

OREGON STATE BAR  
2008 HOUSE OF DELEGATES MEETING

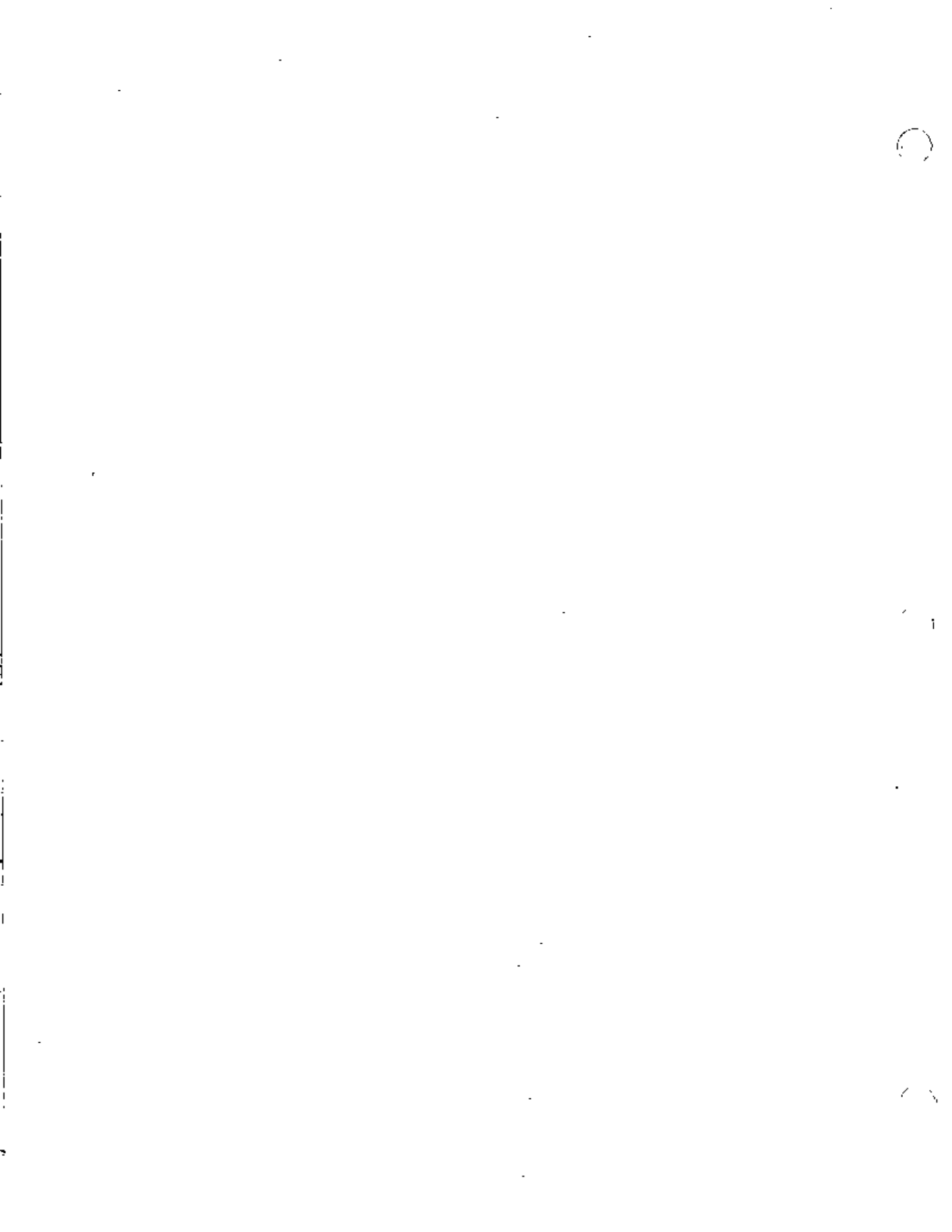
Sunriver Resort  
17728 Abbot Drive  
Sunriver, Oregon

Saturday, September 13, 2008, 10:00 A.M.

Presiding Officer:

Oregon State Bar President, Richard S. Yugler

-o0o-



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

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

PRESIDENT YUGLER: I want to welcome everybody. I'm Rick Yugler. I'm President of the Bar, and we're to have our meeting of the House of Delegates today. Welcome, everybody.

First I want to thank Gretia Capri, Robin Nodland on behalf of the Oregon Court Reporters Association for being our official reporters this year.

(Applause.)

PRESIDENT YUGLER: I want to give you a brief overview of the parliamentary procedure real quick. You have a handout here which says "overview of procedures." That should make it very easy. Everyone can read that.

But I wanted to remind you that, in addition to the procedures we're using today, that you have in your packet an expense reimbursement form. So for your mileage, we had a resolution at the House last year the Board approved mileage reimbursement for your attendance at the House. So don't forget to send those in if you want part of your mileage reimbursed.

We have electronic voting for our system, and everyone should have received one of these plastic cards. And you have in your handout instructions about how to

1 operate these nifty devices, but I want to remind  
2 everybody that because we know your name and we know which  
3 device we gave you, that if it's not returned, there will  
4 be a charge of \$75. So, please, do not forget to return  
5 your electronic voting card on your way out. That's  
6 important.

7 As I understand this, we're going to have a  
8 little test of this to see if these things actually work.  
9 Just like when you go to court and want to use PowerPoint,  
10 you know, if you don't give it a try first, it may be very  
11 ugly.

12 But we have a test question. I understand  
13 button 1/A is for a yes, button 2/B is for a no, and  
14 button 3/C is for abstaining. I'm also told that you can  
15 push any button you want as many times you want, but the  
16 last button you push is the one that will be recorded. So  
17 if you vote yes on something and, before the voting closes  
18 you change your mind, you can push 2/B for no. And that  
19 will be the one that's recorded.

20 So I have a test question for you, and the test  
21 question is: Will we adjourn in time today for the Ducks  
22 game?

23 UNIDENTIFIED SPEAKER: What time is that?

24 PRESIDENT YUGLER: 12:30. So all who  
25 believe that we will adjourn in time for the Ducks game,

1 please push 1/A; if you think we will not, push 1/B (sic);  
2 and if you want to abstain because you have a tee time  
3 like myself, push 3/C. So push your buttons. Let's see  
4 if we get a vote.

5 Jared?

6 MR. JARED GOSSEN: 96 responses so far.

7 PRESIDENT YUGLER: 96 responses. 97

8 responses. 98 responses. Almost a quorum.

9 Most people think we will adjourn in time for  
10 the Ducks game. That's great. I did not vote, by the  
11 way. So we have one more for the quorum. Under  
12 parliamentary procedure, I am not allowed to vote unless  
13 there's a tie. So, just bear that in mind.

14 At this time I'm going to ask Jim Westwood to  
15 comment on the remainder of parliamentary procedure, as  
16 we get to the motions a little later.

17 Jim, take a minute.

18 MR. JAMES WESTWOOD: Thanks, Rick.

19 I'm Jim Westwood, and I put my name tag down  
20 because I'm very uncomfortable sitting up here.

21 A parliamentarian is doing his or her job when  
22 everything just goes smoothly and you don't need me. So I  
23 hope that will be the case today. As it goes along, I  
24 hope it's sort of like in Japanese theater, when they have  
25 puppets, and people dressed in black and you see the

1 puppets. I'm not missed or anything. I hope I disappear  
2 from your view.

3 The President is going to run the meeting. It  
4 his meeting. I have told him that unanimous consent is  
5 his friend. You can move things along very quickly simply  
6 by asking for unanimous consent. You don't have to go  
7 through all the rigmarole for a lot of motions and votes  
8 on things.

