenses. It looks like the Fiscal Year 2020 budget will have a
budgeted deficit of $6.1 million.

Treasurer Behnke is looking for ways to reduce our expenses in smart, strategic
ways. Treasurer Behnke provided three take-ways: Fiscal Year 2018 was strong, and we
actually added to our net assets. The first quarter of Fiscal Year 2019 is positive, but it’s
positive based on managing our expenses. We are already seeing softness in our
revenue and we have to takes steps to manage that. Fiscal year 2020 will be the first
year under the new membership model and we will see a decrease in our dues revenue
of approximately $8 million and we will need to decrease our expenses by approximately
$6.1 million.

Treasurer Behnke said we have challenges ahead, but that our new membership
model and a steadfast focus on expense management will present us with opportunities
to change our future course. She invited members of the House to contact her with
questions, comments, and ideas about how to tackle these challenges.

**Statement by the ABA Executive Director**

Jack L. Rives of Illinois, Executive Director of the American Bar Association,
directed delegates to his written report, which is included in the House materials as Item
Number 3. The Executive Director reported that the ABA enjoys many favorable factors,
including more than 400,000 members, a budget exceeding $200 million, and almost
$300 million in investments. Despite these positive matters, significant membership and
revenue challenges remain. In 1977, 50 percent of American lawyers were members of
the Association. Today, fewer that 20 percent of U.S. attorneys are members. We have
lost an average of 5,600 lawyer members annually for the last 10 years. And while the ABA has held down expenses, cutting operating costs by more than $20 million over the last five years, dues revenue has declined by approximately that amount over the past decade.

The new membership model is designed to overcome the negative trends. One component is an updated, sensible dues structure. We currently have 157 price points for dues -- under the new model, we will have five. We will also have many additional member benefits. For example, membership in the Law Practice Division and Solo, Small Firm and General Practice Division will be available to every member of the ABA at no additional cost. The Center for Professional Responsibility’s information will be generally available at no cost to members. We will also provide content curation and distribute materials to members related to their interests in the form they’d like to receive them. We will have a CLE marketplace with on-demand online courses available to members at no additional cost. From the beginning, we will have at least 450 courses and over the upcoming year, we expect that number to rise to about 650. Executive Director Rives reported these new benefits will help the ABA better demonstrate our value proposition and make it very apparent that members receive much more than their cost for ABA dues.

Executive Director Rives noted that we must market more effectively to members and prospective members. We now have a Chief Marketing Officer as well as an outside marketing firm that has great experience with law firms and the legal profession. Executive Director Rives explained the Board of Governors has adopted a new logo for the Association. The new logo has a contemporary look that pays homage to the ABA’s past while moving us forward into the future. The updated logo will be widely used when the new membership model is launched on May 1, 2019. The ABA’s tag line, “Defending Liberty, Pursuing Justice,” will continue to be used. We will also utilize a variety of marketing campaigns to focus on the needs and desires of particular audience segments.

Executive Director Rives expressed optimism that the new membership model will enable the Association to attract new members as we retain a very high percentage of existing members.

Report of the Nominating Committee

The Nominating Committee met on Sunday, January 27, 2019. On behalf of the Committee, Honorable Adrienne Nelson of Oregon, Chair of the Steering Committee of the Nominating Committee, reported on the following nominations for the terms indicated:

**Officers of the Association**

President-Elect for 2019-2020 Term
Patricia Lee Refo of Arizona

Treasurer-Elect for 2020-2022 Term
Kevin L. Shepherd of Maryland
Members of the Board of Governors for the 2019-2022 Term

DISTRICT MEMBERS-AT-LARGE

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

SECTION MEMBERS-AT-LARGE

Section of Science and Technology Law
Bonnie E. Fought of California

Tort Trial and Insurance Practice Section
Michael W. Drumke of Illinois

Solo, Small Firm and General Practice Division
James M. Durant III of Illinois

GOAL III MEMBERS-AT-LARGE

Goal III LGBT Member-at-Large
James J. S. Holmes of California

Goal III Woman Member-at-Large
Lynn M. Allingham of Alaska

Remarks by ABA President-Elect Nominee

President-Elect Nominee Patricia Lee Refo of Arizona observed that our strength and our voice come from our hundreds of thousands of members, from the structure of this House as a representative body of the state and local bars of our nation, and from the lawyers in this country and around the world who share our values and who look to the ABA as a keeper of the flame of justice and the rule of law.

