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

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PRESIDENT YUGLER: I want to welcome everybody. I'm Rick Yugler, 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
operate these nifty devices, but I want to remind everybody that because we know your name and we know which device we gave you, that if it's not returned, there will be a charge of $75. So, please, do not forget to return your electronic voting card on your way out. That's important.

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

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

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

UNIDENTIFIED SPEAKER: What time is that?

PRESIDENT YUGLER: 12:30. So all who believe that we will adjourn in time for the Ducks game,
please push 1/A; if you think we will not, push 1/B (sic); and if you want to abstain because you have a tee time like myself, push 3/C. So push your buttons. Let's see if we get a vote.

Jared?

MR. JARED GOSSEN: 96 responses so far.


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

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

Jim, take a minute.

MR. JAMES WESTWOOD: Thanks, Rick.

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

A parliamentarian is doing his or her job when everything just goes smoothly and you don't need me. So I hope that will be the case today. As it goes along, I hope it's sort of like in Japanese theater, when they have puppets, and people dressed in black and you see the
puppets. I'm not missed or anything. I hope I disappear
from your view.

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

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

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

Rick?

PRESIDENT YUGLER: Thank you, Jim.

Part of my responsibility as the President of
the Bar and the Bar Act of the procedures of the House of
Delegates is to present a report to you of the proceedings
of the Board of Directors since our the last meeting.

I've been very proud to serve as your President, and you
should be very proud of the members of the Oregon State Bar, which is a very forward-thinking and deliberative body and remains one of the few self-governing professions.

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

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

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

The building, which I hope you've all had a chance to visit, allowed us to bring back the Professional Liability Fund, their operations into our facility, and to make sure that in the future we won't have to splinter off other Bar operations, such as discipline, CLE or member
services or admissions. We're going to remain in one	house together, as one Bar, we hope for the next 20 years.
The facility was built by Opus Northwest.
Originally we leased it from Opus with a lease-purchase
option. We exercised that option. In fact, this week
we're closing the purchase of the building. So we will
take title to the building in the next few days.

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

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

(Appplause.)

PRESIDENT YUGLER: Another major focus for
the Bar this year has been conducting a national search
for a new executive director. Karen Garst has been our
executive director for the past 13 years. We love Karen.
She's been a great executive director. She's served us very well over 13 years, and she announced her retirement effective December 31, 2008. I think Karen deserves a round of applause.

(Appause.)

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

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

I am also pleased to report that we will not be having an increase in OSB membership fees for 2009. We don't expect an increase in membership fees for your Bar
dues for 2010. In fact, you may have realized this:

We're on a dues cycle about every four or five years. So we expect maybe in 2010 to be asking for an increase and 2011 for Bar operations. I want to emphasize that because, again, the Bar facility, there is no dues increase because of that.

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

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

This was the result of a compromise. This compromise arose because of matters that came before the House of Delegates and went on to be the subject of a vote through a membership petition presented by Gary George.

And I want to thank Gary George and members of the
diversity section for working so hard this year to reach a compromise on this issue. And we hope that Bar membership will appreciate that this is the result of a compromise. The court has approved those rules.

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

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

I'm pleased to report that the assessments for 2009 for the Professional Liability Fund will remain at $3,200 per active lawyer, just as it was last year. The PLF's healthy, and despite a loss from investment returns this past year and an increase in claims frequency, it is
reported to us that the reserves of the PLF continue to
grow. They now stand at 4.6 million, towards a goal of
9 million.

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

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

Also on admissions, this year Albert Menashe
chaired an admissions task force, looking at whether there
ought to be changes in the Bar exam. Those
recommendations are before the Board of Governors. It
might surprise you to learn that we admit each year
between 800 and 1,000 new lawyers and that almost 50
percent of the active members of the Oregon State Bar have
been less -- in practice less than ten years.
Youth is coming, and the Bar is well prepared to
meet the challenges, the generational challenges, we hear
so much about.
Our Bar is also unique in that we're part of a
five-state reciprocity compact between Washington, Idaho,
Utah, Oregon, and Alaska. This year we added Alaska, and
I think we're at the forefront of the idea that borders to
practice are coming down. We should be proud of that.
This year at the Bar we've hosted many open
houses. We've hosted a Rule of Law Conference. We --
this week, here in Bend, President-Elect Gerry Gaydos
hosted a Futures Conference, which was brought together to
bring together Bar leaders and members from across the
state to discuss the challenges for the future of our
profession and to help us prioritize those over the next
ten years.
We hosted ABA President Bill Newcomb. We
created an advisory board of OSB past presidents. There
have been numerous events. I've met with almost every
local bar, bar officers, traveled the state this year.
Been blessed to attend many specialty bars' events, OWLS,
OMLA, OTLA, and this year made an effort to meet with as
many tribal courts as we can. We've been able to meet
with three or four tribal courts this year, and I hope
before the end of the year to add tribal courts to our
network of connections, because we do have a shared
interest and concern for the practice of law.

