RESOLVED, That the American Bar Association urges Congress to reauthorize the Protection and Advocacy System and related programs of legally based advocacy services protecting the rights of persons with disabilities in the states and territories.

FURTHER RESOLVED, That the American Bar Association opposes legislation that includes more restrictive requirements for class actions on behalf of individuals with disabilities seeking relief through the Protection and Advocacy System than class action requirements under the Federal Rules of Civil Procedure.

FURTHER RESOLVED, That the American Bar Association urges Congress to provide adequate funding for the Protection and Advocacy System and related programs, and to preserve its authority to protect, represent, and fully investigate on behalf of persons with disabilities in institutions, facilities and the community.

RESOLVED, That the American Bar Association believes that some concerns over class action practice could be addressed with federal legislation providing for expanded federal court jurisdiction. Any expansion should preserve a balance between legitimate state-court interests and federal-court jurisdictional benefits. Policymakers, in the drafting of any federal legislation providing for expanded federal jurisdiction of class actions, should consider such factors as aggregate amount in controversy, number of plaintiffs in the alleged class, percentage of the class who are citizens or residents in the forum state, whether the defendants are all residents of the forum state, standards for removal, and existence of overlapping classes or cases; and how the entire mix of all factors balance legitimate state-court interests and federal-court jurisdictional benefits. Not every bill that addresses these factors would be appropriate, because the factors are interrelated and the key is to strike a reasonable balance as a whole.

FURTHER RESOLVED, That the American Bar Association reaffirms that, when legislation is considered that may affect the federal courts, Congress should take into account the impact on judicial resources of the proposed legislation, including any increased caseload and resulting costs for the federal court; and in the event of any expanded federal jurisdiction over class actions, Congress should provide adequate resources to meet any added burden; and

FURTHER RESOLVED, That the American Bar Association reaffirms its support for the Congressionally-enacted, judicial rulemaking process in the Rules Enabling Act; and
FURTHER RESOLVED, That the American Bar Association opposes enactment of legislation that conflicts with or touches upon the subjects covered in existing Rule 23 or the proposed amendments to Rule 23 which were approved by the Judicial Conference of the United States on September 24, 2002 and are pending before the United States Supreme Court; and

FURTHER RESOLVED, That the American Bar Association recommends that any legislation respecting class action practice be confined to the subject of the expansion of the jurisdiction of the federal courts and the appropriate limitations thereto.

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RESOLVED, That the American Bar Association expresses its general support, with the exceptions noted, to the proposed revisions to Rule 23 of the Federal Rules of Civil Procedure recommended by the Advisory Committee on Civil Rules in April 1996 and approved by the Standing Committee on Rules of Practice and Procedure of the Judicial Conference of the United States for publication and public comment:

1. The Association supports:
   (a) proposed revision 23(b)(4) that would authorize settlement classes in the circumstances specified in the proposed Rule change, and provided that adequate due process protections are provided for the parties;
   
   (b) proposed revision 23(e) that would add a hearing requirement to the Rule;
   
   (c) proposed revisions 23(b)(3)(A) and (B) that would focus on the size of the individual claims in determining their viability without certification and the individual interest of class members in maintaining separate actions;
   
   (d) proposed revision 23(b)(3)(C) that would add "maturity" as a factor in determining the appropriateness of a class under the Rule; and
   
   (e) proposed revision 23(c) that would require a certification decision "when practicable" after the action has been brought.

2. The Association would oppose the proposed revision to Rule 23(b)(3)(F), which would provide for a balancing of probable relief to individual class members with the costs and burdens associated with class litigation unless the Rule would further provide for the consideration of the deterrent effect of accumulating small recoveries.

3. The Association supports proposed revision 23(f) that would permit discretionary interlocutory appeals of class certification decisions.