9 So don't be intimidated. If you don't agree  
10 with something, raise your hand. Fine. The whole idea of  
11 parliamentary procedure is to protect the rights of the  
12 minority, but also to move things along smartly so the  
13 majority can get the business of the assembly done.

14 I will whisper in the President's ear if he asks  
15 me, and only if he asks me; otherwise, this morning I'm a  
16 potted plant. So that's the word on parliamentary  
17 procedure. This crib sheet is good, and we will see how  
18 things turn out, and I hope they will be very smooth.

19 Rick?

20 PRESIDENT YUGLER: Thank you, Jim.

21 Part of my responsibility as the President of  
22 the Bar and the Bar Act of the procedures of the House of  
23 Delegates is to present a report to you of the proceedings  
24 of the Board of Directors since our the last meeting.  
25 I've been very proud to serve as your President, and you

1 should be very proud of the members of the Oregon State  
2 Bar, which is a very forward-thinking and deliberative  
3 body and remains one of the few self-governing  
4 professions.

5 Your participation in the House of Delegates  
6 ensures that the practice of law will continue to be  
7 governed by the judicial branch and that our practice and  
8 our profession will be governed by lawyers who practice  
9 before the Supreme Court.

10 I'm pleased to report that this year there's  
11 been a lot of change at the Oregon State Bar. On January  
12 28, the Bar culminated a five-years' work looking at new  
13 facilities, and we moved into a new Bar center in Tigard.  
14 That was the work of five different boards of the Bar and  
15 five different Presidents.

16 The Lake Oswego facility that we were in from  
17 1986, that we bought for \$2 million, sold for \$8 million,  
18 that strong return made sure that when we purchased our  
19 new building, that there would be no increase in  
20 membership dues to pay for that.

21 The building, which I hope you've all had a  
22 chance to visit, allowed us to bring back the Professional  
23 Liability Fund, their operations into our facility, and to  
24 make sure that in the future we won't have to splinter off  
25 other Bar operations, such as discipline, CLE or member

1 services or admissions. We're going to remain in one  
2 house together, as one Bar, we hope for the next 20 years.

3 The facility was built by Opus Northwest.  
4 Originally we leased it from Opus with a lease-purchase  
5 option. We exercised that option. In fact, this week  
6 we're closing the purchase of the building. So we will  
7 take title to the building in the next few days.

8 At closing, I'm happy to report Opus Northwest  
9 will remain liable under a master lease for any unused  
10 space, and given real estate projections in the I-5  
11 corridor, we're confident that there will be no increase  
12 in Bar dues because of that facility, for at least the  
13 four years remaining under the master lease, and we hope  
14 for the next 15 years in the future as the space is leased  
15 up.

16 We should be very proud that we did this as a  
17 Bar, and we hope that the facility will meet our  
18 expectations. And special appreciation goes to Albert  
19 Menashe, our past President, and to Ward Greene, who  
20 worked so hard to do that. Let's give them a hand.

21 (Applause.)

22 PRESIDENT YUGLER: Another major focus for  
23 the Bar this year has been conducting a national search  
24 for a new executive director. Karen Garst has been our  
25 executive director for the past 13 years. We love Karen.



1 She's been a great executive director. She's served us  
2 very well over 13 years, and she announced her retirement  
3 effective December 31, 2008. I think Karen deserves a  
4 round of applause.

5 (Applause.)

6 PRESIDENT YUGLER: I'm pleased to announce  
7 we also hired a new executive director, which may not  
8 surprise you. We had a search committee, and we are  
9 pleased to announce that Teresa Schmid, who currently is  
10 the executive director of the Arizona State Bar, will be  
11 joining us this November and officially taking the reins  
12 on January 1.

13 Teresa has been an Oregon State Bar member for  
14 28 years. She went to law school at Lewis and Clark in  
15 1980, graduated with me, and went on to work in the  
16 regulatory area. She briefly worked for the Oregon State  
17 Bar in the discipline area and then went to California,  
18 spent ten years in management as -- getting her Ph.D.  
19 right now, and she has an impressive command of the  
20 challenges that face our profession. She's well prepared  
21 to guide our membership in these times, and we'll be  
22 welcoming her in the next few months.

23 I am also pleased to report that we will not be  
24 having an increase in OSB membership fees for 2009. We  
25 don't expect an increase in membership fees for your Bar

1 dues for 2010. In fact, you may have realized this:  
2 We're on a dues cycle about every four or five years. So  
3 we expect maybe in 2010 to be asking for an increase and  
4 2011 for Bar operations. I want to emphasize that  
5 because, again, the Bar facility, there is no dues  
6 increase because of that.

7 I also want to point out that this year the  
8 policy and governance committee of the Bar has approved a  
9 redistricting plan for the Board of Governors and for the  
10 House of Delegates regions. We're going to be adding two  
11 new lawyers to the Board of Governors and create a new  
12 region of the Bar that will be composed exclusively of  
13 Clackamas County. This will require a legislative change,  
14 and we'll be presenting that in the 2009 legislature.

15 Also with respect to Bar governance, in March of  
16 this year the Supreme Court approved a revision to the  
17 MCLE rules, changing the name of the elimination-of-bias  
18 requirement to access to justice, and changing those  
19 requirements of three credits to three credits every other  
20 reporting period.

21 This was the result of a compromise. This  
22 compromise arose because of matters that came before the  
23 House of Delegates and went on to be the subject of a vote  
24 through a membership petition presented by Gary George.  
25 And I want to thank Gary George and members of the

1 diversity section for working so hard this year to reach a  
2 compromise on this issue. And we hope that Bar membership  
3 will appreciate that this is the result of a compromise.  
4 The court has approved those rules.

5 This also is the 30th anniversary of the  
6 Professional Liability Fund. Oregon remains the only  
7 state in the country with mandatory malpractice insurance.  
8 Think about that. This year the PLF hosted the National  
9 Association of Bar-Related Insurance Companies, and as you  
10 listen to other Bars, travel to other Bars, you realize  
11 they're still struggling with whether or not attorneys  
12 should be insured or should not be insured and for how  
13 much, whether they should disclose that or not.

14 We don't have those problems. We have a unique  
15 and highly successful fund that protects the public,  
16 protects lawyers, and makes sure that there is sufficient  
17 funds present in the event of malpractice. And the PLF is  
18 in a unique position because it's able to coordinate and  
19 reduce claims through its attorney-assistance programs and  
20 its office management programs.

21 I'm pleased to report that the assessments for  
22 2009 for the Professional Liability Fund will remain at  
23 \$3,200 per active lawyer, just as it was last year. The  
24 PLF's healthy, and despite a loss from investment returns  
25 this past year and an increase in claims frequency, it is

1 reported to us that the reserves of the PLF continue to  
2 grow. They now stand at 4.6 million, towards a goal of  
3 9 million.

4 And this year I asked the Professional Liability  
5 Fund to review the \$300,000 limitation that we have had on  
6 our coverage for 20 years. It's remained at a \$300,000  
7 limit. The PLF undertook a very thorough and exhaustive  
8 study of that limit, and after thoughtful consideration,  
9 examining the reasons for that limitation and the history,  
10 determined -- and this may surprise you -- 90 percent of  
11 all claims are within the \$300,000 limit. We believe the  
12 limit should currently remain in place and is adequate at  
13 the moment.

