

**OREGON STATE BAR**

**2006 HOUSE OF DELEGATES MEETING**

Eugene Hilton Conference Center

66 East 6th Avenue

Eugene, Oregon

**SATURDAY, SEPTEMBER 16, 2006, 10:00 A.M.**

## P R O C E E D I N G S

1  
2 MR. RAWLINSON: Good morning. It is my  
3 pleasure to call the 2006 meeting of the House of Delegates  
4 to order.

5 One of the handouts that you have as  
6 delegates is a purple sheet which contains parliamentary  
7 procedures. We'll be adhering to the parliamentary  
8 procedures here today, and here to explain the handout and  
9 to give you a brief overview is our parliamentarian for  
10 today, the Honorable David Gernant, Multnomah County Circuit  
11 Court. Help me in welcoming Judge Gernant.

12 (Applause.)

13 MR. GERNANT: Good morning. (Inaudible). I  
14 think this overview is the best summary of parliamentary  
15 procedure I've ever seen, and I didn't write it. So just be  
16 aware of that if you want to make a motion, be aware of  
17 where you are on that piece of paper.

18 If people want to make motions that are not  
19 on this overview and they're in accordance with Robert's  
20 Rules, of course, then we will proceed. Thank you.

21 MR. RAWLINSON: Well, I hope that's a sign of  
22 how expeditiously we'll be moving through matters today.

23 (Laughter.)

24 A couple of reminders on parliamentary  
25 procedures, however. Please identify yourself when you go

1 to the microphone by your name, where you're from; if you  
2 are a delegate, where you are a delegate from; and then  
3 identify, as House Rule 740 requires, whether you are pro or  
4 con.

5 Now, we have pro and con mikes, but, you  
6 know, in the heat of battle and whatever, people forget  
7 which one to use, so please just tell us whether you are pro  
8 or con.

9 Secondly, on amendments, I'd love to not have  
10 any today, but I suspect there will be. If you want to make  
11 an amendment, please, please make it in writing. There is a  
12 table in the back. There are forms there to complete.  
13 Please bring it up to the staff. That way we can make sure  
14 that all of the delegates understand exactly what the  
15 language is of your amendment and it doesn't cause any  
16 confusion.

17 That brings us to Item No. 3 on the agenda.  
18 By the way, please identify the various resolutions by their  
19 agenda item number. I think that will cause much less  
20 confusion. So for instance, Affirmative Action is Agenda  
21 Item No. 8. Agenda Item No. 3 is a report from the  
22 president.

23 In view of the large number of agenda items  
24 that we have today, in interest of full consideration and  
25 debate, I am going to waive my right to read to you or

1 present to you the president's report. It is in writing.  
2 It is in the materials that you have, and we will send it  
3 out on the Internet.

4 So we'll move on now to the next agenda item.  
5 I'm going to take just a moment to thank the members of the  
6 Board of Governors who worked so hard for all of you. And  
7 what I would like to do, rather than go on with a lot of  
8 language and compliments, I'm just going to ask each of them  
9 to stand as I read their names. Please remain standing  
10 until I finish the entire group. Please hold your applause  
11 until all of the names have been read.

12 Your vice president from Salem, Mark  
13 Comstock; your vice president from Hillsboro, Doug Minson;  
14 your president elect from Portland, Albert Menashe; your  
15 fourth-year public member from Corvallis, Dr. Jack Enbom;  
16 your third-year member from Portland, Linda Eyerma; your  
17 third-year member of the board from Salem, Marva Fabien;  
18 your third-year member of the board from Roseburg, public  
19 member, Jon Hill; your second-year member from Vail, Carol  
20 Skerjanec; your second-year member from Medford, Tim  
21 Gerking; your second-year member from Portland, Rick Yugler;  
22 your second-year public member from West Linn, Bette  
23 Worcester; your first-year member from Eugene, Gerry Gaydos;  
24 your first-year member from Portland, Ward Greene; your  
25 first-year member from Portland, Terry Wright; your

1 first-year public member from Portland, Bob Vieira.

2 Let's give these folks a round of applause.

3 (Applause.)

4 We have an outstanding staff at the Oregon  
5 State Bar. Unfortunately, Karen Garst could not be with us  
6 today. She is recovering from some surgery, but I am going  
7 to ask Sylvia Stevens, as general counsel, who is on my  
8 right here, to stand and accept the appreciation for all of  
9 the Oregon State Bar staff.

10 (Applause.)

11 We have court reporters today. The  
12 stenographic reporting is being provided on a complimentary  
13 basis by the Oregon Court Reporters Association. Court  
14 reporters include, Eleanor Knapp, if you would stand,  
15 Eleanor; Robin Cassidy-Duran.

16 (Laughter.)

17 I see. Thank you. Well, I'll stand for you.

18 Valia Lamb, and Sara Fahey Wilson. Let's  
19 give them a round of applause.

20 (Applause.)

21 In the interest of -- again, moving ahead so  
22 we have as many delegates here when we start the action  
23 items, I am going to move ahead to Agenda Items 5, 6, and 7,  
24 which are nonaction items.

25 Item No. 5, the Chief Justice of the Oregon

1 Supreme Court -- as you know, the Chief is completing his  
2 first year. I think to say that he has hit the ground  
3 running is an understatement. He has engaged in outreach  
4 programs to legislators and to business leaders. We are  
5 very proud of the enthusiasm he has brought to his position.  
6 Please join me in welcoming the Chief Justice of the Oregon  
7 Supreme Court, Paul De Muniz.

8 (Applause.)

9 CHIEF JUSTICE DE MUNIZ: Thank you. Thank  
10 you. Good morning. First of all, thank you for giving me  
11 the opportunity to make just a couple of brief comments.

12 Five or six years ago, Former Justice Sandra  
13 Day O'Connor wrote an article on professionalism. And in  
14 that article on professionalism, she said when you become a  
15 member of the bar, you don't just gain the means to a  
16 livelihood. You assume obligations of professionalism.

17 And she identified three obligations of  
18 professionalism: Obligations in your dealings with other  
19 lawyers; obligations toward the legal institution itself,  
20 the bar; and obligations to the public.

21 And I think when she talked about obligations  
22 in your dealings with other lawyers, she meant things like  
23 obligations of honesty, civility, resolving conflict, not  
24 creating conflict yourself.

25 With regard to obligations toward legal

1 institutions, I think she meant to improve and promote the  
2 development of the bar as a legal institution.

3           And when she said we have an obligation to  
4 the public, she meant to contribute to the betterment of the  
5 public in which we interact every day.

6           I would like to acknowledge the president of  
7 the bar and the Board of Governors for their leadership,  
8 their commitment to the improvement of our legal  
9 institution.

10           I would like to compliment and acknowledge  
11 and thank all of you delegates here, and I would like to  
12 thank everyone else who is here by your mere presence today.  
13 What you've demonstrated is you honor those obligations that  
14 Justice O'Connor mentioned: your obligations to other  
15 lawyers; your obligations to the legal institutions, and  
16 your obligations to the betterment of the community.

17           I thank you for all of that. I really  
18 appreciate your presence here today.

19           Before I turn the microphone back, I would  
20 like to make one other brief comment. There is a person  
21 here today who has always, by his conduct, 14 years as Chief  
22 Justice of the Oregon Supreme Court, demonstrated day in and  
23 day out what it means to treat other lawyers and other  
24 people with honesty, civility, and forthrightness; what  
25 it means to work tirelessly to promote and improve our legal

1 institution, the bar; and what it means to take every day to  
2 contribute to the betterment of our community.

3 And he rode down with me this morning, kept  
4 me awake, kept me away from all those Oregon fans going 100  
5 miles an hour down the freeway. It gives me just enormous  
6 pride and pleasure to acknowledge today the presence of my  
7 predecessor, Former Chief Justice Wallace Carson. Please  
8 join with me.

9 (Applause.)

10 Let me just say in conclusion, again, thank  
11 you for giving me the opportunity to be here to make a few  
12 brief comments, and thank you to all of you for everything  
13 you do for the bar.

14 (Applause.)

15 MR. RAWLINSON: How is that for a couple of  
16 role models? Thank you very much.

17 (Applause.)

18 Items 6 and 7 -- and, Albert, if you wouldn't  
19 mind using this podium here -- Items 6 and 7, as you can see  
20 on your agenda, are the report of the Board of Governors  
21 Budget Finance Committee. Item No. 7 is the notice of  
22 membership fees, and that is a nonaction item seeing as how  
23 there is no dues increase.

24 It is my pleasure to welcome my long-time  
25 friend, chair of the budget finance committee and president

1 elect, Albert Menashe.

2 (Applause.)

3 MR. MENASHE: Thank you, Mr. President. I am  
4 pleased to report that the financial condition of Oregon  
5 State Bar is solid.

6 I'm going to address Agenda Item 7 first,  
7 which pertains to 2007 membership fees. The best news, I'll  
8 start off with, is that there will be no bar dues increase  
9 in 2007.

10 (Applause.)

11 If you look at page 4 of your agenda, for  
12 those of you that have read the entire agenda like a love  
13 letter, you will see in 7 1(a) and (b), it says for members  
14 admitted in any jurisdiction before January 1, 2007, and the  
15 same thing again in Subsection B. It should read 2005, so  
16 that's a typographical error.

17 As I've said, there will be no bar dues  
18 increase. In fact, there's no increase currently planned  
19 until 2011, barring any unexpected program or circumstance.

20 To explain this to you just briefly, we're on  
21 kind of a five-year cycle. We voted last year at the House  
22 of Delegates for a bar dues increase effective this year of  
23 \$50. We project a profit this year. We also project a  
24 profit next year.

25 In 2008, which would be the third year of a

1 five-year cycle, we'll probably break even. And in 2009 and  
2 2010, we will expect what the CPAs call a net expense. And  
3 it finally dawned on me that what they really meant was  
4 we'll have a loss.

5 And again, in 2011, barring anything  
6 unforeseen, we'll have another bar dues increase and start  
7 another five-year cycle.

8 So moving from the fact that there's no bar  
9 dues increase and the general financial condition of the  
10 Oregon State Bar, which is Agenda Item 6, in 2005 we did  
11 experience a loss, but remember that was the fifth year of  
12 the cycle, but two factors caused the loss to go a little  
13 greater than we hoped.

14 One was an unusually high attorney fees that  
15 we had to pay pertaining primarily to one matter of  
16 litigation. And secondly, lawyers had anticipated online  
17 CLE would have been available in 2005, and as a result of  
18 that, online CLE publications were not available, hardback  
19 books were not purchased in anticipation of that, so we did  
20 lose some money.

21 But 2006 is proceeding even better than  
22 budgeted. Remember again, this is the first year of the  
23 cycle. We budgeted a profit this year of \$372,000, and  
24 based on the first eight months of the year, we're actually  
25 ahead of that. But we're comfortable we're going to meet

1 the profit that's been budgeted for this year.

2           In addition to the \$372,000 profit this year,  
3 we've been able to provide funding for the new loan  
4 repayment assistance program, fund the new leadership  
5 college, increase the budget line item for attorneys fees  
6 from \$50,000 to \$100,000 a year, fund the good work of the  
7 task force on disability, and to provide financial support  
8 for the ABA Young Lawyers national conference held in  
9 Portland earlier this year.

10           In addition, we've been able to continue our  
11 financial support of the Campaign for Equal Justice, the  
12 Classroom Law Project, and the Council on Court Procedures.

13           A couple of other tidbits are that the Oregon  
14 State Bar is audited each year and we have a clean audit  
15 report for both calendar years 2004 and 2005.

16           We have one significant liability, and that's  
17 approximately a \$500,000 mortgage on our existing building.  
18 And finally, we are pleased that our operating expenses are  
19 reasonable -- or excuse me -- our operating reserves are  
20 reasonable, capital reserves are good, client security fund  
21 reserves are good, Affirmative Action program funding is  
22 good at this time, and that the strong well-funded sections  
23 are operating very successfully.

24           The last topic I want to mention is the new  
25 bar center. Many of you have heard about this. And this

1 has been a project that has consumed a good deal of time of  
2 the budget finance committee for the last three years.

3 We've been looking at real estate, assessing the needs of  
4 the Oregon State Bar, and determining whether the current  
5 building could be remodeled and utilized for a significant  
6 period of time.

7 Today we have about 13,000 active lawyers in  
8 the state of Oregon. Projections are that in the year 2025  
9 we will have about 20,000 -- perhaps a little more than  
10 20,000.

11 So our current building, which is 41,000  
12 square feet, is just about at capacity. In looking ahead at  
13 the future, we just negotiated an agreement with a company  
14 called Opus Northwest to build a new building for the Oregon  
15 State Bar at a location one exit south of the current bar  
16 center on Kruse Way. It's right next to that Bridgeport  
17 shopping center that is in fact built by the same folks that  
18 are going to be building our building.

19 Let me say first, and perhaps most  
20 importantly, that the Board of Governors is embarking on  
21 this project with the intention of not having the  
22 construction of a new bar building impact member dues in any  
23 way, not only now, but over the next 25 years. That was a  
24 primary goal of the Board of Governors in planning this new  
25 building.

1                   And with the contract having been signed,  
2 ground should be broken about November 1st or so, and it is  
3 anticipated that the building will be completed in February  
4 of 2008. This building is going to cost somewhere between  
5 17 and 18 million dollars. Our current building was built  
6 in 1986 for \$2 million. Twenty years later, we expect to  
7 sell it for somewhere between and 7 and 8 million dollars.

8                   So if you apply the equity received from the  
9 sale of the Kruse Way building to the new building, we  
10 expect approximately a 10 or 11 million dollar mortgage.

11                   As I said, our current building has 41,000  
12 square feet. The new building will have 73,300 square feet.  
13 The Oregon State Bar will initially occupy 50 percent of the  
14 building. The PLF has moved out of the current bar building  
15 and will rejoin us and take about a quarter of the building,  
16 and the remaining quarter of the building will be leased.

17                   We've been fortunate enough to negotiate a  
18 master lease whereby the developer has guaranteed the lease  
19 on the building for the first five years. And it appears  
20 that the income from the PLF leasing the other quarter of  
21 the building will generate enough income to allow us to  
22 operate that building in a fashion equal to the costs  
23 associated with our current building.

24                   Obviously, it also gives the PLF, as well as  
25 the Oregon State Bar, additional space to grow over the next

1 25 years when we anticipate membership to increase.

2 We've studied this very hard to try to be as  
3 good stewards of your money as we can. We believe this is a  
4 good long-term economic deal as well as a very good  
5 practical deal. As I said, we paid \$2 million for a  
6 building 20 years ago. People thought that the bar at that  
7 time and the Board of Governors was crazy to do it, and we  
8 now are going to realize between a 300 and 400 percent  
9 profit over that 20 years, which is about 20 percent a year.

10 We anticipate that this building will  
11 increase in value, but we're being very conservative on our  
12 estimations. And in using a conservative estimate of two  
13 and a half percent per year, in 25 years we probably will be  
14 fully utilizing the building that will be paid for, and we  
15 will expect a net equity in excess of \$32 million. So stay  
16 tuned. Thank you for your attention and have a good  
17 meeting.

18 (Applause.)

19 MR. RAWLINSON: Well, we're fast approaching  
20 the time when verbal eloquence will replace e-mail  
21 correspondence. A couple of housekeeping items. You have  
22 some handouts. They are peach-colored sheets in your  
23 handout packs. They contain amendments to pending measures.  
24 They also contain a proposed additional item which we'll be  
25 talking about shortly dealing with LRAP that's been proposed

1 by Mr. Williamson.

2           You will also find in the clipped-together  
3 materials a peach sheet. Don't let that one confuse you.  
4 It's out of date, so I would not -- don't take the staple  
5 out, or if you take the staple out, discard it. Only the  
6 two that are loose are the two that should be considered to  
7 be effective today.

8           I'll remind you that we have presenters with  
9 five-minute time limits; those that speak in opposition and  
10 otherwise: three-minute time limits. This colored reminder  
11 up here will go green, yellow at one minute, red when your  
12 time is up. I'm going to have to be relatively strict with  
13 those time limits in the interest of all the business that  
14 we need to cover today.

15           That takes us onto the Agenda Item No. 4,  
16 which is the approval of the final agenda. Before I accept  
17 any motion to approve the agenda, I have three procedural  
18 matters I want to bring to your attention.

19           First, you have heard that there are going to  
20 be possible agenda items removed. I'm going to talk about  
21 that in just a moment.

22           Number 2, there is at least one item that is  
23 not on the agenda of 28 items that I believe is going to be  
24 proposed. We will take that as the second order of business  
25 before we approve the final agenda.

1           And thirdly, we will determine whether or not  
2 there are any amendments in the order in which the agenda  
3 item will be considered, and we'll accomplish that as the  
4 third item and give everybody an opportunity to speak on  
5 each of those items and then, and only then, we will approve  
6 the final agenda.

7           So proceeding in that order, first of all, you  
8 may have remembered there was e-mail traffic about three  
9 particular items being removed from the agenda. Which ones  
10 are they? They are No. 9 dealing with revisionment of the  
11 bylaws for mileage reimbursement; No. 25, dealing with  
12 enabling the House of Delegates to promulgate and amend  
13 bylaws, and they are No. 26, dealing with revising bylaw No.  
14 10 concerning discrimination and enabling the military to  
15 advertise.

16           First of all, I want to alert the entire  
17 House that it is the opinion of the general counsel of the  
18 Oregon State Bar, and it is the opinion of the Board of  
19 Governors, that all three of those motions are out of order.

20           Why? Because it is the opinion of the  
21 general counsel and the Board of Governors that Chapter 99,  
22 from which this body and the Board of Governors has its  
23 enablement powers, does not entitle the House of Delegates  
24 to revise bylaws.

25           It specifically does enable the Board of

1     Governors to revise bylaws under ORS 9.080. Any one of you  
2     will be quick to point out under ORS 9.139 that you can  
3     direct the Board of Governors to do anything you want, and  
4     you sure can.

5                     Just as you're doing under agenda Item No.  
6     20, you're telling the Board of Governors that we are going  
7     to insist on military advertising. That's your job. You  
8     tell us to do it, and we'll do it. But then it is our  
9     interpretation that the Board of Governors, and the Board of  
10    Governors alone, needs to figure out how to do it. And if  
11    it believes it needs to change the bylaws, it needs to do  
12    so. If it believes that it can accomplish what you have  
13    told us to do some other way, then we believe that's the  
14    course of action the Board of Governors should follow.

15                    Now, might there be disagreement with the  
16    position I just shared with you? Of course. That's what  
17    we're all here for. But as a procedural matter, we could  
18    have removed those three items and forced you to amend your  
19    agenda, and I think you probably would, and we'd be right  
20    back to the agenda, so we're not going to do that.

21                    What we're going to propose to do is to leave  
22    9, 25, and 26 on the agenda. We will allow them to go  
23    forward. You will have an opportunity to vote on each of  
24    them, and you will just simply be reminded when we come to  
25    that that it is at least the opinion of the general counsel

1 and the Board of Governors that those are out of order  
2 because they seek to do what we believe this body cannot do,  
3 namely change bylaws.

4 To the extent they seek to tell us to do  
5 anything that doesn't change the bylaws, you're certainly  
6 entitled to do that. That would simply be a reminder that  
7 will not change the agenda. 9, 25, and 26 remain on the  
8 agenda, and we welcome your debate on those three items. So  
9 that's point one.

10 Point two: You have the proposed agenda  
11 before you. It is the 28 items. And (inaudible) under  
12 Bylaw 3.3 and House Rule 5.4, those 28 items go out to  
13 everyone. Everybody gets noticed for 45 days, and that is a  
14 requirement.

15 However, we have allowed in years past a  
16 suspension of the rules to add items at the time of the  
17 meeting, and this would now be the time, if anyone would  
18 like to make a motion to suspend the rules to add an  
19 additional item to make that motion. Okay, Charlie.

20 MR. WILLIAMSON: Mr. President, I would move  
21 to suspend the rule to add a resolution to sunset the LRAP  
22 program.

23 MR. RAWLINSON: I have a motion before you.  
24 Do I have a second?

25 MS. GRUBER: Second.

1                   MR. RAWLINSON: Could you give me the name of  
2 the delegate who would like to second it?

3                   Thank you. Ms. Gruber?

4                   MS. GRUBER: Diane Gruber.

5                   I second the motion.

6                   MR. RAWLINSON: I'm sorry. If I didn't ask  
7 you to do this at the very beginning, we will get lax about  
8 it. Diane, you're from --

9                   MS. GRUBER: I am a House of Delegates member  
10 from Region 6, West Linn, Oregon.

11                   MR. RAWLINSON: Great. Thank you very much,  
12 Diane.

13                   MR. COMSTOCK: Mr. President, Mark Comstock,  
14 Board of Governors member, Eugene, Region 6.

15                   Point of order, does this -- I assume that  
16 this is about sunseting LRAP. I would submit that this is  
17 premature in that the LRAP committee on the Board of  
18 Governors has been working on this for a year and has not  
19 yet submitted its report to the Board of Governors about  
20 whether there will be an LRAP program.

21                   It has taken substantial time, and I believe  
22 it will take substantial time to educate the body about the  
23 LRAP program that is potentially proposed. So I would  
24 submit that this is a premature motion at this time.

25                   MR. RAWLINSON: Thank you. It is a

1 non-debatable motion. And I will consider that as a  
2 point-of-order request, and I will find that motion to be in  
3 order and the second to be in order. You have a motion  
4 before you and a second, and I am going to rule as the chair  
5 that this is a procedurally proper matter.

6           It requires a two-thirds vote of the House.  
7 What you're voting on is adding what would be proposed  
8 Agenda Item No. 29. It is on your handout. It proposes to  
9 sunset the LRAP, the loan program, after three years.

10           Delegates, are you prepared to vote? All  
11 those in favor of allowing the bylaws to be suspended and  
12 allowing this item to be added as No. 29 indicate by raising  
13 your placards. We are going to need a two-thirds vote.  
14 Let's look at those votes.

15           Mr. Williamson, I'm sorry. We're not going to  
16 be able to do that. Perhaps next year.

17           I've been reminded to please ask you to speak  
18 directly into the microphone so that everyone can hear us.

19           The third item before we approve the final  
20 agenda is to determine whether there should be any change in  
21 order of the sequence of items once we have them on the  
22 agenda.

23           Bylaw 3.4 and 5.6 of the House rules requires  
24 that these particular items be submitted to the Board of  
25 Governors and then submitted to you in draft as they are.

1           First of all, as I see folks moving to the  
2 microphones, I'm going to really encourage you not to do a  
3 lot of -- I won't call it horsing around -- moving items  
4 around because I think it's going to cause confusion. I  
5 particularly implore you to leave the numbers of the items  
6 the same so we can all look at the same sheet and know which  
7 one is 28 and which one is 24 and which is 11.