Two years ago the House of Delegates approved a
renewal of a $30-per-member assessment. This year we had
a successful OIL0 program, and this year with the help of
the diversity section, the affirmative action committee,
and minority bars, we hired Frank Garcia as our diversity
program administrator.

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

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

I'm pleased that the Bar worked with the
Campaign Against One-Sided Measures, and neither of those
measures qualified for the ballot. So we will not face
those challenges this year.

   (Applause.)

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

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

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

We need to make sure that the court, the Bar,
and the public are prepared to move forward into the
future. ECourts is part of that, adequate salaries is
part of that, and I think the Bar is at the forefront of
being a full partner with the Bench and making sure that
our profession is as prepared as possible for the future.

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

Thank you very much.

(Applause.)

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

HON. DAVID BREWER: Good morning. I bring
you greetings from the Chief, who would, frankly, give
anything to be here with this group today. He asked me to
pass on to you his strong belief that the partnership with
the Oregon State Bar is the most important relationship
that our Oregon judicial branch has, with any of its
external stakeholders.
He is at Willamette University this morning in meetings that include Ruth Bader Ginsburg, and so he had planned to do that for some time and can't join you and has asked me to be here with you today. And I'm very honored to be here.

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

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

Yesterday I had the privilege of passing on my own personal view of some of the challenges we face, the opportunities we face as a branch in the future, and the four things I talked about -- I'm not going to repeat them.
today, because I want to talk from the Chief's perspective today -- involve technology, workload challenges, performance measurement, especially judicial accountability, a piece of that, and the crucial legacy that the courts have to deliver fair and impartial justice.

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

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

I'd like to focus on several key partnerships -- Rick alluded to a couple of them; I'll be brief -- between the Bench and the Bar that are critical to our progress in the coming years. The first, as Rick alluded to, is technology. You've heard about the eCourt project that the Chief is rolling out. It's the most ambitious single
project that the Oregon Judicial Department has engaged in
I think in its history, in terms of both its scope of the
action plan, frankly, and the budget that's involved too.
And we have a history in our public sector, in
Oregon and across the nation, of not doing these projects
well. And one of the things that we're bound and
determined to do is not to repeat some of the mistakes
reflected in that history, but go forward very, very
purposefully.
We've got a five-year plan to build a statewide
courthouse that's accessible to all. We call it eCourt,
and it's a web-based courthouse. It will be the one place
where the public can conduct its business with any court
throughout the state 24/7, from throughout the world,
through the use of the web. Much of the groundwork for
this plan was laid last year, and I just want to mention a
couple of the initiatives.
First is the web portal. This is the door that
will provide a common and consistent electronic access
point to all of the state's Circuit Courts. Not to make
them all plain vanilla, but, again, to have the same look
and feel and basic information protocols that are being
shared around the state.
We'll add new service deliveries to the portal
over the next several years. These will enable our court
users to file documents electronically, pay fees and fines over the Internet, and have online access to case information and public records. They'll be made possible by using electronic content management, e-filing systems.

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

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

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

Rick mentioned to you we've got a policy law and standards committee. One of the biggest challenges in the
electronic court protocol is maintaining confidentiality, having the right walls of access for information. The law policy and standards committee will be working with the Bar very, very closely to ensure that Oregon laws and our policies and branch support the move to paperless and electronic court environment.

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

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

Public officials compensation. You heard what Rick said. I had the privilege of participating in the process that led to the report that just came out, and it is public. The commission itself is recommending that
judges in the branch receive the median salary of the 12 contiguous western states, which would be a substantial increase for our judges across the board.

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

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

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

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

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

And the most poignant example of how this
problem shapes up for you and for the public in Oregon is
a reminder I had, when I was getting ready as a trial
judge to try a really exciting, complex civil case about
ten years ago in Lane County. Let me tell you what
happened.

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

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

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

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

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

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

Those of us who tried a bunch of jury trials
earlier in our careers understand the zeal that you feel
for that part of the process. ADRs have been great. I've
been one of the earliest, strongest advocates for ADR, but
we've got to watch and make sure the pendulum doesn't
swing so far in that direction that people feel that they
can't get into court and try cases anymore.

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

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

The American College of Trial Lawyers -- there
may be some people on that team here today -- are looking
at three possible approaches and are thinking of drafting
Uniform Trial Court Rules that the Chief can look at that
would make some options available to make jury trials quicker and less expensive. One of them is a trial de novo project, kind of like a little bit of the old district court, where you go in and try something to a six-person jury real quick, and then you can get a trial de novo if you need it, on the theory that you probably wouldn't once the jury spoke.

