

SUMMARY OF ACTION  
AMERICAN BAR ASSOCIATION  
BOARD OF GOVERNORS

La Quinta Resort & Club  
La Quinta, California  
November 5-6, 2004

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

The Board of Governors (Board) received the reports of the President, President-Elect, Chair of the House of Delegates, Secretary, Treasurer, Immediate Past President, and Executive Director. The minutes of the Board's August 6, 2004, meeting and August 23, 2004, E-Mail Ballot were approved as presented. The minutes of the Executive Committee's September 17, 2004, meeting and October 8, 2004, E-Mail Ballot were received.

**2. MATTERS FOR DIRECT BOARD ACTION**

**2.1 Critical Issues Discussion: Overview of the Association**

President Grey presented a Power Point overview of the Association that provided a snapshot of the ABA as a whole as well as a sum of its major components. It was suggested that this information could provide the basis of an orientation for new ABA members as well as an Association Annual Report.

**2.2 Membership Strategic Planning**

Maury B. Poscover, Chair of the Standing Committee on Membership, and Diane R. Bruhl, Director of the ABA Membership and Marketing Division, presented a "Power Point" on the Standing Committee's strategic focus for increasing membership by the year 2010.

**2.3 Fund for Justice and Education**

The Board, sitting as the members of the Board of the American Bar Association Fund for Justice and Education (ABA/FJE): a) approved the minutes of the August 6, 2004, meeting of the ABA/FJE Board as presented; b) accepted the ABA/FJE restricted grants and contributions received or awarded through September 30, 2004, and not previously reported, as requested by the Association's Grant Development & Administration Office; and c) heard a presentation from Allan J. Tannenbaum, Chair of the Council of the ABA/FJE, and Krista D. Kauper, Director of Development, concerning the purpose and work of the FJE, the role of the FJE Council, and the importance of having 100 percent of the Association's leadership contribute to the FJE.

#### 2.4 Jurisdictional Statement

The Board approved revised jurisdictional statements for the Program and Planning Committee and the Finance Committee to adjust the emergency supplemental appropriation amounts subject to independent jurisdiction.

#### 2.5 Consent Calendar: Report of Board Committee Chairs

The Board adopted the Consent Calendar as presented by the Secretary. Action on all items contained on the Consent Calendar is set forth in items 3 through 5 of this Summary of Action relating to the reports of the Board Committees.

### **ADDITIONAL ITEMS**

#### Resolution of Appreciation to Jia Feng

The Board passed a resolution expressing its appreciation to Jia Feng for his leadership as Co-Director of the U.S.-China Environmental Governance Training Program, a joint project of the ABA Asia Law Initiative and the Center for Environmental Education and Communication of the State Environmental Protection Administration of the People's Republic of China.

#### Status Report on Work of the ABA American Jury Initiative

At the request of President Grey, H. Thomas Wells, Jr., liaison to the ABA Commission on the American Jury, presented a status report on the Association's American Jury Initiative. The Initiative is comprised of two entities created by the Board in November 2003: a) The ABA Commission on the American Jury, which provides leadership and strategic direction to the ABA in advocating, promoting, and improving the jury system in America through public outreach efforts; and b) the American Jury Project that will prepare and recommend jury standards for consideration by the House of Delegates at the 2005 Midyear Meeting in Salt Lake City, Utah. A symposium on the jury system was held at Washington and Lee University School of Law in October 2004 to address the draft jury standards. The Commission will have its inaugural event in Washington, DC, on December 9, 2004. United States Supreme Court Justice Sandra Day O'Connor, honorary chair of the Commission, and Hon. Judith S. Kaye, Chief Judge of the State of New York and a Commission co-chair, will speak. In addition, a "Dialogue on the American Jury" featuring the Chief Justice of the Utah Supreme Court will be held for Utah high school students during the 2005 Midyear Meeting, and the theme of Law Day 2005 will focus on the jury system.