8           Other than that, I will also announce, since  
9 I see Mr. Hennings standing, that I am going to exercise my  
10 prerogative as chair and allow Item 21 to follow 12. It is  
11 going to stay 21, but I'll allow it to follow 12 because  
12 I've been assured by the presenters of those particular  
13 items that there will only be one presentation and that the  
14 presentations in favor will be limited, so I'll do that as a  
15 time saver.

16           I still see a delegate standing. Is there a  
17 motion?

18           MR. JOHNSON: Mr. President, Mark Johnson,  
19 elected delegate from Region 5, former president of the  
20 association.

21           I missed your order of events, I'm afraid.  
22 (Inaudible.) I want to make a motion to delete Item No. 25  
23 from the agenda. If there is a second, I will speak to it.

24           MR. RAWLINSON: Okay. There's been a motion  
25 to delete No. 25. Do I have a second?

1 MS. OVERGAARD: I will second. Mary  
2 Overgaard, Region 5.

3 MR. RAWLINSON: Mary Overgaard, Region 5,  
4 seconds it.

5 MR. JOHNSON: Mr. President, those of us who  
6 read this agenda, as Mr. Menashe said, like a love letter, I  
7 am sure have noticed that the problem with Resolution No. 25  
8 is this is a resolution that purports to direct the Board of  
9 Governors to give this body the authority to amend the  
10 bylaws. And a simple reading of the resolution will show a  
11 problem with this. (Inaudible.)

12 It certainly cannot direct the Board of  
13 Governors to give this authority to the House of Delegates  
14 because this authority belongs to the Board of Governors by  
15 statute.

16 The resolution appears out of order.

17 MR. RAWLINSON: Mr. Johnson, you seem to have  
18 support in the room next door. Is there any opposition?

19 MR. JOHNSON: I'm most grateful for that.

20 MR. RAWLINSON: Any opposition to the motion,  
21 please.

22 Delegates, all those in favor of the motion  
23 to delete No. 25 -- this is a majority vote -- raise your  
24 placards.

25 Those opposed? The motion carries. No. 25

1 has been deleted.

2 Any further motions relating to the sequence  
3 before we approve the agenda?

4 MR. JOHNSON: Again, Mr. President, Mark  
5 Johnson, elected delegate from Region 5.

6 At this time I will move to delete Item No.  
7 20 from the agenda, and again I will address that issue if  
8 there is a second.

9 MR. RAWLINSON: There has been a motion to  
10 Delete No. 20. Whoever would like to second --

11 MS. OVERGAARD: I will second.

12 MR. RAWLINSON: Please identify yourself.

13 MS. OVERGAARD: Mary Overgaard, Region 5.

14 MR. RAWLINSON: Mary Overgaard, Region 5,  
15 seconds the motion.

16 MR. JOHNSON: Mr. President, I'm making this  
17 motion for a similar reason. And I think Resolution No. 20  
18 is the one that directs the Board of Governors to change its  
19 approach to allowing military recruitment advertisements to  
20 be printed in the bar bulletin.

21 The delegates that have read the bar bylaw  
22 that pertains to this situation, they will have discovered  
23 it reads as follows: "Furthermore, advertising or  
24 solicitations for employment must offer people employment  
25 opportunities. Advertising in bar communications for

1 employment opportunities may not discriminate against  
2 candidates based on the terms listed above."

3 And the list that's listed above is the list  
4 that we're all familiar with, which includes sexual  
5 orientation.

6 Resolution No. 20, in my opinion, simply  
7 directs the Board of Governors to take an action that is  
8 unauthorized.

9 MR. RAWLINSON: Thank you. Mr. Mozena would  
10 like to speak in opposition. Mr. Karandy, I'm sorry.

11 MR. KARANDY: Eugene Karandy, Albany, House  
12 of Delegates, Region 3. As the president pointed out in his  
13 introductory remarks referring to items 24 and 25 and 9,  
14 those are specifically directing bylaw amendment to  
15 Resolution 20.

16 House of Delegate Resolution No. 5 is not  
17 directing or mandating to the Board of Governors how they  
18 would implement those provisions if they were in fact -- if  
19 this resolution was in fact adopted.

20 So therefore, it is not correct to say it is  
21 automatically in violation of the bylaws because it would be  
22 up to the Board of Governors how to implement the resolution  
23 if the Board of Governors decided that they would have  
24 discretion to amend the bylaws to adopt or implement this  
25 resolution.

1 MR. RAWLINSON: Thank you, Mr. Karandy. Mr.  
2 Browning?

3 MR. BROWNING: Bob Browning, elected delegate  
4 Region 4. I also have experience in the Marine Corps, and  
5 the history -- though myself I did not go to Vietnam due to  
6 a back problem and a wide yellow stripe down the middle, I  
7 have had many family members that have served in the  
8 military. And I believe this matter deserves the  
9 consideration by the body assembled today.

10 Furthermore, it is my opinion, as well as the  
11 opinion of many members of the bar, that the Board of  
12 Governors has misread the wording of its own bylaws as to  
13 this particular matter. And I believe it worthy of  
14 discussion. As such, I would be voting against deleting it.

15 MR. RAWLINSON: Thank you, Mr. Browning. And  
16 I would just like to comment that I appreciate that so far  
17 we are not speaking to the merits. We're simply speaking of  
18 procedure and whether or not this item should be deleted.  
19 And I would appreciate if the speakers would limit their  
20 comments to that.

21 Mr. Mozena?

22 MR. MOZENA: I think I would confirm what's  
23 already been said by both Mr. Browning and Mr. Karandy, but  
24 I would comment that this was vigorously debated on a  
25 listserve and needs to come to the body. Pro or con, this

1 needs to be addressed by this assembly.

2 MR. RAWLINSON: Thank you. Mr. Georgeff.

3 MR. GEORGEFF: Thank you, Mr. Rawlinson.

4 Gary Georgeff from Region 3, Brookings, Oregon. I would  
5 just point out that I've had some experience with the  
6 divisive issues in the state bar, the elimination of bias  
7 petition last year, and this issue really needs to be  
8 debated however it is resolved. Thank you.

9 MR. RAWLINSON: Okay. Folks, we have a  
10 motion to delete Item No. 20 from your agenda. All those in  
11 favor of deleting it, please raise your placards. This will  
12 require a simple majority.

13 All of those opposed.

14 Opposition has it. No. 20 will remain on the  
15 agenda.

16 I now would entertain a motion to finally  
17 approve as the final agenda the items which remain, which  
18 would be 1 through 28 minus No. 25.

19 MR. TYNER: John Tyner, Region 4. I so move.

20 MR. RAWLINSON: Thank you. I have a motion.  
21 Do I have a second?

22 MR. WILLIAMSON: I will second it.

23 MR. RAWLINSON: Mr. Williamson has seconded  
24 it. All those in favor, raise your placards.

25 All those opposed.

1                   Thank you. We have a final agenda. I'm  
2 going to move now on to Agenda Item No. 8, which is the  
3 affirmative action item. I'm going to ask that before I  
4 invite the chief up to make a presentation that we have a  
5 motion and a second to formally put this matter before the  
6 House.

7                   MR. TU: Hi. Trung Tu, elected delegate from  
8 Region 5, Portland, Oregon. I move to adopt Resolution No.  
9 1 to continue the affirmative action program.

10                  MR. RAWLINSON: Thank you, Mr. Tu.

11                  MR. HARRELL: Gary Harrell, House of  
12 Delegates, Chair of the Health Law Section, Region 5. I  
13 move to second.

14                  MR. RAWLINSON: We have a motion and a  
15 second. I will invite the chief to the podium to make a  
16 presentation.

17                  CHIEF JUSTICE MUNIZ: Thank you, President  
18 Rawlinson. It is a great honor to be here and to be given  
19 the opportunity to present Resolution No. 1, the  
20 reauthorization of the affirmative action program.

21                  As I stand before you this morning, I'm  
22 keenly aware that I stand in some very large footprints. I  
23 stand in the footprints of the two prior chief justices,  
24 Chief Justice Carson and Chief Justice Peterson.

25                  Those footprints and their legacy represented

1 a commitment, a commitment to recognizing and continuing  
2 this program known as the affirmative action program. It's  
3 unassailable -- it is truly unassailable that an institution  
4 such as the legal profession or the judicial system -- it is  
5 unassailable that it does not benefit by the full inclusion  
6 of diverse people, backgrounds, cultures, ideas, and  
7 viewpoints.

8           The Oregon State Bar's 30-year commitment to  
9 the affirmative action program has played a key role -- has  
10 played a key role in making our legal profession and our  
11 justice system more accessible to all segments of our  
12 society. This program is visible evidence -- visible  
13 evidence of our commitment and our recognition of our  
14 obligations.

15           As Justice O'Connor said in her article on  
16 professionalism, our obligation is to make the legal  
17 profession better than when we found it, and it's a  
18 recognition of our obligation to the betterment of our  
19 community.

20           This is our opportunity to continue to create  
21 the mechanism for creating future leaders and role models in  
22 our legal profession, people to guide those from other  
23 segments from our society. We need their leadership to make  
24 our institution and the judicial system fully representative  
25 and fully legitimate in the eyes of the public and those

1 that we represent.

2 So it is a great privilege that I move  
3 Resolution No. 1. Thank you very much.

4 (Applause.)

5 MR. RAWLINSON: Consistent with our normal  
6 procedure, is there anyone who would like to speak in  
7 opposition?

8 Well, then, I will allow those who would like  
9 to speak in support of the motion. Mr. Tu.

10 MR. TU: Yes. I'm Trung Tu, elected delegate  
11 from Region 5, Portland, Oregon.

12 I graduated from Lewis & Clark Law School in  
13 2000, and currently practice commercial and business  
14 litigation in the law firm of McEwen Gisvold in Portland,  
15 Oregon. I'm proud and honored to say that I am the product  
16 of the Oregon State Bar's affirmative action program.

17 During law school I was the recipient of and  
18 participated in just about every single opportunity offered  
19 by the affirmative action program, including the scholarship  
20 stipend, firm employment retreats, first-year honors  
21 program, and the public honors program.

22 Through the affirmative action program, I  
23 made valuable connections with attorneys who wanted to help  
24 me succeed as an Oregon attorney. I made connections with  
25 attorneys who helped me feel wanted and needed as an

1 attorney in Oregon.

2           The affirmative action program and these  
3 attorneys who I met made me want desperately to practice law  
4 in Oregon, so after graduation I took the Oregon bar exam  
5 and passed. But no matter what I did, I couldn't find a job  
6 in Oregon, so I had to take a job as a staff attorney with  
7 the U.S. Court of Appeals in San Francisco.

8           I moved to San Francisco and practiced --  
9 worked at the staff attorney's office for two and a half  
10 years. The staff attorney's office was probably the most  
11 diverse legal environment I've ever worked at. Of about 65  
12 staff attorneys, I would estimate that over a third were  
13 people of color or lesbian, gay or bisexual or transgender,  
14 and over half were women.

15           San Francisco was also the most diverse city  
16 I've ever lived in. I estimate that probably 40 percent of  
17 the city's population were Asian or Asian-America. I loved  
18 living and working in San Francisco, and I could have easily  
19 stayed there. However, because of the affirmative action  
20 program, I chose to come back to Oregon to practice law.

21           I am living proof that the affirmative action  
22 program works. Over the past several weeks there've been a  
23 lot of comments about how the affirmative action program  
24 stigmatizes and is demeaning to people of color. I think  
25 that is absolutely false. As a product of the affirmative

1 action program, I have never felt that way. I do not know  
2 one attorney of color who participated in the affirmative  
3 action program who feels that way.

4           Instead, the affirmative action program has  
5 empowered me and has made me feel wanted and needed as an  
6 attorney here in Oregon. Therefore, I urge all of you to  
7 vote in favor of reauthorizing the affirmative action  
8 program.

9           By not reauthorizing the affirmative action  
10 program, the bar is sending a message to attorneys of color  
11 that we are not wanted here in Oregon. Please do not send  
12 us that message. Thank you.

13           MR. RAWLINSON: We don't have anyone at the  
14 opposition microphone yet, but we do have someone,  
15 Mr. Haberlach, at the other microphone.

16           Before I recognize you, Mr. Haberlach, I'm  
17 faced with a dilemma that I have a federal judge and a  
18 former Oregon State Bar president, and one of the most  
19 outstanding trial lawyers in the state all wanting to speak  
20 on this.

21           I plan for those that want to speak on it to  
22 allow them their opportunity, but I would ask others who  
23 might be inclined to consider that we are pressed with a lot  
24 of material to cover.

25           Mr. Haberlach?

1 MR. HABERLACH: Thank you. My name is Bill  
2 Haberlach, and I'm the elected delegate from Medford, Region  
3 3.

4 As a practical matter, since there is no  
5 opposition, debate is window dressing and advertising, so I  
6 move that we close the debate and vote.

7 MR. RAWLINSON: That is a priority motion.  
8 Do I have a second?

9 MR. GORHAM: I would second. Steve Gorham  
10 from Salem.

11 MR. RAWLINSON: Steve Gorham seconds. Steve  
12 Gorham from Salem has provided me with a second. I would  
13 ask the House on voting on this, we have some senior  
14 speakers who have worked on some preparation.

15 The motion before us is to close debate and  
16 it is a majority motion. All those in favor indicate by  
17 raising their placards.

18 All those opposed?

19 Boy. How about those in favor again?

20 AUDIENCE MEMBER: Point of order.

21 MR. RAWLINSON: Yes.

22 AUDIENCE MEMBER: Is this not a two-thirds  
23 vote?

24 MR. RAWLINSON: You know, you're exactly  
25 right. It is a two-thirds to cut off debate. Debate will

1 not be cut off.

2 Mr. Mozena, you may speak.

3 MR. MOZENA: I speak for diversity, but I  
4 speak for a race neutral program. Our program in Oregon is  
5 race conscious.

6 The 2003 decision by Justice O'Connor has  
7 called us to be cautious and skeptical when we were using  
8 race conscious programs and we are using race as a factor.  
9 We are doing with our Oregon State Bar program.

10 Both California and the state of Oregon have  
11 made racial preferences illegal. We as lawyers must  
12 continue to look at what our compelling interest is in  
13 diversity very closely. It must be narrowly tailored, as  
14 Justice O'Connor found in the majority opinion, it must be  
15 time limited.

16 So as lawyers, sure, we want to jump on and  
17 say diversity is great. But if it becomes racial balancing,  
18 if our goal is racial balancing, Justice O'Connor and the  
19 Supreme Court of the United States has said time and again  
20 it is patently unconstitutional if we are looking for racial  
21 balancing.

22 So today I come to you simply lawyer to  
23 lawyer and say we need to step back and look at this and  
24 think about what we are doing because we are using race as a  
25 factor. So I come today with a motion, and my motion is

1 this: It is a motion to strike the year 2021 and to create  
2 a blank, and remembering that the Supreme Court has said to  
3 us to be cautious, to be skeptical, to be (inaudible), to  
4 look to narrow tailoring, to be time limited, and I ask that  
5 the blank be filled in one year at a time so that we can  
6 remember it is our duty to continue to look to narrow-tailor  
7 this so we reach the day when we can do race neutral.

8 And let's look at California and let's look  
9 at the state of Washington to see what they're doing to do a  
10 race-neutral type of analysis.

11 So I make that motion, and I make it so that  
12 we affirm and confirm our affirmative action program, but we  
13 do it on the shortest, narrowest way that Justice O'Connor  
14 has told us to do it and the Supreme Court.

15 So where, Mr. President, do I present my  
16 amendment?

17 MR. RAWLINSON: Mr. Mozena, let's make sure  
18 we have understood the amendment. Are you changing the  
19 expiration date?

20 MR. MOZENA: Mr. President, I am doing a form  
21 under Robert's Rules of Order called a striking a fill in  
22 the blank, so the way that this is handled -- and I would  
23 ask that the President consider this -- that we take the  
24 program -- first we rule on the amendment to fill in the  
25 blank to keep it narrowly tailored. Then we advance it one

1 year at a time to keep it narrowly tailored, and each one of  
2 those years is taken as a vote of the assembly. Am I clear?

3 MR. RAWLINSON: Again, we don't have a second  
4 yet. There is a motion for a blank that apparently would  
5 proceed on a year-by-year basis to determine to what  
6 particular date there would be an extension of the  
7 affirmative action program. Is there a second?

8 MR. KARANDY: Second, Eugene Karandy from  
9 Albany.

10 MR. RAWLINSON: Eugene Karandy of Albany  
11 provides me a second. That's a non-debatable -- I'm sorry.  
12 Someone wants to debate it.

13 MR. KARANDY: Point of order. That's a  
14 non-debatable motion.

15 MR. RAWLINSON: Thank you. We are now going  
16 to vote, ladies and gentlemen of the House, on whether you  
17 would like to accept that motion. We will do it by simple  
18 majority. All those raise their placards if you would like  
19 to amend to add the blank to go year by year on the  
20 extension.

21 All those opposed?

22 The motion failed.

23 (Applause.)

24 We are back to the main motion. Mr. Harrell.

25 MR. HARRELL: Mr. President, I'm Gary

1 Harrell, House of Delegates, chair of the Health Law  
2 Section. I'm not a racial minority, no one in my family is  
3 a racial minority, and I have not been helped by this  
4 program personally. As you might say, I have no dog in this  
5 fight.

6           However, I do have members in my family who are  
7 deeply racially prejudiced, and I would like to speak  
8 briefly to the idea that we have pretty well cleaned up the  
9 racial discrimination problem in this country and that we're  
10 just now dealing with the last vestiges.

11           I would respectfully put forth that that's  
12 not the case, and that a program such as the affirmative  
13 action program remains very important in order to make sure  
14 that people of color have the opportunity that other people  
15 who are white folks have. And that's all I have.

16           MR. RAWLINSON: Thank you. I would remind  
17 folks that if you're going to speak in favor of the main  
18 motion you would be at the pro mike. If you have an  
19 amendment, you should be at the other mike. I think that  
20 will help us here in future. We will go back and forth.

21           I see we have someone at the other mike after  
22 we have heard from the pro mike. You are recognized.

23           MR. DERR: My name is George Derr. I'm not a  
24 delegate. I am a delegate to the American Bar Association.  
25 I just want to say a couple of things.

1 I don't think anybody here isn't in favor of  
2 reversing and correcting the wrongs of the past. Just  
3 speaking from a street level, I can tell you that this  
4 program is not working the way we think it is going to work.

5 I think what you're finding is white lawyers  
6 and white members of the community (inaudible) and  
7 resentment because of it. I think it is aggravating and  
8 escalating the racial problems in this country, and I think  
9 people need to look at the practical effect of (inaudible)  
10 this program and how people are perceived out there when  
11 they are of color, not white, and they are in the profession  
12 because I am hearing more and more people say, That person  
13 got that job or that position because of their color and not  
14 their credentials.

15 And I think you need to think long and hard  
16 down to the street level backlash this is creating.

17 Secondly, I am a member of the Oregon State  
18 Bar, and I think that under Keller v. California State Bar.  
19 I think requiring members of this bar to participate in this  
20 and have the bar association have its membership  
21 theoretically endorse affirmative action violates our rights  
22 as members of the Oregon bar and (inaudible) an organization  
23 that takes an ideological position with which we're opposed,  
24 and I think the Court needs to look at -- or excuse me --  
25 the bar needs to look at that fact. I think this whole

1 program violates the rights of the members of the bar.

2                   Lastly, I am not a delegate. I cannot make a  
3 motion. I believe the people voting (inaudible), and I  
4 think what ought to happen here is somebody ought to make a  
5 motion to require that affirmative action dues be a  
6 voluntary contribution and let's just see where the money  
7 flows. (Inaudible) but let the members choose not to  
8 endorse it. That's all I have.

9                   MR. RAWLINSON: Thank you. I'll recognize  
10 the pro mike. Mr. Marmaduke.

11                   MR. MARMADUKE: Mr. President, members of the  
12 House of Delegates, friends and colleagues, I would like to  
13 add my voice to those many people's voices who support the  
14 renewal of the program. Can you hear me?

15                   There we go. Thank you. Excuse me if I turn  
16 my back to you but --

17                   MR. RAWLINSON: That's quite all right.

18                   MR. MARMADUKE: -- I'd like to address the  
19 House.

20                   MR. RAWLINSON: It happens to me at home.

21                   MR. MARMADUKE: I think that what you do now  
22 with this program really is going to have historic  
23 significance for many people for many years to come. For  
24 example, for students, there are students for whom the  
25 study of law and practice of law can turn dreams into

1 reality.

2           For clients, whether they're rural or urban  
3 clients, who seek equal access to justice in Oregon and who  
4 seek a justice system that is populated with judges and  
5 lawyers who fully understand and appreciate the backgrounds  
6 and values of ethnic minorities it can be very important.

7           For the businesses -- client who are  
8 businesses, we in Portland, in my experience, are already  
9 receiving a demand from clients that their law firms be  
10 diverse and representative of what their client bases are  
11 becoming and have become.

12           For law firms themselves, it is important  
13 because it will expand talent pools available to them, and  
14 it is important because it will sharpen the depth and the  
15 breadth of their perspectives on some of the problems that  
16 they are more frequently now being asked to confront.

17           And finally, I think it is important for the  
18 maintenance of the public trust and confidence in our  
19 judicial system as being an open, inclusive, and fair system  
20 for resolution of disputes and administration of our laws.

21           Personally, I think that the immigration of  
22 our majority and minority members into our society together  
23 is something that can't fairly be characterized as a rural  
24 or urban issue or as a democrat or a republican issue.

25           And I honestly believe it's really an

1 American issue that is imperative -- imperative that we put  
2 into effect because it will solidify and strengthen us as a  
3 nation.

4 Now, happily the program that is before the  
5 House is an all-inclusive program, contrary to what has been  
6 said. It is not restrictive to minority members only. It  
7 invites majority members who support diversity to  
8 participate. And I think that by being a wholistic approach  
9 it really should silence any arguments of unfairness or  
10 bias.

11 So I say to you again that what I think we  
12 have here is a program that has already demonstrated that it  
13 is a successful program, and it predictively can be viewed  
14 as it is undoubtedly going to be successful in the future,  
15 and I ask that you consider, when you consider what to do  
16 about renewal, what renewal approval says to the world  
17 around us. It will say that the Oregon legal profession  
18 cares enough to take positive long range strategic steps to  
19 make equal access to justice a reality.

20 That being so, I feel confident that we will  
21 have your vote and support, and I want to thank you for the  
22 opportunity to express my personal strong support.

23 (Applause.)

24 MR. RAWLINSON: Mr. Marmaduke, thank you. I  
25 would remind the speakers to please try to stay within the

1 three-minute limit. Consistent with our practice of going  
2 from the pro mike to con or other, I have a delegate at the  
3 other mike.

4 MS. VAN METER: Heather Van Meter, Region 5,  
5 Portland. Just a point of information. Do we have the  
6 statistics available on the percentage of minorities  
7 currently in the state bar perhaps compared to the  
8 percentage in the population?