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

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

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

I tried, as a judge and lawyer, hundreds of jury trials, and I can count on the fingers of one hand where
the jury went south. There's something magical about what they do, and we're at risk of losing that.

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

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

The demographic issues in our society in Oregon and around the country, both an aging society and population, increased non-English speakers in the courts and interpreter use, immigration, and a matter of bringing justice to all and respecting cultural diversity. Also, drug and alcoholic epidemics, specialty courts, court governments, caseload growth and complexity, and business
continuity, all of those factors are environmental factors that we're taking into account as we move forward with this strategic planning process.

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

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

Rick, I've taken more than my ten minutes. I apologize to all of you for that. Last thing I'll say to you is this: I was a little embarrassed yesterday when I came in because I'm kind of like Elmer Fudd, and I was underdressed. I said to my panel -- everybody was all
dressed up, and I looked like I just came in with my lunch bucket. But I knew when I came here before you today, if I didn't wear a coat and tie, somebody would tell Paul DeMuniz, and he would be very disappointed in me.

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

(Applause.)

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

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

I don't have anything else to offer,

Mr. President, unless there's something else you want me
to comment on.

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

(Laughter and applause.)

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

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

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

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

(Applause.)

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

I think this has happened once before, not with the House of Delegates format, but with the Town Hall. I
think Judy Henry was President, and that year, following
the failure of a quorum, there was a business meeting put
together in Portland to conduct the business of the Bar,
and if I remember, that was well-attended because of the
disappointment and I think -- I don't want to call it a
crisis, but I think embarrassment that occurred as a
result of the failure to muster a quorum.

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

Each year I've watched presidents struggle, hold
their breath to see whether or not there would be a
quorum, and presidents pray that no one would call a
question to see whether a quorum remained. I think that
the failure today to muster a quorum is an indication that
more work needs to be done to deal with our -- our
governance issue.
There is a resolution Danny had on the table that would have reduced the quorum to 50 percent of the, I think, elected members plus one. And, frankly, I'll speak for myself alone, and that is if we need to reduce a quorum down to 50 people or so, that says something. It says that we really need to reexamine the structure of the House.

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

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

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

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

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

Gary?

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

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

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

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

PRESIDENT YUGLER: Thank you, Gary.

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

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

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

We're going to have -- press one for if you are
elected, and press two if you're ex officio.

Tell me when you got that on there, Jared.

I can't hear you, Jared. Okay. "Sort of" is

close enough.

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

(Laughter.)

PRESIDENT YUGLER: Okay. When I say

"three," everyone push their button, and let's see what we
got here.

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

(Laughter.)

PRESIDENT YUGLER: But we do have 108
responses, which shows you we are two short of a quorum,
because we need 110 for a quorum.
Gary, why don't I do this: You know, people have come a long way, and I do not want to waste anybody's time. I think there are two guideposts on here as potential solutions, and I do agree that it may be worth discussing, and maybe as just an advisory vote to the Board, the two resolutions pertaining to the House of Delegates governance. So I'll ask you to --

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

PRESIDENT YUGLER: Yes, Janet.

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

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

So, Teresa?

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

PRESIDENT YUGLER: Yes, when we're done. Okay. Why don't I do this: Since we are not -- don't have a quorum, we can't conduct business, I want to provide a few minutes for people who would want to speak
in favor of the Board of Governors resolution number
three, which is item number ten on your --

UNIDENTIFIED SPEAKER: Can I just ask one

question?

PRESIDENT YUGLER: Yes.

UNIDENTIFIED SPEAKER: Can we get the exact

number of ex officio who actually could be here and the

exact number of elected delegates so we know, since we're

discussing specifically allowing ex officio and there are

25 here, it would be nice to know how many there actually

are.

PRESIDENT YUGLER: We can give you an exact

number, but there are approximately 50-50, Janet.

UNIDENTIFIED SPEAKER: I'm Mary.

PRESIDENT YUGLER: Mary. I'm sorry. All

right. There are approximately 110 ex officio members and

approximately 110 elected delegates. But we'll get you

the exact numbers.

I don't want to, by the way, hold people,
because we are officially going to adjourn the meeting, so

I don't want to hold you if you want to go. But if you do

go, please drop your voting thing off.

But maybe I can do this: As to item number ten

on the agenda, who believe that we ought to have

designees -- maybe, Jared, if you could bring up that
question -- who believe that we ought to allow ex officio members have a designee. Get that one up there. It would be number nine.

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

(Vote taken.)

PRESIDENT YUGLER: I know some folks left.

That's fine.

So that's good news. All right.