14 The PLF and the Bar also worked with a special  
15 task force this year consisting of SLAC and OAAP to better  
16 coordinate the attorney-assistance programs. We have two.  
17 We have one in the PLF, and we have one that's part of  
18 discipline, which is SLAC, and they, through a task force  
19 report this year, are going to provide more efficient  
20 delivery of professional counseling services.

21 Also on admissions, this year Albert Menashe  
22 chaired an admissions task force, looking at whether there  
23 ought to be changes in the Bar exam. Those  
24 recommendations are before the Board of Governors. It  
25 might surprise you to learn that we admit each year

1 between 800 and 1,000 new lawyers and that almost 50  
2 percent of the active members of the Oregon State Bar have  
3 been less -- in practice less than ten years.

4 Youth is coming, and the Bar is well prepared to  
5 meet the challenges, the generational challenges, we hear  
6 so much about.

7 Our Bar is also unique in that we're part of a  
8 five-state reciprocity compact between Washington, Idaho,  
9 Utah, Oregon, and Alaska. This year we added Alaska, and  
10 I think we're at the forefront of the idea that borders to  
11 practice are coming down. We should be proud of that.

12 This year at the Bar we've hosted many open  
13 houses. We've hosted a Rule of Law Conference. We --  
14 this week, here in Bend, President-Elect Gerry Gaydos  
15 hosted a Futures Conference, which was brought together to  
16 bring together Bar leaders and members from across the  
17 state to discuss the challenges for the future of our  
18 profession and to help us prioritize those over the next  
19 ten years.

20 We hosted ABA President Bill Newcomb. We  
21 created an advisory board of OSB past presidents. There  
22 have been numerous events. I've met with almost every  
23 local bar, bar officers, traveled the state this year.  
24 Been blessed to attend many specialty bars' events, OWLS,  
25 OMLA, OTLA, and this year made an effort to meet with as

1 many tribal courts as we can. We've been able to meet  
2 with three or four tribal courts this year, and I hope  
3 before the end of the year to add tribal courts to our  
4 network of connections, because we do have a shared  
5 interest and concern for the practice of law.

6 Two years ago the House of Delegates approved a  
7 renewal of a \$30-per-member assessment. This year we had  
8 a successful OLIO program, and this year with the help of  
9 the diversity section, the affirmative action committee,  
10 and minority bars, we hired Frank Garcia as our diversity  
11 program administrator.

12 The Bar continues to work hard to improve our  
13 commitment to diversity. We need to make sure that our  
14 Bar reflects the public, so that members of the public  
15 have confidence in our profession and in the legitimacy of  
16 the rule of law.

17 This year also I'm pleased to report that one  
18 year ago, at this meeting of the House of Delegates, you  
19 approved a resolution calling on the Board of Governors to  
20 oppose Initiative 51 and Initiative 53. Initiative 51  
21 would have put a cap on attorneys' fees in contingent fee  
22 cases, and Initiative 53 would have created basically  
23 mandatory penalties for so-called frivolous litigation.

24 I'm pleased that the Bar worked with the  
25 Campaign Against One-Sided Measures, and neither of those

1 measures qualified for the ballot. So we will not face  
2 those challenges this year.

3 (Applause.)

4 PRESIDENT YUGLER: But I need to warn you  
5 that the threat is not gone. The initiative proponents  
6 have threatened to refile those measures for 2010, and I  
7 call on the House to remain vigilant in the year ahead  
8 should those measures be refiled.

9 Finally, I'm pleased to report that our  
10 relationship with the Bench I think is excellent. This  
11 year I've had the pleasure to work with our Chief Justice,  
12 with Chief Judge David Brewer. There's a task force of  
13 our Bar and the Chief to implement the Oregon eCourts  
14 program.

15 We've worked with the Chief to make sure that  
16 the Oregon Public Officials Compensation Commission is  
17 staffed and implemented, so we don't face the challenges  
18 that we have over the last few years for inadequate  
19 judicial salaries. And their report was delivered just a  
20 few weeks ago, calling for further increases in judicial  
21 salaries so that we can continue to attract and maintain  
22 the best and brightest on our Bench.

23 We need to make sure that the court, the Bar,  
24 and the public are prepared to move forward into the  
25 future. eCourts is part of that, adequate salaries is

1 part of that, and I think the Bar is at the forefront of  
2 being a full partner with the Bench and making sure that  
3 our profession is as prepared as possible for the future.

4 That concludes my report. I just want to tell  
5 you that my year is not over. There's still a few more  
6 months to go, and I really am thankful for the confidence  
7 you have put in me as your President. You have a great  
8 Board of Governors who works diligently every month to  
9 make sure that we remain self-governing and that we can be  
10 proud to be lawyers representing our clients.

11 Thank you very much.

12 (Applause.)

13 PRESIDENT YUGLER: Before I move to discuss  
14 the agenda, I'd like to call on Chief Justice David Brewer  
15 to provide us with some comments. Our Chief Justice is, I  
16 think, with Justice Ruth Bader Ginsburg this morning in  
17 Portland, and I want to thank Chief Justice David Brewer  
18 for joining us this morning.

19 HON. DAVID BREWER: Good morning. I bring  
20 you greetings from the Chief, who would, frankly, give  
21 anything to be here with this group today. He asked me to  
22 pass on to you his strong belief that the partnership with  
23 the Oregon State Bar is the most important relationship  
24 that our Oregon judicial branch has, with any of its  
25 external stakeholders.



1           He is at Willamette University this morning in  
2 meetings that include Ruth Bader Ginsburg, and so he had  
3 planned to do that for some time and can't join you and  
4 has asked me to be here with you today. And I'm very  
5 honored to be here.

6           I want to congratulate you, before I give you a  
7 few remarks that I think reflects some of the Chief's  
8 projects and goals in the years to come on the Futures  
9 Conference that you held yesterday. I had the privilege  
10 of attending and participating and giving part of a panel  
11 report on the future of the courts, from our perspective,  
12 and I was very, very impressed with the organization of  
13 that program, the subject matter of it and, most  
14 importantly, as Gerry Gaydos described it, the energy, the  
15 creativity, and passion that I saw in all segments of the  
16 Bar who were represented in that very important  
17 conference.

18           I congratulate you on your forward-looking  
19 approach to what is out in front of us, because the  
20 challenges have never been greater; likewise, the  
21 opportunities have never been greater for all of us.

22           Yesterday I had the privilege of passing on my  
23 own personal view of some of the challenges we face, the  
24 opportunities we face as a branch in the future, and the  
25 four things I talked about -- I'm not going to repeat them

1 today, because I want to talk from the Chief's perspective  
2 today -- involve technology, workload challenges,  
3 performance measurement, especially judicial  
4 accountability, a piece of that, and the crucial legacy  
5 that the courts have to deliver fair and impartial  
6 justice.

7 And those are interconnected themes, and you'll  
8 hear a little bit of that in the next few minutes as I go  
9 through some of the projects and challenges the Chief  
10 asked me to discuss with you today.

11 But I agree with Rick: The partnership between  
12 the Bench and Bar in Oregon has never been stronger. Our  
13 communication, which is the prime mover behind any  
14 partnership, has never been better. And it's absolutely  
15 critical that we help you, not just with our hand out for  
16 your support, but in any way that this organization feels  
17 that the Bench can also fulfill its part of that  
18 partnership, because it has to be bilateral to work, and  
19 we're very, very keenly aware of that.