9 MR. RAWLINSON: We have the percentages  
10 available. I don't have any of those at my fingertips this  
11 morning. I'm sure we could get those for you. If you want  
12 to contact -- if Karen Garst's not in next week, Sylvia  
13 Stevens will get those for you.

14 MR. LOPEZ: Thank you, Mr. President, Angel  
15 Lopez, delegate from Region 5, former president of the  
16 Oregon State Bar, legal advisor to the Mexican Consulate  
17 here in Portland -- or there in Portland, I guess.

18 I have some names I want to share with you,  
19 people that I have been proud to know for years: Ernest  
20 Warren, an African-American lawyer in Portland; the  
21 Honorable Marco Hernandez, a judge in Washington County;  
22 Ronault Catalani, an international kind of guy who is a  
23 lawyer and a very powerful speaker. I heard him yesterday.

24 The commonality that these individuals have,  
25 other than having made great strides in life and having

1 bestowed so many benefits on the political and social  
2 landscape here in Oregon, is that they all credit me with  
3 the inspiration to become lawyers in the first place.

4           They all credit me for inspiring them to  
5 become lawyers when I was the director of the affirmative  
6 action program for the Oregon State Bar from 1979 to 1982,  
7 three real good years for me, and three good years for the  
8 bar as well.

9           The fact of the matter is that I myself would  
10 not have stayed in Oregon to practice law but for the  
11 benefits bestowed on me by the affirmative action program,  
12 things as seemingly insignificant as a loan so I could stay  
13 and sit for the bar exam.

14           Last week I was in court being appointed on a  
15 very, very serious case with a Latina woman from another  
16 culture, and I was just thinking at that point I was proud  
17 to accept that appointment because here is a woman who has a  
18 competent, aggressive good lawyer who understands her  
19 culture, who understands her language, and who can give her  
20 a voice in an American court. That's the point of the  
21 program.

22           It cost me \$40 to fill my tank yesterday to  
23 come up here. It's going to cost me \$30 to continue  
24 supporting this wonderful program. I think between the two  
25 I would prefer to walk because that \$30 to me is much more

1 important than the \$40 I put in the tank. Thank you.

2 (Applause.)

3 MR. RAWLINSON: Consistent with our policy of  
4 going from the pro to the other and con mike.

5 MS. JOHNSON: Thank you. I'm not a delegate,  
6 Mr. President. My name is Kellie Johnson, but I am a member  
7 of the Oregon State Bar. I am also president-elect of  
8 Oregon Women Lawyers. I am a deputy district attorney in  
9 Multnomah County. I also serve on the board of Girl Scouts  
10 Behind Bars. I am a community member. I am a member of the  
11 PTA in Multnomah County at my child's school.

12 I mention all of those things because if it  
13 were not for the Oregon State Bar affirmative action program  
14 I would not remain in Oregon. This program not only  
15 assisted me in finding a job while I was a student at the  
16 University of Oregon, but it gave me my passion for trial  
17 work which has led me to do prosecution when I began in Lane  
18 County and now in Multnomah County.

19 I'm good at what I do. If you live in  
20 Multnomah County you are safer because of me.

21 I want to say that the talent that  
22 affirmative action picks out for the State of Oregon and  
23 helps to acculturate to the environment or support and  
24 continue the passion to diversifying our bar is something  
25 that, if I may say, that no individual lawyer in this room

1 could ever do.

2           The fact that you have a choice to say that  
3 you can look for a diversity and that you can have a diverse  
4 employment pool is from the direct action and participation  
5 of people in the affirmative action program.

6           If you get rid of that, I ask you, who in  
7 your firm or who in your small firms are going to do the  
8 recruitment for you. I think this is a matter of not about  
9 is this something that disadvantages white people. I think  
10 this is a time to exercise the vote of I, which is I am  
11 committed to this because diversity is not just a matter of  
12 adding salt to the kettle.

13           Diversity is an issue of adding brilliance, a  
14 diverse perspective, talent, and raw community to our  
15 practice because, as we venture more beyond just lawyers but  
16 become those parents and those people in our community, we  
17 see that our effect as lawyers is much greater than who we  
18 practice in the bar with.

19           I would just ask you today, when you consider  
20 this issue, that you use the vote of I. Not because it's  
21 good for those women and those minorities, but because it is  
22 good for all of us.

23           (Applause.)

24           MR. RAWLINSON: Kellie, I'll remember your  
25 eloquence. We met last evening, and I'll remember your

1 blessed Irish name.

2 We are back to the pro mike and, Judge Aiken,  
3 I'm pleased to recognize you.

4 JUDGE AIKEN: It is a huge privilege to speak  
5 to you and to thank you for your commitment and your  
6 willingness to give (inaudible) the Oregon State Bar.

7 But I want to pay special tribute to one of  
8 my heroes, and that is Chief Justice Carson who really is  
9 one of those individuals who stood up and opened doors for  
10 people. I am here because people opened doors, and it is  
11 really incredibly important that this door remain open.

12 And I'm so very, very proud of the  
13 affirmative action program because of the diversity  
14 (inaudible) I become aware of when I started working  
15 (inaudible) when I was on the bench. And the opportunity  
16 the students now have because (inaudible). Somebody opened  
17 the door for them, the Oregon State Bar.

18 Affirmative action is an opportunity for all  
19 of us bring to the table people who have so much more to  
20 give, and I know that because what I end up doing as a judge  
21 is resolving a failure to communicate. That's usually how  
22 lawsuits start -- a failure to communicate.

23 And what I've tried to do is dedicate my  
24 professional life to helping to resolve those disputes in a  
25 way that (inaudible) honor of a profession, the kind of

1 respect that deserves, and that is bringing diverse people  
2 to the table.

3           And what I can tell you is, when you have  
4 people representing these individuals who are not part of  
5 our culture, who are not part of our experience, who have  
6 not had the privileges that those of us have had -- when we  
7 have people who can look across the table and  
8 representatives they have confidence and experience and  
9 knowledge, things get done a different way. That is a way  
10 (inaudible) of the process and gives great integrity and  
11 respect to institution.

12           It's a question of whether we want to remain  
13 relevant. (Inaudible.) It is time to embrace the future.

14           I was educated by my husband, who was a  
15 political science professor at the University of Oregon, who  
16 said, You have an obligation -- you have the privilege to  
17 reach out and open doors for other people.

18           This affirmative action program made it  
19 possible for countless individuals to remain and be a part  
20 of our bar. I talked to one last night, born in poverty, a  
21 kid from Guatemala, raised in and out of foster care. His  
22 brother went the wrong way.

23           He watched television. He decided he wanted  
24 to be a lawyer. On television lawyers have respect and  
25 power. He didn't know how to do it, but he fought and

1 struggled to get that opportunity, and people opened doors.

2           And when he finished at Georgetown University  
3 and looked around (inaudible) where is a state that makes  
4 difference? Where will I get help? Where will I get  
5 community?

6           He came to the University of Oregon School of  
7 Law, and the affirmative action program benefitted him  
8 directly because it gave him community and it introduced him  
9 to Spanish-speaking lawyers, to help (inaudible) into  
10 Oregon. To be a part of this community.

11           It got him through the Oregon State Bar. He  
12 graduated early and is a member of the bar and he is in a  
13 big firm in Portland still struggling to become part of the  
14 community.

15           And when I talked to him last night, he has  
16 moved into his first home. And he struggled with the end of  
17 the week where he is way beyond his billable hours and  
18 doesn't quite know how he is going to make everything work.  
19 He said to me, You tell them that I'm just one of many, many  
20 people who have a community that I can turn to and keep  
21 opening doors, and you tell them I can't be there because  
22 I've got to do the best I can to make everyone proud; that  
23 I'm part of the bar and I'm part of Oregon, but it made a  
24 difference to me to come to Oregon and it made a difference  
25 for me to stay in Oregon and it made a difference because I

1 will give back.

2                   So on behalf of all the students and all  
3 those individuals who have benefitted by the bar,  
4 (inaudible) the opportunity to have the diverse bar  
5 membership to help resolve disputes in a way that gives  
6 respect to our institution, and about the future -- because  
7 I have five sons, and I want them to be able to work in a  
8 community that looks like the world, not just like them.  
9 Thank you.

10                   (Applause.)

11                   MR. RAWLINSON: Thank you, Judge. I am going  
12 to remind the House we are limited to three minutes, and I'm  
13 going to enforce that a little bit more strictly as we  
14 proceed. We have a lot of items to cover.

15                   Mr. Haberlach, I have a suspicion what you  
16 might like to present to us.

17                   MR. HABERLACH: Thank you, Mr. President.  
18 I'm Bill Haberlach from Region 3, elected delegate.

19                   And even Federal judges can't see a red light  
20 that's flashing when you're looking the wrong way. But I  
21 would like to point out that I am not a con and I'm not a  
22 Duck, but I move the question.

23                   MR. GEORGEFF: I second. Gary Georgeff,  
24 Brookings, Oregon.

25                   MR. RAWLINSON: Thank you, Mr. Georgeff. It

1 has been pointed out to me, and I apologize. I hadn't  
2 noticed that we do have one other speaker back at the other  
3 mike. I have a motion before me, I have a second, and so it  
4 is formally before the House, but I would like the House to  
5 know, as you vote, that we have a speaker who would like to  
6 be heard on this issue, and so I'll now take that vote.

7 All those who would like to close the debate,  
8 including cutting off this last speaker -- it is a  
9 two-thirds vote -- please indicate by raising your placards.

10 All those opposed? The motion carries. I  
11 apologize.

12 We have an opportunity for one-minute  
13 closing. Chief, are you satisfied? Would you like to  
14 waive?

15 CHIEF JUSTICE DE MUNIZ: Yes.

16 MR. RAWLINSON: Very good. Thank you very  
17 much.

18 Folks, we have before us a very important  
19 motion. The motion is for the continuation of the  
20 affirmative action program. If you wish to show your  
21 support for the continuation for that, please raise your  
22 placards.

23 All of those opposed.

24 (Applause.)

25 Nothing I can say would top that

1 demonstration of appreciation for the hard work that all of  
2 you have done. Thank you very much.

3 Let's move on to Agenda Item No. 9. That is  
4 the mileage reimbursement matter. This particular matter  
5 seeks reimbursement for those attending the annual delegate  
6 meeting. It's on pages 5 and 6 of your materials.

7 Ms. Gruber, you are the presenter for this  
8 particular agenda item. As she comes to the podium, I will  
9 need a motion. I would remind the House that this is  
10 subject to general count and Board of Governors' objection,  
11 as I mentioned earlier.

12 Ms. Gruber, would you like to make a motion?

13 MS. GRUBER: I do so move.

14 MR. RAWLINSON: I will consider that to be a  
15 motion to adopt Agenda Item No. 9. Do I have a second?

16 MR. BROWNING: Second, Bob Browning.

17 MR. RAWLINSON: Mr. Browning seconds the  
18 motion. It is now formally before you. You have five  
19 minutes, Ms. Gruber.

20 MS. GRUBER: Thank you. Oregon is a huge  
21 state. There's 375 miles from Brookings to Baker City, 300  
22 miles from the California border to the Washington border.

23 Next year this body will be meeting in  
24 Salishan in beautiful Lincoln County. After the new bar  
25 headquarters is built, I understand that all future HOD

1 meetings will be held in Tigard at the new center.

2           Regardless what locations are chosen for  
3 future meetings, many HOD members will be disadvantaged both  
4 by time expended and money expended in attending HOD  
5 meetings.

6           I attended my first HOD meeting in September  
7 -- excuse me -- in 2003 in Seaside. 127 HOD members  
8 attended the meeting that year.

9           I attended my second meeting in Portland in  
10 2004. Only 111 attending. The start of the meeting was  
11 delayed because we didn't have a quorum, and somebody  
12 jokingly said -- after a quorum was announced, somebody  
13 jokingly said, "Lock the doors. Don't let anybody out."

14           The membership at the House of Delegates  
15 exceeds 200, so I was left to wonder why so few elected  
16 delegates don't attend the most important meeting of the  
17 year.

18           In addition, I notice that often regions have  
19 fewer candidates for HOD positions than there are openings.  
20 In the months leading up to the 2005 election, I contacted  
21 numerous attorneys to encourage them to become HOD  
22 candidates.

23           That year Region 3 had 14 candidates for six  
24 seats. Region 6 had 21 candidates for 11 seats. Now,  
25 that's what I call, you know, real elections. It gives the

1 attorneys real choices, and I humbly take some credit for  
2 encouraging 11 of those candidates to run.

3           However, that same year Region 2 attorneys  
4 weren't allowed to vote because there were four openings and  
5 only three candidates.

6           The 2006 election had the highest voter  
7 turnout ever -- ever, 31 percent. Nevertheless, the  
8 attorneys in Region 1, Region 5, and out of state, didn't  
9 have an opportunity to vote on their HOD delegates because  
10 there were fewer delegates -- excuse me -- fewer candidates  
11 than the open positions.

12           The House of Delegates is the body that  
13 speaks for the membership. The more involvement and the  
14 interest in the House of Delegates the healthier the Oregon  
15 State Bar as a whole.

16           Too often I hear attorneys say something  
17 like, "The bar is not interested in my opinion. They just  
18 want me to mail in my dues and keep my ideas to myself." As  
19 a matter of fact, I heard this yesterday.

20           By changing the bylaws to provide for mileage  
21 reimbursement, we are sending a message to all of Oregon's  
22 attorneys that their involvement is not only needed but  
23 wanted.

24           As drafted, this resolution has a 100 mile  
25 deductible for everyone who attends a HOD meeting and who is

1 not otherwise reimbursed by the bylaws. It also has a 900  
2 mile maximum. In other words, if the round-trip mileage is  
3 150 miles, then 50 miles would be reimbursed at the IRS rate  
4 for that year.

5 For members whose round trip is in excess of  
6 1,000 miles, total reimbursement will be 900. I have no  
7 particular attachment to the 100 mile deductible or the 900  
8 mile maximum.

9 I invite this body to make resolutions to  
10 change those mileage figures. Regardless of the actual  
11 reimbursed amount, the new bylaw will send a message to the  
12 membership that their involvement in the House of Delegates  
13 is needed and wanted.

14 Due to the \$50 dues increase last year, there  
15 is money in the bar's budget to fund this expense. As Mr.  
16 Rawlinson stated earlier, we are flush.

17 According to the bar's calculations, which  
18 have been handed out there -- I know some of you (inaudible)  
19 all the seats, but those calculations came from the bar  
20 staff. And if everybody attended a HOD meeting held in Lake  
21 Oswego, the total cost would be \$11,000.

22 Of course, not everybody is going to attend,  
23 so Karen Garst and I agreed that this expense will be no  
24 more than \$7,000 a year.

25 This resolution as drafted will provide for a

1 minimum amount of work for bar staff. No documents will be  
2 required other than some type of claim form. If a HOD  
3 member wishes to claim his or her mileage reimbursement, he  
4 or she simply submits a simple claim form. Gas receipts,  
5 motel receipts, plane tickets won't be needed.

6 I do not view this bylaw as just a means for  
7 reimbursing HOD members for some out-of-pocket expenses.  
8 After all, the attorneys' time is far more expensive than  
9 whatever out-of-pocket to get here.

10 Please vote yes. This bylaw change will  
11 increase membership involvement in the House of Delegates.  
12 Thank you.

13 (Applause.)

14 MR. RAWLINSON: We are open for discussion.  
15 I am going to recognize Mr. Greene at the other mike.

16 MR. GREENE: Thank you, Mr. President. I'm  
17 Ward Greene. I am a member of the Board of Governors.

18 On behalf of the Board, we take no position  
19 as to this item. However, our estimate of the cost to the  
20 bar is that it would be slightly higher than that proposed.  
21 We estimate it is likely to cost between \$5,500 to \$11,000.  
22 And I have to say we're very careful of the bar's pennies  
23 and nickels and dimes, and then the dollars take care of  
24 themselves.

25 But again, this is one of those issues that

1 may or may not be properly before the House. Thank you.

2 MR. RAWLINSON: Thank you, Mr. Greene. I'll  
3 go back to the pro mike. Mr. Haberlach.

4 MR. HABERLACH: My name is Bill Haberlach,  
5 and I'm not going to move the question (inaudible) at this  
6 time, but I have been a member of the House of Delegates  
7 since the beginning of this time. And I live in Medford,  
8 Oregon, which is only 35 miles away from California. You  
9 can see it down at the bottom of the map.

10 You know, it's the same distance from Medford  
11 to Portland than it is from Portland to Medford? How often  
12 do you guys come to Medford for a bar meeting?

13 AUDIENCE MEMBER: Once in 20 years.

14 MR. HABERLACH: And when you do, do you  
15 smile? But I think that this is a reasonable suggestion.  
16 I've proposed this numerous times before. Just think of the  
17 cost that we spent last night for the reception over at the  
18 Valley River Inn. I'm not sure whether or not that would  
19 have been enough to reimburse all of the people over 100  
20 miles away, but I urge you to vote for it.

21 And the other thing is, since this is a very  
22 simple issue and there's not a lot to debate, you've had an  
23 opportunity to study it, and if you haven't made up your  
24 mind by this time, you probably shouldn't vote.

25 So I would call for the question.

1 MR. RAWLINSON: I'm going to consider the  
2 motion to call for the question out of order since he was at  
3 the pro mike. I am going to recognize Mr. Abrams.

4 MR. ABRAMS: Thank you. Marc Abrams, elected  
5 delegate, Region 6. I thought we were discussing military  
6 matters later in the agenda. I don't recall being drafted  
7 into this body. We each volunteered to be here. We each  
8 ran for election.

9 We volunteered to serve knowing the terms and  
10 conditions. Those terms and conditions were you pay for  
11 your tank of gas. It is an honor to be here.

12 With regard to the idea that we are flush, if  
13 we listened carefully to Mr. Menashe, he said we are in the  
14 first year of a five-year cycle where we will have a  
15 declining flushness (inaudible).

16 More to the point, if what we are trying to  
17 do here is have inclusiveness, I've heard nothing -- and  
18 nothing on e-mail traffic that demonstrated that there is  
19 any lessened ability for a diverse body to serve because  
20 they don't get mileage reimbursement.

21 If that's the argument, put the money into  
22 the affirmative action program. But in any event, we all  
23 decided to be here, and I don't want the compensation. I'd  
24 rather it go to something better.

25 MR. RAWLINSON: Thank you. We're back to the

1 pro mike. Mr. Georgeff.

2 MR. GEORGEFF: Thank you, Mr. Rawlinson.

3 Gary Georgeff, Region 3, Brookings, Oregon.

4 Just on the merits, it seems a reasonable  
5 thing to do to encourage participation by members of  
6 outlying regions. Mr. Haberlach being (inaudible) distance  
7 to California, I'm in Brookings, the very bottom left-hand  
8 corner of that map, which is four miles from the California  
9 border. I think it's a good idea.

10 I'm also going to have a procedural motion to  
11 amend to address the point of order question. Do you want  
12 to do that at this mike or --

13 MR. RAWLINSON: I'd like you to do it at a  
14 separate mike. Do you want to take the other mike, I will  
15 recognize you shortly.

16 Mr. Hamlin.

17 MR. HAMLIN: Bruce Hamlin, elected delegate  
18 from Region 5. I think that the resolution ought to be  
19 defeated. I have seen no evidence that the level of  
20 participation in the House of Delegates is dependent upon  
21 financial issues.

22 I recall that the Oregon House of Delegates  
23 meeting in Portland -- and Mr. Paulson has told us that the  
24 House of Delegates is weighted heavily in favor of Portland,  
25 but failed for lack of a quorum despite the fact that there

1 was probably the least number of miles needed to be  
2 traveled.

3                   Unfortunately, I think what happens is that  
4 people get elected to the House of Delegates and then fail  
5 to give it the priority that it deserves in attending the  
6 meetings.

7                   MR. RAWLINSON: Thank you. Mr. Browning.

8                   AUDIENCE MEMBER: Really, as was said by the  
9 earlier speaker on the floor, Mr. Paulson is almost  
10 (inaudible) despite the fact the (inaudible).

11 Unfortunately, I think what happens is that people selected  
12 to pass (inaudible) and failed to give it the priority that  
13 it deserves.

14                   MR. RAWLINSON: Thank you. Mr. Browning?

15                   MR. BROWNING: Bob Browning. I'm a delegate  
16 from Region 4. Of course present. Really, it was said by  
17 one of the earlier speakers on this matter. I really don't  
18 have anything to add on this matter because we wouldn't  
19 receive reimbursement. Forest Grove and Lake Oswego round  
20 trip is about 100 miles from the (inaudible) not to do that  
21 anyway -- 100 miles. And as an attorney, I would probably  
22 not -- choose not to do that anyway.

23                   I do see, though, as someone who has attended  
24 all but one HOD Town Hall, every other conceivable kind of  
25 governmental bar meeting that has been since I joined in

1 September of 1979 and attended the bar convention that year  
2 that came two weeks after my admission to the bar. I was  
3 originally opposed to the House of Delegates.

4           We have the House of Delegates, however, and  
5 I find nothing in terms of what we consider or the  
6 involvement that we have or our role that we play in the  
7 governments of the bar that suggests that we are somehow or  
8 another less equal than say the BOG or certain other  
9 activities that are carried on where BOG members, and  
10 rightfully so, not only get some mileage, but they get some  
11 housing and get some meals and they get some other things.

12           The people that are going to most benefit  
13 from this are not likely to be here, younger members who  
14 would like to run, who would like to run from the inner  
15 lands who need a little bit of economic help. And sometimes  
16 it doesn't take a huge amount. We've heard people be  
17 concerned about \$30 making the difference between new  
18 admittees and non-new admittees.

19           If that's the case, then \$35 or \$40 or \$50  
20 worth of mileage help, if that's what it takes to get people  
21 from Vail to continue to be involved, and not just those who  
22 have the money because of years of practice.

23           Younger people in the bar -- and you will  
24 hear me talk later in support of the leadership college --  
25 younger people in the bar are our future, and whether they

1 be white, black, blue, green, or brown, whether they be male  
2 or female or transgendered or in the process of changing  
3 from one to the other, it is so very, very important that we  
4 continue to represent, the greatest possible ability that we  
5 have, to represent this wonderful, wonderful profession  
6 called the practice of law; the profession that  
7 distinguishes, most of the time, our society from virtually  
8 every other society in the world.

9           And if I see this as one small way -- an  
10 incentive to encourage people to continue to be involved in  
11 this wonderful profession, then I'm in favor of it. Thank  
12 you.

13           MR. RAWLINSON: Thank you, Mr. Browning.  
14 Mr. Haberlach, I know you were up first. We have a House  
15 rule that lets all others speak before we speak a second  
16 time, so the delegate that would be at the mike.