President-Elect Nominee Refo thanked her son Andrew, who was in attendance, as well as her husband Don Bivens. President-Elect Nominee Refo also recognized John Bouma, who was a giant in the law and in civic life in Arizona, and had planned to be present to walk her down the aisle in this House. She knows that he would say “step forward, move on, there is work to do.”
President-Elect Nominee Refo talked about the plan to implement the new membership model, and the resulting increase in benefits to our members while prices are adjusted downwards towards something closer to what prospective members are willing to pay. She said the Association will continue to address the ongoing changes in the legal profession with fresh and innovative solutions while protecting the core values of an independent and self-governing profession. In addition, we will stand, and when necessary, we will fight for the independence of our judiciary, for access to justice, and for the equal treatment of all in our profession and indeed in our great nation.

But our work will not be finished by August 2020. President-Elect Nominee Refo said our work on these issues must never stop. Together, we as the ABA will continue to take bold action to move our profession forward.

II. RESOLUTIONS VOTED ON BY THE HOUSE

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

**ANIMAL RIGHTS**

[112] On behalf of the Tort Trial and Insurance Practice Section, Michael Drumke of Illinois, moved Resolution 112 as amended, urging Congress and the United States Department of Defense to direct the Armed Forces and its Public Private Venture housing contractors to enact uniform breed-neutral pet policies for families living in military housing. A.J. Albrecht, who had privileges of the floor and is Chair of the TIPS Animal Law Committee, spoke in favor of the resolution. Marc Warren of the District of Columbia, and a Delegate from the Judges Advocates Association (“JAG”) spoke in opposition to the resolution. James Durant of Illinois, a Delegate from the Solo, Small Firm and General Practice Division spoke in favor of the resolution. Peter Langrock of Vermont, a Delegate from the Vermont State Bar, spoke in opposition to this resolution. Linda Strite Murnane of Ohio, a Delegate from the National Conference of Specialized Court Judges, spoke in favor of the resolution. Samuel Lester Tate III of Georgia, moved the previous question. The motion passed. The resolution was approved as revised.

**CIVIL RIGHTS AND SOCIAL JUSTICE**

[107A] On behalf of the Section of Civil Rights and Social Justice, Estelle Rogers of California, moved revised Resolution 107A urging the federal judiciary, Congress, and the Department of Homeland Security to enact legislation and adopt policies to protect the privacy interests of those crossing the border by imposing standards for searches and seizures of electronic devices, protection of attorney-client privilege, the work product doctrine, and lawyer-client confidentiality. The resolution was approved as revised.
On behalf of the Section of Civil Rights and Social Justice, Mark Schickman of California, moved Resolution 107B urging legal employers not to require pre-dispute mandatory arbitration of claims of unlawful discrimination, harassment or retaliation based upon race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity or expression, marital status, or status as a victim of domestic or sexual violence. Kaustuv Das of Washington, moved to amend the resolution to add “genetic information” as one of the protected categories covered by the resolution. The amendment was approved. Mark Alcott of New York, a member of the Board of Governors, moved to amend the resolution so that it reads “RESOLVED, That the American Bar Association urges legal employers not to require that, before a dispute arises, employees agree to arbitration…” The motion to amend was approved. Jennifer Waters of Illinois, a Delegate from the National Association of Women Lawyers, moved an amendment to add the word “mandatory” back to line 2 of the resolution. The motion to amend was approved. The resolution was approved as amended.

CRIMINAL JUSTICE

On behalf of the Criminal Justice Section, Jaime Hawk of Washington, a Delegate for the Washington State Bar Association, moved Resolution 109A urging the Attorney General to rescind the “Zero Tolerance” and “Operation Streamline policies” that mandate the prosecution of all persons alleged to have improperly entered the United States for the first time, a misdemeanor under 8 U.S.C. 1325; end the practice of expedited mass prosecution of immigrants; and allow for an individualized determination in deciding whether to file criminal charges. Wendy Wayne of Massachusetts, Chair of the Commission on Immigration, spoke in support of the resolution. ABA President Carlson of Montana also spoke in favor of the resolution. President-Elect Judy Perry Martinez of Louisiana spoke in favor of the resolution. Mark Agrast of the District of Columbia, a Delegate at Large, also spoke in favor of the resolution. The resolution was approved.