20 I'd like to focus on several key partnerships --  
21 Rick alluded to a couple of them; I'll be brief -- between  
22 the Bench and the Bar that are critical to our progress in  
23 the coming years. The first, as Rick alluded to, is  
24 technology. You've heard about the eCourt project that  
25 the Chief is rolling out. It's the most ambitious single

1 project that the Oregon Judicial Department has engaged in  
2 I think in its history, in terms of both its scope of the  
3 action plan, frankly, and the budget that's involved too.

4 And we have a history in our public sector, in  
5 Oregon and across the nation, of not doing these projects  
6 well. And one of the things that we're bound and  
7 determined to do is not to repeat some of the mistakes  
8 reflected in that history, but go forward very, very  
9 purposefully.

10 We've got a five-year plan to build a statewide  
11 courthouse that's accessible to all. We call it eCourt,  
12 and it's a web-based courthouse. It will be the one place  
13 where the public can conduct its business with any court  
14 throughout the state 24/7, from throughout the world,  
15 through the use of the web. Much of the groundwork for  
16 this plan was laid last year, and I just want to mention a  
17 couple of the initiatives.

18 First is the web portal. This is the door that  
19 will provide a common and consistent electronic access  
20 point to all of the state's Circuit Courts. Not to make  
21 them all plain vanilla, but, again, to have the same look  
22 and feel and basic information protocols that are being  
23 shared around the state.

24 We'll add new service deliveries to the portal  
25 over the next several years. These will enable our court

1 users to file documents electronically, pay fees and fines  
2 over the Internet, and have online access to case  
3 information and public records. They'll be made possible  
4 by using electronic content management, e-filing systems.

5 The Supreme Court's pilot project for e-filing  
6 and e-payment was rolled out a month and a half ago. It's  
7 had several users. Early reports are that the Bar  
8 training is working well. We do want your feedback on  
9 that because the Court of Appeals is the next rollout for  
10 both e-payment and e-filing. And we're planning to have  
11 first modules of document management done by next March.

12 This will be an absolutely critical advance in  
13 our court for getting its work done. We'll be able to go  
14 paperless sooner rather than later, eliminate all the  
15 archaic file-transfer problems we've got, including the  
16 loss of threaded information that doesn't end up getting  
17 published.

18 One of the most important things in your law  
19 firm and in our courts is to maintain institutional  
20 knowledge, have it properly keyed, indexed, and threaded.  
21 This is something, because we run on a demand field in  
22 terms of our workload in the court system, that I'm  
23 excited about as we move forward.

24 Rick mentioned to you we've got a policy law and  
25 standards committee. One of the biggest challenges in the

1 electronic court protocol is maintaining confidentiality,  
2 having the right walls of access for information. The law  
3 policy and standards committee will be working with the  
4 Bar very, very closely to ensure that Oregon laws and our  
5 policies and branch support the move to paperless and  
6 electronic court environment.

7 We drafted Uniform Trial Court Rules for filing  
8 documents electronically. They're now available for  
9 public review and comment, and as I said, the committee is  
10 currently addressing confidentiality issues relating to  
11 online access for court records. And we are looking very  
12 closely at adding a number of modules at the appellate  
13 level that I think will really be exciting over the next  
14 year or two. It's going to come out in chunks. I think  
15 that's the only right way to do it.

16 Ultimately, what we're going to be trying to  
17 train our judges to do is to substitute those wheelbarrows  
18 of briefs that we're used to reading for a zip drive. And  
19 if you can imagine the cultural change that that's going  
20 to involve, well, you know what we're up against. So,  
21 technology group.

22 Public officials compensation. You heard what  
23 Rick said. I had the privilege of participating in the  
24 process that led to the report that just came out, and it  
25 is public. The commission itself is recommending that

1 judges in the branch receive the median salary of the 12  
2 contiguous western states, which would be a substantial  
3 increase for our judges across the board.

4 I've always been one the judges who has been  
5 most reluctant to talk about this, because I think it's  
6 always risky for judges to actually talk about salary  
7 issues. It isn't personally an issue for me, but it is an  
8 issue for the branch, it's an issue for the public, and  
9 it's an issue for you because if we're not attracting the  
10 best lawyers to the Bench because the opportunity cost is  
11 too great to come into public service -- as you've got  
12 kids going to college and all the other expenses we face  
13 as we reach the most productive phase of our economic  
14 lives -- we are not going to have quality public justice  
15 in this state. And so the Bar's support has been  
16 absolutely critical in moving this ahead.

17 Since we've got unfortunate economic forecasts  
18 coming out right now, and we're hearing things from  
19 legislative fiscal suggesting that we're going to be  
20 struggling, unless the forecast improves over the next six  
21 months, or four months actually, to even maintain  
22 essential budget levels, it's even more important that our  
23 legislators understand that this committee's  
24 recommendations matter and, if at all possible, it needs  
25 to be implemented in this session. And our hope is that

1 'it will be.

2           Again, without the Bar's support, this never  
3 would have happened. We would have never gotten this far.  
4 We are eternally grateful.

5           Court facilities. I was a trial judge in Lane  
6 County for six years. As you know, this is another one of  
7 the Chief's huge initiatives. For the first time ever he  
8 got public funding, over a million dollars last session,  
9 to do a study on courthouse facilities across the state.  
10 We have 27 judicial districts in Oregon. We have 27  
11 separate, different, unique iterations of the same  
12 problem, because each of those counties and judicial  
13 districts involves a delicate partnership with the county  
14 government.

15           And there is no one-size-fits-all solution for  
16 this, but I can tell you this: We've got courthouses  
17 around the state that are converted hospital facilities,  
18 that were never suited to a public justice facility.  
19 We've got courthouses around the state where you still see  
20 remnants of asbestos abatement going on, where there's not  
21 adequate maintenance, where there are dust bunnies and  
22 broken chairs in the jury rooms.

23           And the most poignant example of how this  
24 problem shapes up for you and for the public in Oregon is  
25 a reminder I had, when I was getting ready as a trial

1 judge to try a really exciting, complex civil case about  
2 ten years ago in Lane County. Let me tell you what  
3 happened.

4           Lawyers will go nameless. I don't think either  
5 of them are in this room. But it wasn't one of those  
6 last-minute courthouse settlements that you often see when  
7 you give somebody a gentle nudge and, you know, say, "Hey,  
8 you know, I heard opening statements. What do you think?"  
9 It wasn't one of those things at all.

10           But after the lawyers had surveyed the jury room  
11 in a very, very critical case, they settled the case.  
12 Later one of them came and told me, he said, "Judge, would  
13 you like to know why we settled that case? It's because  
14 we were concerned, among other things, about having the  
15 jury for three weeks sit in this little cubicle, with all  
16 these dust bunnies and crap hanging out of the ceiling and  
17 these broken chairs, and wonder if what they're doing was  
18 important enough to amount to public justice."

19           And we got problems like that in courthouses  
20 around the state. If we don't show respect for the  
21 facilities where we do justice, people won't believe  
22 justice is done in those facilities. And although we've  
23 got some very nice courthouses around the state, we have  
24 many, many different challenges.

25           And the Chief has gone all over the state to



1 visit county boards of commissioners, Union and Wallowa  
2 county most recently, where there's a huge challenge, and  
3 is meeting with people and is engaging in a process of  
4 local solutions. This all goes back to the early '80s,  
5 with what was thought to be the legislative compromise at  
6 that time that gave the funding of the court operations to  
7 the state, but left the ownership of the facilities with  
8 the county.

9 That sort of divided ownership and operation has  
10 challenges in the best of situations, but it has been  
11 extremely problematic. We need to find a win-win  
12 solution, county by county, across the state. Right along  
13 with technology, that is the big challenge that we've got  
14 going forward.