17           MS. ANDERSON-HANSELL: I'm Sally  
18 Anderson-Hansell from Region 1, and I drove five hours in my  
19 gas-guzzling four-wheel-drive SUV to be here. The one  
20 weekend I'm here is when the Pendleton Round-Up occurs --  
21 let 'er buck -- and I consider it an honor to be here.

22           I oppose this motion.

23           MR. RAWLINSON: At the mike?

24           MR. VARALLO: Christopher Varallo. I am a  
25 delegate from the out-of-state region. I want to thank you.

1 I'm from Spokane, Washington. It's my pleasure to be here  
2 and to be part of this wonderful institution that appears to  
3 be pretty unique to Oregon.

4 As a young lawyer, I would like to thank you  
5 all for allowing me to be here and a part of this.

6 I would like to speak in favor of this  
7 resolution. I may be the only one here who had to fly here  
8 and stay the night last night and fight with all the  
9 opposing football fans for a hotel room. I'm staying in  
10 Albany. Thank you.

11 (Laughter.)

12 MR. VARALLO: The Best Western was \$500. My  
13 firm paid that for me. I am lucky in that I work for a firm  
14 that paid for this, that paid for my air fare and paid for  
15 my rental car. And it paid to have me come out here and do  
16 this as a benefit. A lot of my colleagues are not so lucky.

17 I see this institution as similar to other  
18 governing bodies. And if I'm not correct, please correct  
19 me, but most governing bodies of this type do pay for some  
20 type of mileage reimbursement. And would I apply for it? I  
21 don't know. I understand my firm subsidizes the bar, but  
22 that's my choice, if it's decided.

23 As to the issue of how much it would cost, I  
24 would put out there that's been not even a year, and if it  
25 turns out to be \$15,000 I think it's the body's prerogative

1 to change it in a year. Nothing is cast in stone. But I  
2 would speak in favor of it for those reasons. Thank you.

3 MR. RAWLINSON: Thank you. Mr. Georgeff?

4 MR. GEORGEFF: Thank you. Gary Georgeff from  
5 Eastern Oregon. This is just purely procedurally. The  
6 board has pointed out there is a question of whether this  
7 motion is -- or Ms. Gruber's agenda item is out of order.

8 At Ms. Gruber's request, and I understand  
9 also suggested by Mr. Karandy, something of a  
10 parliamentarian, I make the following motion --

11 MR. RAWLINSON: Go ahead.

12 MR. GEORGEFF: -- that's to amend by  
13 inserting the following paragraph at the end of the  
14 resolution: "Resolved that the House of Delegates directs  
15 the board of governors before amending Article 7.5 of the  
16 bylaws to first determine if any legislative changes are  
17 necessary to implement this resolution and to seek such  
18 legislative changes determined, if necessary, to implement  
19 this resolution."

20 And the point of this is if this motion  
21 passes, the supporters believe this could resolve the  
22 question of whether it's properly in order and binding on  
23 the Board of Governors. I'll present this.

24 MR. RAWLINSON: Mr. Georgeff, I have a point  
25 of order question for you. Sounds like you are making an

1 amendment, first of all, to allow for a review to see if  
2 there's any legislative change that would be necessary,  
3 which would include, I guess, a change in the Oregon Revised  
4 Statutes.

5 Are you also addressing the issue of whether  
6 or not it requires bylaw changes?

7 MR. GEORGEFF: This doesn't really address  
8 that it requires a bylaw change. What it addresses is  
9 simply to determine the legislative changes that are  
10 necessary and then directing the board to seat those changes  
11 if they are necessary.

12 I frankly don't know if they are. It's just  
13 to get past the question of whether it's all properly in  
14 order or not.

15 MR. RAWLINSON: Thank you. Is there a second  
16 to the motion to the amendment?

17 MR. HABERLACH: I'm Bill Haberlach from  
18 Region 3, and I second the motion.

19 MR. RAWLINSON: Thank you. We have a motion  
20 and a second. I announced at the beginning that we'd like  
21 to have any motions to amend in writing. I'm going to  
22 strictly require that.

23 Is there anyone in the house that would  
24 require this particular motion to be in writing?

25 Hearing none, we'll consider the motion to

1 amend. All those in favor of amending the motion to adopt  
2 the language that Mr. Georgeff proposes, please raise your  
3 placards.

4 All those opposed? Wow. I'm sorry. I'm  
5 going to have to request that we have our counters come up,  
6 and we'll have to count placards. Please remain in the  
7 delegate area.

8 All those in favor, please raise your  
9 placards. This is a simple majority vote. We have those.

10 Okay. All those opposed?

11 Delegates, we have an outcome. The motion to  
12 amend failed 55 to 73. We are back to the main motion.

13 Do we have speakers?

14 MR. BURFORD: Yes. Christopher Burford,  
15 Chair of the New Law Section, from Pendleton.

16 I would like to move to amend the motion for  
17 the resolution by deleting the word "direct" in the second  
18 line and replacing it with the words "request that."

19 MR. RAWLINSON: Is that the extent of your  
20 motion?

21 MR. BURFORD: Yes. And it is in order to --  
22 with the intention of overcoming the objection that was  
23 mentioned earlier.

24 MR. RAWLINSON: Thank you. Is there a second  
25 to that motion to amend?

1 MS. ALLEN: Beth Allen, Region 5.

2 MR. RAWLINSON: I'll consider that to be a  
3 second. Again, we have a motion that was not submitted in  
4 writing. If there is any delegate who objects to that,  
5 please let me know now.

6 Hearing no objection, we will consider that  
7 motion before us. All in favor of the motion to amend,  
8 indicate by raising your placards.

9 Those who are opposed, raise your placards.  
10 The motion is amended.

11 We will now return to the main motion.  
12 Ms. Gruber, you have one minute to close, if you'd like.

13 MS. GRUBER: Oh, my goodness. I forgot about  
14 my motion.

15 MR. RAWLINSON: I'm sorry. There is somebody  
16 at the con mike.

17 MS. HOFFMAN: Thank you very much. I'm Janet  
18 Hoffman, and I'm a representative from Portland, Oregon.

19 I think the reason why this should be  
20 defeated is if you look in paragraph b, it says, "All  
21 members of the House of Delegates who attend the annual  
22 House of Delegates meeting will be eligible for mileage  
23 reimbursement, regardless of the means of transportation  
24 utilized."

25 If we're talking about this being an economic

1 measure to help those who could not otherwise attend, the  
2 wording of this particular section far exceeds that. I  
3 could theoretically be a passenger. I could be riding my  
4 bicycle. I could hitchhike. It has no direct correlation  
5 to the costs that have been incurred to attend this  
6 particular meeting.

7           And so for that reason, I think that it  
8 should be defeated.

9           MR. RAWLINSON: Thank you, Ms. Hoffman.

10          MS. GRUBER: Could I speak that?

11          MR. RAWLINSON: You have one minute to close.

12          MS. GRUBER: And thank you very much for that  
13 question. It was intentionally kept simple so that the bar  
14 staff and the attorneys did not have to gather up all these  
15 receipts.

16                 It isn't a direct attempt to reimburse for  
17 every penny. It was an idea of encouragement, kept simple,  
18 and without too much invasion into one's privacy. Don't  
19 have to figure out how they got where they got. It's just a  
20 simple mileage calculation, which is one of the reasons why  
21 at the beginning I said feel free to change the \$100  
22 deductible and the \$900 maximum, because, again -- and I go  
23 back to my earlier point -- the biggest expense is not the  
24 gasoline or the plane ticket.

25                 In my humble opinion, it's the attorney's

1 time. I will be working all day tomorrow, Sunday, because I  
2 have spent today and yesterday here. And I bet you a lot of  
3 you will be doing the same to catch up if you can. And I  
4 probably won't catch up until the following weekend what --  
5 the time I've used up doing this work. Thank you.

6 MR. RAWLINSON: Thank you, Ms. Gruber.

7 You have the main motion before you. All  
8 those in favor of the motion which adopts Addendum Item No.  
9 9 as amended seeking mileage reimbursement, please raise  
10 your placards.

11 All those opposed? Boy. One more time.

12 Those in favor?

13 Sorry, folks. We're going to have to count  
14 them.

15 All those in favor, please raise your  
16 placards.

17 Do we have the opposed counted? Those  
18 opposed? Thanks, folks.

19 You folks have already worn out the attorney  
20 and he's left. And the verdict is not guilty.

21 (Laughter.)

22 The motion does not carry. It was defeated  
23 73 to 62, so agenda Item No. 9 as amended fails.

24 Moving on now to agenda Item  
25 No. 10, Termination of the Oregon State Bar Leadership

1 College. This item is on page 6 of your agenda.

2 Ms. Gruber, this is your motion. We  
3 appreciate having your presentation of the first motion, and  
4 I'll need a second to put it before the House. May I have a  
5 motion?

6 MR. GEORGEFF: I second it.

7 MR. RAWLINSON: Now we have a motion.

8 MS. GRUBER: I move to deal with Item No. 10  
9 of the agenda.

10 MR. RAWLINSON: Thank you very much, Mr.  
11 Georgeff. Do we have a second?

12 MR. GEORGEFF: I second.

13 MS. GRUBER: The leadership college was  
14 established just after last year's House of Delegates  
15 meeting. This body was not given the opportunity to discuss  
16 and debate the need for this college, the cost of this  
17 college, nor which bar members should be enrolled in this  
18 college.

19 Therefore, I submit in Resolution 6 to give  
20 you, the House of Delegates, that opportunity. My concerns  
21 about the leadership college are three-fold: the cost,  
22 which is paid by membership dues; the way it divides the  
23 leadership, quote/unquote, from the rest of the membership;  
24 and the way that a few members, very few, are singled out  
25 for special advantages not available for the rest of the

1 membership.

2           At the House of Delegates meeting in Salem  
3 last year, the Board of Governors presented a resolution to  
4 raise our annual dues by \$50. We were told that this was  
5 needed for salary increases and PERS benefits.

6           In addition, we were told that \$5 would be  
7 earmarked for the student loan reimbursement program. I  
8 voted no on that resolution because I believe our dues are  
9 already too high compared to the benefits that the member  
10 receives.

11           The resolution passed and our dues were  
12 raised. Several weeks later, I was surprised to learn that  
13 some of our increased dues were being used to start a  
14 leadership college wherein an unelected -- unelected board  
15 singles out attorneys as emerging leaders and provides them  
16 with five seminars at various locations throughout the year,  
17 some of which carry CLE credits.

18           The cost of the leadership college was  
19 estimated by bar staff to be between \$28,000 and \$30,000  
20 annually. \$28,000 a year is real money for most of the  
21 membership. Before committing this kind of money every  
22 year, the House of Delegates should discuss it.

23           Coincidentally, I just hired an attorney who  
24 has been inactive for three years because she had a baby.  
25 She will be earning about \$28,000 working part time. This

1 is not a small sum.

2           The college mission statement reads as  
3 follows, quote: The mission of the leadership college is to  
4 recruit, train, and retain emerging leaders for the legal  
5 community in the Oregon State Bar, unquote.

6           A very troubling aspect of this leadership  
7 college is the way that certain members are singled out for  
8 special advantage not available to others. There is already  
9 a wide gap between the membership and those who are  
10 perceived to be in control of the bar.

11           The way the students are chosen, at the very  
12 least, perpetuates that currently held perception that the  
13 majority of the membership is not wanted or needed within  
14 the governing structure of the bar. Just send in your dues  
15 and be quiet. This may be an inaccurate perception.  
16 Nevertheless, it does exist.

17           A future leader arises naturally through his  
18 or her interest in bar activities and his or her own talents  
19 and initiative. A future leader is elected by his or her  
20 peers and should not be imposed upon the membership through  
21 an unelected board. The membership should be encouraged to  
22 get involved in the governing process.

23           The leadership college, as currently  
24 structured, discourages attorneys from getting involved. If  
25 this body wants to keep the college, I propose the board be

1 terminated and the students be selected only from bar  
2 members who have been elected by the membership, and that  
3 the selection process for students be done by drawing straws  
4 or some other random process.

5           There is no need for a 13-member board to  
6 tell the membership who our emerging leaders should be. The  
7 only board this college needs is the ones who choose the  
8 courses, manage the budget, and select the teachers. The  
9 board should be a small group chosen only from this body  
10 because each of us has been elected by our peers and we have  
11 already shown an interest in the bar's governing process.

12           As far as recruiting is concerned, the  
13 membership has already been recruited from bar members, and  
14 there is no need for a college board to do so. If our  
15 future leaders are chosen by an unelected board, we will see  
16 a decrease in the membership's respect for the bar and a  
17 widening of the existing gap between the bar members and the  
18 bar leadership.

19           Thank you.

20           MR. RAWLINSON: Thank you. At the con mike,  
21 Mr. Yugler.

22           MR. YUGLER: Good morning, everyone. I'm  
23 Rick Yugler. I'm a member of the Board of Governors,  
24 second-year member. I also chair the member services  
25 committee of the Board, and I am here to speak on behalf of

1 the Board of Governors in opposition to this resolution.

2           The resolution is really based on an  
3 incorrect preamble and incorrect assumption of a number of  
4 items. Number one, costs. Though there is a budget of  
5 \$28,000, the actual cost is much closer to \$9,000. In fact,  
6 currently it's less than \$9,000.

7           The second item in the preamble of this  
8 resolution says that this was done through a dues increase  
9 without the knowledge of the House of Delegates. That's  
10 incorrect as well.

11           And other programs -- this is money out of  
12 the general budget for membership services along with many  
13 other membership services provided. There was no dues  
14 increase for this program.

15           Third and most important, the preamble to the  
16 resolution contends that the leadership college widens the  
17 gap between members and decision makers. In fact, the  
18 leadership college closes the gap by recruiting and training  
19 future bar leaders. This is a Board of Governors initiative  
20 to train future leaders.

21           Just as the Board of Governors has a  
22 leadership conference of all bar leaders in January, this is  
23 another tool. This is intended to draw participants from  
24 all areas of the bar, all regions of the bar, to recognize  
25 diversity, and to make the bar better. In fact, the

1 leadership college draws its participants based on  
2 geographic diversity, ethnic diversity, and practice areas  
3 from everywhere across the state.

4 It opens the door to leadership in the bar  
5 structure. And it's a recruitment tool. Many of you are  
6 here because you were asked to be here by somebody.

7 Similarly, the leadership college asks people who have  
8 leadership potential to get more involved, get more  
9 educated, because we do have an obligation to the future all  
10 the time to promote growth of future bar leaders.

11 The other thing the preamble contends is that  
12 this provides free CLEs. Well, actually, anyone who is  
13 signing up for this for just a CLE will not be appointed.

14 And finally, it is not assured that anyone  
15 who goes to the leadership college will be elected to  
16 anything. Just like everything else, they must stand for  
17 election for certain positions in the bar.

18 We're faced across the bar, and for all  
19 volunteer organizations, with a drop-off in volunteerism.  
20 There is a big problem not only for our bar, but for all  
21 bars. The Board of Governors has adopted this program as a  
22 tool to make sure we have a diverse leadership for the  
23 future, not only ethnic, but geographic diversity, and we  
24 urge you to continue this program.

25 This is its first year, and we hope it will

1 be permitted to exist. And I hope in ten years someone will  
2 be standing here who went through the leadership policy  
3 program. Thank you.

4 MR. RAWLINSON: Thank you, Mr. Yugler. I  
5 will recognize Ms. Crawford at the other mike.

6 MS. CRAWFORD: Thank you. Well, I am one of  
7 the fellows in the leadership college, and I don't know how  
8 Ms. Gruber thought that we all got here, but I can tell you  
9 how I got here.

10 I was looking at the bar website one day and  
11 saw the little blurb about the leadership college. And I  
12 happen to be volunteering for the diversity section right  
13 now, and it is the only volunteer thing I do for the bar.  
14 But someday I hope to be sitting in this group of seats  
15 instead of that group of seats.

16 But I have worked for a big firm. In fact,  
17 right now I'm not working at all, but when I do do legal  
18 work, I typically work for state or federal governments, so  
19 I'm not involved in firm work. I don't have the networking  
20 that you all have. I don't know anybody outside of my  
21 committee work, so I think this would be a great way for me  
22 to meet people and to polish my skills as a communicator, as  
23 a leader, as someone that can give back to the bar, because  
24 lots of people have given to me, like my mentors in law  
25 school, my professors. Everyone that's given to me, I want

1 to be able to give back. That's why I would be at the  
2 leadership college.

3 I'm also at a disadvantage because I live in  
4 Monmouth. For those of you that are familiar with Monmouth,  
5 it's kind of in the middle of nowhere. It's not real close  
6 to anything major except Salem.

7 (Laughter.)

8 (Inaudible) So that's how -- I applied for  
9 it. It was like applying for a job. I had to say why I was  
10 interested. I had to get my resume. I had to say what I  
11 had hoped to get from the program, what I hoped to give to  
12 the program. It was like applying for a job. And I kind of  
13 waited, like I was waiting for an answer from applying for a  
14 job, to see if I got into it. And I was real excited to get  
15 into it.

16 And I've met a bunch of really great folks  
17 who have given me great support. And I'm really happy to be  
18 part of the program. And I think that always (inaudible)  
19 might have otherwise because I'm part of that leadership  
20 college. Without having been -- having the leadership  
21 college, I don't know that I would be brave enough to sit  
22 here at this mike and talk to you about things (inaudible)  
23 in support of the leadership college because I wasn't  
24 confident enough in myself as an attorney who would say my  
25 voice is important in the things that I believe are

1 important.

2                   So please support the leadership college  
3 because it gives people like us that are in nontraditional  
4 jobs, in nontraditional towns, that don't usually -- you  
5 know, people's strongholds in a state of (inaudible). Thank  
6 you very much.

7                   MR. RAWLINSON: Thank you, Ms. Crawford. I'm  
8 going to recognize Mr. Lang at the con mike. Three minutes,  
9 please.

10                   MR. LANG: Good morning, colleagues. I am  
11 Danny Lang from Douglas County. I'm a delegate this year.  
12 I am a fellow of the leadership college.

13                   It was said earlier today the younger people  
14 are the future. Well, at age 66, I'm one of those younger  
15 people.

16                   (Laughter.)

17                   And I've been energized, actually, by all of  
18 you, every one of you, and I want to give back, so I joined  
19 the leadership college. And I've volunteered for other  
20 positions following my participation in the leadership  
21 college, and, yes, I intend to be back and intend to improve  
22 the Oregon State Bar. That's my commitment.

23                   The leadership college this year was the  
24 sunrise. We shouldn't end today the sunrise. What we need  
25 to do is allow it to develop further.

1 I actually have one point of agreement with  
2 my colleague, Ms. Gruber. I think it should be a little  
3 more inclusive in number. I think maybe 30, 40, or 50. I  
4 think there were 49 applicants. And I'd like to actually  
5 see Ms. Gruber be welcomed into the college in the future.

6 We're going to spend \$18 million for a new  
7 bar center. What's \$30,000 on a little investment in human  
8 talent? That's what today has been about, human talent.  
9 That's what I'm hearing.

10 And I guess I need to recognize that I am an  
11 elderly minority now, so I would urge you to save this  
12 program. My fellow fellows are great people, and I think  
13 it's a good chance for us to intermingle with the Board of  
14 Governors who attend the college sessions. It's just a good  
15 program.

16 I also was asked by John T. Bridges, who is  
17 on the Leadership College Advisory Board, to state that  
18 their board, as I understand it, was unanimously in favor of  
19 renewing the leadership college and not terminating the  
20 leadership college.

21 So I thank you very much for your attention.  
22 And I intend to continue volunteering.

23 MR. RAWLINSON: Thank you, Mr. Lang. I'm  
24 going to recognize the gentleman at the other microphone.

25 MR. McLAUGHLIN: Bruce McLaughlin, District

1 4. First of all, if anybody has got an extra ticket to the  
2 Duck game, let me know.

3 And the second thing, I think we should  
4 recognize that this looks like it's going to be an  
5 overwhelming vote like some of the others and move things  
6 along. Maybe we should just call the question.

7 MR. RAWLINSON: I have a motion to call the  
8 question. Someone want to second it?

9 MR. HABERLACH: I'm Bill Haberlach from  
10 Region 3, and I second it.

11 MR. RAWLINSON: Mr. Haberlach seconds the  
12 motion. This will require a two-thirds vote to prevail.  
13 All those in favor of the motion, please raise your  
14 placards. All those opposed?

15 The motion carries. Debate is ended with the  
16 exception of one minute for closing, if you'd like to, Ms.  
17 Gruber.

18 MS. GRUBER: Well, I offered this so that the  
19 body had a chance to discuss it and perhaps offer  
20 amendments. And we have debated it and we've thought about  
21 it, and I just wanted to give you this opportunity. Thank  
22 you.

23 MR. RAWLINSON: Thank you. We'll now vote on  
24 the main motion. All those in favor of doing away with the  
25 leadership college, please raise your placards.

1 All those opposed, please raise your  
2 placards.

3 It looks like you won't need my help on that  
4 one.

5 Next agenda item, No. 11, direct the Board of  
6 Governors to establish a requirement for special assessment  
7 above normal bar dues. This would have the membership  
8 itself make a determination to special assessment.

9 Mr. Mozena, you have submitted an amendment.  
10 It is on the peach-colored pages that I pointed out to the  
11 delegates earlier. Could we move this along? At least  
12 begin by proposing the amended motion as the main motion?

13 MR. MOZENA: I would so propose it.

14 MR. RAWLINSON: Okay. Do I have a seconder  
15 who would adopt the amended motion, which is on the peach  
16 pages, so that we can proceed to that as the main motion?

17 MR. KARANDY: Second.

18 MR. RAWLINSON: Mr. Karandy, thank you. We  
19 have a second. We have a motion and a second before you.  
20 It is agenda No. 11 as amended. It's set forth on your  
21 peach-colored pages.

22 Mr. Mozena, you have five minutes. Thank  
23 you.

24 MR. MOZENA: A special assessment gives a  
25 great benefit to a program, and it also is a great detriment

1 to the bar because it sets forth an amount that is locked  
2 in. So as I've talked to the Board of Governors, they've  
3 indicated that that would set aside a certain sum of money  
4 as a trust fund.

5 Many of the individuals I've talked to in the  
6 bar have indicated that they feel at a loss losing the old  
7 Town Hall meetings, that they feel really that the HOD has  
8 somewhat disenfranchised them.

9 And, you know, I have a great belief in the  
10 bar as a whole and in lawyers as a whole and in the  
11 democratic process, and so if we're going to do a special  
12 assessment that gives a great benefit to a program and gives  
13 a great detriment to the bar, then let's consider a policy  
14 to refer it out to a vote of the membership. And that is  
15 really simply what I'm saying.

16 If we are going to do something as dramatic  
17 as a special assessment, then the entire bar should consider  
18 it. It can be debated in our publication. It can be  
19 considered thoughtfully, and it can be considered over time.  
20 And that seems to me to be a very reasonable and a very  
21 democratic way of doing it.