**3. OPERATIONS AND COMMUNICATIONS COMMITTEE**

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

**3.1 Requests for Bylaw Amendments**

**a. Appellate Judge Conference**

Subject to clarification of certain matters and several grammatical issues, and approval of any revisions by the ABA Secretary, the Board approved the request of the Appellate Judges Conference (AJC) of the Judicial Division to amend its bylaws, in pertinent part to: i) permit the AJC's membership to include appellate lawyers and appellate staff attorneys in addition to appellate judges; ii) specify that payment of ABA dues as well as Judicial Division dues is a requirement for Conference members; iii) specify that binding action be by a majority vote of "eligible" members present, since Associate members of the Conference are not eligible to vote; iv) add that members of the AJC's Executive Committee shall also serve as members of the Board of the Appellate Judges Education Institute (AJEI) to reflect the Memorandum of Understanding between the ABA and the AJEI that was approved on August 25, 2003; v) clarify that Executive Committee members must be members of the AJC; vi) add the Council of Appellate Lawyers as a special committee of the AJC; and vii) eliminate obsolete language and provisions, including changing the title "Judicial Administration Division" to "Judicial Division." The proposed changes were approved by the AJC Executive Committee on August 8, 2004, and by the Judicial Division Council on September 9, 2004.

**b. Section of Family Law**

Subject to clarification of certain matters and several grammatical issues, and approval of any revisions by the ABA Secretary, the Board approved the request of the Section of Family Law to amend its bylaws to: i) provide for clear lines of succession if a Section officer or Council member dies, resigns or becomes disabled; and ii) permit the Section Council to hold interim meetings via telephone or other appropriate means. The Section Council approved the proposed changes on June 22, 2004, and Section members approved the changes by ballot vote during the Section's Annual Meeting on August 8, 2004.

**3.2 Consideration of Requests to Submit Technical Comments and to Serve as Reviewing Entity for Technical Comments Under Blanket Authority Procedure Adopted in August 2004**

The Board deferred to the February 2005 Board of Governors meeting its consideration of requests of ABA Sections to submit technical comments and to serve as reviewing entities for technical comments under the Blanket Authority Procedure adopted by the ABA House of Delegates in August 2004, in order to permit a subcommittee of the Operations and Communications Committee to work with the affected Sections to address concerns.

3.3 Section of Public Contract Law and Section of State and Local Government Law Request for Extension of Authority to Comment on State and Local Procurement Matters

The Board extended for a three-year period, expiring on December 31, 2007, the authority of the sections of Public Contract Law and State and Local Government Law to submit comments to state and local governments on proposed procurement policies and practices based on the ABA Model Procurement Code.

3.4 Government and Public Sector Lawyers Division Request to Charge Program Fees at 2005 Midyear Meeting

The Board approved the request of the Government and Public Sector Lawyers Division to charge program fees of \$20 for an ethics course, \$20 for a course in public law office management, and \$10 for a program on pathways to success for women and minorities in the public sector at the 2005 Midyear Meeting.

3.5 Standing Committee on Meetings and Travel Recommendation Regarding Registration Fees for 2005 Annual Meeting

The Board approved the following registration fees for the 2005 Annual Meeting in Chicago, Illinois, as recommended by the Standing Committee on Meetings and Travel:

<u>CATEGORY</u>	<u>2005 FEE</u>
Member – Early (by 5/31/05)	\$165
Member – Late (5/31 – 8/9/05)	\$295
Speaker	\$165
Distinguished Guest	\$165
Non-Member	\$500
Adult Guest – Age 18 and Over	\$ 35
Youth Guest – Under Age 18	Free
<u>CANCELLATION FEE</u>	\$ 50

3.6 Standing Committee on Membership Request for Member Benefit Program with Staples

The Board approved the request of the Standing Committee on Membership for a one-year pilot to test a member benefit program with Staples that would, in pertinent part, offer every ABA member: a) a ten percent average discount on the advertised list price of over 1600 office supply products; b) discounted e-mail coupons; and c) enrollment in the Staples Business Rewards Program. Staples would offer the ABA a minimum guarantee of \$25,000 per year and would pay the Association a quarterly revenue share equal to three percent of net sales generated via the affinity pricing and e-mail coupon programs.