On behalf of the Criminal Justice Section, Stephen Saltzburg of the District of Columbia, moved Resolution 109B urging federal, state, local, territorial and tribal legislatures to define criminal arrests, charges and dispositions that are eligible for expungement or removal from public view by sealing, and set out procedures for individuals to apply for the same. James Williams of Washington, spoke in favor of the resolution. The resolution was approved.

On behalf of the Criminal Justice Section, Neal R. Sonnett of Florida, moved Resolution 109C urging federal, state, local, territorial and tribal legislatures to enact legislation, and correctional and detention facilities to enact policies, to provide all women prisoners in all forms of detention with unrestricted access to free toilet paper and a range of free feminine hygiene products, in sufficient quantities to address their needs. The resolution was approved.
On behalf of the Criminal Justice Section, Stephen Saltzburg of the District of Columbia, moved Resolution 109D urging federal, state, local, territorial and tribal legislatures to amend existing laws or enact new laws to clearly define child torture and make child torture a felony offense regardless of whether a serious physical injury occurs, and to promote training, for all court and medical personnel in these cases, on emerging evidence-based and effective practices to improve government responsiveness to severe maltreatment of children that does not inflict serious bodily injury. The resolution was approved.

**DISASTER RELIEF**

On behalf of the Virgin Islands Bar Association, Anthony Ciolli of the Virgin Islands, moved Resolution 10C, which opposes the withholding by the Executive Branch of funds previously appropriated by Congress for disaster relief and recovery, or their diversion for other purposes. Carlos Rodriguez Vidal of Puerto Rico, Delegate from the Puerto Rico, spoke in favor of the resolution. The resolution was approved.

**DOMESTIC AND SEXUAL VIOLENCE**

On behalf of the Commission on Domestic and Sexual Violence, Mark Schickman of California, Chair of the Commission on Domestic and Sexual Violence and a Delegate from the Section of Civil Rights and Social Justice, moved revised Resolution 115 opposing the imposition upon sexual assault victims of a legal burden of resistance before legal protection attaches, and urges federal, state, local, territorial, and tribal jurisdictions to oppose, laws or rules that allow consent to sexual activity to be inferred in whole or in part from inaction or lack of verbal or physical resistance. Stephen Saltzburg of the District of Columbia, a Delegate from the Criminal Justice Section, moved to amend the resolution to delete the “Further Resolved” clause. W. Terry Ruckriegle of Colorado, the State Delegate from Colorado, asked for a point of information regarding why a vote was being taken on the first resolved clause if the two entities are continuing to work on the second resolved clause. The amendment was approved. Laura Livingston of Texas, the State Delegate of Texas, proposed an amendment to put a period after the first paragraph. The motion to amend was adopted. The resolution was approved as amended.

**FAMILY LAW**

On behalf of the Section of Family Law, Anita Ventrelli of Illinois, moved revised Resolution 111 adopting the Model Act Governing Assisted Reproduction dated January 2019 and approves the 2019 Model Act as an appropriate Act for those states desiring to adopt the specific substantive law contained in the Act. Richard Vaughn of California, who received privileges of the floor, spoke in favor of the resolution. The resolution was approved as revised.
[10A] On behalf of the New York State Bar Association, Michael Miller of New York withdrew Resolution 10A encouraging online providers of legal documents to adopt the ABA Best Practices for Online Document Providers, encouraging online providers to follow them, and encouraging bar associations to encourage online providers to follow them. Mr. Miller indicated that the New York State Bar Association plans to establish a working group to create a space for interested parties from within and outside the ABA to discuss and refine the resolution and then submit a revised version of the resolution at the 2019 Annual Meeting in San Francisco, California. The resolution was withdrawn.