22 And as a professional organization, then we  
23 get a full membership participation. And that is the motion  
24 that I bring to you today, which seems to be a way to keep  
25 the entire bar participating in those matters that we

1 consider as important as a special assessment.

2 MR. RAWLINSON: Thank you, Mr. Mozena.

3 Debate is now open. Is there anyone in opposition?

4 Mr. Hill.

5 MR. HILL: My name is Jonathan Hill. I'm  
6 from Region 3, Roseburg, previously from Region 1. I'm  
7 honored to serve the Oregon State Bar as a public member of  
8 the Board of Governors.

9 As a public member, from time to time it's my  
10 duty to call upon you to see the big picture, and I'm here  
11 to do that. House Resolution No. 9 would require that any  
12 special assessment above the normal bar dues would require  
13 approval of the majority voting of the membership of the  
14 bar, setting the amount and the duration of the assessments.

15 Currently, the Board of Governors has the  
16 authority to establish annual membership fees and must  
17 provide a notice of proposed fees for the upcoming year to  
18 all members no less than 20 days prior to the annual  
19 meeting.

20 The House of Delegates must approve the  
21 increases by a majority vote. House -- excuse me. Special  
22 assessment is not defined in the Chapter 9. It is not  
23 defined in OSB bylaws. The proponents have not stated a  
24 purpose for treating special assessment such as the  
25 Affirmative Action Program differently from regular dues or

1 increases.

2                   Currently, both assessments and increases  
3 require approval of the HOD. To parse out the assessment  
4 and require that a majority of all bar members approve  
5 assessments is inconsistent as a matter of policy.

6                   The House of Delegates was established by the  
7 legislature in 1995. It is the result of low attendance at  
8 town hall-style membership meetings. Prior to the creation  
9 of the House, members were invited to a meeting. Votes were  
10 put before those who voluntarily appeared. Attendance was  
11 not strong and the House was created.

12                   The House is now the proper forum for the  
13 membership of the bar to advise the board and to debate and  
14 decide matters of policy related to the membership for the  
15 administration of justice.

16                   It is -- if this resolution is passed, the  
17 organization will have a split system that relies on the HOD  
18 for dues and separately on the general membership for  
19 special assessments. It's a very poor design.

20                   If the House of Delegates is sufficiently  
21 representative of the general bar membership and capable of  
22 voting on general dues increases, can they be trusted with a  
23 vote on special assessments as well? Thank you.

24                   MR. RAWLINSON: Thank you, Mr. Hill. At the  
25 other mike, Mr. Johnson.

1 MR. JOHNSON: Mr. President, Mark Johnson,  
2 Region 5. I raise a point of information, I guess. I'm  
3 sort of baffled by the procedure that we're following here.  
4 I am now confronted with a resolution that I didn't see  
5 until five minutes ago, but my understanding is that the  
6 resolution -- that this resolution differs from the one on  
7 our agenda in that it creates an exception for the client  
8 security fund, the PLF.

9 And my question is, with those exceptions,  
10 does this resolution affect any bar program other than the  
11 Affirmative Action Program?

12 MR. RAWLINSON: I'm going to allow Mr. Mozena  
13 to answer that question if he'd like to.

14 MR. MOZENA: What makes sense on this -- and  
15 this is a good point that the delegate raises. This seems  
16 to me to be a procedural type of matter. And normally with  
17 procedure, if we use the rule of law to battle, it would be  
18 perceptive and therefore it would not affect the Affirmative  
19 Action Program.

20 MR. RAWLINSON: Mr. Karnopp?

21 MR. KARNOPP: I'm Dennis Karnopp from Bend.  
22 I'm an elected delegate. And I see this, with all respect  
23 to Mr. Mozena, as a solution really searching for a problem.

24 I don't see that there really is much of a  
25 problem. You know, I doubt that there is anybody here

1 that's spent more time and paid more attention to what the  
2 Board of Governors have done in the last 12 years than I  
3 have.

4 I was president of this organization, and  
5 I've been very active. I want to tell you that your elected  
6 representatives, the Board of Governors members, take this  
7 job very seriously. And the particular part they take very  
8 seriously is when they get to spend your money and they've  
9 got to come ask you for your money.

10 And I know when I was president, I was darn  
11 glad not to have to suggest any increase in dues. And I  
12 know Denny is really glad not to have to suggest an increase  
13 in dues, too.

14 And with all respect to the sponsors -- I  
15 mean, this says extraordinary expense, 30 bucks. 30 bucks,  
16 that's an extraordinary expense? I don't think so. I don't  
17 think so. I think the Board has to have the flexibility to  
18 continue to run this organization, and if it ain't broke,  
19 don't fix it. Thank you.

20 MR. RAWLINSON: Thank you, Mr. Karnopp.

21 (Applause.)

22 MR. RAWLINSON: Just as a policy of going  
23 from the con to the other mike, I'll recognize the delegate  
24 at the other mike.

25 MS. OAKES: Karen Oakes, Klamath County Bar

1 president as well as delegate. Having absolutely no  
2 interest in the Oregon game but seeing a long agenda in  
3 front of us, I move to call the question.

4 MR. RAWLINSON: I have a motion to call the  
5 question. Do I have a second?

6 MR. PORRAS: Second.

7 MR. RAWLINSON: I may ask somebody to go to  
8 the microphone.

9 MR. PORRAS: Anthony Porras, Region 5, I  
10 would --

11 MR. RAWLINSON: Second the motion?

12 MR. PORRAS: I'll second the motion.

13 MR. RAWLINSON: Called the question. Thank  
14 you.

15 We have a non-debatable motion before us. It  
16 takes a two-thirds vote. All those in favor of calling the  
17 question, cutting off debate, raise your placards.

18 Those opposed? Motion carries.

19 Let's go to the main motion. The main motion  
20 is agenda Item No. 11 as amended to direct the Board of  
21 Governors to establish a requirement for special assessments  
22 above normal bar dues which would cause that vote to have to  
23 go to the membership.

24 All those in favor of that motion, please  
25 indicate by raising your placards.

1 MR. MOZENA: No minute to wrap up?

2 MR. RAWLINSON: I'm sorry. You certainly  
3 may, Mr. Mozena.

4 MR. MOZENA: Thank you, Mr. President.

5 If you weren't here today and you were out  
6 there just practicing law, you would want to have a right to  
7 vote on this. And, you know, if we prevent that, I just  
8 think we're just getting a little bit elitist. Okay? And  
9 so vote as you may, but if you were sitting out there at  
10 your desk today working on Saturday, you'd want to have a  
11 say. That's all I have to say.

12 MR. RAWLINSON: Thank you, Mr. Mozena.

13 Back to the vote of the main motion, all  
14 those in favor, please raise your placards.

15 Those opposed? Motion fails.

16 (Applause.)

17 We're now moving to agenda Item No. 12, adopt  
18 fairness in compensation for those practicing public defense  
19 law. If you will recall, we are going to move forward to  
20 agenda Item No. 21 to be heard immediately following this  
21 item.

22 May I have a motion to put this matter before  
23 us?

24 MR. HENNINGS: I move the matter. Jim  
25 Hennings, Region 2.

1 MR. RAWLINSON: We have a motion by  
2 Mr. Hennings. Do I have a second?

3 MR. GORHAM: Second from Steve Gorham  
4 (inaudible).

5 MR. RAWLINSON: Thank you. We have a motion  
6 and a second. Mr. Hennings, please.

7 MR. HENNINGS: This matter is one that's been  
8 before this body and always accepted. The question is the  
9 support that the Oregon bar will make --

10 MR. RAWLINSON: Can I have just a moment?  
11 Those that are in the back and visiting, I appreciate that  
12 you'd like to visit with other friends here, and I just  
13 would encourage you to please go into the corridor to do  
14 that because there are some important matters still to be  
15 determined. Thank you.

16 Mr. Hennings?

17 MR. HENNINGS: The question is what the State  
18 should be paying public attorneys who are performing the  
19 very, very tough service of defending our system as defense  
20 attorneys.

21 We're talking about publicly paid attorneys  
22 who have not gotten raises in two decades. We're talking  
23 about people who are the equivalent in terms of talent and  
24 in terms of expenses that they undertook to go through law  
25 school, who cannot afford to do this business to the extent

1 that it seriously raises questions of whether or not the  
2 justice that we all stand for will take place in our courts.

3 My office, the Metropolitan Public Defenders,  
4 the biggest public defender in the state, we are paid, quite  
5 frankly, better than most of the people that are providing  
6 these services. In my office right now, the pay  
7 differential over a ten-year period of time between our  
8 office and the district attorney's office is \$182,000.

9 At that kind of rate and at the change in the  
10 rates over years, in four years a district attorney in  
11 Multnomah County will be paid more starting than the top ten  
12 in my salary structure.

13 That's the issue. The issue is one of  
14 fairness. And the issue is important to the bar because the  
15 bar has to guarantee that justice is done and has to  
16 guarantee that adequate attorneys are available on both  
17 sides.

18 Therefore, I move this matter. I also ask  
19 that anyone in support not speak to the matter, and the  
20 reason I do that is because I don't think that this is  
21 seriously controversial, and, in fact, I will suggest on the  
22 second's permission that this matter be voted on  
23 immediately. Thank you.

24 MR. RAWLINSON: Thank you.

25 MR. TYNER: I think the motion to call the

1 question has to be from the floor, but thank you for your  
2 thought.

3 MR. RAWLINSON: You heard the presentation.  
4 I have a delegate at the other mike. Do you have a motion?

5 MR. McLAUGHLIN: Just if Mr. Tyner didn't  
6 make clear, I call the question. I'll play ball with him.

7 MR. RAWLINSON: We have a motion to call the  
8 question. Do we have a second from a delegate?

9 MR. BROWNING: Bob Browning. Second.

10 MR. RAWLINSON: Mr. Browning seconds. It's a  
11 non-debatable motion. Two-thirds vote. All those in favor,  
12 indicate by raising your placards.

13 All those opposed? Motion carries.

14 On the main motion, the motion is to adopt  
15 agenda Item No. 12, which is referred to as the adoption of  
16 fairness in compensation for those practicing public defense  
17 law.

18 All those in favor, indicate by raising your  
19 placards.

20 Those opposed? Motion carries.

21 We are on to No. 21. Number 21 has been  
22 amended. That is on your peach sheet. Mr. Shepard, as you  
23 approach the microphone, could you let us know if you would  
24 consider the amended motion as the main motion.

25 MR. SHEPARD: Please.

1 MR. RAWLINSON: We have the amended motion on  
2 your peach sheets before you. Do I have a motion to adopt  
3 No. 21 as an amendment?

4 MR. TYNER: So moved.

5 MR. RAWLINSON: I have a motion for adoption.  
6 Do I have a second?

7 MR. LOPEZ: Angel Lopez. Delegate from  
8 Region 5. I have seconded that.

9 MR. RAWLINSON: I have a motion and a second.  
10 Mr. Shepard, you have five minutes.

11 MR. SHEPARD: Fellow delegates, my name is  
12 Ross Shepard, and I'm an elected delegate from Region 2.  
13 Welcome to Eugene.

14 The American Bar Association, after a  
15 drafting process that lasted for almost two years and  
16 encompassed 13 revisions and potential drafts, has published  
17 an important ethics opinion in July of this year concerning  
18 excessive case loads carried by those lawyers that provide  
19 criminal defense to individuals that are without means to  
20 hire an attorney.

21 And the opinion correctly states that all  
22 lawyers are commanded and compelled to practice competently  
23 with diligence and with a freedom from conflict of interest.  
24 And as he did explain well in his opinion, a concise, nicely  
25 drawn opinion -- and I think it can be understood even by

1 non-lawyers -- the opinion describes how those public  
2 defenders and private attorneys that have too many clients  
3 are put in an unwilling situation of not being able to  
4 adhere to these ethical standards.

5           The amendment that has been distributed to  
6 all of you provides a process to iron out a few minor  
7 wrinkles that would be of great assistance to Oregon  
8 practitioners. The ABA, of course, does not address  
9 Oregon's actually unique system for providing public defense  
10 in that all of these services are contracted for by the  
11 Public Defense Services Commission.

12           And the ethics committee, I suggest, would  
13 have a pretty easy job of resolving these final unanswered  
14 questions.

15           The amendment further then directs the Oregon  
16 State Bar in concert with the Oregon Criminal Defense  
17 Lawyers Association and the Public Defense Services  
18 Committee on an exact parallel track to the resolution just  
19 unanimously approved. So I suggest to you that this is a  
20 resolution you should be happy to vote for and be proud to  
21 be a member of the Oregon State Bar for all lawyers  
22 compelled to operate under the same rules.

23           So I move for adoption of Resolution 21.

24           MR. RAWLINSON: We've had presentation on  
25 Resolution No. 21. Debate is now open. Do we have anyone

1 at the con mike? Mr. Hamlin.

2 MR. HAMLIN: Mr. President, I'm Bruce Hamlin.  
3 I'm an elected delegate from Region 5. I want to emphasize  
4 from the start that I have no quarrel with the substance of  
5 the ABA opinion. I have no quarrel with the importance of  
6 providing criminal defense to indigents.

7 I want to speak, though, about the process  
8 here, because to my knowledge, this is the only time in the  
9 history of the House of Delegates that the House of  
10 Delegates has been asked to essentially adopt and vote a  
11 resolution that says that we're just telling the ethics  
12 committee to adopt it. But, in fact, we're dealing with the  
13 substance of ethics opinions and we've got a procedure for  
14 that. We have a state bar legal ethics committee. I used  
15 to be a member of it.

16 There is no reason that it could not, on its  
17 own, consider a request from any member of the bar and it  
18 could not adopt in whole or in part the substance of the  
19 ABA.

20 And I don't see a particular reason, other  
21 than getting 150 votes, rather than the votes of the legal  
22 ethics committee, to do it here. Thank you.

23 MR. RAWLINSON: Thank you. Ms. Eyerman.

24 MS. EYERMAN: Mr. President, Linda Eyerman,  
25 Board of Governors Region 5. I'm speaking on behalf of the

1 Board of Governors here to say that we -- in principle, we  
2 support this amendment; and as amended, we think we can work  
3 with this. So that's my point.

4 MR. RAWLINSON: Thank you. Mr. Tyner.

5 MR. TYNER: I don't think it's very  
6 controversial, so I call the question again.

7 MR. RAWLINSON: Okay. The question has been  
8 called for, which means no more speakers. Do we have a  
9 second?

10 MR. BROWNING: Second.

11 MR. RAWLINSON: Thank you, Mr. Browning. We  
12 have a motion and a second, a non-debatable motion.  
13 Two-thirds vote. All those indicate by aye. Those opposed?  
14 Motion carries.

15 We're now going to vote on the main motion,  
16 which would be the adoption of Item No. 21 as an amendment.  
17 All those in favor indicate by raising your placards. Those  
18 opposed?

19 Mr. Shepard, congratulations.

20 MR. SHEPARD: Thank you.

21 MR. RAWLINSON: Let's move on to Item No. 13.  
22 This is the traditional honor to show respect for the many  
23 fine lawyers who we have lost over the course of the year.  
24 We have additionally treated this as a formal matter, and so  
25 I would ask Ms. Eyerman to get this matter before us for a

1 motion.

2 MS. EYERMAN: I will move the In Memorium  
3 resolution.

4 MR. RAWLINSON: Thank you. Do I have a  
5 second from the delegates?

6 MR. YUGLER: I second it.

7 MR. RAWLINSON: Mr. Yugler, thank you. We  
8 have a motion and a second. Before we proceed with the  
9 traditional reading, you have the list. Has anyone noted  
10 that we overlooked anyone and would like to move for  
11 amendment?

12 MS. EYERMAN: We actually have a number of  
13 names that aren't on the list that are on my list, so if you  
14 could perhaps let us know at the end of any other names.

15 MR. RAWLINSON: Thank you, Ms. Eyerman. Do  
16 you wish to proceed?

17 MS. EYERMAN All right. Would you all please  
18 stand. I am going to read the names of those in the Oregon  
19 State Bar who we have lost this year as a result of death.  
20 There are 69 names on my list, and the last one is as  
21 important as the first one, so I would appreciate if we  
22 could just have silence until I get to the end.

23 Robert B. Abrams. Linda M. Algar. Helen F.  
24 Althaus. Debra L. Anderson. Henry J. Bailey, III. Peter  
25 R. Blyth. John A. Bryan. Derik Burkland. John Daniel

1 Callaghan. Richard W. Cleveland. Mitch Crew. The  
2 Honorable Ralph Currin.

3 The Honorable Mercedes F. Deiz. Mary Irene  
4 Duhaime. George J. Eivers. Phillip Alan Erickson. John F.  
5 Fagan, Senior. Joseph F. Fliegel, Junior. The Honorable  
6 Clifford L. Freeman.

7 Patricia D. Gaw. Elizabeth D. Geary.  
8 Armonica Marie Gilford. Orval O. Hager. Edward C. Harms,  
9 Junior. Judith Ann Hartmann. Allen M. Hein. The Honorable  
10 Stephen B. Herrell. John L. Hilts. Thomas C. Howser.

11 The Honorable Robert Paul Jones. The  
12 Honorable George E. Juba. Donald S. Kelley. Fred A.  
13 Newsome. Robert B. Kerr. William A. Lang. Jill C.  
14 Lematta. Judith Lerner. Sidney I. Lezak.

15 Ron P. MacDonald. Michael L. McDonough. R.  
16 Scott McGrew. The Honorable Gregory E. Milnes. Frank E.  
17 Nash. Captain Barry G. O'Connell. Georgia D. Ouzts.  
18 Donald H. Pearlman. Dale W. Pierson. Keith R. Pinkstaff.

19 Charles O. Porter. Sumner C. Rodriguez. The  
20 Honorable Phillip J. Roth. Timothy Leo Ryan. Jay H.  
21 Safley. Benhardt E. Schmidt. Eugene C. Schuster. The  
22 Honorable Herbert M. Schwab. Joel P. Scotti. Gordon W.  
23 Sloan.

24 Erik G. Sten. William N. Stiles. Don G.  
25 Swink. Thomas K. Thorpe. Jonathan Trussler. Thomas R.

1 Williams. Wayne A. Williamson. William B. Wyllie. William  
2 W. Wyse. Peter L. Vee. Theodore D. Zacher.

3 I apologize if I mispronounced anyone's  
4 names. No disrespect intended.

5 And are there any names to be added to this  
6 list?

7 AUDIENCE MEMBER: Margy Lampkin, Oregon City  
8 attorney, just passed away.

9 MS. EYERMAN Thank you. Any other names to  
10 be added? Well, I think we should give a round of applause  
11 to celebrate the lives and practices of these people.

12 (Applause.)

13 MR. RAWLINSON: Thank you, Ms. Eyerman. We  
14 cannot go through the reading of the In Memorium each year  
15 without being reminded that we are blessed, each of us, to  
16 be part of something that's bigger than all of us.

17 Moving on to Item No. 14, proposed amendment  
18 to the Oregon Rules of Professional Conduct, this is set  
19 forth on pages 9 through 12 of your materials.

20 Ms. Stevens will make the presentation. Do I  
21 have a motion and a second to place this formally before us?

22 MS. ISAACS: Susan Isaacs, Region 4. So  
23 move.

24 MR. RAWLINSON: Thank you, Ms. Isaacs. Mr.  
25 Yugler?

1 MR. YUGLER: I second the motion.

2 MR. RAWLINSON: Thank you. Ms. Stevens?

3 MS. STEVENS: In the interest of time  
4 constraints this morning, I don't really plan to say  
5 anything about any of these rule changes. I'm otherwise  
6 happy to answer questions.

7 These are principally, as the background  
8 statements explain, efforts to correct a few errors, clarify  
9 a few things, and restore some things that we took out of  
10 the rules when we adopted the new rules that we figured out  
11 later we should have left in.

12 So I don't know if they make any significant  
13 changes in our rules of conduct, but I think they will  
14 enhance them. And as I've said to people before, this is  
15 a work in process, so you will see us probably doing this  
16 every year.

17 If there are questions, I'll be happy to  
18 answer them. I would hope that you approve these changes.

19 MR. RAWLINSON: Thank you, Ms. Stevens. We  
20 have a motion before us. We have a second. We have no one  
21 at the microphones.

22 All those in favor of the adoption of the  
23 amendments to the Oregon Rules of Professional Conduct  
24 indicate by raising your placards. You're way ahead of me.

25 All those opposed? Motion carries.

1                   On to 15, proposed revised statement of  
2 professionalism, pages 12 and 13 of your materials.

3                   Mr. Menashe will make the presentation. Do I  
4 have a motion and a second to place it formally before us?

5                   MS. SKERJANEC: I so move.

6                   MR. RAWLINSON: Ms. Skerjanec provides us  
7 with a motion. Mr. Greene provides us with a second. Mr.  
8 Menashe?

9                   MR. MENASHE: Thank you, Mr. President. The  
10 original statement of professionalism was adopted by the  
11 Oregon State Bar in 1990 and approved by the Oregon Supreme  
12 Court in 1991.

13                   In 1992, the Bench Bar Commission on  
14 Professionalism commenced working on a new revised statement  
15 of professionalism. And for those of you that don't know,  
16 let me talk to you a second about the composition of the  
17 Bench Bar Commission on Professionalism.

18                   It consists of the Chief Justice of the  
19 Oregon Supreme Court; the Chief Judge of the Oregon Court of  
20 Appeals; the Chief Federal District Judge or designee -- in  
21 this case this should be -- the designee is Judge Hubel who  
22 is back as the chair of the commission this year.

23                   There are five other judges on the  
24 commission. The three deans of our three fine law schools  
25 in the state are members of the commission. The president

1 of the Oregon State Bar; the executive director of the  
2 Oregon State Bar; the chief executive officer of the  
3 Professional Liability Fund; four lawyers at large; a public  
4 member. And a very important member of the commission is  
5 one of its founders, former Chief Justice Edwin Peterson.

6 The commission started their work on revising  
7 the statement of professionalism about four years ago, and I  
8 can tell you that the meetings were frequent and the  
9 participation was quite extensive by all the members.

10 I was a member for several years, and Chief  
11 Justice Carson, as I recall, attended almost every meeting  
12 and was very instrumental in discussions regarding the  
13 revised statement of professionalism.

14 The goal of the commission revising them was  
15 to make statements of professionalism that were simpler and  
16 more inspirational. The statement of professionalism, which  
17 I think many of you have seen -- it's in the bar directory  
18 -- is quite lengthy. By simplifying it, it would be easier  
19 to remember and certainly follow.

20 It's also intended that the statement be  
21 reduced to a size suitable for framing with the hope that  
22 lawyers would recognize the importance of professionalism,  
23 frame the certificate, and place it in their offices.

24 It was the goal of the commission to make the  
25 statement simpler, as I said, leaving, of course, the

1 standard of interpretation to be one of common sense. When  
2 you read it -- certainly, lawyers have the opportunity to  
3 pick lots of holes in it -- but if you look at it from  
4 30,000 feet and use a common sense definition to the new  
5 statement of professionalism, it makes good sense.