3.7 Strategic Council on the Rule of Law Request to Enter into an Agreement with GlobalGiving

The Board declined to approve the request of the Strategic Council on the Rule of Law to enter into an agreement with GlobalGiving and become a “project sponsor.” Created in 2000 by former World Bank employees, GlobalGiving uses the Web to raise funds from individuals to support social and economic development projects around the world. A majority of the Operations and Communications Committee felt the Committee needed more information than was provided and hopes to receive that information at the February 2005 meeting of the Committee.

3.8 Commission on Immigration Request to Form Advisory Committee

The Board approved the creation of an Advisory Committee to the Commission on Immigration to assist the Commission with ongoing projects and to help the Commission with a transition in leadership in 2004-2005. In accordance with §28.3 of the ABA Constitution and Bylaws, Advisory Committee members will be responsible for their own expenses and no general revenues were requested to fund the Advisory Committee.

3.9 Justice Kennedy Commission Request to Modify Jurisdictional Statement and Request for Emergency Supplemental Appropriation

The Board approved the creation of a successor entity to the Justice Kennedy Commission -- the Commission on Sentencing, Corrections and Reentry—that would be comprised of up to 12 members with experience in law enforcement and public policy administration. The new Commission would expand upon the work of the Kennedy Commission by combining policy, development and advocacy at the national level with specific field implementation projects at the state and local level, and report to the Board no later than August 2005. The Board also approved the Kennedy Commission’s request for an emergency supplemental appropriation of \$15,000 to permit the Kennedy Commission to maintain operations while it seeks outside funding for the successor entity.

3.10 Standing Committee on Legal Aid and Indigent Defendants Request for Creation of Special Advisor Position

The Board approved the creation of a special advisor position and the appointment of Herbert Garten as special advisor to the Standing Committee on Legal Aid and Indigent Defendants. No general revenue was requested.

3.11 Request to Appoint ABA Representative to the Courthouse Access Advisory Committee

The Board appointed Hon. Norma L. Shapiro as the ABA representative to the United States Access Board’s Courthouse Access Advisory Committee. Established in 1973, the Access Board is an independent Federal agency devoted to accessibility for people with disabilities. The Courthouse Access Advisory Committee, which includes

organizations that represent the interests affected by the accessibility guidelines for courthouses, will advise the Access Board on issues related to the accessibility of

courthouses covered by the Americans with Disabilities Act of 1990 and the Architectural Barriers Act of 1968.

3.12 Tort Trial and Insurance Practice Section Request to Establish Kirsten Christophe Memorial Award

The Board approved the request of the Tort Trial and Insurance Practice Section (TTIPS) to establish the annual "Kirsten Christophe Memorial Award for Excellence in Trial and Insurance Law." Ms. Christophe was a former Section Council member who perished September 11, 2001, in the attack on the World Trade Center. The award, in the form of a plaque, would be presented at the TTIPS Spring Meeting.

**B. MATTERS OF INDEPENDENT JURISDICTION**  
**(Committee action and notifications to the Committee are reported to the Board.)**

3.15 Requests for Co-sponsorships

a. Section of Business Law

The Operations and Communications Committee approved the request of the Section of Business Law to co-sponsor with the University of Pittsburgh Center for International Legal Education (Center) the North American Conference that marks the 25<sup>th</sup> Anniversary of the United Nations Convention on Contracts for the International Sale of Goods. The North American conference will be held in fall 2005 at the University of Pittsburgh. In approving the request, the Operations Committee understood that the Section: i) would serve as a non-financial co-sponsor; ii) would have no responsibility for Conference expenses; and iii) would designate one Conference speaker and consult with the Center regarding the selection of other speakers.

b. Section of Intellectual Property Law

The Operations and Communications Committee approved the request of the Section of Intellectual Property Law to co-sponsor with the World Intellectual Property Organization (WIPO) Coordination Office a program regarding the WIPO's services in the area of international alternative dispute resolution on March 10, 2005, at the United Nations in New York City. In approving the request, the Operations Committee understood that: i) the Section and WIPO would jointly plan and present the program; ii) WIPO will assume primary financial responsibility for the program; and iii) Section funds, estimated to be \$5-10,000, would be used to pay any Section expenses associated with the program (e.g., speaker travel expenses, expenses incurred in obtaining CLE credit if CLE is offered, expenses of a dinner).