15 Real quickly a couple of other things, and then  
16 I'll sit down. We talked yesterday some about the risks  
17 of erosion of civil justice in this state. As you know,  
18 the jury trial is declining on the civil side especially,  
19 but really on the criminal side too around the state.  
20 We've got a bunch of young lawyers now who have less fire  
21 in their bellies for the idea of trying their case to a  
22 jury and for that whole -- the importance of that whole  
23 issue of public participation and validation of our  
24 justice system.

25 Those of us who tried a bunch of jury trials

1 earlier in our careers understand the zeal that you feel  
2 for that part of the process. ADRs have been great. I've  
3 been one of the earliest, strongest advocates for ADR, but  
4 we've got to watch and make sure the pendulum doesn't  
5 swing so far in that direction that people feel that they  
6 can't get into court and try cases anymore.

7 Our judges need to be hospitable to trials.  
8 They can't bully people to settle cases. They've got to  
9 be able, willing, and ready to try cases. We've got some  
10 people coming to the Bench who haven't even watched voir  
11 dire done before. And so we've got a situation now where  
12 we're at great risk of losing especially civil justice in  
13 that public participation and imprint on the process.

14 There are several groups that are really working  
15 hard on this problem. I want to encourage the Oregon  
16 State Bar to take a good, hard look at it. Judge Janice  
17 Wilson in Portland, the Multnomah County Bar Association,  
18 several of you here are involved in a jury trial project  
19 up there, trying to figure out what kinds of solutions we  
20 can do to reduce the expense and the delay, because those  
21 are the two biggest drivers in the system.

22 The American College of Trial Lawyers -- there  
23 may be some people on that team here today -- are looking  
24 at three possible approaches and are thinking of drafting  
25 Uniform Trial Court Rules that the Chief can look at that

1 would make some options available to make jury trials  
2 quicker and less expensive. One of them is a trial  
3 de novo project, kind of like a little bit of the old  
4 district court, where you go in and try something to a  
5 six-person jury real quick, and then you can get a trial  
6 de novo if you need it, on the theory that you probably  
7 wouldn't once the jury spoke.

8 Another would be a fast track, where you agree  
9 to limit some motion practice and agree to limit some  
10 discovery and, in exchange for that, you get a quicker  
11 trial date.

12 A third thing that's being done is civil lawyers  
13 who can't get into a courtroom around the state now are  
14 volunteering with DAs' offices and PDs' offices to help  
15 try misdemeanors. So you get a win-win. Many of those  
16 DAs and PDs don't have enough lawyers to try the  
17 misdemeanor cases, and many civil lawyers can't get  
18 experience in a courtroom.

19 I raise those issues briefly. The Chief cares  
20 deeply about them. We can't get the public to support us  
21 if they don't trust us. They don't trust us unless we  
22 hold the window back and involve them. And jury  
23 participation is the number one way to do it.

24 I tried, as a judge and lawyer, hundreds of jury  
25 trials, and I can count on the fingers of one hand where

1 the jury went south. There's something magical about what  
2 they do, and we're at risk of losing that.

3 Finally, I want to mention the strategic  
4 planning process that the Chief's got going, and I want to  
5 solicit your input and support for that. All of you have  
6 heard of the Justice 20/20 Vision for Oregon courts. That  
7 was adopted in 2000. State planned elements with some  
8 priorities that were adopted in 2006, and a number of  
9 initiatives are under way in connection with that.

10 We have to, just like you, engage in purposeful,  
11 strategic planning, where the process is critical but it  
12 doesn't become the product. And that's what we're trying  
13 to do right now. We're in the process of adopting a  
14 2009-2014 strategic plan, which we hope to do by December  
15 of this year. Committee's been meeting since July. It's  
16 on the fast track. It's going to have us look at  
17 important demographic and environmental factors, including  
18 access to information.

19 The demographic issues in our society in Oregon  
20 and around the country, both an aging society and  
21 population, increased non-English speakers in the courts  
22 and interpreter use, immigration, and a matter of bringing  
23 justice to all and respecting cultural diversity. Also,  
24 drug and alcoholic epidemics, specialty courts, court  
25 governments, caseload growth and complexity, and business

1 continuity, all of those factors are environmental factors  
2 that we're taking into account as we move forward with  
3 this strategic planning process.

4 As I mentioned, in Oregon, funding for the  
5 courts is always a delicate matter. We depend on the  
6 income tax virtually exclusively and the general fund, and  
7 the economic forecasts right now are not good. We're at a  
8 critical point where a number of projects relating to tech  
9 and facilities and strategic planning need to move  
10 forward. It's going to be all the more critical that we  
11 work hand in glove, communicate in real time with the Bar  
12 about the Bench's needs and your needs as it relates to  
13 public justice over the next biennium.

14 We look at Ballot Measure 61. We look at Ballot  
15 Measure 57. Those have real -- that's the Mannix issue.  
16 Those have real consequences to our system if those pass  
17 because they will add enormous costs to our criminal  
18 justice system. We hope the Bar will continue to be part  
19 of the very critical conversation on the initiatives that  
20 are in bloom this November.

21 Rick, I've taken more than my ten minutes. I  
22 apologize to all of you for that. Last thing I'll say to  
23 you is this: I was a little embarrassed yesterday when I  
24 came in because I'm kind of like Elmer Fudd, and I was  
25 underdressed. I said to my panel -- everybody was all

1 dressed up, and I looked like I just came in with my lunch  
2 bucket. But I knew when I came here before you today, if  
3 I didn't wear a coat and tie, somebody would tell Paul  
4 DeMuniz, and he would be very disappointed in me.

5 So thank you very much, and I really enjoyed  
6 being with you today.

7 (Applause.)

8 PRESIDENT YUGLER: Thank you. I'm now  
9 going to call on Ward Greene, who chairs our budget and  
10 finance committee, to provide a report on the Board of  
11 Governors' budget finance committee and on our leadership  
12 report.

13 MR. WARD GREENE: Actually, I'm pleased to  
14 be here mainly because I can tell you what Rick has  
15 already mentioned, and that is that the Bar is still in  
16 good shape. There will be no dues increase this year, no  
17 dues increase next year. We are closing on the building  
18 next week. The financing's in place, and the master  
19 lease, as Rick mentioned, will assure us that Opus will  
20 continue to pay for the unused space, at least for another  
21 four years. And with any luck, we'll have tenants who  
22 will stay and the Bar will continue to enjoy its new  
23 space. Budget's in good shape.

24 I don't have anything else to offer,  
25 Mr. President, unless there's something else you want me

1 to comment on.

2 PRESIDENT YUGLER: I think that's the  
3 briefest I've ever heard you.

4 (Laughter and applause.)

5 PRESIDENT YUGLER: I'm told we're still  
6 waiting for two people for a quorum. So I'm going to ask  
7 that people take a moment, get some coffee, and we can  
8 reconnoiter in just a few minutes.

9 (Recess from 10:46 to 11:04 a.m.)

10 PRESIDENT YUGLER: I see some folks still  
11 out there. Got a few more stragglers.

12 Okay. Thank you. Ladies and gentlemen, first  
13 of all, I thank all of you who have come to Central Oregon  
14 to attend the House of Delegates ought to be applauded for  
15 your effort. We remain --

16 (Applause.)

17 PRESIDENT YUGLER: I'm disappointed to  
18 report that we are still two short of a quorum, and I'm  
19 advised that we cannot conduct business absent a quorum  
20 and that any effort to debate the resolutions or to -- to  
21 vote in favor or oppose would have no binding effect, and  
22 that even if we were to proceed in that manner,  
23 ratification is not something that is really in the cards.