6 I can tell you that, in talking to the  
7 commission recently, there is an intention to prepare  
8 examples of professional behavior to supplement and to  
9 explain professional behavior.

10 Your vote today to support and approve the  
11 guidelines will be an advisory vote to the Oregon Supreme  
12 Court. If approved by the House of Delegates, this vote  
13 will be sent up to the Supreme Court for their approval and  
14 hopeful enactment. Thank you very much.

15 MR. RAWLINSON: Mr. Williamson at the floor  
16 mike.

17 MR. WILLIAMSON: I have a written amendment  
18 to -- I would move to insert words before "discrimination"  
19 on page -- unlawful or unethical (inaudible). I think that  
20 everybody discriminates in some way about some things, and  
21 that's just an overly broad statement.

22 I understand that the bar itself is actually  
23 discriminating against the military at this time. So we all  
24 do discriminate, whichever side that you're on, but should  
25 recognize that there is discrimination and unlawful and

1 unethicial should be professional.

2 MR. RAWLINSON: We have a motion to amend the  
3 agenda item by adding the word "unlawful" before the word  
4 "discrimination" in the proposed statement of  
5 professionalism.

6 MR. WILLIAMSON: Unlawful or unethicial.

7 MR. RAWLINSON: Or unethicial. Thank you. Do  
8 we have a second for that amendment?

9 MR. VAN ATTA: Second.

10 MR. RAWLINSON: Thank you, Mr. Van Atta. We  
11 have a motion and a second. Any discussion?

12 AUDIENCE MEMBER: Point of clarification. Is  
13 this motion in writing or (inaudible) --

14 MR. RAWLINSON: He has submitted it in  
15 writing as required. Thank you for asking.

16 Seeing no one at the microphone, I have a  
17 motion and a second to amend the main motion. If you're in  
18 favor of that, you will be raising your placards now.

19 Majority vote. All those opposed? I'm going  
20 to rule that it passed. So the words "unlawful" and  
21 "unethicial" will be added to the main motion.

22 Is there any further discussion on the main  
23 motion?

24 AUDIENCE MEMBER: Excuse me. That was  
25 unlawful or unethicial?

1 MR. RAWLINSON: That's correct. Thank you.

2 Back to the main motion as amended. All  
3 those in favor, indicate by raising your placards.

4 Those opposed? Motion carries. Thank you.

5 On to No. 16, Mr. Gaydos. This item opposes  
6 judicial districting ballot initiative, which was ballot  
7 initiative No. 40.

8 To formally get this before us, could I  
9 please have a motion and a second by a delegate before we  
10 give it to Mr. Gaydos.

11 I have a motion and -- I have a motion and I  
12 have a second. Thank you very much. Mr. Gaydos?

13 MR. GAYDOS: Thank you very much. My name is  
14 Gerry Gaydos. I'm from Region 2 and chair of the Public  
15 Affairs Committee. And I want you to know the Public  
16 Affairs Committee does a wonderful job and the staff does a  
17 wonderful job of looking at all matters that come before the  
18 entire board in trying to determine whether that's law  
19 improvement and also trying to determine whether or not it  
20 will get us in trouble.

21 But the biggest issue that we face today is  
22 one that really falls under one of our true mission  
23 statements, and that's to be partners with the judiciary.  
24 And the judiciary has a challenge before it on many fronts,  
25 but one is this Constitutional Amendment 40.

1           The Constitutional Amendment 40 is one that  
2 really potentially has profound effects on the Oregon  
3 Appellate Court and the Supreme Court.

4           It's appropriate for the bar to take a  
5 position on this because of the partnership obligation and  
6 because of our unique understanding of the importance of the  
7 rule of law and the dispute mechanisms that we so much  
8 believe in and that we use on a daily basis.

9           Judicial election should be about legal  
10 expertise, not about regional politics. This particular  
11 amendment -- constitutional amendment would fundamentally  
12 change Oregon's highest courts and alter a system that has  
13 worked since 1910.

14           We already heard from prior bar president,  
15 Dennis Karnopp, that if the system is not broke, let's not  
16 fix it. Measure 40 purports to serve the interest of rural  
17 Oregonians by (inaudible) and threatens to diminish the  
18 quality of our appellate courts.

19           Measure 40 actually reduces voter input as  
20 now all voters have an opportunity to vote for 17, and if  
21 this passed, it would only have enough to vote for three.

22           Measure 40 would provide regional voting to  
23 vote for one Supreme Court Justice and two Appellate Court  
24 Judges.

25           Measure 40 also would create a logistical

1 mess. Under Measure 40 judges on the Supreme Court and the  
2 Court of Appeals have to reside in their districts  
3 throughout the region. The courts where the judges expected  
4 to work full time, however, are located (inaudible) however,  
5 are located in Salem.

6 (Laughter.)

7 So we're really going to be changing the  
8 nature of what we're requiring of our current judges. And,  
9 obviously, it's important that we are supportive of the  
10 judiciary and continue to be partners, that we continue to  
11 have the wonderful relationship between the practicing bar  
12 and judiciary. We must support them and oppose this  
13 Constitutional Measure 40. Thank you.

14 MR. RAWLINSON: We're now open for  
15 discussion. By the way, for the record, the motion was made  
16 by Mr. Karnopp and the second was made by Mr. Greene.

17 Discussion? Mr. Newell.

18 MR. NEWELL: Bob Newell, elected delegate  
19 from Region 5. I'm here only because I seem to be unable to  
20 say no and consequently agreed to work with Peter Glade to  
21 try to raise money for the opposition to this measure, which  
22 is going to require a lot of it. So if any of you have  
23 checks floating around, we need all the money we can get  
24 because this was narrowly defeated in 2002. It is sponsored  
25 by out-of-state interests, and they have a lot of money.

1 And we have to beat it.

2 MR. RAWLINSON: Thank you. Ms. Eyerman?

3 MS. EYERMAN: Well, I had a conference call  
4 last night with Chuck Tauman, who is working on the  
5 campaign, and I think that I need to make a couple of points  
6 so that the membership understands the urgency here.

7 This is on the ballot in November. This  
8 redistricting proposition is going to be voted on by the  
9 electorate in Oregon on ballots that go out in less than a  
10 month, so we -- it is an urgent matter that money be raised  
11 in order to educate the electorate here because they don't  
12 understand the court system.

13 There needs to be a campaign, and the money  
14 needs to be raised fast. As I understand it, the campaign  
15 has put together a plan where their goal would be to get a  
16 thousand dollars from each of the lawyers and judges in this  
17 state, and then they would have the funds they need. They  
18 need that money by the end of this month, September 30th,  
19 and I just want anybody who can write a check to do it  
20 today.

21 No on Constitutional Amendment 40. And I  
22 understand that not everybody can write a thousand dollar  
23 check. I have one in my hand, and I want to start the  
24 process. But they need money, so, please, do whatever you  
25 can. It is really critical, and I can't underestimate how

1 urgent it is.

2                   And the checks go to Bob Newell, or write on  
3 a piece of paper your pledge, because they will be able to  
4 take credit cards, really. I just have to say, please  
5 understand how important it is for action and not just words  
6 here.

7                   MR. RAWLINSON: Ms. Eyerman, thank you. If  
8 you will give that check to Mr. Newell, I will give mine to  
9 Mr. Glade, and they will then receive several more from the  
10 rest of the delegates here today.

11                   Do we have any further debate? I'm going to  
12 assume that you don't need a minute of closing, Mr. Gaydos?

13                   MR. GAYDOS: That's correct.

14                   MR. RAWLINSON: Thank you. All those in  
15 favor, indicate by raising your placards.

16                   Those opposed? Motion carries  
17 overwhelmingly.

18                   On to agenda Item No. 17, elimination of rule  
19 prohibiting post-trial contact with jurors.

20                   Mr. McKinney, this is your matter. Thank you  
21 for coming to the podium. Could we please have a motion,  
22 Mr. McKinney, and a second to get this motion before us?

23                   MR. MCKINNEY: I would move this be approved.

24                   MR. RAWLINSON: Thank you. Do I have a  
25 second from the delegates?

1 MR. LERNER: Second.

2 MR. RAWLINSON: Thank you. Could you please  
3 just stand and identify yourself for the record?

4 MR. LERNER: Kenneth Lerner, Region 5.

5 MR. RAWLINSON: Okay. Can you help me with  
6 the name?

7 MR. LERNER: Lerner.

8 MR. RAWLINSON: Thank you, Mr. Lerner. We  
9 have a motion and a second. It's now formally before us.  
10 You have five minutes. Thank you.

11 MR. MCKINNEY: Thank you. I won't take the  
12 five minutes. I greet (inaudible) those here in Oregon from  
13 the Coast to Crater Lake, land of recreational opportunity.  
14 Thank you. Nice to be here.

15 Those of you who have tried cases outside of  
16 Oregon know there's a big difference at the end of the jury  
17 trial. We get to interview jurors. And what you find out  
18 when you interview the jurors is a lot of things. There's  
19 certainly no better education a trial lawyer can have than  
20 immediate feedback.

21 And it's not just about education of lawyers.  
22 We're seeking to amend UTCR 3.120 because we think it's  
23 important for the administration of justice.

24 I've tried 30 or more cases outside the  
25 state, in California, to a jury. And in at least two of

1 those cases, talking to jurors afterward, we discovered a  
2 problem.

3           On one of the occasions, I had a juror that  
4 was upset because it turned out that one of the jurors had  
5 gone out and done his own investigation, consulted experts,  
6 and brought that back to the jury room. And it  
7 substantially affected the rest of the jurors.

8           Well, it affected my verdict, but that was  
9 the right thing to do. But the judge should have granted a  
10 new trial on that.

11           And I had another case where an award seemed  
12 kind of small. In talking to jurors afterwards, I found out  
13 they just picked a number they wanted to award my client and  
14 divided it by the number (inaudible).

15           Talking to jurors is important. Now, I'll  
16 grant you mischief can occur if that happens. And we need  
17 to set procedures in place (inaudible).

18           We can put procedures in place to keep that  
19 from happening. Most states allow juror contact, have  
20 procedures on what you can say to the juror, what you can't  
21 say to the juror. It's an important part of the process.  
22 It's an important part of the administration of justice.  
23 And I encourage you to pass this resolution.

24           MR. RAWLINSON: Thank you. Discussion? I  
25 see no one at the microphone. We must be getting close to

1 the game.

2 All those -- would you waive your closing,  
3 Mr. McKinney?

4 MR. MCKINNEY: I would do that.

5 MR. RAWLINSON: We have a motion before us.  
6 The motion is to eliminate the rule prohibiting post-trial  
7 contact with jurors. All those in favor, indicate by  
8 raising your placards.

9 All those opposed? Motion carries.

10 Moving on to No. 18. Thank you, Mr.  
11 McKinney. Number 18: encourage and recommend availability  
12 of optional form pleadings.

13 I understand that you've submitted as well a  
14 written amendment. I'm sorry. Mr. Neuberger has -- well,  
15 why don't we just take this in order. It's not your  
16 amendment.

17 MR. MCKINNEY: It's not my amendment.

18 MR. RAWLINSON: Let's stay with the main  
19 motion. We have a motion to put this before us.

20 MR. MCKINNEY: I move approval of this.

21 MR. RAWLINSON: Why don't I inform the House  
22 of the amendment, and perhaps we can make this a single step  
23 rather than two steps.

24 The amendment is to strike the following  
25 language, quote, Counsel on Court Procedures and UTCR

1 Committee, close quote. If you're comfortable with that,  
2 Mr. McKinney, I would propose that we proceed with the  
3 amended motion as the main motion.

4 MR. MCKINNEY: I'm comfortable with that.

5 MR. RAWLINSON: Great. Would you make the  
6 motion, then, to adopt the amended motion as the main  
7 motion?

8 MR. MCKINNEY: I would.

9 MR. RAWLINSON: Okay. Thank you. Do I have  
10 a second?

11 MR. GEORGEFF: Gary Georgeff. I second.

12 MR. RAWLINSON: Thank you, Mr. Georgeff. You  
13 have five minutes.

14 MR. MCKINNEY: I won't use my time. This is  
15 simply an act (inaudible). Those who practice in other  
16 jurisdictions know that other jurisdictions are doing this.  
17 We may not like practicing with pro per third parties, but  
18 you're going to have to face the fact that they are here to  
19 stay. And we can simply waste a lot of our clients' time  
20 and money doing motions to dismiss and motions to make more  
21 definite and certain because they don't know what they are  
22 doing, or we can just get ahead of the problem and create  
23 form pleadings.

24 And if you've ever seen a form pleading  
25 created, it is very basic. It lists the requirements of the

1 cause of action and says -- and leaves a blank for the  
2 parties to fill in the facts necessary to state that cause  
3 of action.

4           And it makes it easier for them to appear in  
5 court. It makes them -- gives them a chance to state their  
6 cause of action without too much trouble. We know what the  
7 elements of a claim are.

8           You go to the jury verdict forms. They are  
9 all set forth in there. So we can just take the elements of  
10 the claim and put them into a cause of action on a blank  
11 form. Make sure it's available at the clerk's office and  
12 have them available to the public.

13           The average practitioners won't use these,  
14 but these are going to be made available if somebody comes  
15 -- if they can't afford to hire you, you can give them the  
16 form and they go home and finish it themselves. It's an  
17 access to justice issue.

18           I will say that this came before you last  
19 year and there was a lot of confusion over which committee  
20 is going to handle this. We were told the counsel on court  
21 procedures, the UTCR committee, would be the best to make  
22 it. I find out in preparing this that there's another  
23 committee, the (inaudible) committee, that has jurisdiction  
24 over this.

25           I think it's something that all committees

1 need to address. We need to get on top of this problem  
2 quickly and start working on these forms and make them  
3 available.

4 And truthfully, I think we need to understand  
5 that the forms help everybody. If we could have a standard  
6 form for a judgment or if we had a standard form for  
7 substitution of attorney, this kind of makes -- these things  
8 make our practice better and more simple. And so I  
9 encourage your approval of this.

10 MR. RAWLINSON: We have a motion before us.  
11 The motion is now open for debate. Do I have anyone at the  
12 con or other mikes? Mr. Browning.

13 MR. BROWNING: Mr. President, Bob Browning  
14 from Forest Grove. The only concern I have is that several  
15 of the counties have gotten in their mind that the standard  
16 form pleadings are the only pleadings that can be used in  
17 their court and that you have to buy the form from them. So  
18 I just kind of hope that somehow or another in the process  
19 of doing this we make it clear to the clerks that they don't  
20 have a little monetary way to generate money here.

21 The forms ought to be optional. And I hope  
22 they will remain optional, because many times we have a need  
23 for them to be handled that way. And I don't think it's  
24 right that in several of the counties we should have to pay  
25 three bucks just to file an FED. Thank you.

1 MR. RAWLINSON: Thank you, Mr. Browning. At  
2 the pro mike, Mr. Georgeff.

3 MR. GEORGEFF: Thank you, Mr. Rawlinson. As  
4 I mentioned before, I practice in Brookings, which is right  
5 down there by the California border. I'm also licensed down  
6 there. Have been for 10 years. We do form pleadings in  
7 California.

8 Frankly, when you're doing lawyer to lawyer  
9 and other lawyer's form pleadings, it's maybe a little bit  
10 annoying, but most lawyers don't use them.

11 And Mr. McKinney is correct in that this is a  
12 way that legal services can be developed and delivered to  
13 people who can't really afford full representation. People  
14 who need to resolve the smaller disputes or maybe above the  
15 small claims jurisdiction or they just can't get a lawyer  
16 who is interested. And it's an efficient way to handle that  
17 process.

18 It works reasonably well in California.  
19 Also, Mr. Browning's point is probably well taken, that  
20 these would be dealt with in the way these rules are  
21 drafted. So I would support this measure.

22 MR. RAWLINSON: Thank you, Mr. Georgeff.  
23 Mr. Christ?

24 MR. CHRIST: I'm Tom Christ. I'm an elected  
25 delegate from Portland, and I'm opposed to this if, as I

1 understand it, the form generated by this committee would be  
2 sufficient as a matter of law in court. In other words,  
3 they come and present this in the courtroom and that's taken  
4 as good no matter what.

5 I don't think that's necessarily fair to  
6 defendants in cases, some of whom may be pro se themselves.  
7 But they are denied the opportunity to come up with some new  
8 argument against the cause of action that may not have been  
9 considered by the committees that drafted the form.

10 The law changes over time, and somebody may  
11 come up with some new argument against a client, and it  
12 would seem by this resolution that they would be foreclosed  
13 from presenting that just because this has been blessed by  
14 this committee.

15 I think it may be appropriate to come up with  
16 forms that you can see, and stick in a CLE, which would  
17 provide guidance to pro se claimants.

18 But the sense of this resolution is that once  
19 this form has been approved by this committee, that will  
20 pass, necessarily, in the court of law. I think that's  
21 wrong. I'm opposed to it. Thank you.

22 MR. RAWLINSON: Thank you. At the other  
23 mike, Mr. Kent.

24 MR. KENT: Chris Kent, Region 5. I'm  
25 interested in hearing what everybody has to say about this

1 issue, but I see our ranks are dwindling so I move to call  
2 the question.

3 MR. RAWLINSON: I have a motion to call the  
4 question. Non-debatable motion. Do I have a second?

5 MR. McLAUGHLIN: Second, Bruce McLaughlin.

6 MR. RAWLINSON: Thank you, Mr. McLaughlin. I  
7 have a motion and a second. Takes a two-thirds majority.  
8 All those in favor, indicate by raising their placards.

9 All those opposed? Motion carries.

10 We'll proceed with the main motion. The main  
11 motion is to encourage and recommend availability of  
12 optional form pleadings. As you know, we have an amendment.  
13 Yes. You wish to speak? One minute closing.

14 MR. MCKINNEY: I will take that opportunity  
15 to answer a couple of questions. I've used these form  
16 pleadings in other states. When they are adopted, it's very  
17 clear whether they are a mandatory form or a form that's  
18 optional. So it's going to be the job of that committee to  
19 create these forms that everybody knows this is a mandatory  
20 form or it's not a mandatory form.

21 They are not going to have a form they've  
22 already got. You know, their cause of action is  
23 (inaudible). We're just talking about creating forms for a  
24 complaint for breach of contract, a complaint for fraud, an  
25 answer form, just say: I admit the following paragraph. I

1 deny the following paragraphs. And just -- there's only  
2 going to be a few forms that are going to be simple. They  
3 don't intend to cover every subject.

4 And I recommend you approve on that basis.  
5 Thank you.

6 MR. RAWLINSON: All those in favor of the  
7 motion as amended, raise your placards.

8 All those opposed? Motion carries.

9 On to No. 19. Mr. McKinney again. Amend  
10 ORCP 7A to eliminate "true copy" certification. Please  
11 provide me with a motion to put this on the floor.

12 MR. MCKINNEY: Move approval  
13 of --

14 MR. RAWLINSON: Move approval --

15 MR. MCKINNEY: -- of Resolution No. 19.

16 MR. RAWLINSON: Thank you. May I have a  
17 second from a delegate who will identify themselves.

18 MR. GEORGEFF: Second, Gary Georgeff.

19 MR. RAWLINSON: Thank you. We have a motion  
20 and a second. Mr. McKinney.

21 MR. MCKINNEY: Greetings again from Douglas  
22 County. At the Douglas County Bar Association, we have been  
23 pretty busy. And one of the things we did is we sat down  
24 and said, you know, this could be better accomplished  
25 another way, and we have already covered two of them.

1                   One of them is it's true and correct copy is  
2 really stupid. I'm sure there was a reason for it at some  
3 time in the past -- before we had copy machines and maybe  
4 trial lawyers didn't trust each other and maybe when we  
5 didn't have as many forms as we have now because we're  
6 certifying in other documents that we're serving true and  
7 correct copies of documents. We don't need redundancy to  
8 say this is a true and correct copy of the document.

9                   Times have changed. This rule is -- this  
10 requirement is stupid. I will say this, that I had a flood  
11 of calls saying, "And what about this one, too," because  
12 apparently there is a similar one in family law that they  
13 have to do something similar. And we didn't include that  
14 one here.

15                   But we want the UTCR committee and the  
16 counsel in court procedures to take a look at this and say,  
17 okay, let's do away with this rule.

18                   And are there any others just like it and we  
19 probably don't need anymore? (Inaudible) I don't know. I  
20 don't think so. I think (inaudible). I will recommend your  
21 approval. Thank you.

22                   MR. RAWLINSON: Thank you. Motion is open  
23 for discussion. Mr. Hamlin?

24                   MR. HAMLIN: Bruce Hamlin. I'm an elected  
25 delegate from Region 5. I spoke against this when it came

1 up last time. I'm speaking against it again for the simple  
2 reason that this is something within the jurisdiction of the  
3 Council on Court Procedures. I was asked by the Council on  
4 Court Procedures -- although I'm not a member -- from the  
5 chair of it to speak against it.

6 The Council on Court Procedures considered  
7 the very request that is incorporated into this resolution  
8 and voted last Saturday to send it out, not in exactly the  
9 form requested but similar, for publication, so that it  
10 could be finally adopted if it gets the requisite votes in  
11 December.

12 MR. RAWLINSON: Thank you, Mr. Hamlin. At  
13 the con mike, Mr. Lang.

14 MR. LANG: Thank you. This is just a  
15 modernization, and it gets rid of some uncertainties. It  
16 gets rid of a lot of rubber stamps in the office.

17 We all have a requirement that we serve  
18 somebody with a true copy, and so we're not deleting  
19 anything.

20 As much as I loved steam locomotives in my  
21 youth, they are gone, and I think this needs to be gone.  
22 Procedurally, if somebody says it's up for a vote, all this  
23 is is a policy recommendation by you folks, by my  
24 colleagues, that it's time we move forward (inaudible) --  
25 with fax machines and other things, that we don't need to

1 get that rubber stamp out.

2                   And a lot of attorneys ask me, say  
3 (inaudible) the request for admissions, do I need to know  
4 those answers -- there's a lot of confusion out there, so  
5 let's just park this locomotive in a museum somewhere.

6                   MR. RAWLINSON: Thank you.

7                   MR. LANG: Thank you.

8                   MR. RAWLINSON: Thank you. At the con mike,  
9 Mr. Enbom.

10                   MR. ENBOM: Yes. I'm Jack Enbom. I'm a  
11 public member of the Board of Governors, but I also serve as  
12 a public member on the Council. And they have had some  
13 consideration over the last year, and it is up for review  
14 and will be voted on in December. And I have no question  
15 it's likely it will pass as presented and we'll do away with  
16 this in function.

