

## MEMORANDUM

TO: Section and Committee Chairs  
Presidents and Executive Directors of State and Local Bar  
Associations  
State and Section Delegates in the House of Delegates  
ABA Directors and Department Heads

FROM: Marina B. Jacks

SUBJECT: Summary of Action of the April 2008 Board of Governors  
Meeting

DATE: April 23, 2008

Attached is the Summary of Action of the April 18-19, 2008, meeting of the Board of Governors held at the American Bar Association Headquarters in Chicago, Illinois. This Summary does not constitute official Minutes of the meeting. Minutes will be presented for Board approval at its next meeting in June 2008.

If you have any questions with respect to the action taken, please let me know.

CC: Board of Governors

Attachments

**SUMMARY OF ACTION  
AMERICAN BAR ASSOCIATION  
BOARD OF GOVERNORS**

**ABA Headquarters  
Chicago, Illinois  
April 18-19, 2008**

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

The Board received the reports of the President, Chair of the House of Delegates, President-elect, Immediate Past President, Secretary, Treasurer and Executive Director. The minutes of the Board's February 8, 2008, meeting in Los Angeles, California, were approved as presented. The minutes of the Executive Committee's meetings of February 25, March 14, March 20, and April 18, 2008, meetings were received.

**2. MATTERS FOR DIRECT BOARD ACTION**

**2.1 Commission on Law and Aging Request for Adoption of Resolution to Appropriate Additional Funding for the Social Security Administration**

The Board adopted a resolution that urges Congress to enact a level of administrative funding for the Social Security Administration (SSA) that permits the SSA to a) provide its mandated services in a timely manner, b) promptly and fairly adjudicate applications for disability insurance and supplemental security income benefits, c) overcome significant disability claims processing times and backlogs, and d) build the infrastructure necessary to manage the expanding workload challenges presented by serving the aging baby boomers filing disability and retirement claims.

**2.2 Access to Justice Presentations**

The Board heard presentations from the Honorable Lora Livingston, member of the Standing Committee on Legal Aid and Indigent Defendants; Pauline Weaver, Chair, and Robin Maher, Director, of the Special Committee on Death Penalty Representation; and Gabrielle Buckley, Member of the Advisory Committee to the Commission on Immigration. The presenters discussed the mission and jurisdiction of each entity as well as specific entity projects and programs designed to provide, promote and enhance access to justice. President Neukom and several members of the Board commended each of the entities for their outstanding work and stated that these entities are "jewels in the ABA's crown." President Neukom also emphasized that access to justice is much more than an issue for lawyers and judges; rather, access to justice is a community issue.

**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 February 8, 2008, meeting of the ABA/FJE Board as presented; and b) received the ABA/FJE restricted grants and contributions received or awarded through 2008, and not previously reported, as requested by the Association's Grants and Accounting Services office.

#### 2.4 National Judicial College Nominations

The Board, sitting as the Members of the National Judicial College (NJC), elected Lydia I. Beebe of San Ramon, California; Michele Coleman Mayes of Northbrook, Illinois; and Patricia Glaser of Los Angeles, California, to the Board of Trustees of the NJC, all for three-year terms to commence at the conclusion of the June 2008 meeting of the NJC Board and conclude at the end of the NJC Board meeting in 2011.

The nomination of the fourth NJC representative on the NJC Board of Trustees, as well as the nomination of a representative to fill the unexpired term of NJC Board Chair Thomas M. Susman of Washington, DC, will be submitted at a future meeting of the Members. Mr. Susman will resign at the conclusion of the June 2008 meeting of the NJC Board since he will assume the position of Director of the ABA Government Affairs Office on May 5, 2008. (See also Item 3.2 c. below.)

#### 2.5 Membership Presentation

Executive Director Henry F. White, Jr., presented a power point, which included a comparison of membership figures as of March 31, 2008, with membership figures as of March 31, 2007 as well as status reports regarding the group billing program, law student outreach, and dues pilot programs. Thereafter, the Board continued its discussion of additional, innovative ideas for membership growth, including the importance of technology and member retention. It was also reiterated that the Standing Committee on Membership and the Membership and Marketing Division should develop and present to the Board specific ideas for a) conducting pilot programs in several states and b) outreach to the largest law firms.

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

The Board adopted the Consent Calendar as presented by the Secretary-elect. 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.

#### **2.25- INFORMATIONAL REPORTS**

##### **2.28**

The Board received written informational reports from the Commission on Mental and Physical Disability Law, the Center for Racial and Ethnic Diversity, the Commission on Sexual Orientation and Gender Identity, and the Commission on Women in the Profession.