24 I think this has happened once before, not with  
25 the House of Delegates format, but with the Town Hall. I

1 think Judy Henry was President, and that year, following  
2 the failure of a quorum, there was a business meeting put  
3 together in Portland to conduct the business of the Bar,  
4 and if I remember, that was well-attended because of the  
5 disappointment and I think -- I don't want to call it a  
6 crisis, but I think embarrassment that occurred as a  
7 result of the failure to muster a quorum.

8 I think every year we try to do something new  
9 with the House of Delegates to keep it a vital force in  
10 our governance, and I think history has shown that the  
11 Town Hall format has pluses and minuses and the House of  
12 Delegates does. As you can see on your agenda this year,  
13 we were going to try to address some of the difficulties  
14 we have with the two resolutions. One was to provide that  
15 the ex officio members of the House of Delegates could  
16 appoint a delegate in their absence, but the elected  
17 delegates could not, as a means to encourage greater  
18 attendance.

19 Each year I've watched presidents struggle, hold  
20 their breath to see whether or not there would be a  
21 quorum, and presidents pray that no one would call a  
22 question to see whether a quorum remained. I think that  
23 the failure today to muster a quorum is an indication that  
24 more work needs to be done to deal with our -- our  
25 governance issue.



1           There is a resolution Danny had on the table  
2           that would have reduced the quorum to 50 percent of the, I  
3           think, elected members plus one. And, frankly, I'll speak  
4           for myself alone, and that is if we need to reduce a  
5           quorum down to 50 people or so, that says something. It  
6           says that we really need to reexamine the structure of the  
7           House.

8           And I want to tell you also I think that the  
9           House is necessary. I think it's shown, with what's  
10          happened with the military advertising, the elimination of  
11          bias and some other things, that I think the Board of  
12          Governors does an excellent job of providing policy,  
13          governance, and direction for the Bar and really running  
14          our profession.

15          But, you know, we're all lawyers, and we know  
16          that there needs to be a check and balance, and the House  
17          is one way to do that. We have member resolutions as  
18          another way to do that. I think it is essential that  
19          there be a component that provides direct input for  
20          membership beyond the Board of Governors.

21          I'll pledge to you that the Board will discuss  
22          the way in which to respond to our inability to muster a  
23          quorum today, and we have one solution here and another  
24          solution that Danny presented, and we will try to present,  
25          as soon as we can, some additional means to deal with a --

1 really a problem.

2 So I want to thank you personally on behalf of  
3 the entire board for coming, because we cannot conduct  
4 business.

5 Janet? I'll entertain any member comment that  
6 anyone wants to make, and I'll recognize anyone.

7 Gary?

8 MR. GARY GEORGEFF: Thank you,  
9 Mr. President. Gary Georgeff, elected delegate, out of  
10 state, residing in British Columbia.

11 I have a suggestion here. Can't be a motion,  
12 can't have any binding effect, but in light of what's  
13 happened, we do have two resolutions, and I'm going to  
14 make the suggestion that we salvage some of this time.  
15 Collectively, I don't know how many thousands of dollars  
16 of attorney time we have here at this moment, but could we  
17 salvage it and discuss the Board of Governors' resolution  
18 on designating alternate delegates for ex officio members?  
19 And we can discuss Mr. Lang's resolution?

20 And that the intent would be that after that  
21 discussion, some members of the House of Delegates may  
22 themselves present a petition to the Board of Governors  
23 for one or either of these, or perhaps for a membership  
24 vote.

25 Mr. Browning -- my experience is with membership

1 petitions, as you know. Mr. Browning reminded me that --  
2 I think the House of Delegates can do that too. We can't  
3 do it here, but if we can get enough members together, we  
4 can submit something to the Board. It wouldn't take very  
5 long if we just limit the discussion to those two  
6 resolutions. So, that's my suggestion.

7 PRESIDENT YUGLER: Thank you, Gary.

8 MR. ROBERT LeCHEVALLIER: Rob LeChevallier,  
9 elected delegate from Region 6.

10 I think also it would be helpful to find out,  
11 maybe by voting, to find out how many elected delegates  
12 are here versus nonelected delegates, just to determine  
13 whether we have -- whether we have a majority of the  
14 elected delegates.

15 PRESIDENT YUGLER: I think we -- well, we  
16 can proceed in that fashion. I am not opposed to having a  
17 general discussion, but the difficulty is that without a  
18 quorum, then it is nothing other than a general  
19 discussion. If people wanted to, for a test vote, to  
20 push -- maybe we can bring up a test question, Jared: 1/A  
21 if you are elected and 1/B if you are ex officio. Maybe  
22 we can do that and just satisfy curiosity. I know we can  
23 figure it out in the back. This might be a quick way to  
24 answer that question.

25 We're going to have -- press one for if you are

1 elected, and press two if you're ex officio.

2 Tell me when you got that on there, Jared.

3 I can't hear you, Jared. Okay. "Sort of" is  
4 close enough.

5 All right. So we're going to use this as a test  
6 question, and the question is not to vote to suspend the  
7 rules. The question I'm going to present is that if you  
8 are an elected member of the House of Delegates, please  
9 press one; and if you are an ex officio member of the  
10 House of Delegates, please press two; and if you don't  
11 know if you're ex officio or elected member, press three,  
12 because you don't even know why you're here.

13 (Laughter.)

14 PRESIDENT YUGLER: Okay. When I say  
15 "three," everyone push their button, and let's see what we  
16 got here.

17 Okay. So in answer to Rob's question, there are  
18 82 elected members here out of -- I think there are about  
19 110, and there are 25 ex officio members here, and I'm  
20 guessing at least 15 or 16 are members of the Board of  
21 Governors. And there's one abstain.

22 (Laughter.)

23 PRESIDENT YUGLER: But we do have 108  
24 responses, which shows you we are two short of a quorum,  
25 because we need 110 for a quorum.

1 Gary, why don't I do this: You know, people  
2 have come a long way, and I do not want to waste anybody's  
3 time. I think there are two guideposts on here as  
4 potential solutions, and I do agree that it may be worth  
5 discussing, and maybe as just an advisory vote to the  
6 Board, the two resolutions pertaining to the House of  
7 Delegates governance. So I'll ask you to --

8 UNIDENTIFIED SPEAKER: Rick, can I just ask  
9 a question that I don't know the answer to.

10 PRESIDENT YUGLER: Yes, Janet.

11 UNIDENTIFIED SPEAKER: Since we do not have  
12 a quorum, do we not meet or do anything for another year?

13 PRESIDENT YUGLER: No. We can call a  
14 special meeting. And I'm going to discuss with the Board  
15 of Governors, number one, whether to call a special  
16 meeting. If so, when and where; and two, whether the  
17 preference is to wait or not.

18 So, Teresa?

19 MS. TERESA WENZEL: Please remember to  
20 return your voting devices. 75 bucks for anybody who does  
21 not. Thank you.

22 PRESIDENT YUGLER: Yes, when we're done.

23 Okay. Why don't I do this: Since we are not --  
24 don't have a quorum, we can't conduct business, I want to  
25 provide a few minutes for people who would want to speak

1 in favor of the Board of Governors resolution number  
2 three, which is item number ten on your --

3 UNIDENTIFIED SPEAKER: Can I just ask one  
4 question?

5 PRESIDENT YUGLER: Yes.

6 UNIDENTIFIED SPEAKER: Can we get the exact  
7 number of ex officio who actually could be here and the  
8 exact number of elected delegates so we know, since we're  
9 discussing specifically allowing ex officio and there are  
10 25 here, it would be nice to know how many there actually  
11 are.