17                   MR. RAWLINSON: Thank you for that  
18 information. Any further discussion?

19                   MR. McLAUGHLIN: Call the question.  
20 Mr. McLaughlin.

21                   MR. RAWLINSON: Thank you. No. I'm going to  
22 treat that as unnecessary since we have no one else at the  
23 microphones. So we'll just proceed to vote unless you want  
24 to close.

25                   MR. MCKINNEY: One brief comment. I forgot

1 to mention earlier that because I had this on the agenda, I  
2 got calls from different counties. And apparently there's  
3 at least two counties where it's practical not to follow  
4 this. The secretaries initial that stamp after it's  
5 stamped. The attorneys don't bother.

6 (Inaudible.) It's a rule that is so annoying  
7 that people aren't even following it. And even though the  
8 Council in Court Procedures may be fixing it, let's let them  
9 know that we want this passed.

10 MR. RAWLINSON: Motion before you is to do  
11 away with the true copy certifications. In favor of that,  
12 please raise your placards now.

13 All those opposed? Motion carries.

14 MS. VAN METER: Mr. President, I request a  
15 quorum.

16 MR. RAWLINSON: Thank you. Do I have a  
17 second to request the quorum?

18 MR. GORHAM: Second. I second that.

19 MR. RAWLINSON: Thank you. I have a second.  
20 Folks, if you would all please remain in your places, we'll  
21 have the tellers come out and count and we'll see if we have  
22 109 to continue.

23 We have some delegates that stepped out for a  
24 moment. We might try to go out and round them up.

25 AUDIENCE MEMBER: Point of order,

1 Mr. President. I would ask that the counting of the quorum  
2 be delayed for approximately four minutes while we determine  
3 whether or not there are delegates outside who might well be  
4 here.

5 MR. RAWLINSON: I will grant that request.  
6 Please don't leave if you are already here.

7 (Laughter.)

8 MR. RAWLINSON: If you know the delegate  
9 sitting next to you or a friend of yours has walked out for  
10 a moment, would you please go out and round them up.

11 (Brief recess.)

12 MR. RAWLINSON: If I could have your  
13 attention, I am told that we have rounded up all of the  
14 delegates who were out in the hallway and everyone is now  
15 here. If you would take your places, we will proceed with  
16 the teller count.

17 Please raise your placards and let us know  
18 you are a delegate.

19 (Placards raised.)

20 Ladies and gentlemen, I am told that we do  
21 have a quorum. We have 127 and we need only 109.

22 I have also been asked to point out that we  
23 do have box lunches for you. They are out in the hall now.  
24 And what I am going to suggest, if you will promise not to  
25 leave and come immediately back, we have got our quorum. So

1 please do that and we'll go on to the next one.

2 (Brief recess.)

3 MR. RAWLINSON: We are on to Item No. 20:  
4 "Direct the Board of Governors to Restore Armed Forces  
5 Advertising in the Oregon State bar bulletin."

6 Mr. Karandy, this is your matter. Come up to  
7 the podium. As Mr. Karandy is coming up to the podium, do  
8 we have a motion by a delegate to get this matter before us?

9 AUDIENCE MEMBER: Point of order.

10 MR. RAWLINSON: Yes.

11 AUDIENCE MEMBER: We did not vote on the last  
12 matter.

13 MR. RAWLINSON: Thank you. I hadn't realized  
14 that.

15 I have assurances that we did vote on it and  
16 it passed.

17 On to No. 20. Do I have a motion to get this  
18 matter before us?

19 MR. KARANDY: I so move.

20 MR. RAWLINSON: Thank you, Mr. Karandy. And  
21 a second?

22 MR. BROWNING: I second. Bob Browning.

23 MR. RAWLINSON: Thank you, Mr. Browning.

24 Mr. Karandy, you have five minutes.

25 MR. KARANDY: In the interest of everyone

1 having a chance to speak, I'll be as short as I can.

2           This resolution that I am presenting is  
3 specifically just addressing Armed Forces advertising. But  
4 however, I think there is deeper and broader implications  
5 than just the Armed Forces in whether or not the resolution  
6 is passed.

7           The provisions of the current bylaw, Article  
8 10, banning advertisement, if implemented of course to the  
9 logical conclusion, would potentially ban many other  
10 employers from advertising who are currently legally allowed  
11 to furnish applicants for employment on the basis of one or  
12 more criteria in Article 10.

13           One glaring example in my mind is employers  
14 that are purposely opposed, for diversity reasons, to trying  
15 to hire individuals of a specific race, group, ethnicity, or  
16 whatever, or religious groups that are allowed under federal  
17 law to select and give preference to individuals of their  
18 denomination.

19           So perhaps if this specific resolution  
20 regarding the military passes, the Board, in carrying out  
21 this resolution, could amend Article 10. It's up to the  
22 discretion of the Board to allow for those that are legally  
23 allowed to give preference to one group or another to do so.

24           I would just like to make the point that not  
25 all discrimination is illegal. Not all discrimination is

1 necessarily rational. The specific requirements  
2 traditionally of the Armed Forces are created and  
3 implemented by the Federal Government, by the Congress of  
4 the United States and by the Executive branch.

5 It's my belief that the best way to address  
6 the bar of the State of Oregon as a group is to reach the  
7 policies of the military. And the best way to address that  
8 is to petition the Congress and the Executive to change the  
9 requirements of recruitment or retention of individuals in  
10 the Armed Forces and not to punish them from publishing in  
11 the bar's publications.

12 For those reasons, I am asking to support  
13 this resolution and vote for its passing.

14 MR. RAWLINSON: Thank you, Mr. Karandy. The  
15 discussion is now open.

16 Mr. Comstock.

17 MR. COMSTOCK: Mr. President, Mark Comstock,  
18 Board of Governors. Delegate from Region 6.

19 I am here to address the Board's position on  
20 this, and I will tell the delegates that the Board of  
21 Governors opposes the adoption of this resolution in a split  
22 Board vote.

23 Just as history, because there has been a lot  
24 of e-mail traffic that has been somewhat (inaudible) and at  
25 times questioning many things. But historically, the

1 editorial policy is the outgrowth of a longstanding Oregon  
2 State Bar stance against discrimination on the basis of  
3 race, religion, color, gender, sexual orientation,  
4 geographic location, age, handicap or disability, marital,  
5 parental, or military status or other classifications  
6 protected by law.

7           The specific history of this was, this came  
8 from a 1986 business meeting resolution. It was reaffirmed  
9 in 1988. And this editorial policy became a part of the bar  
10 bulletin in 1990. This came before this Board of Governors  
11 in June of 2005 on a complaint from a member.

12           The Policy and Governance Committee, of which  
13 I chair and did at that time also, looked at the plain  
14 language of our policy in Article 10 and asked that the  
15 Oregon National Guard, who was seeking to place an ad for  
16 employment, certify that they complied with the provisions.

17           The Oregon National Guard was not able to  
18 certify that they complied with the provisions. They were  
19 able to state that they complied with the spirit of the  
20 article.

21           The Policy and Governance Committee  
22 recommended an exception for the Oregon military to  
23 advertise in the bar bulletin. There was a robust debate.  
24 It was not a debate of military policy. It was not a debate  
25 on current military campaigns. And it was certainly not a

1 referendum on the value of the military.

2                   What the debate was, it was focused  
3 specifically on the bar's mission to respect the Rule of Law  
4 and whether the bar could create a higher standard for  
5 itself to determine the scope of its non-discrimination  
6 policy.

7                   The vote, and it was a split vote in a public  
8 meeting, the Board of Governors as a whole rejected the  
9 committee's proposal to create an exception. And that is  
10 where it stands now.

11                   I would remind the delegates that this  
12 resolution is one that is subject to the question of whether  
13 the Board can control its own Bylaws.

14                   And I see my red light is on, so I'll leave  
15 it to them.

16                   MR. RAWLINSON: Thank you, Mr. Comstock. Mr.  
17 Browning.

18                   MR. BROWNING: Thank you, Mr. President. Bob  
19 Browning, elected delegate from Region 4.

20                   I will give each of you my disclaimer that I  
21 have a son in the Marine Corps of whom I am very, very  
22 proud.

23                   I believe that the Board of Governors made an  
24 incorrect decision that says, We are an integrated bar and  
25 as such we are a quasi-functional unit of state government.

1 It is important if we believe in the Rule of Law that we  
2 follow the law.

3           The fact is that not all discrimination is  
4 illegal. If I choose not to hire someone because they have  
5 blue eyes, I have the choice to not hire someone because  
6 they have blue eyes even though it may well have no impact  
7 on their work whatsoever.

8           The fact is that the Supreme Court, the  
9 supreme legal authority in this land, has ruled that certain  
10 forms of discrimination in the military are legal. And for  
11 us as an integrated bar to suggest that we may ignore that  
12 pronouncement within our various official publications, such  
13 as the state bar bulletin, is incorrect.

14           That having been said, it does not in any way  
15 absolve us as individuals, and perhaps even as a group, from  
16 seeking through appropriate legal means and methods the  
17 changing of those policies. We have the opportunities to  
18 vote for Senators and Congressmen who believe that, for  
19 example, discrimination on the basis of gender orientation  
20 is inappropriate but until that comes forward, we have the  
21 obligation to follow the law. And the law of the land is  
22 that certain forms of discrimination are legal. And when we  
23 ignore that through our legal publications as an integrated  
24 bar, we are ourselves then committing an act of  
25 unprofessionalism.

1           It has nothing specifically to do with my son  
2 being in the Marines. I don't know if the Marines have ever  
3 showed up to do it. But it has to do with if I were a  
4 Catholic charity, for example, and wished to make it aware  
5 that I had certain programs or functions to give forward and  
6 that we are allowed under the law to do certain things with  
7 respect to the people who work for us, I don't think we  
8 should reject that ad either.

9           So I believe that certain members of the  
10 Board of Governors made an incorrect decision on this  
11 particular proposal as a way of setting that decision aside.

12           Thank you very much.

13           MR. RAWLINSON: Thank you, Mr. Browning. Mr.  
14 McLaughlin.

15           MR. McLAUGHLIN: First of all, Bob, I'd like  
16 to say I am sure on behalf of everybody here that we really  
17 appreciate your sacrifice and that of your son.

18           MR. RAWLINSON: I don't think there is a  
19 single person in the room who doesn't take that position.

20           In fact, I'd like us to give ourselves a  
21 round of applause for not committing a Vietnam. We are  
22 remembering the military this time around even if some of us  
23 may think that the policies of the administration are wrong.

24           Thank you.

25           (Applause.)

1 MR. McLAUGHLIN: The fact that we all feel  
2 that, Bob, it can't be said enough.

3 I would have to say that if your son was ever  
4 in legal trouble in the military, there are some fine,  
5 incredible attorneys here who I would want on my side.

6 And the (inaudible) Officers Corps deserves a  
7 lot of credit for what they have been doing, particularly  
8 recently dealing with inmates at Guantanamo and such. But  
9 there are some lawyers here that I'd want on my side if I  
10 were in trouble.

11 This is wrong just like the policy of  
12 dismissing the translators on the eve of this fiasco because  
13 of their sexual orientation. This too is wrong. And this  
14 is the way we register our protest. In our little corner of  
15 the world, that's how we send our message to Congress, that  
16 this policy must change.

17 And like Gandhi, I am a strong believer in  
18 non-cooperation. And that's what I choose to do here. Vote  
19 this down.

20 MR. RAWLINSON: Thank you, Mr. McLaughlin.

21 At the pro mike is Chris Kent.

22 MR. KENT: Thank you. Chris Kent, Region 5.

23 You know, this is a really complicated issue,  
24 and I am not here to debate all the points of it. I would  
25 disclose right up front that the reason I am speaking out is

1 my son is currently over in Iraq.

2 I will give you some anecdotal pieces of  
3 information.

4 A couple of premises: Number one, I would  
5 like to see more Oregon lawyers in the military. Thank you.

6 The second premise: I feel this is a  
7 personal issue. We are at war. There is not a moment in  
8 the day -- my son has been over there four times in the last  
9 three years -- that I am not thinking about this all the  
10 time.

11 He came back. And his very close friend was  
12 killed in action. The wife has got various legal problems  
13 that are brewing. My son is fortunate enough to have his  
14 own lawyer, so I prepared Powers of Attorney and things like  
15 that.

16 You know, these folks over there really do  
17 need legal services of all kinds. A lot of them, because of  
18 the stress of war, have gone through accelerated, unexpected  
19 family law issues, custody issues. There is a host of  
20 things that they need right now.

21 And I just feel like we need to put this  
22 issue aside. I heard what Mr. Browning says. I agree with  
23 that. This is a political issue that people can express  
24 their opinions on in a variety of ways. But to slam the  
25 door right now and say, We have this particular opinion,

1 this is how it should be addressed, it does cut support that  
2 the soldiers have.

3           Most of the folks out there don't have the  
4 ability to get their own legal counsel, like my son or Mr.  
5 Browning's son or whoever else. They do need a lot of help.  
6 They need our help as a country, whether or not we support  
7 the war.

8           But right now we are at war, and our men and  
9 women are dying. They have legal needs. We have a high  
10 quality bar. We should at least allow the military to  
11 advertise the jobs in our bar journal.

12           If people object to the military's policy,  
13 then they can take out other ads -- I thought I saw one  
14 e-mail -- or pick up the phone. There are other forms of  
15 protest. But don't shut it down. I don't believe that's  
16 the appropriate thing to do.

17           I just wanted to provide you some of those  
18 anecdotal pieces of information that we are dealing with.  
19 But the reality of it is that most of the people that are  
20 serving this country right now, they have an accelerated  
21 need for lawyers. We need to have as high a quality of  
22 military lawyers as we can get. And frankly, the truth in  
23 advertising is one of the ways to get it.

24           So I would urge that the Board reconsider its  
25 position on this and let's go for it. Thank you.

1 MR. RAWLINSON: At the con mike?

2 MR. ODEN-ORR: Melvin Oden-Orr, Region 5,  
3 Portland.

4 I speak this afternoon because I had an  
5 epiphany just before this meeting. I am former military,  
6 United States Marine Corps. I served in the Republic of  
7 Panama during the invasion so many years ago. And I am a  
8 firm supporter of the United States military, particularly  
9 the Marine Corps.

10 And during the time that we have been having  
11 these debates on e-mail up until my epiphany, I would have  
12 been at that mike (indicating). Actually, I would have so  
13 strongly supported it that I would have been at that mike  
14 (indicating), but I probably would have stood here but for  
15 my epiphany, which was the following:

16 It is the small responses to inappropriate  
17 conduct and statements that ultimately result in major  
18 change. And so for that reason I stand here to say, you  
19 know, in the military it is not really a person's unusual  
20 characteristics that are grounds for discharge or  
21 discipline. It's really their conduct.

22 And the last time I checked, when I was in  
23 the Marine Corps, almost 20 years now, having sex was not  
24 something for which you would be disciplined unless you did  
25 it at a time and place where it was inappropriate. For that

1 reason, I think that the policy is not a great one.

2                   But my only reason for saying that is to  
3 remind us that every movement toward dealing with  
4 inappropriate discrimination is slow, and this is one way of  
5 moving that forward just a little bit more. Every signal  
6 that goes out reminds one or can cause someone like me to  
7 have an epiphany, which was caused by one of my colleagues  
8 saying, "Don't you think -- but you know, I think."

9                   And I said, "No. I disagree." Well, good  
10 point.

11                   MR. RAWLINSON: Thank you. Mr. Georgeff.

12                   MR. GEORGEFF: Gary Georgeff, Region 3,  
13 Brookings.

14                   My view is that discrimination based on  
15 sexual orientation is immoral. I think the military policy  
16 of excluding people from the military based on that or  
17 excluding them once they admitted is a stupid policy. It's  
18 divisive and hurts national unity and it hurts unity within  
19 the military and damages recruitment.

20                   On the other hand, I respect those who  
21 believe that the military serves a valuable function in this  
22 country, as the military does for all countries.

23                   So how do you resolve those views? I think  
24 there is a way to do it. And the way to do it is not to  
25 focus on the merits of the military policy or the immorality

1 of it, not to focus on the fact that the military deserves  
2 the support, but focus on the proper function of the Oregon  
3 State Bar.

4 It is a group of lawyers who should not  
5 support unlawful discrimination and shouldn't use our Oregon  
6 State Bar bulletin for that purpose. So if we have a legal  
7 discriminatory policy, it's perfectly appropriate not to  
8 allow people to advertise.

9 However, as has been pointed out, the courts  
10 have consistently held that this "Don't ask, don't tell"  
11 policy is legal, that it is not the way perhaps the law  
12 should be but that is the way it is. It is a licensing  
13 body, an integrated bar where you don't have a choice but to  
14 be a member if you want to practice law.

15 We shouldn't use this organization to make a  
16 political statement because it's inherently divisive, and  
17 that is what we are doing.

18 Mr. McLaughlin's whole point was, this is how  
19 to make our protest. That's fine, Mr. McLaughlin. Go out  
20 and submit a petition. I'll be the first person to sign it  
21 in large letters on the top on a voluntary basis. But we  
22 can't reconcile these different views within the state bar.  
23 Every time we force it on people in this way, we are making  
24 an incorrect determination.

25 So I support Mr. Karandy's resolution. Thank

1 you.

2 MR. RAWLINSON: Thank you, Mr. Georgeff.

3 The gentleman at the con mike behind  
4 Mr. Lang.

5 MR. PAYNE: Good afternoon. My name is Jeff  
6 Payne. I am the co-chairman of the Oregon Gay and Lesbian  
7 Legal Association.

8 I would like to start by saying that, first  
9 of all, I don't believe that any of the people who are in  
10 favor of this motion are anti-gay. And I also don't believe  
11 that any of the people who oppose this motion are  
12 anti-military, despite what some of the e-mails flying  
13 around the last few weeks let people think.

14 My grandfather fought in World War I. He was  
15 a victim of a gas attack in Europe but lived to a ripe old  
16 age. I had two uncles that fought in the Pacific theatre of  
17 World War II, both recently. My father rose to the rank of  
18 Master Sergeant in the National Guard of Oregon. So there  
19 is nothing anti-military about opposing this resolution.

20 But what I have seen here today in the  
21 debates earlier over Affirmative Action and the leadership  
22 college focused on one thing, and that was human capital. I  
23 think that is what this bar association is all about and  
24 what this resolution boils down to.

25 The bar association needs to say that we will

1 not waste the human capital that is in this bar based on the  
2 characteristics that said they will not discriminate  
3 against. And allowing another group to say, We want to do  
4 this, that's fine.

5 I am not going to get in a debate between  
6 illegal and legal discrimination. I am not a constitutional  
7 lawyer. I'll leave that to other people.

8 The point is, we don't have to do business  
9 with someone that we don't want to. And this bar  
10 association has repeatedly said, We value the capital of our  
11 members enough to say that we will stand up and fight  
12 against discrimination in these various forms.

13 For that reason, I think we need to send the  
14 message that it's not anti-military or any such thing; that  
15 we will not waste the potential of the gay and lesbian  
16 transgendered and bi-sexual members of this bar and allow  
17 them to be discriminated against.

18 I'd ask you to vote against the motion.

19 Thank you.

20 (Applause.)

21 MR. RAWLINSON: Mr. Lang at the pro mike.

22 MR. LANG: Thank you. First of all, I second  
23 the remarks made by the last two gentlemen on the  
24 (inaudible) of why I am here. I am not here to debate the  
25 policy. I don't think my personal views really matter that

1 much.

2 Frankly, I think it is a loss of those  
3 translators. Six million dollars training an Air Force  
4 pilot. So I agree we shouldn't be doing some of these  
5 things. But that's not how this issue, I think, should be  
6 decided, which is why I am here.

7 In our Bill of Rights, both the United States  
8 Bill of Rights, First Amendment, Freedom of Speech, and in  
9 our bar bulletin is our speech. So ironically, if somebody  
10 wanted to run the most hideous advertising, maybe that's  
11 good because that will spark debate. Whenever we have  
12 censorship, whenever we stifle ideas, then the debate goes  
13 away. I think a lot of injustice in this country in the  
14 past in the area of civil rights, things were swept under  
15 the rug.

16 So wherever you are, I just say, Maybe the  
17 criteria you ought to start with is, look at the First  
18 Amendment, look at the Oregon Constitutional issues that  
19 have actually been upheld to having greater rights and  
20 freedom of speech and expression.

21 Thank you.

22 MR. RAWLINSON: Thank you, Mr. Lang.

23 The delegate who is behind Mr. Lang at the  
24 con mike.

25 MS. ALLEN: Beth Allen, Region 5.

1 I guess I am going to try to direct two  
2 primary issues that have come up that I think may be very  
3 attractive to people who are sort of wavering on this issue.

4 And the first one is one that Mr. Lang has  
5 raised, and it's the First Amendment. We have to allow any  
6 kind of advertising into the bar bulletin.

7 First off, there is nothing preventing anyone  
8 from submitting articles to the bar bulletin about this  
9 issue. If the public discourse is what folks want, let's do  
10 it. Both sides. Let's air it. Certainly it has been on  
11 the e-mail. There is no problem having that discourse in  
12 the Bulletin.

13 But there isn't any requirement that we  
14 advertise in a way that is illegal. And it is illegal,  
15 because in Oregon in certain jurisdictions discrimination on  
16 the basis of sexual orientation is unlawful. Advertising on  
17 the basis of sexual orientation is unlawful.

18 There is nothing that I know of in the "Don't  
19 ask, don't tell" policy that requires any employer or any  
20 advertiser to advertise for the military. So you are not  
21 going to be breaking any laws if you continue the policy,  
22 not to allow advertising that is discriminatory.

23 The second issue that has come up, and it's  
24 particularly, I guess, hurtful to me to hear we need good  
25 lawyers and so we need to have this advertising.

1 I am a damn good lawyer and I am also gay and  
2 I am also a Veteran. I was in the Army. I left the Army  
3 because I had to make a decision. I had to make a decision  
4 about whether I would stay and serve my country and lie or  
5 tell the truth about who I am.

6 I was asked when I was in law school by a  
7 great professor, "Beth, why don't you go into the JAG  
8 Corps?" He said this sincerely. He didn't know I was  
9 lesbian. He just didn't think about it.

10 I said, "Because I am going to have to not  
11 only lie, but I would be forced to prosecute people because  
12 they are gay and lesbian and I can't do it."

13 The military policy, the "Don't ask, don't  
14 tell" policy, I think it sounds like most people here agree  
15 is wrong. But I think what Melvin said is important to  
16 remember. It is small steps. It is the people who over  
17 time make change.

18 We do not have to, by any law, allow the  
19 military access. We can oppose it. We cannot include it  
20 and make the statement that over time with other bars, with  
21 other groups, with other individuals, we'll make a statement  
22 that says, It's not okay to exclude our gay and lesbian  
23 sisters and brothers of the bar. Let them serve their  
24 country honorably and honestly.

25 Thank you.

1 (Applause.)

