RESOLVED, That the American Bar Association supports the restoration of federal judicial review of immigration decisions and urges Congress to enact legislation:

(a) To restore the U.S. Court of Appeals’ authority to review discretionary decisions of the Attorney General under the abuse of discretion standard in effect prior to 1996 legislation. Such legislation should provide that courts apply a presumption in favor of judicial review and specifically reject attempts by the Attorney General to label additional actions as discretionary and insulate them from review;

(b) To permit the courts of appeals to remand cases to the Board of Immigration Appeals (“BIA” or
“Board” for further fact finding under the standard provided in the Hobbs Act for other agency actions where the additional evidence is material and there were reasonable grounds for failure to adduce the evidence before the agency. See 28 U.S.C. § 2347(c); and

(c) To amend the current 30-day deadline to file a petition for review with the court of appeals to 60 days, with a provision for the petitioner to obtain an extension of an additional 30 days for good cause or upon a showing of excusable neglect.

FURTHER RESOLVED, That the American Bar Association urges the promulgation of regulations requiring that a final order of removal include notice of the right to appeal, the applicable circuit court, and the deadline for filing an appeal.