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

MR. DANNY LANG: Thank you, Mr. President.
Fellow delegates, members of the Board of Governors, I appreciate this opportunity to try to salvage a little bit from our meeting today. I saw this -- I had a concern for this going back a couple of years ago, and so I authored a measure which is in the -- in the list here, and I thought the best way to do it would simply have its item -- agenda item 16, House of Delegates resolution No. 5.

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

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

Now, I'm going to suggest that one of the problems that led to this today is somewhat of a lack of communication and cross-pollination, and so I did have
another item which was that we have an executive
committee, maybe a presiding delegate from each region
that could have gone around and made sure that those
delegates that are absent knew the meeting was on,
reminder, and just keep the interest, keep things going so
we have maybe some carpooling: It wouldn't have taken
much. I think if we had had an executive committee, we
would have had two or three more people here today.

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

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

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

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

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

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

I mean, we have a membership of 15,000 members, and to conduct business with only 50 is really -- is really not representative and just dilutes the whole
process of the way we conduct business as a Bar. And I
would echo the comments that Rick made previously, that
the solution that Danny has developed -- which is a good
effort by Danny, and we appreciate it -- but it's just not
the right way to solve this problem.

PRESIDENT YUGLER: Thank you.

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

(Vote taken.)

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

(The meeting was adjourned at 11:25 a.m.,
after which proceedings continued on
Friday, November 7, 2008, at 1:30 p.m., at
the Oregon State Bar, Tigard, Oregon, as
follows:)}
PRESIDENT YUGLER: I'm informed that we have a quorum, so I'm going to call the meeting to order. I'm Rick Yugler, President of the Oregon State Bar for 41 days. And I want to thank you all for attending, and to 108 of you, thank you all for attending again.

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

(Applause.)

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

(Applause.)

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

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

(Applause.)

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

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

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

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

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

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

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

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

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

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

(Vote taken.)

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

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

UNIDENTIFIED SPEAKER: How many times can
you vote?

PRESIDENT YUGLER: You can only vote once.

It's the last time you press.

UNIDENTIFIED SPEAKER: Is it really
chocolate, vanilla, or both?

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

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

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

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

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

And the reason item number 20 was excluded, I would like to explain, is because BOG bylaw 3.4 permits
the Board of Governors to exclude any items outside of the
limitations set forth in Keller v. State of California,
and House of Delegates rule 5.6 provides that any excluded
item may be added back only by overriding the vote of the
Board of Governors.

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

MS. MICHELLE ING: Mr. Yugler.

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

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

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

PRESIDENT YUGLER: All right. A motion to
suspend the rules to add an item that was not submitted within the 45-day time frame for submitting motions requires a two-thirds vote and is nondebatable. So at this time do you have a second for your motion?

MR. DANNY LANG: I will second.

PRESIDENT YUGLER: Mr. Lang has seconded your motion.

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

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

PRESIDENT YUGLER: Done that.

MS. MICHELLE ING: Okay. And nondebatable.

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

(Vote taken.)
PRESIDENT YUGLER: Okay. Can we vote, Jared?

UNIDENTIFIED SPEAKER: Wait a second.

PRESIDENT YUGLER: Jared, can we vote on this? Oh, we're going to vote again.

UNIDENTIFIED SPEAKER: It's resetting.

PRESIDENT YUGLER: Okay. Okay. All right.

Vote now.

(Vote taken.)

PRESIDENT YUGLER: We have 123 responses.

All right. Let's tally the votes, because I don't vote unless there's a tie. And the results, 75. I say that is more than two-thirds, wouldn't you, Ms. -- no? 66.

What's two thirds -- oh, two-thirds of those present.

Okay.

UNIDENTIFIED SPEAKER: It would have to be 03.

PRESIDENT YUGLER: Motion fails. All right. Thankfully, someone can do math.

(Laughter.)

PRESIDENT YUGLER: All right. Now, let's turn to the first -- I do need a motion to adopt the agenda as otherwise printed.

MR. DENNIS KARNOEP: So moved.

PRESIDENT YUGLER: Mr. Karnopp has moved.
MR. GERRY GAYDOS: Seconded.

PRESIDENT YUGLER: And Mr. Gaydos has seconded.

All right. Again, nondebatable motion. All in favor of adopting and approving the final agenda, press yes -- number one for yes, number two for no.

(Vote taken.)

PRESIDENT YUGLER: Okay. All right. Let's see the total.

All right. That carries. Two people -- we have an agenda. Thank you very much, everybody.

The first item on the agenda that we have just approved is item number eight, in-memorian resolution, and the chair will recognize Mr. Gaydos.

MR. GERRY GAYDOS: If you haven't opened your packet, if you could, and look at this sheet, I ask you to look at that sheet as we do a little in memoriam.