[101A] On behalf of the Young Lawyers Division, Dana Hrelic of Connecticut, moved Resolution 101A encouraging federal, state, local, territorial, and tribal legislatures and court systems, in conjunction with state and local bar associations, to support and assist with the establishment and maintenance of lactation areas in courthouses for members of the public, including lawyers, jurors, litigants, witnesses, and observers. The resolution was approved.

[101B] On behalf of the Young Lawyers Division, Lacy Durham of Texas, moved Resolution 101B as amended, urging the enactment of a rule by the highest courts or legislative bodies of all states, territories, and tribes charged with the regulation of the legal profession, as well as by all federal courts, providing that a motion for continuance based on parental leave of either the lead attorney or another integrally involved attorney in the matter be granted if (a) consented to by all parties (b) or if not consented to by all parties and the movant demonstrates: (i) the motion is made within a reasonable time after; (ii) there is no substantial prejudice to another party; (iii) the criminal defendant’s speedy trial rights are not prejudiced, and (iv) the judge finds that the request was not made in bad faith, including for purposes of undue delay. Judge Christopher Whitten of Arizona moved to amend the resolution to insert “should” where “shall” had been crossed-out. Richard Bien of Missouri spoke in opposition to the motion to amend. Judge Dean Metry of Texas moved to amend the amendment to insert the way “may” instead of “should.” The motion to amend to add the word “may” was defeated. Stefan Palys of Arizona, rose to oppose the proposed amendment. The amendment was defeated. Andrew Demetriou of California, from the Board of Governors, rose for a point of clarification. Mr. Demetriou raised a concern regarding the word “after” in line 8 of the resolution. To address that concern, Mr. Palys moved to amend line 8 so that it reads “within a reasonable time after the reason for the continuance has been discovered.” The motion to amend was approved. David Miller of Florida, a Young Lawyer delegate from the Palm Beach Bar Association, spoke in favor of the resolution. Mr. Bien spoke in favor of the resolution as amended. The resolution was approved as revised.
**GUN VIOLENCE**

[106A] On behalf of the Standing Committee on Gun Violence, Monte Frank of Connecticut, Past President of the Standing Committee on Gun Violence moved Resolution 106A opposing laws that would authorize teachers, principals or other non-security school personnel to possess a firearm in, or in the vicinity of, a pre-K through grade 12 public, parochial, or private school, and the use of government or public funds to provide firearms training to teachers, principals, or other non-security school personnel, or to purchase firearms for those individuals. The resolution was **approved**.

[106B] On behalf of the Standing Committee on Gun Violence, Monte Frank of Connecticut, Past Chair of the Standing Committee on Gun Violence, moved Resolution 106B urging federal, state, local, territorial and tribal governments to reduce potential harm that individuals may inflict on themselves or others by enacting statutes, rules, or regulations allowing individuals to temporarily prevent themselves from purchasing firearms. Robert Gonzalez of Maryland, Chair of the Commission on disability Rights, spoke in favor of the resolution. The resolution was **approved**.

[106C] On behalf of the Standing Committee on Gun Violence, Monte Frank of Connecticut, moved to withdraw Resolution 106C urging that the possession of firearms in and around courthouses be limited to persons with an official role in security and that such persons be required to complete annual training in firearm safety. The resolution was **withdrawn**.

**HOUSE OF DELEGATES MEMBERSHIP**

[200] On behalf of the House Committee on Credentials and Admissions, Eileen Letts of Georgia, Chair of the House Committee on Credentials and Admissions, moved Resolution 200 recommending that the California Lawyers Association be admitted into the ABA House of Delegates as the secondary state bar of California and that it receive five of the State Bar of California’s current eleven delegates. Emilio Varanini IV of California, who received privileges of the floor, spoke in favor of the resolution. The resolution was **approved**.