c. Section of Public Contract Law

The Operations and Communications Committee approved the request of the Section of Public Contract Law to co-sponsor its annual Federal Procurement Institute (FPI) with the National Contract Management Association (NCMA) on February 24-25, 2005, in Annapolis, Maryland. In approving the request, the Operations Committee understood that: i) the Section and NCMA would work closely on the content of the panels and materials; and ii) only Section funds would be used to fund the FPI.

d. Standing Committee on Substance Abuse

The Operations and Communications Committee approved the request of the Standing Committee on Substance Abuse to co-sponsor with the University of Baltimore School of Law Center for Families, Children and the Courts (CFCC) the two-day conference "Substance Abuse and Addiction in Families: A Judicial Conference for Family Courts" in Baltimore, Maryland, in late April or May 2005. The Maryland Administrative Office of the Courts (Administrative Office) and the Open Society Institute (OSI) - Baltimore, Drug Addiction Treatment Program are also co-sponsoring the program. In approving the request, the Operations Committee understood that: i) the Standing Committee would have significant involvement in the planning and implementation of the conference, as well as in the development of conference materials and a "Bench Book", and would not be responsible for any costs associated with the conference; and ii) the Administrative Office and OSI have each committed \$25,000 to CFCC to fund the program.

e. Presidential Advisory Council on Diversity in the Profession

The Operations and Communications Committee approved the request of the ABA Presidential Advisory Council on Diversity in the Profession to develop with the Law School Admission Council (LSAC) a print and online Diversity Resource Guide. In approving the request, the Operations Committee understood that the Advisory Council would help identify programs to include in the Guide, and the LSAC would contribute up to \$50,000 to support the project.

f. Commission on Women in the Profession

The Operations and Communications Committee approved the request of the Commission on Women in the Profession to solicit co-sponsors for the Commission's Women in Law Leadership Academy, scheduled for April or May 2005. In approving the request, the Operations Committee understood that the Commission would identify program topics and some of the program's panelists and would solicit various firms and corporations to provide financial support for the program.

3.16 Meeting Outside the United States

a. Section of Business Law

The Operations and Communications Committee was notified that the Section of Business Law will co-sponsor a CLE program on private investment entities with the International Bar Association in London, England, on February 27 – March 1, 2005.

4. **PROGRAM AND PLANNING COMMITTEE**

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

None for consideration.

B. **MATTERS OF INDEPENDENT JURISDICTION**

**(Committee action and notifications to the Committee are reported to the Board.)**

4.1 Standing Committee on Legal Aid and Indigent Defendants Request for  
Emergency Supplemental Appropriation

The Program and Planning Committee approved the request of the Standing Committee on Legal Aid and Indigent Defendants for an emergency supplemental appropriation of \$20,000 to enable the Standing Committee to begin the revision of the ABA Standards for Providers of Civil Legal Services to the Poor while it continues to seek outside funding to support the remaining costs of the project.

5. **FINANCE COMMITTEE**

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

5.1 Standing Committee on Continuing Legal Education Request for Exception to  
Policy to Contribute Funds to Form1.org

The Board approved the request of the Standing Committee on Continuing Legal Education (CLE) for an exception to the policy that specifies it is generally not appropriate for the ABA or any of its entities to contribute funds to other organizations to enable the Standing Committee to make a contribution of \$7,500 to Form1.org. Form1.org is a Tennessee not-for-profit organization founded by Mandatory CLE



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(MCLE) and CLE administrators to develop an online, centralized system for processing CLE applications and improve communication between CLE providers and regulators.

No ABA general revenue was requested. The funds for the contribution will come from fees earned by the ABA MCLE Unit for providing MCLE accreditation processing services.

5.2 Request to Adopt Contract Policy

The Board adopted a policy regarding the contracting for goods and services applicable to all areas of the Association, including General Revenue operations, Section operations, FJE and grant-sponsored programs.

**B. MATTERS OF INDEPENDENT JURISDICTION**  
**(Committee action and notifications to the Committee are reported to the Board.)**

None for consideration.