I ask you to review those names, for we're not going to read each of them, and I want you to take a moment to slow down, to take a deep breath, to remember the members of the Bar and Bench, the lives and commitment of those who have passed during this last year.

This is a moment, although much too short, one that causes us, in addition to remembering, to reflect on what each contributed to our profession and to the Oregon
State Bar. This is the moment to celebrate the face that
each put on the rule of law. Each of those who have
passed made the rule of law a reality to their clients, to
their communities. Each brought honor to themselves and
their profession.

This is a moment to celebrate professionalism of
each, the statesmanship of each, and that sense that the
rule of law is important in our communities. Our Bar and
our state is far better for all those lives well lived. I
ask you to stand in a moment of silence and prayer.

(Pause.)

MR. GERRY GAYDOS: Thank you.

I ask you to reflect, as you leave today, on
what each of these individuals meant to their communities,
their partners, and their families. And when you return
to your busy lives, I ask you not to forget and to
remember to celebrate and to commit to assisting all those
who need legal services in their memory. Thank you.

PRESIDENT YUGLER: Was there a second to
Mr. Gaydos's resolution?

MR. STEPHEN PIUCCI: Second.

PRESIDENT YUGLER: Mr. Piucci.

I'm going to ask for unanimous consent to
Mr. Gaydos's resolution. Are there any objections?

Motion carries. Thank you, Mr. Gaydos.
The next item is item number nine, and this is to be presented by Mr. Tim Gerking. Tim?

MR. TIMOTHY GERKING: This is BOG resolution number two. The Board of Governors is asking the House of Delegates to approve resolution number two to allow for the continuous and uninterrupted provision of legal services in the event of a catastrophe or major disaster in Oregon, or in another jurisdiction, that impacts the provision of legal services.

This is in response to the disruption of legal services that occurred in the Gulf Coast -- or the Gulf region as a result of the hurricanes, and it's consistent with an ABA model court rule that was passed by the American Bar Association House of Delegates in 2007.

There are two situations where this might arise. One is a disaster that occurs in Oregon, where Oregon residents or displaced persons from another jurisdiction who come to Oregon are in need of legal services; and the second situation might occur if there's a disaster in another jurisdiction that causes the temporary displacement of lawyers from that jurisdiction to Oregon.

In the first situation, in the event of a disaster here in Oregon, it must -- the disaster must be an actually declared emergency by the governor's office. The lawyer who is seeking to practice here in Oregon must
do so on a temporary basis, and the services must be on a pro bono basis pursuant to an established pro bono program.

In the second situation, where we've got displaced lawyers coming to the state of Oregon, that must also be pursuant to a declaration of an emergency in the affected state. It must also be -- the provision of legal services must also be on a temporary basis, and that lawyer's practice must be limited to services that arise out of or are reasonably related to the services he or she provided in the affected jurisdiction.

So I would move that this resolution be adopted.

MS. THERESA WRIGHT: Second.

PRESIDENT YUGLER: Ms. Wright seconded it.

Want to speak further?

MR. TIMOTHY GERKING: No.

PRESIDENT YUGLER: All right. At this time Mr. Gerking's resolution, item number nine, Board of Governors resolution number two, is open to debate. If you want to speak pro or con, please step up to either of the microphones.

Don't see anyone who wants to -- see one member there.

MR. TIMOTHY ZIMMERMAN: Tim Zimmerman, region four, elected delegate. I move to close debate.
PRESIDENT YUGLER: Okay. There is no debate.

(Laughter.)

PRESIDENT YUGLER: So we will move to the question. And all in favor of Mr. Gerking's resolution -- if we have that up on the board, please -- press 1/A; all against, please press 2/B; and if you abstain, please press 3/C at this time.

(Vote taken.)

PRESIDENT YUGLER: All right. We have 120 -- more people are showing. Look at that. 129 people here, not including the chair. That's great. Okay. 131 people.

All right. So let's see the tally.

Motion passes 122 to six, with three abstentions. Thank you very much.

Mr. Gerking, you also have the floor for item number ten, Board of Governors resolution number three.

MR. TIMOTHY GERKING: We're asking the House of Delegates to approve Board of Governors resolution number three to amend House of Delegates rule of procedure 3.1. And this resolution is intended to make it easier to obtain a quorum for the annual HOD meeting.

In recent years, including this one, we've had some attendance problems with -- for our annual meeting,
and it's always been kind of dicey as to whether we actually achieve a quorum. And that's primarily because the folks who are members of the HOD in an ex officio status, namely, the section chairs and also the local county bar presidents, don't always come en masse.

In fact, of the five groups who are members of the -- who are members of the HOD -- and that would be the folks who are elected, the public members who come from each -- who are appointed and come from each BOG region, the members of the Board of Governors, and then the ex officio members, who are the section chairs and local bar presidents, those last two categories attend -- attend the least often.