**IMMIGRATION**

[116] On behalf of the Rule of Law Initiative, Paulette Brown of New Jersey, Past ABA President, moved Resolution 116 encouraging states and entities working to implement the Global Compact on Refugees and the Global Compact for Safe, Orderly and Regular Migration to take additional steps to address root causes of displacement and forced migration, develop policies that discourage the criminal prosecution of migrants and refugees, encourage the accountable use of prosecutorial discretion, and protect migrants and refugees from bias and discrimination regardless of gender, race, sexual orientation, sexual identity, national origin, and religion. Steven Richman of New Jersey, a Delegate from the Section of International Law, spoke in favor of the resolution. The resolution was **approved**.
INTELLECTUAL PROPERTY LAW

[104] On behalf of the Section of Intellectual Property Law, Susan Montgomery of Massachusetts, moved revised Resolution 104, encouraging a consistent approach to the application of the “fair use” doctrine in copyright law in the context of the digital environment and with respect to repackaging copyrighted material. Kaustuv Das of Washington, moved to postpone the resolution indefinitely. Scott Partridge of Texas, spoke in opposition to the motion to postpone indefinitely. Bonnie Fought of California, a Delegate from the Section of Science and Technology law, spoke in opposition of the motion to postpone indefinitely. Lucian Pera of Tennessee, also spoke in opposition to the motion to postpone indefinitely. Jennifer Rymell of Texas, a Delegate from the Solo, Small Firm, and General Practice Division, spoke in opposition to the motion to postpone indefinitely. Shane Delsman of Wisconsin, also spoke in opposition to the motion to postpone indefinitely. The motion to postpone indefinitely was defeated. The revised resolution was approved as revised.

LEGAL EDUCATION

[105] On behalf of the Section of Legal Education and Admissions to the Bar, Joan Howland of Minnesota, moved Resolution 105 concurring in the action of the Council of the Section of Legal Education and Admissions to the Bar in making amendments dated January 2019 to Standard 316 (Bar Passage) of the ABA Standards and Rules of Procedure for Approval of Law Schools. This is the second time this resolution has come before the House. Joan Howarth of Nevada, on behalf of the Society of Law Professors, who was given privileges of the floor, spoke in opposition to the motion. Greg Murphy of Montana, a member of the Council of the Section of Legal Education and Admissions to the Bar, spoke in favor of the resolution. Past ABA President Paulette Brown of New Jersey spoke in opposition to the resolution. Daniel Thies of Illinois, a member of the Council of the Section of Legal Education and Admissions to the Bar, spoke in favor of the resolution. Negeen Sadeghi-Movahed of the District of Columbia, Chair of the Law Student Division, spoke in opposition of the resolution. Sarah Correll, a member of the Law Student Division Council as well as the Section of Legal Education and Admissions to the Bar Council, spoke in support of the resolution. Lacy Durham of Texas, a Delegate from the Young Lawyers Division, spoke in opposition to the motion. Rebecca Birch, ABA Member of Arizona, who had privileges of the floor, spoke in favor of the motion. Judge Peter Reyes of Minnesota, Delegate from the Hispanic National Bar Association, spoke in opposition to the resolution. Judge Solomon Oliver of Ohio, a Delegate from the Section of Legal Education and Admissions to the Bar, spoke in favor of the resolution. Robert Grey of Virginia, former ABA President, spoke in opposition to the motion. Greg Alrich of Michigan, asked for a point of order for clarification on the impact of a yea or nay vote. Tom Bolt of the United States Virgin Islands, asked whether the motion could be subject to a motion to postpone indefinitely. Mark Schickman of California moved to call the previous question. The motion passed. The House voted not to concur with 88 voting in favor of concurring and 334 voting against concurring.
LITIGATION

[100] On behalf of the Judicial Division, Richard Bien of Missouri, moved Resolution 100 adopting the ABA Guidelines for the Appointment and Use of Special Masters in Federal and State Civil Litigation, dated January 2019, and recommends that Bankruptcy Rule 9031 be amended to permit courts responsible for matters under the Bankruptcy Code to use special masters in the same way as they are used in other federal cases. Merrill Hirsh, who received privileges of the floor, spoke in favor of the resolution. Mr. Hirsch reported that the Co-Sponsors of this resolution reached consensus on the framing of this resolution. Judge Alvin W. Thompson of Connecticut, a Delegate from the Business Law Section, spoke in favor of the resolution. James Alfini of Texas, a Delegate from the Section of Dispute Resolution, spoke in favor of the resolution. Lorie Masters of the District of Columbia, a member of the Board of Governors, spoke in favor of the resolution. The resolution was approved.