3. **OPERATIONS AND COMMUNICATIONS COMMITTEE**

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

3.1 **Requests for Bylaw Amendments**

a. **Section of Intellectual Property Law**

The Board approved the request of the Section of Intellectual Property Law to amend its bylaws to create the position of Publications Officer. The proposed amendments were approved by unanimous vote of the Section Council at its meeting on February 8, 2008, during the ABA Midyear Meeting. Approval of the proposed amendments by the Board is subject to approval by the Section Membership at the Section Business Session at the 2008 ABA Annual Meeting.

b. **Section of Science and Technology Law**

The Board approved the request of the Section of Science and Technology Law to amend its bylaws to i) add the Budget Officer as an elected officer position and a voting member of the Council, and ii) specifically permit members of the Council to communicate and vote electronically. The Section Council approved the proposed amendments on March 24, 2008. Approval of the proposed amendments by the Board is subject to approval by the Section Membership at the Section's Annual Meeting that will be held during the 2008 ABA Annual Meeting.

c. **Senior Lawyers Division**

The Board approved the request of the Senior Lawyers Division to amend its bylaws to i) offer a voting seat on the Division Council to the most recent Immediate Past President of the ABA, for a term of one year, and ii) delete current bylaw provision 4.3 (c) (re: year in which number of at-large members is increased) since the provision is transitional and was only in effect for the 2007-2008 Association year. The Division Council approved the proposed amendments in October 2007. Approval of the proposed amendments by the Board is subject to approval by the Division Membership at the Division's Annual Business Meeting on August 9, 2008.

3.2 **Nominations**

a. **ABA Journal Board of Editors**

The Board elected Jeffrey M. Allen of Oakland, California; and re-elected Michael E. Flowers of Columbus, Ohio, and Barbara J. Howard of Cincinnati, Ohio, to the ABA *Journal* Board of Editors, all for three-year terms to begin at the conclusion of the 2008 ABA Annual Meeting and end at the conclusion of the 2011 ABA Annual Meeting, as recommended by the ABA *Journal* Board.

b. American Intellectual Property Law Education Foundation

The Board elected Yoncha Kundupoglu of Los Angeles, California, as an ABA representative on the Board of Trustees of the American Intellectual Property Law Education Foundation (AIPLEF), for a three-year term beginning in July 2008 and concluding on June 30, 2011, as recommended by the Section of Intellectual Property Law.

c. National Judicial College

The Board of Governors and the Judicial Division will each have vacancies on the National Judicial College's (NJC) Board of Trustees this year. The Operations Committee recommends to the ABA Board of Governors the Judicial Division and Board of Governors representatives to be nominated by the ABA Board to serve on the NJC Board of Trustees. The ABA Board, sitting as the Members of the NJC, elects the two representatives.) (See also Item 2.4 above.)

i. Board of Governors Representative

The Board, sitting as the Members of the National Judicial College (NJC), elected Oliver C. Mitchell of Reading, Pennsylvania, to a second three-year term as a Board of Governors representative on the NJC Board. Mr. Mitchell's term will begin at the conclusion of the June 2008 meeting of the NJC Board and conclude at the end of the NJC Board meeting in 2011.

ii. Judicial Division Representative

The Board, sitting as the Members of the National Judicial College (NJC), elected Honorable W. Terry Ruckriegle of Breckenridge, Colorado, to a three-year term as a Judicial Division representative on the NJC Board, from the Division's National Conference of State Trial Judges. Judge Ruckriegle's term will begin at the conclusion of the June 2008 meeting of the NJC Board and conclude at the end of the NJC Board meeting in 2011.

3.3 Section of Business Law Request to Create Award

The Board approved the request of the Section of Business Law, on behalf of its Working Group on Legal Opinions, to establish the annual "James J. Fuld Award" to be presented to an individual or entity that has made a significant contribution to the field of legal opinions in business transactions. Mr. Fuld, a corporate lawyer at Proskauer Rose LLP in New York who passed away in January 2008, was a leader of the Section who established a national approach to the writing and study of legal opinions in business transactions. The award will be presented in conjunction with a general meeting of the Section's Working Group on Legal Opinions, and the recipient will receive a memento, plaque or similar object with a maximum value of \$300.00. The cost of the award will be paid for with Section funds, and no ABA general revenue is requested or required.

3.4 Standing Committee on Membership Request for Member Benefit Program with Hewlett-Packard

The Board approved the request of the Standing Committee on Membership to develop a technology and office equipment program with Hewlett-Packard (HP) as a three-year pilot to test the concept, pricing, product delivery and program execution. ABA members will be able to access the discount directly by using the Web or the telephone. Once sales reach \$25,000.00, the ABA will receive a two percent commission on every member purchase, up to \$50,000.00. After sales reach \$50,000.00, the ABA commission will increase to five percent. First year royalties from the HP program are anticipated to exceed \$50,000.00 and are expected to exceed \$100,000.00 by year three.