So this rule change is hopefully -- well, the rule change is to allow section chairs and local county bar presidents to designate someone to appear in their -- appear in their place in the event they cannot be there, and we're hoping, by this rule change, we'll have increased participation from those ex officio members. So that's -- thank you.

MR. WARD GREENE: Second.

PRESIDENT YUGLER: Mr. Greene seconded the motion.

MR. PETER MOZENA: Before stating the question, I would like to ask Mr. Gerking if he would
agree to change his motion slightly, and instead of having
"or otherwise," which is somewhat vague, perhaps we can
give more direction to the local bars and the sections by
stating, instead of "or otherwise," strike "or otherwise"
and insert, "or by a resolution adopted by that
organization's governing board or committee."

Mr. Gerking, would you accept that as a
modification?

 MR. TIMOTHY GERKING: Could you state that
again?

 MR. PETER MOZENA: Yes. Strike the words
"or otherwise" and insert "or by a resolution adopted by
that organization's governing board or committee."

 PRESIDENT YUGLER: Well, this is an
amendment. You're moving to amend?

 MR. PETER MOZENA: Point of order. I
believe I have the right, under parliamentary procedure,
to ask the moving party if he will modify it, and if he
chooses to, it's totally up to Mr. Gerking if he will
proceed.

 MR. TIMOTHY GERKING: That will be fine.

 PRESIDENT YUGLER: Thank you.

 MR. WARD GREENE: I agree as well.

 PRESIDENT YUGLER: Yes. Could you write
down your
Okay. Ms. Garst, if you could hand me the amended resolution.

Okay. The amended motion, which both the proponent and seconder have accepted, is to change the resolution to read delegates -- an amendment to HOD rule procedure, 3.1, to state that: Delegates shall be selected as provided in the Bar Act and bylaws and policies of the State Bar. There shall be no alternate delegates except that a section or local bar association may designate an alternate delegate, provided the alternate delegate is a person duly authorized by the organization's bylaws, or by resolution adopted by that organization's governing board or committee.

Have I correctly stated the amendment?

Oh. "To act in the section chair's or bar president's stead." There we go.

All right. Now, those who want to speak pro or con, in favor of the resolution as amended.

MR. BRIAN THOMPSON: Brian Thompson, Lane County Bar Association President.

I don't know how much this rule might assist in Lane County. We just didn't get notice of this in time. Speaking of the bar presidents back, notice of these meetings was not given to the bar presidents -- I see heads nodding -- was not given to us in time to adjust our
schedules. I was at Cub Scouts. I was a Cub Scouts leader, I had to be there, could not get another party in that time, and that has been a recurring problem for the bar presidents that I have spoken to.

So I don't think this will fix the problem, because I couldn't call a meeting in time after it got done. That's my comment.

PRESIDENT YUGLER: Thank you.

Recognize someone from the pro microphone.

MR. JONATHAN LEVY: I'm Jonathan Levy, Portland. I'm the state chair of -- I support this. I could not attend the original meeting because of a family conflict. My section took this seriously. We voted to name an alternate, but then we learned that the rules of this body prohibited that person from appearing. Thanks.

MR. JOHN TYNER: John Tyner. There should be an "other" microphone. Oh, there it is.

PRESIDENT YUGLER: Tyner, you are recognized from the "other" microphone.

MR. JOHN TYNER: Is there another one here? Was it the intent of the author of this amendment to increase the flexibility for the associations? And the question I have: Would additional language limit the flexibility of the organizations, and would that be the general intent? Mr. Gerking?
MR. TIMOTHY GERKING: Well, I think the
intention of the resolution would be --

PRESIDENT YUGLER: Tim, I'll have you step
up there by the mic. Go to the pro microphone, I suppose.

MR. TIMOTHY GERKING: Where's the pro?

PRESIDENT YUGLER: Next one. One more
back.

MR. TIMOTHY GERKING: Well, I don't know.
I don't think the amendment would overly restrict the
intention of the -- the intent of the proposal. Provides a
little more definition for it, so that's why I would
support it.

MR. JOHN TYNER: I would move to eliminate
the new motion because I think it does limit the
flexibility of the organization. So as a con, I'd make
that motion.

UNIDENTIFIED SPEAKER: I second it.

PRESIDENT YUGLER: Okay. Well, now it's going to get confusing because the proponent and the
seconder has accepted the amendment. So this is a motion to amend.

MS. MARY OVERGAARD: It's a motion to amend
to restore the original language.

PRESIDENT YUGLER: That's correct. It's been seconded, and we can debate whether to amend to go
back to the original language.

All right. So that is the current motion, to delete the amendment and go back to the original language.

Anyone want to speak pro or con? Peter?