PARALEGAL EDUCATION

[103] The House approved by consent Resolution 103, granting approval to three programs, granting reapproval to thirteen paralegal education programs, withdrawing the approval of two programs at the request of the institutions, and extending the term of approval to 31 paralegal education programs.

RULE OF LAW

[10B] On behalf of the New York State Bar Association, Michael Miller of New York, moved Resolution 10B, condemning the federal government shutdown, which impairs the legal system and undermines the rule of law. Dan Schwartz of Connecticut, the State Delegate of Connecticut, spoke in favor of the resolution. Theodore H. Davis, Jr. of Georgia, proposed an amendment to read “RESOLVED, that the American Bar Association condemns federal government shutdowns, which impair our legal system and undermine the rule of law. The motion to amend was adopted. The resolution was approved as amended.

SEXUAL ORIENTATION AND GENDER IDENTITY

[113] On behalf of the National LGBT Bar Association, John Francis Stephens, moved Resolution 113 opposing laws, regulations, and rules or practices that discriminate against LGBT individuals in the exercise of the fundamental right to parent; urges lawmakers in jurisdictions where such discriminatory laws, regulations, and practices exist to promptly repeal them; and urges bar associations and attorneys to defend victims of anti-LGBT discrimination, and to recognize and support their colleagues taking on this work. President-Elect Perry Martinez of Louisiana spoke in favor of the resolution. The resolution was approved.
[114] On behalf of the Commission on Sexual Orientation and Gender Identity, Victor Marquez of California, Chair of the Commission on Sexual Orientation and Gender Identity, moved revised Resolution 114 urging Congress to enact the federal Equality Act, H.R. 2282 (115th Congress), or similar legislation which explicitly affirms that: (1) discrimination because of sexual orientation or gender identity is sex discrimination prohibited by the Civil Rights Act of 1964 and certain other federal statutes; and (2) federal statutory protections for religious freedom do not authorize violation of nondiscrimination laws, and affirms that religiously neutral laws of general applicability prohibiting discrimination based on sexual orientation or gender identity do not improperly burden the religious free exercise rights of those operating places of public accommodation. The resolution was approved as revised.

**SPECIALIZATION**

[102] The House approved by consent Resolution 102, granting reaccreditation to the DUI Defense law program of the National College for DUI Defense, and extending the existing accreditation periods of the Family Trial Law and Criminal Trial Law programs of the National Board of Trial Advocacy.

**SUBSTANCE ABUSE**

[108] On behalf of the Senior Lawyers Division, Marvin Dang of Hawaii, Minority Member at Large, moved Resolution 108 urging the American Bar Association to adopt and federal, state, local, territorial, and tribal courts, governmental entities, bar associations, public health agencies, lawyer assistance programs, lawyer regulatory entities, institutions of legal education, and law firms to implement the recommendations and action points in the report, *Experienced Lawyers, American Families, and the Opioid Crisis–Report of the Opioid Summit May 2018*. The resolution was approved.

**UNIFORM ACTS**

[110A] The House approved by consent Resolution 110A, approving the Uniform Criminal Records Accuracy 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.

[110B] The House approved by consent Resolution 110B, approving the Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images 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.

[110C] The House approved by consent Resolution 110C, approving the Uniform Fiduciary Income and Principal Act, promulgated by the National Conference of Commissioners on Uniform State Laws, as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein.
The House approved by consent Resolution 110E, approving the Uniform Nonparent Custody and Visitation Act, promulgated by the National Conference of Commissioners on Uniform State Laws, as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein.

The House approved by consent Resolution 110E, approving the Uniform Supplemental Commercial Law for the Uniform Regulation of Virtual-Currency Businesses 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.

Closing Business

Chair Bay recognized William D. Johnson of Delaware, who moved the Host Resolution. The resolution was approved.

Chair Bay recognized Laura Farber of California, to invite and welcome the members of the House of Delegates to the 2019 Annual Meeting in San Francisco, California.

At the conclusion of the meeting of the House of Delegates on Monday, January 28, 2019, Chair Bay recognized Christina Plum of Wisconsin, who then moved the House adjourn sine die. The motion was approved.