3.5 Forum on the Construction Industry Request to Produce a Directory of Construction Consultants

The Board approved the request of the Forum on the Construction Industry to produce an electronic Directory of Construction Consultants comprised of individuals who have paid to have their names included in the listing, with the understanding that the Directory will include a disclaimer stating that a) the Directory is an advertising vehicle and b) neither the Forum nor the ABA endorses the construction consultants who are listed and neither has an opinion regarding the consultants' qualifications. The initial cost to develop the Directory as well as the annual cost to maintain the Directory would be paid for with Forum funds. No ABA general revenue is requested or required.

3.6 Request for Board's Concurrence in Amending ABA Benefit Plans

The Board concurred in amending the various ABA benefit plans so that they do not cover individuals who are independent contractors or volunteer liaisons.

3.7 Request for Supplemental Funding to Address Compensation Market Issues

The Board approved supplemental funding of \$174,600.00 to the FY 2008 General Revenue budget to enable the ABA to address and begin to implement the recommendations of Compensation Consulting Consortium, LLC regarding staff compensation, commencing May 1, 2008. The remaining funds necessary to complete the implementation will be budgeted over two years beginning with the FY 2009 budget.

3.8 Request Regarding Direct Women Initiative

The Board approved the creation of a task force to review the request regarding the establishment of a more permanent structure for the Direct Women Initiative. The task force will make recommendations to the Board at its June 2008 meeting.

**B. MATTERS OF INDEPENDENT JURISDICTION**

3.15 Requests for Co-Sponsorships

a. Commission on Sexual Orientation and Gender Identity (Two Requests)

i) Lawrence v. Texas

The Operations and Communications Committee approved the request of the Commission on Sexual Orientation and Gender Identity (SOGI) to co-sponsor a national forum with Lambda Legal (and other organizations listed in the request) commemorating the fifth anniversary of the victory in *Lawrence v. Texas*, in which the United States Supreme Court declared all sodomy laws unconstitutional. The forum will be held on June 5, 2008, at the National Press Club in Washington, D.C. The lawyer who argued the case and who is also one of the principal speakers at the program, Paul M. Smith, is a member of SOGI and is involved in the planning of the program.

In approving the request, the Operations Committee understood that Lambda Legal will cover all expenses associated with the forum and no additional ABA general revenue is requested or required.

ii) Allies for Justice

The Operations and Communications Committee approved the request of the Commission on Sexual Orientation and Gender Identity (SOGI) to cosponsor the awards program "Allies for Justice" with the National Lesbian and Gay Law Association (NLGLA), an ABA affiliated organization, and the ABA Section of Individual Rights and Responsibilities (I R & R) on August 8, 2008, in New York City. I R & R has co-sponsored the award since its inception. SOGI has recommended award recipients, and SOGI's chair oversees the committee that nominates those receiving the awards.

In approving the request, the Operations Committee understood that a) NLGLA will provide the majority of funding for the program, b) I R & R will provide the venue; c) SOGI plans to contribute \$500.00 from its currently approved budget; and no additional ABA general revenue is requested or required.

b. 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 to sign its "Charter on Capturing the Power of Women" (the Power Charter), with the understanding that the statements made in the Power Charter have not been approved by the House of Delegates or the Board of Governors and, therefore, do not represent the policy of the ABA.

The Power Charter affirms the signatories' commitment to diversity, inclusiveness, and advancing women to positions of greater power and authority in the legal profession by

encouraging their law departments, and the law firms with which their companies do business, to hire, retain, and promote women. The Power Charter will be distributed to those persons in attendance at the Commission's "Summit for Women In-House Counsel" (listed in the request), who will be asked to sign the Power Charter in their capacities as chief legal officers and senior in-house counsel of businesses. The Summit will be held on May 15, 2008, at the Chicago-Kent College of Law in Chicago, Illinois. The Commission is responsible for drafting and circulating the Power Charter.

c. Commission on the World Justice Project

The Operations and Communications Committee approved the request of the Commission on the World Justice Project to solicit nine additional organizations (listed in the request) to serve as co-sponsors of the Project. In approving the request, the Operations Committee understood that no additional ABA general revenue is requested or required.

d. General Practice, Solo and Small Firm Division

The Operations and Communications Committee approved the request of the General Practice, Solo and Small Firm Division to co-sponsor the program "Financial Planning for Solo Practitioners: A Roundtable Discussion" with the Chicago Bar Association on May 22, 2008, in Chicago, Illinois. In approving the request, the Operations Committee understood that the Chicago Bar Association will cover all costs associated with the program, and no ABA general revenue is requested or required.

e. Forum on Franchising

The Operations and Communications Committee approved the request of the Forum on Franchising to co-sponsor a half-day community service activity with LifeWorks, a counseling and job training service in Austin, Texas. The activity will take place on October 18, 2008, immediately following the Forum's 31<sup>st</sup> Annual Meeting which is being held in Austin. Forum members attending the Forum's Annual Meeting will be asked to contribute funds to purchase plants for LifeWorks and will assist LifeWorks with landscaping and other clean-up services at its Austin headquarters.