12 PRESIDENT YUGLER: We can give you an exact  
13 number, but there are approximately 50-50, Janet.

14 UNIDENTIFIED SPEAKER: I'm Mary.

15 PRESIDENT YUGLER: Mary. I'm sorry. All  
16 right. There are approximately 110 ex officio members and  
17 approximately 110 elected delegates. But we'll get you  
18 the exact numbers.

19 I don't want to, by the way, hold people,  
20 because we are officially going to adjourn the meeting, so  
21 I don't want to hold you if you want to go. But if you do  
22 go, please drop your voting thing off.

23 But maybe I can do this: As to item number ten  
24 on the agenda, who believe that we ought to have  
25 designees -- maybe, Jared, if you could bring up that

1 question -- who believe that we ought to allow ex officio  
2 members have a designee. Get that one up there. It would  
3 be number nine.

4 Okay. Why don't we do this. This is just an  
5 advisory vote for us, and the resolution that's described  
6 in your packet, we're not going to take time to debate  
7 this because this is just an advisory vote, and we're not  
8 conducting business. But those who believe that it would  
9 be advisable to allow ex officio members to appoint a  
10 delegate in their stead, press one. And if you're opposed  
11 and think that ex officio members ought not be able to --  
12 or we ought not change it so that ex officio members can  
13 have a designee in their absence, press two. And if you  
14 really don't know, press three.

15 (Vote taken.)

16 PRESIDENT YUGLER: I know some folks left.  
17 That's fine.

18 So that's good news. All right.

19 Now, let's consider Danny's resolution. Danny,  
20 why don't I just give you a minute to describe your  
21 resolution. And again, I'm not going to ask for any  
22 debate. This is the resolution item number 16 on the  
23 agenda, delegate resolution number five. Why don't you  
24 describe it.

25 MR. DANNY LANG: Thank you, Mr. President.

1           Fellow delegates, members of the Board of  
2   Governors, I appreciate this opportunity to try to salvage  
3   a little bit from our meeting today. I saw this -- I had  
4   a concern for this going back a couple of years ago, and  
5   so I authored a measure which is in the -- in the list  
6   here, and I thought the best way to do it would simply  
7   have its item -- agenda item 16, House of Delegates  
8   resolution No. 5.

9           And the concept is that we would use the 110  
10   elected delegates as the base, if you will, and 50 percent  
11   of those plus one could constitute a quorum. Had this  
12   been previously adopted, if this was our rule, we'd be  
13   proceeding right now, because we had 82 elected delegates  
14   electronically indicate they were present here. In fact,  
15   I think we got to 108, because we could count. Under my  
16   proposal, you'd also count those ex officios that are  
17   present, and for a minimum you would look towards the  
18   elected delegates.

19           This is the House of Delegates, and so I think  
20   there's nothing impure and there's nothing surreptitious  
21   and no secret agenda here. We'd just simply have 50  
22   percent plus one..

23           Now, I'm going to suggest that one of the  
24   problems that led to this today is somewhat of a lack of  
25   communication and cross-pollinization, and so I did have



1 another item which was that we have an executive  
2 committee, maybe a presiding delegate from each region  
3 that could have gone around and made sure that those  
4 delegates that are absent knew the meeting was on,  
5 reminder, and just keep the interest, keep things going so  
6 we have maybe some carpooling: It wouldn't have taken  
7 much. I think if we had had an executive committee, we  
8 would have had two or three more people here today.

9 So I'm going to ask you to pass my resolution.  
10 I don't see this as an alternative to the Bar -- or the  
11 Board of Governors' resolution. I like them both. So,  
12 that's it from a delegate. Thank you, from the region.

13 PRESIDENT YUGLER: Okay. As I said, I'm  
14 not going to really have a debate on this as an advisory.  
15 I do want Tim Gerking on the Board to discuss with you --  
16 or summarize for you the Board's discussion about this  
17 resolution, and then again we'll just ask for an advisory  
18 vote here.

19 MR. TIMOTHY GERKING: Good morning. I'm a  
20 fourth year member of the Board of Governors, and I'm  
21 chair of the policy and governance committee that I'm  
22 pleased to be a part of for the last two years. And I  
23 will say this: That over that period of time, the Board  
24 has carefully considered this problem of obtaining a  
25 quorum at your annual meeting, and we have been attempting

1 to address that problem.

2 Last year we passed the mileage reimbursement,  
3 which we thought would be an incentive for the HOD members  
4 to come to their annual meeting. This year we had this  
5 resolution that's already been discussed and approved by  
6 you, even though it doesn't count, and we thought that  
7 that would be helpful.

8 We're also studying other possible means of  
9 attracting a quorum. One was to have a semiannual meeting  
10 of the House of Delegates that would perhaps be scheduled  
11 in the springtime at the Bar center, probably, in order to  
12 develop some collaboration and communication between the  
13 HOD and the Board of Governors, and to perhaps develop and  
14 instill some energy in this whole process.

15 Another possibility would be to simply have all  
16 of our House of Delegates meetings take place in a more  
17 centralized location, not geographically, but maybe  
18 centralized for the majority of the HOD members, which  
19 would be at the Bar center in Tigard. Those are -- those  
20 are possible solutions that we're still working on, but  
21 this solution that Danny has suggested we don't think is  
22 appropriate.

23 I mean, we have a membership of 16,000 members,  
24 and to conduct business with only 50 is really -- is  
25 really not representative and just dilutes the whole

1 process of the way we conduct business as a Bar. And I  
2 would echo the comments that Rick made previously, that  
3 the solution that Danny has developed -- which is a good  
4 effort by Danny, and we appreciate it -- but it's just not  
5 the right way to solve this problem.

6 PRESIDENT YUGLER: Thank you.

7 Okay. Now, again, just for the enjoyment of the  
8 Board of Governors -- not that we -- if you are in favor  
9 of Danny's resolution, press one; if you are opposed,  
10 press two; if you don't know or want to abstain, press  
11 three. And trust me when I say we -- the Board of  
12 Governors takes to heart everything that this body does.  
13 So, think carefully and press your button.

14 (Vote taken.)

15 PRESIDENT YUGLER: Okay. With that, I want  
16 to pledge to you again that the Board will discuss, meet,  
17 and propose some additional solutions. With that, I want  
18 to thank you again for making the effort, for coming, and  
19 adjourn this meeting.

20 (The meeting was adjourned at 11:25 a.m.,  
21 after which proceedings continued on  
22 Friday, November 7, 2008, at 1:30 p.m., at  
23 the Oregon State Bar, Tigard, Oregon, as  
24 follows:)

25

1                   PRESIDENT YUGLER: I'm informed that we  
2     have a quorum, so I'm going to call the meeting to order.  
3     I'm Rick Yugler, President of the Oregon State Bar for 41  
4     days. And I want to thank you all for attending, and to  
5     108 of you, thank you all for attending again.

6                   I want to welcome some folks. First, I just  
7     want to make a few announcements before we start. I just,  
8     once again, want to recognize our executive director,  
9     Karen Garst, who's on the final leg of 13 years with us.

10                   (Applause.)

11                   PRESIDENT YUGLER: And I want to introduce  
12     Karen's successor, Teresa Schmid, who's --

13                   (Applause.)

14                   PRESIDENT YUGLER: I hope everybody gets an  
15     opportunity to spend some time with Teresa, introduce  
16     yourselves, and I'm sure over the course of the next few  
17     months and years we'll get ample opportunity to meet  
18     Teresa. She's great. Welcome to the Oregon State Bar.