MR. PETER MOZENA: Well, "otherwise," the problem with the "or otherwise," it just gives no assistance at all to the sections or to the local bars.

All the alternate language that has been accepted by Mr. Gorking does is it gives — it give the opportunity for the local bars and the sections to know how to name that alternate.

If you leave the "or otherwise" in, what that does is perhaps would give an extra opportunity. The only extra opportunity it would give to the local bars and sections is to perhaps have the chair or the bar president appoint someone. Now, that might be some additional flexibility, but, you know, keeping with sort of a democratic model that you want the governing board or section to have, at least it is something that is agreed to by that governing board or committee.

It seems to me it's just a more democratic way to do it, to get an alternate in that is at least acceptable to that governing board or committee. And it gives some definition to the people on what that "or otherwise" means.
I think if you’re going to want some additional way of doing it, then you should say so. I think we live with vagueness as an enemy to the law, and I think removing the vagueness is a good thing in making it clear.

PRESIDENT YUGLER: All right. Thank you, Peter.

John?

MR. JOHN BACHOFNER: John Bachofner, elected delegate from out of state.

With respect to my colleague, I don't necessarily read it that way. I think the "or otherwise" relates to the previous -- previous language that they're duly authorized. If they're otherwise duly authorized, whether it's through the bylaws or some other format, then they're going to be authorized.

The change you've made limits it to two different options: Either the bylaws or by resolution. So the amendment that's proposed now would make greater flexibility for the organizations. So I'd support it for that reason.

MR. PETER GLAZER: I didn't intend to speak. I'm Peter Glazer, the President of Clackamas County Bar Association. This is my first and probably only HOD meeting ever.

Let me tell you what goes on in Clackamas
County. We don't have bylaws. We don't have a board. We have four officers, and they are self-perpetuating. They appoint or I have in the past appointed, and I was last year appointed by last year's president.

If you use "or otherwise," I agree with what John Bachofner said: You have the duly authorized qualifier, but if you use the amended language, we would not be able to appoint somebody.

PRESIDENT YUGLER: Peter, I'll recognize someone from the con microphone.

MR. TOM KRANOVICH: Tom Kranovich, elected delegate from region six, and winner of the Peter Glazer look-alike contest.

(Laughter.)

MR. TOM KRANOVICH: Also a past President of the Clackamas County Bar Association.

I really believe that we do need this limiting language so that rogue bar associations, like mine, follow some kind of process in getting delegates to this august body.

PRESIDENT YUGLER: All right. Thank you.

You guys just switched seats. How are we going to figure this one out?

Pro microphone.

MS. JOAN KELSEY: Joan Kelsey. I'm chair
of the real estate section and region four, and I live in
Tillamook.

I was very conflicted of the original date for
this meeting and waited until the last possible moment,
which was, in my mind, five days before the meeting, to
send in the -- my RSVP that I couldn't make it due to a
conflict. It would have been extremely useful for me to
be able to pick up the telephone, having been previously
authorized by my section in a meeting without a
resolution, especially if it was -- we normally don't
conduct things by resolution. It's motions. And we have
very specific minutes that track what goes on in those
meetings.

So, just as a clarification, a resolution is not
something I'm familiar with in the work that we do. It
would have been really -- very wonderful for me to be able
to pick up the telephone and simply appoint one of the
officers of the real estate section to appear in my stead,
and there were people who were willing to do that.
So I guess I would support the original
language, because I understand the "or otherwise" to allow
us to have an alternative to requiring a vote of the
entire section to amend the bylaws, because we might not
be able to do that in time, but to simply be able to
produce a delegate to participate in this meeting, if
that's the point of it. Thank you.

PRESIDENT YUGLER: Okay. Is there anyone else who wishes to speak pro or con to the present motion, which is to return to the original language of the resolution?

MR. FREDERIC CANN: Frederic Cann. I think it's region five, Multnomah County.

You know, we observe national politics and state politics and conventions, and one of the greatest -- one of the concerns from time to time is credentialing. Now, I realize this body here doesn't have that much power, but still, when we have contested matters, it probably is important that we have a clear credentialing process. And the "or otherwise," where a body -- member of a body can simply call up another member and appoint that member really creates serious credentialing problems.

PRESIDENT YUGLER: Okay. Thank you, Fred. Anyone else want to speak at a pro microphone?

Rob?

MR. ROBERT LeCHEVALLIER: Rob LeChevallier, elected delegate, region six.

I kind of agree with some other speakers, that I think we should know -- have some process, and if there's a problem of a last-minute appointment, you could always have a resolution in advance. At any time the chair
cannot attend, they can appoint another member of the board.

So you could authorize it by resolution in advance. Otherwise, how do you know who has authority to speak for the section or for the bar association? So it could be done in advance for a period of years, you know, a couple years, that whenever the chair can't attend, they can appoint someone. So I still -- I don't think you would be -- would be restricted from an appointment if your -- if your board agreed with that.