In approving the request, the Operations Committee understood that the expenses for the activity will be \$500.00 and will be paid with Forum funds, and no ABA general revenue is requested or required.

3.16 Meetings Outside the United States

a. Section of Dispute Resolution

The Operations and Communications Committee received notification that the Section of Dispute Resolution has decided to hold a one day International Mediation Leadership Summit on October 31<sup>st</sup> in The Hague. In October 2007, the Section notified the Operations Committee that the Section planned to hold its



Seventh Annual Advanced Mediation and Advocacy Training at The Hague, the Netherlands, in October 2008. However, after several planning meetings with its members and planning partners in Europe, the Section determined that the Advanced Mediation and Advocacy Training was not an appropriate event for a European audience at this time.

b. ABA Journal Board of Editors

The Operations and Communications Committee approved the request of the ABA *Journal* Board of Editors to hold its Spring 2009 meeting at the Pan Pacific Vancouver or The Four Seasons Hotel Vancouver in Vancouver, British Columbia, Canada, on June 5-6, 2009. In approving the request, the Operations Committee understood that no additional ABA general revenue is requested or required.

c. Commission on the World Justice Project

The Operations and Communications Committee received notification that the Commission on the World Justice Project will hold the World Justice Forum in Vienna, Austria, on July 2-5, 2008.

4. PROGRAM AND PLANNING COMMITTEE

A. MATTERS FOR REVIEW BY THE BOARD

4.1 Development of Programmatic Funding Priorities for 2008-2009

The Program and Planning Committee developed recommendations on all existing program areas for FY 2009 Funding. With respect to individual requests in entity Annual Action Plans, the Program and Planning Committee recommended that the Finance Committee and the Executive Director use the priorities to make decisions on all new funding requests. In addition to ranking all existing programs, the Program and Planning Committee emphasized the importance of membership and all programs that directly increase membership as a number one priority.

4.2 Section of Litigation Request to Establish a "Section of Litigation Research Fund"

The Board approved the request of the Section of Litigation to establish a Section Research Fund to support original and practical scholarly work that advances the understanding of civil litigation in the United States. The fund will support research and writing projects in two areas: Scholarship relevant to litigation policy and scholarship pertaining to litigation practice. The Section anticipates making individual awards of between \$5,000.00 and \$20,000.00.

4.3 Health Law Section Request to Establish Program Support Fund

The Board approved the request of the Health Law Section to establish a Program Support Fund to support the Section's public service projects. Initially, the Section seeks support for two projects: a) The Breast Cancer Advocacy Initiative (started by the ABA Commission on Women), which trains attorneys to advocate for breast cancer patients who need legal assistance related to their diagnosis and treatment, and b) the Medical-Legal Partnership Project that will develop a central repository and clearinghouse of information, "best practices," training materials, and standards of practice relating to the participation by pro bono lawyers in partnerships that deliver services to individuals within healthcare institutional settings. Future Section projects supported by the Program Support Fund will receive approval from the ABA General Counsel's Office to ensure the Section is in compliance regarding the projects' 501(c) (3) status.

**B. MATTERS OF INDEPENDENT JURISDICTION**

None for consideration.

**5. FINANCE COMMITTEE**

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

5.1 Request to Approve Preliminary Funds Available for Appropriations

The Board approved the preliminary projection of monies available in General Revenue for Board allocation through the Annual Budget Process for Fiscal Year 2009.

5.2 Request to Revise Budget Deficit Policy

The Board deferred the request to revise the policy for "Controlling and Reporting on Deficits" until suggested additional changes are made to the policy.

5.3 Request to Revise ABA Funds and Related Policies

The Board revised the "ABA Funds and Related Policies" to eliminate the Safety Net Fund.

**B. MATTERS OF INDEPENDENT JURISDICTION**

None for consideration.

**ADDITIONAL ITEM**

**ABA Mission Statement and Goals**

President Neukom presented a status report on the Long Range Planning Committee's work regarding the ABA mission statement and goals on behalf of Committee Chair Thomas Z. Hayward, Jr. At President Neukom's request, the Committee is examining and redrafting the ABA's mission and goals to more accurately reflect the Association's core competencies and aspirations. The Board received a copy of the most recent draft of a proposed, revised mission statement and goals, which incorporates comments received from various ABA entities. It is anticipated that the Long Range Planning Committee will submit a Report with Recommendations to revise the Association's mission statement and goals for consideration by the House of Delegates at the August 2008 ABA Annual Meeting.