19                   And I also want to thank Gretia Capri and Robin  
20     Nodland of the Oregon Court Reporters Association for  
21     being with us once again.

22                   (Applause.)

23                   PRESIDENT YUGLER: A few reminders. In  
24     your packet you have a mileage expense reimbursement form  
25     in yellow. You have 30 days to present that if you want.

1 your mileage reimbursed.

2 And I wanted to just briefly go through a few of  
3 the procedures that are on your green sheet, which is the  
4 parliamentary procedure that we're going to be using. I  
5 want to remind you that only HOD members may invoke the  
6 HOD rules or parliamentary rules and vote, but any member  
7 of the Oregon State Bar can speak pro or con.

8 When speaking, therefore, please identify your  
9 name, the city you come from, and the HOD region, if  
10 you're an elected delegate, or ex officio delegate, just  
11 state that you're a HOD member. Proponents will have five  
12 minutes to present their resolution, and there will be  
13 three minutes for each speaker, pro and con, after that,  
14 and one minute for the presenter to close.

15 Proposed amendments must be presented in  
16 writing, as well as any new items that may be added to the  
17 agenda once we finalize the agenda. There's a pink form  
18 if you want to add something. It needs to be in writing,  
19 and that's there for your convenience.

20 And a reminder: In moving to close debate,  
21 which is often called "calling for the question," it does  
22 require a delegate to make a proper motion and to be  
23 seconded. It's not debatable and will require two-thirds  
24 vote to close debate before we can move to a main motion.

25 Now, we do have the fancy electronic voting

1 system. So, everyone, if you have one of these, please  
2 take it out because we're going to have a test question  
3 and see if these things work. The instructions are in  
4 your packet, but the main thing you need to know about  
5 this handy-dandy electronic voting system is you may not  
6 leave with these things in your pocket. We know who you  
7 are because everyone who picked one up has a number  
8 attached to his or her name, and if we don't get it back,  
9 there's a \$75 charge. So please make sure to return these  
10 when you leave.

11 Secondly, each vote will be entered into an  
12 electronic database that can be viewed, as needed, for  
13 verification. And the buttons are really pretty simple.  
14 It's worked out pretty well. Use 1/A for yes, 2/B for no,  
15 and 3/C for abstaining. The other buttons will not  
16 register your vote.

17 But remember, the last button you press will  
18 register your vote. So if at first you make a mistake and  
19 you press yes, before I say, "The votes are going to be  
20 tallied," you can press no, because the last button you  
21 press before the votes are tallied is the one that's going  
22 to count. So even if you press the same number, if you  
23 press 1/A three, four, or five times, because you're  
24 worried about it being registered, it's only going to  
25 register that. The last button you press is the one

1 that's going to count.

2 When the votes have been recorded, you'll see a  
3 green light on your device. After you've pressed your  
4 button, if it flashes orange in your little hand, then it  
5 means that your vote was not recorded and you need to  
6 press it again.

7 So we're going to have a test question, and I'm  
8 going to ask you to press 1/A if you think that we will  
9 get through our agenda in under 60 minutes, press 2/B if  
10 you think it will take 90 minutes, and 3/C if you think  
11 we're going to be here for two hours. So please record  
12 your votes.

13 (Vote taken.)

14 PRESIDENT YUGLER: Oh, don't vote yet. I'm  
15 sorry. I have to follow instructions.

16 Okay. Here we go. Number one: Chocolate,  
17 vanilla, or both. So question -- so 1/A if you think  
18 we're going to be here in under an hour, 2/B if you think  
19 90 minutes, and 3/C if you think two hours. So let's  
20 record our votes.

21 UNIDENTIFIED SPEAKER: How many times can  
22 you vote?

23 PRESIDENT YUGLER: You can only vote once.  
24 It's the last time you press.

25 UNIDENTIFIED SPEAKER: Is it really

1 chocolate, vanilla, or both?

2 PRESIDENT YUGLER: Well, it's the test  
3 question. As you can see, we have 125 responses, so we do  
4 have a quorum. No doubt about that.

5 All right. So anyone who hasn't pressed their  
6 button, now's your last opportunity, and we can now close  
7 that question and see what the result is.

8 Oh, my gosh. All right. Well, we're evenly  
9 divided. I'm not sure if that's a good sign or a bad  
10 sign, but we're going to find out.

11 All right. Now, the first order of business  
12 that we did not get to when we last met was to finalize  
13 the agenda, to adopt a final meeting agenda. And  
14 everybody has in their packet, of course, the agenda that  
15 was printed and timely delivered to everybody.

16 And just to summarize the agenda, there are  
17 eight items -- items number eight through 19. Board of  
18 Governors resolutions are items number one through four --  
19 excuse me. They're on there as items eight, nine, ten,  
20 and 11. But those will be Board of Governors resolutions  
21 number one through four. That's followed by eight  
22 different resolutions from delegates from the House, and  
23 item number 20 was excluded.

24 And the reason item number 20 was excluded, I  
25 would like to explain, is because BOG bylaw 3.4 permits



1 the Board of Governors to exclude any items outside of the  
2 limitations set forth in Keller v. State of California,  
3 and House of Delegates rule 5.6 provides that any excluded  
4 item may be added back only by overriding the vote of the  
5 Board of Governors.

6 So at this time we have an agenda, with items  
7 number eight through 19, and we have excluded item number  
8 20, and I am asking at this time whether we'll have a  
9 motion for adoption of the agenda or to add or delete  
10 items from the agenda.

11 MS. MICHELLE ING: Mr. Yugler.

12 PRESIDENT YUGLER: Yes, Ms. Ing, I'll  
13 recognize you.

14 MS. MICHELLE ING: Michelle Ing from Salem,  
15 elected delegate from Region 6.

16 I move to suspend the rules. I have an agenda  
17 item to add. It is -- the item I want to add does not --  
18 does not prejudice the body. It is a topic that came up  
19 at our Futures Conference regarding out-of-state attorneys  
20 practicing in Oregon without a license through -- through  
21 openings in the arbitration rules. And I think that this  
22 body should consider that additional agenda item, and I  
23 request that this -- I request for a suspension of the  
24 rules, sir.

25 PRESIDENT YUGLER: All right. A motion to

1 suspend the rules to add an item that was not submitted  
2 within the 45-day time frame for submitting motions  
3 requires a two-thirds vote and is nondebatable. So at  
4 this time do you have a second for your motion?

5 MR. DANNY LANG: I will second.

6 PRESIDENT YUGLER: Mr. Lang has seconded  
7 your motion.

8 All right. So the first item to vote on is --  
9 well, actually, the item is going to require suspension of  
10 the rules to add this to the agenda. So, nondebatable.

11 MS. MICHELLE ING: I move to suspend the  
12 rules, sir.

13 PRESIDENT YUGLER: Done that.

14 MS. MICHELLE ING: Okay. And nondebatable.

15 PRESIDENT YUGLER: It's been seconded. So  
16 all in favor of suspending the rules to add Ms. Ing's  
17 agenda item, and after which, if this does pass, then she  
18 can present her motion to actually add it to the agenda  
19 and actually describe the motion. But in favor of  
20 suspending the rules, in favor of her presenting her  
21 motion to suspend, press 1/A if you're in favor, 1/B if  
22 you're against -- 2/B, excuse me -- 2/B if you're against,  
23 and 3/C if you wish to abstain. And do not vote yet. Now  
24 vote.

25 (Vote taken.)