2 MR. RAWLINSON: With our policy of going back  
3 and forth from the con and pro mike, Mr. Mozena.

4 MR. MOZENA: Mr. President. Even as a  
5 student, you know, years ago now, I saw people make fun and  
6 discriminate against people who were gay. It always was  
7 appalling to me way before it became popular to be so. I  
8 have hired and had homosexuals work for me. It didn't make  
9 a difference to me. It's the kind of thing that I think we  
10 as lawyers just don't care about. We are more concerned  
11 about competency. We are more concerned about people being  
12 good lawyers. That is really what it is all about.

13 But all of this today and in the list survey,  
14 in the discussions, there is an undercurrent of political  
15 issues. There is an undercurrent of issues that reasonable,  
16 legal minds can differ on. And what we heard again from the  
17 last speaker is about sending a message.

18 And as a professional organization, it seems  
19 to me that we are really leaping out into the political  
20 world into a world where we are not representing all of our  
21 membership in getting into things where reasonable legal  
22 minds differ. So it seems to me this is an action that we  
23 should reverse. Get back to being the kind of professional  
24 organization that lets lawyers reasonably differ.

25 Thank you.

1 MS. GRUBER: Mr. Chair, I move the question.

2 MR. GEORGEFF: I second.

3 MR. RAWLINSON: I have a motion for the  
4 question and a second. It's a non-debatable motion. It  
5 will require two-thirds.

6 All those in favor of the motion, indicate by  
7 raising your placards.

8 (Placards raised.)

9 All those opposed?

10 (Placards raised.)

11 Motion carries.

12 The main motion, agenda Item No. 20: "Direct  
13 the Board of Governors to restore Armed Forces Advertising  
14 to the Oregon State bar bulletin."

15 All of those in favor of the motion --

16 AUDIENCE MEMBER: Point of order. Does the  
17 proponent wish to have his one minute? I think he still  
18 gets that.

19 MR. KARANDY: I'll waive.

20 MR. RAWLINSON: Thank you.

21 All those in favor of the motion, please  
22 raise their placards.

23 (Placards raised.)

24 All those opposed?

25 (Placards raised.)

1 MR. RAWLINSON: It is pretty close. I think  
2 we ought to have a count. If someone wants a count, I will  
3 grant a count.

4 MS. GRUBER: We call for a count.

5 MR. RAWLINSON: Thank you. We'll have a  
6 count, please.

7 All those in favor, please raise your  
8 placards.

9 (Placards raised.)

10 For those of you that hadn't heard, Oregon is  
11 ahead seven to nothing.

12 There is a count. Those in favor.

13 All those opposed?

14 (Placards raised.)

15 MR. RAWLINSON: Thank you very much.

16 The results on agenda No. 20, that agenda  
17 item fails, 57 to 71.

18 Moving on to No. 22: "Direct the Board of  
19 Governors to Establish an Equal Fee Structure, Voluntary  
20 Online Continuing Legal Education."

21 Mr. Mozena, thank you for coming to the  
22 podium. As he does, may I have a motion to bring this  
23 matter before us?

24 MS. GRUBER: I so move.

25 MR. RAWLINSON: Ms. Gruber provides a motion.

1 Do I have a second?

2 MS. YEE: Second, Region 4.

3 MR. RAWLINSON: I'm sorry. Can you help me  
4 with your last name, please?

5 MS. YEE: Yee, Y-e-e.

6 MR. RAWLINSON: Thank you very much. I have  
7 a motion and a second.

8 Mr. Mozena.

9 MR. MOZENA: I think one of the most  
10 important things that the bar has attempted to do for us  
11 recently is to get the CLE materials online. I think this  
12 is going to be extremely beneficial.

13 Those of you, whether you like the newspaper  
14 or not, it is now available. It gives more information. It  
15 makes us have access to legal materials. This would do the  
16 same thing.

17 They tried a couple of years ago,  
18 as I understand it -- I am a new member -- to do this as a  
19 membership as a whole. That failed. So it went to a  
20 voluntary basis. I am totally in favor of that. I support  
21 that. I think it's going to increase the competency of the  
22 bar, both for the individual practitioners and all sizes and  
23 memberships of firms.

24 The only issue that I am bringing in front of  
25 you today is the one of pricing. The issue that was brought

1 to the Task Force was how to price this product.

2           The pricing has been set up inversely to the  
3 size of the firm with the smallest persons, the sole  
4 practitioners, paying about \$395 down to the largest firms  
5 paying \$49 and actually down to \$29 as it gets to the  
6 greater members.

7           You know, if you look at this, the issue of  
8 getting competency out there and getting this out there to  
9 the small and the sole practitioners is what is really  
10 important here to keep the competency of the bar as high as  
11 we possibly can. The large firms are going to have the  
12 materials.

13           Also there was an issue about pricing. You  
14 know, the bar was concerned, Are we going to be able to make  
15 money with this?

16           Well, you know, if you look at it and you  
17 look at the numbers, actually, the vast majority of lawyers  
18 in the bar association are either sole practitioners or in  
19 small firms. That's about 60 percent.

20           Most of the revenue comes from the solos and  
21 the small firms. Just a tiny, little bit comes from the  
22 large firms. And if you allow the large firms to only pay  
23 \$5,000 to have funding for 150, 200 lawyers, it is  
24 inconsequential on the whole. And the goal here is to get  
25 the price down for the solos and the small firms, to get

1 competency out there so we can help our clients. This is an  
2 access to justice.

3           So if you really are interested in getting  
4 these materials out, then let's price it equally and  
5 equitably. I think the large firms will get it anyway. You  
6 know, 10, 20 people in the large firms will get it. The bar  
7 is going to have their revenue. It's really going to have  
8 it if you look at it.

9           And they talk about penetration; how many  
10 people are going to buy it? Most of the issues that the  
11 Task Force has dealt with were speculative. They don't  
12 really know how many people are going to buy it. But if the  
13 vast majority are sole practitioners and small firms, that's  
14 where we want to get the price lower.

15           I went to the solo and small section of the  
16 bar association and brought this up, and it was vigorously  
17 debated. And they unanimously support this motion. So the  
18 solos and the small firms support it.

19           You know, it's not even going to be a burden  
20 for the large firms. You know, if they only have a dozen,  
21 two dozen lawyers who need it, they'll get the product.

22           One of the arguments we try to meet is that  
23 some lawyers will cheat, you know, and other people in their  
24 firm will use it. Well, most products like that can only be  
25 used by one lawyer at a time. And I personally like to

1 think that lawyers are honorable and that we shouldn't be  
2 using the argument that they are going to cheat on it.

3 So anyway, I simply bring this motion to you  
4 to have this wonderful product priced equally and equitably.

5 Thank you.

6 MR. RAWLINSON: Thank you. The matter is now  
7 open for discussion.

8 Mr. Yugler.

9 MR. YUGLER: Good afternoon, everyone. If I  
10 can just have a few minutes of your attention after lunch in  
11 the middle of the afternoon.

12 I am a member of the Board of Governors. I,  
13 again, chaired the Member Services Committee and I was a  
14 member of the Task Force along with five other members of  
15 this body who volunteered because they had an interest in  
16 figuring out the best pricing for online CLE products that  
17 would serve every member of the bar, not any particular  
18 segment of the bar.

19 We tried to achieve fair and balanced pricing  
20 that would result in the biggest market penetration that we  
21 could. And the Board of Governors accepted the Task Force  
22 report from this body.

23 Now, I am here to tell you that the Board  
24 opposes the resolution. There is a demonstration, by the  
25 way, outside if you are interested in seeing what the

1 product looks like. The Task Force study rejected the  
2 pricing that has been suggested here.

3 We rejected it because we concluded that it  
4 would cost more for subscribers if we went with this method.

5 We considered that this particular proposal  
6 would not have the widest acceptance of use of the CLE  
7 product. We considered that it would require additional  
8 cost to reprogram it and we would lose portability.

9 With our current system, with your password,  
10 anywhere in the world you can access the crown jewels of the  
11 CLE library.

12 If we go into this, we have to go with a  
13 per-user entry, which will pretty much restrict you to a  
14 particular computer and particular site, because otherwise  
15 there is really no way to release the transferability of the  
16 passwords.

17 Right now if you are in a law firm of a  
18 particular size, that sets your price and you get ample  
19 passwords that the bar doesn't have to police it or worry  
20 about whether you are handing the passwords out, giving them  
21 to paralegals, new clerks, associates and so on.

22 We looked at how other states priced their  
23 online product, particularly Illinois. What we were able to  
24 learn from their experience is that this is the best model  
25 to achieve market penetration.

1                   Now, when you buy a normal book, let's say  
2 you buy the entire CLE library for \$5,000. If you have a  
3 ten-attorney firm, you are going to pay \$500 per attorney.  
4 For a one-attorney firm, you will have the whole CLE  
5 library, you are paying \$5,000 per attorney. This is very  
6 similar to that. It recognizes that there are economies of  
7 scale.

8                   This proposal does not recognize the balance  
9 that as sole practitioners in small firms move to online  
10 products, there is going to be a drop in revenues of their  
11 interest in buying printed publications because there will  
12 be less interest. We think large firms and mid-sized firms  
13 will continue to have both products.

14                   And we felt that also it was unlikely that  
15 mid- and large-sized firms would spend money to go online if  
16 they needed to buy on a per-user basis because of the  
17 expense.

18                   So we feel that this program received the  
19 largest market penetration and will be reconsidered in one  
20 year. If we are wrong, we have a year of experience.

21                   This is a very big deal for every level of  
22 recipient. \$5,000 for the whole CLE library. If you update  
23 every publication that the bar makes, we'll be spending  
24 \$1,100 per year.

25                   Your sole practitioner, the cost is \$395,

1 less a \$100 early-bird discount, \$295, the price of maybe  
2 two volumes. That is a very good deal for a sole  
3 practitioner.

4 If you are in a ten-person firm, \$995.  
5 That's \$110 per user. And we believe that mid-sized firms  
6 will go for that because that brings them more value.

7 And this proposal, finally, if I may have one  
8 more minute, Mr. Chairman.

9 MR. RAWLINSON: You may not have one more  
10 minute. You may have ten seconds.

11 MR. YUGLER: We negotiated with the Oregon  
12 Judicial Department to buy a license for every judge in the  
13 state, every clerk, the entire judicial department based on  
14 this licensing scheme, and it will pay for 25 percent of  
15 this program. We ought not lose that and delay this product  
16 and lose another couple hundred thousand dollars in the CLE  
17 department while we dicker about this.

18 Thank you.

19 MR. RAWLINSON: Thank you, Mr. Yugler.

20 (Applause.)

21 Delegate at the con mike.

22 MR. LeCHEVALLIER: Thank you. Rob  
23 LeChevallier from Region 6.

24 I am in a mid-sized firm now of 18 lawyers in  
25 the last few years. We have one set of CLEs for the firm,

1 not just used by lawyers. It's also used by paralegals and  
2 law clerks.

3 So I think we are interjecting here where we  
4 should let the bar in its wisdom figure out the right  
5 pricing. We shouldn't be involved in trying to do the  
6 pricing at the House of Delegates.

7 I can just tell you that small, mid-sized  
8 firms are not going to pay for online per lawyer. If they  
9 have to, they'll just keep their one set of books, which not  
10 all lawyers use all the books.

11 So I would just recommend that we vote this  
12 down and let the committee do its pricing.

13 Thank you.

14 MR. RAWLINSON: Thank you, Mr. LeChevallier.

15 At the pro mike.

16 MR. BURFORD: Christopher Burford. I am  
17 chair of the Indian Law Section, Delegate.

18 My support for this proposal is very simple.  
19 We are one bar. We all pay the same dues. We all belong to  
20 the same organization. It should serve us all equally.

21 I was personally offended when I saw that  
22 sole practitioners, and I am not one, were going to be  
23 charged so much more than large firms. And I found that  
24 objectionable. And I will vote in support of this.

25 Thank you.

1 MR. RAWLINSON: Mr. Bachofner.

2 MR. BACHOFNER: John Bachofner. Delegate  
3 from out of state and a member of the Task Force.

4 We are at the dawn of a realization of a  
5 dream of mine, that we have access to all of the CLE  
6 materials online, every lawyer in this state, whether you  
7 are located in the far corner of the state in Brookings or  
8 whether you are located in Portland and just don't want to  
9 have to go down to the county library.

10 If you are a sole practitioner or you are a  
11 member of a large firm at your desk, you can have access to  
12 all of the CLE materials. This is a tremendous benefit and  
13 the Task Force took it very seriously.

14 The original problem we had was the  
15 consideration of our debt structure. We can't lose money  
16 when we roll this out. That was the primary thing we were  
17 told because of what had happened last year. You heard  
18 about that earlier. There was a large contingency of the  
19 Task Force that really felt it was important that we roll  
20 everything out. That is the purpose behind this. But in  
21 order to conserve money, we would have to roll out just a  
22 single CLE pilot as a test. That would have failed  
23 miserably.

24 We looked and looked. We looked at some  
25 other states that had used similar types of programs, and we

1 came up with some evidence that would show that we would not  
2 lose money if we rolled it out across the board, at least as  
3 best as we can tell, because we are venturing out on  
4 something that we have not put out yet.

5 Don't risk losing this because you are  
6 focusing on what is \$395, or as Rick said, two title prices  
7 or two volume prices.

8 If we try and do it on a per-lawyer basis all  
9 across the board, the large firms aren't going to pay for  
10 it. My firm, it would run just under \$80,000. There is no  
11 way in the world my firm will pay that money even though it  
12 would be a tremendous benefit.

13 We all voted that we want to look at this at  
14 the end of the year and we want to tweak it. That is the  
15 plan. We have the state of Oregon on top of it or on board  
16 with the Judicial Department. We are going to at least have  
17 a certain amount of money we'll get out of this, and I think  
18 we'll break even or come to the point where we are going to  
19 make a profit on it.

20 Let's get this out, particularly to the sole  
21 practitioners, who need it most. Don't lose this benefit  
22 because you are focused on an extra hundred dollars out  
23 there.

24 I urge you, vote this down.

25 MR. RAWLINSON: Thank you, Mr. Bachofner.

1 The delegate at the other mike.

2 MR. VARALLO: I call for the question.

3 MR. RAWLINSON: I have a motion to call for  
4 the question.

5 Do I have a second?

6 MR. DAUGHTRY: Second.

7 MR. RAWLINSON: If I could trouble you, the  
8 delegate who made the motion, could you give me your name?

9 MR. VARALLO: Chris Varallo.

10 MR. RAWLINSON: Thank you very much.

11 Mr. Daughtry seconded it.

12 It's a non-debatable motion; two-thirds vote.

13 All those in favor of terminating the debate,  
14 please raise your placards.

15 (Placards raised.)

16 All those opposed.

17 (Placards raised.)

18 Motion carries. We are going to move forward  
19 to the main motion.

20 MR. MOZENA: One minute, please.

21 MR. RAWLINSON: I'm sorry. You have a  
22 minute.

23 MR. MOZENA: Just a couple of comments on  
24 some of the comments that have been made.

25 The bar has already got the program. We are

1 not going to lose it. That's just nonsense, frankly. And  
2 so it's really a question of what the pricing is, when it  
3 comes out. It's going to give more access to people if it's  
4 a lower price.

5 Now, you know, each of those attorneys in the  
6 large firm are just an attorney like everybody else. And if  
7 they want the program, they buy the program at the same  
8 price. I think this is truly a competency issue and an  
9 access-to-justice issue.

10 If we want that information out to every  
11 lawyer, then let's price it down for those solo  
12 practitioners in small firms that make up most of our bar.

13 MR. RAWLINSON: We have the motion before  
14 you, agenda No. 22: "Direct the Board of Governors to  
15 Establish an Equal Fee Structure for Online Publications."

16 If you are in favor of that motion, raise  
17 your placards now.

18 (Placards raised.)

19 Those opposed.

20 (Placards raised.)

21 Motion fails.

22 Moving on to No. 23: "Direct the Board of  
23 Governors to recommend renumbering the Oregon Rules of Civil  
24 Procedure to conform to the Federal Rules of Civil  
25 Procedure."

1                   As Mr. Mozena is coming up to the microphone  
2 to make the presentation, may I have a motion to get this  
3 matter before us?

4                   MS. GRUBER: I so move.

5                   MR. RAWLINSON: Ms. Gruber has made the  
6 motion.

7                   May I have a second?

8                   Mr. Mozena, do you want to help us with that?

9                   MR. MOZENA: Sure. Second.

10                  MR. RAWLINSON: For the ease of the court  
11 reporter, Mr. Mozena, you have five minutes.

12                  MR. MOZENA: This is a very simple matter. I  
13 basically have come from primarily my first bar, the  
14 Washington State Bar, where we number the rules in  
15 coordination with the Federal Rules.

16                  This is a tremendous benefit. It's just a  
17 research benefit. It gives you a chance to take an analogy  
18 to the Federal Rules and the great amount of literature that  
19 is out there federally and nationally.

20                  You know, I also, as a lawyer, watched the  
21 law move from California to Washington to Oregon last most  
22 of the time.

23                  Now, sure, we are mavericks sometimes, but it  
24 would be nice if we were able to have the analogous Federal  
25 Rule number there. I am not asking to change the numbers.

1 I just think that they could put it in parenthesis, if they  
2 could just have it there as well, what Federal Rule or  
3 Federal-type Rule it relates to. Not a big deal. Not a  
4 change of the rules. Just a tool to have us coordinate our  
5 research in an easier way.

6 That's all that I am asking for in this  
7 motion.

8 MR. RAWLINSON: The matter is open for  
9 discussion. At the con mike.

10 MS. EYERMAN: Linda Eyerman, Board of  
11 Governors.

12 Speaking on behalf of the Board of Governors,  
13 we do oppose this motion. There were two reasons  
14 articulated at the Board of Governors' meeting for opposing  
15 it.

16 Number one, unlike Washington, Oregon has its  
17 own unique Rules of Civil Procedure. They are different  
18 from the Federal Rules, and the entire body of jurisprudence  
19 has grown up around them. And they have their own numbers,  
20 and we shouldn't be trying to match up different Federal  
21 Rules with our own Rules of Civil Procedure.

22 The second reason that was articulated by the  
23 Board is that it's none of our business to be renumbering  
24 the Rules of Civil Procedure. That is not what the bar  
25 does. So the Board of Governors opposes this resolution.

1 MR. RAWLINSON: Thank you, Ms. Eyerman.

2 Mr. Hamlin.

3 MR. HAMLIN: I would allow the pro person to  
4 speak, but I want to speak against it.

5 Again, I was asked by the Council on Court  
6 Procedures to address this issue. This issue has never been  
7 presented, to my knowledge, to the Council on Court  
8 Procedures and that is the body that adopts the Oregon Rules  
9 unless the legislature either modifies or amends them or  
10 adopts a rule on its own.

11 I find it interesting that the resolution,  
12 though, says we need a Task Force and we need the Oregon  
13 Supreme Court or the bar to do it. The Council is the  
14 entity to do it, and that's where it ought to be addressed.

15 MR. RAWLINSON: Thank you, Mr. Hamlin.

16 Mr. Mozena, I suspect that you would like to  
17 move forward.

18 MR. MOZENA: Thank you, Mr. President.

19 Again, this is just something that I think is  
20 Administrative Rules. We do think sometimes differently but  
21 the same, and having worked almost 50/50 in Oregon and  
22 Washington, the rules really do mirror the Federal Rules.  
23 We just have them numbered in a different order.

24 It would be helpful, I think, to all of you,  
25 probably more than me, in order to have which number we are

1 talking about and which number to refer to in doing research  
2 on a larger basis. And this doesn't mean that Oregon  
3 doesn't have its own jurisprudence on this issue. It just  
4 means that we also, when there is a gap in the law, know  
5 where to look in an easier way.

6 MR. RAWLINSON: Thank you, Mr. Mozena.

7 We have the main motion before us to direct  
8 the Board of Governors to renumber the Oregon Rules of Civil  
9 Procedure to conform with the Federal Rules of Civil  
10 Procedure.

11 All those in favor of that, please raise your  
12 placards.

13 (Placards raised.)

14 Those opposed.

15 (Placards raised.)

16 Motion fails.

17 Thank you very much. On to 24.

18 Mr. Karandy, as you come forward, this  
19 particular item proposes to amend Rule 2 of the House of  
20 Delegates Rule of Procedures, essentially to make the  
21 current version of Robert's Rules of Order the version that  
22 is adopted by the Rule rather than the 1990 version.

23 As I read this, I think it's a very  
24 compelling argument.

25 (Laughter.)

1 I was wondering if, Mr. Karandy, absent  
2 objection by the House, why we just don't vote on this?  
3 What do you think? Why don't we try it, folks?

4 MR. KARNOPP: Second.

5 MR. RAWLINSON: All those in favor of  
6 adopting the current version of Robert's Rules of Order,  
7 please raise your placards.

8 (Placards raised).

9 Those opposed.

10 (Placards raised.)

11 Motion carries.

12 (Applause.)

13 Did you want one minute in closing?

14 (Laughter.)

15 We are on to -- No. 25 -- of course, we are  
16 going to move fast.

17 No. 26.

18 MR. KARANDY: I withdraw 26.

19 MR. RAWLINSON: Thank you, Mr. Karandy. He  
20 withdraws No. 26.

21 No. 27. Mr. Carter.

22 This item is for adequate funding for legal  
23 services for low-income Oregonians.

24 Mr. Carter, do you sense, as I do, that we  
25 may not need a presentation? Would that be satisfactory?

1 MR. CARTER: I have a bus ticket in my  
2 pocket.

3 (Laughter.)

4 MR. RAWLINSON: Folks, why don't we try that  
5 and move right to the vote?

6 All those in favor of No. 27, please raise  
7 your placards.

8 (Placards raised.)

9 Those opposed.

10 (Placards raised.)

11 Motion passes.

12 Mr. Carter, thank you very much.

13 (Applause.)

14 Item No. 28, the Oppose Taxpayer Bill of  
15 Rights Ballot Initiative.

16 Mr. Williamson is at the podium. Mr.  
17 Williamson, I'd like to give you a motion.

18 Do I have a second?

19 MR. GREENE: Second.

20 MR. RAWLINSON: Thank you, Mr. Greene.

21 Do you want to try it again?

22 AUDIENCE MEMBER: Try it again.

23 MR. RAWLINSON: We are going to try it again,  
24 folks. We will see if we can't just get this passed without  
25 the debate.

1 All those in favor of adopting agenda Item  
2 28, raise your placards.

3 (Placards raised.)

4 Those opposed.

5 (Placards raised.)

6 Motion carries.

7 Well, Mr. Williamson, we'll want you right  
8 back down here.

9 We are moving on to Item No. 29.

10 AUDIENCE MEMBER: Not on the agenda.

11 MR. RAWLINSON: Exactly right. It's not on  
12 the agenda.

13 Folks, thank you very much. I really  
14 appreciate how hard you have worked on this.

15 (Applause.)

16 (House of Delegates meeting adjourned.)

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