PRESIDENT YUGLER: Okay. Is there anyone else who'd like to speak pro or con?

All right. Not seeing anyone at the microphones, the present motion is to restore the original language. If you're in favor of that motion, please press 1/A; if you're opposed, please press 2/B; and if you wish to abstain, 3/C.

(Vote taken.)

PRESIDENT YUGLER: Okay. 131. Anyone hasn't voted? Last chance.

Let's see the tally. And the motion carries to restore the original language. All right.

So now we're back to the original language. In your book, which is found on page 5 of your book -- and I'm not going to state the original language because it's
printed and it's easy to find.

Now, all in -- anyone who wants to speak to the
original motion, as to the original language, please come
to the pro or con microphone. Mr. Greene?

MR. WARD GREENE: Thank you. I'm Ward
Green. I'm a member of the Board of Governors.
I just wanted speak in favor of it, because I
think the intent originally was each of these
organizations or sections would have a voice, and I think
really this clarifies what was intended originally, and
that is that if the President for some reason or the
section chair or the -- whoever it was who was designated
ex officio couldn't attend, that they would appoint
someone in their stead.

And again we're having trouble with attendance.
So it just seemed like a good idea, a good way to keep the
local bars involved and keep the sections involved.

PRESIDENT YUGLER: Mr. Greene.

Anyone else want to speak pro or con to the
original language, which is now before us as a main
motion?

All right. Not seeing anyone else, it is time
to vote. If you're in favor of the original resolution,
which is found on page 5, which is Board of Governors
resolution number three, please press 1/A if you're in
favor, 2/B if you're opposed, and 3/C if you desire to abstain.

More people. Okay.

(Vote taken.)

PRESIDENT YUGLER: All right. If you haven't pressed your button, last chance.

Let's see the tally, Jared. The motion carries 123 to one. Very good. Congratulations, everyone.

Next item of business is item number 11, and again the chair recognizes Mr. Gerking.

MR. TIMOTHY GerkING: I'm not sure why I'm having all the fun here. This is BOG resolution number four. We're asking the House of Delegates to approve this resolution to amend a rule of professional -- rule of professional conduct 1.6, subsection B, so it can be submitted to the Supreme Court for its approval.

1.6 is a rule providing that lawyers keep all client matters confidential unless the client provides informed consent. Subsection B currently contains six exceptions to that rule, and this resolution would create a seventh exception: For allowing a lawyer who is subject to a diversion agreement or is under probation or is subject to a conditional reinstatement or conditional admission to share client confidences with the Bar's monitoring or supervising attorney.
And we also have an amendment to that resolution that would make it clear that the supervising or the monitoring lawyer would have the same responsibilities to keep that information confidential as the client's lawyer has, except to provide information to -- except to carry out his or her obligations pursuant to that agreement that he or she is working under. So I think we first have to deal with the amendment.

PRESIDENT YUGLER: All right. The initial motion is for adoption of the amendment to RPC 1.6(b)(7), which is on page 6 of your materials. Is there a second?

MR. BRIAN THOMPSON: Second.

PRESIDENT YUGLER: Identify yourself, please.

MR. BRIAN THOMPSON: Brian Thompson, Lane County.

PRESIDENT YUGLER: Thank you, Mr. Thompson. And Mr. Gerking also moved to amend the resolution that's found on page 6 with language that should have been handed out and found in your packet. Ms. Stevens has it. And it contains the additional sentence, and I'll read it for our record. The amended language in subsection C would provide that: "A lawyer may reveal information relating to the representation of a client to the extent the lawyer reasonably believes
necessary: to comply with the terms of a diversion
agreement, probation, conditional reinstatement or
conditional admission pursuant to BR 2.10, BR 6.2, BR 8.7
or Rule for Admission Rule 6.15."

Here's the amended -- amending language to that:
"A lawyer serving as a monitor of another lawyer on
diversion, probation, conditional reinstatement or
conditional admission shall have the same responsibilities
as the monitored lawyer to preserve information relating
to the representation of the monitored lawyer's clients,
except to the extent reasonably necessary to carry out the
monitoring lawyer's responsibilities under the terms of
the diversion, probation, conditional reinstatement or
conditional admission and in any proceeding relating
thereto."

Mr. Gerking's second motion. Is there a second
to that?

MS. THERESA WRIGHT: Second.

PRESIDENT YUGLER: I'll recognize
Ms. Wright. Ms. Wright seconded it.

Now, is there anyone who wishes to speak pro or
con to this resolution? To the amendment?

All right. Hearing none, all in favor of the
amendment press 1; if you're opposed, press 2/B; if you're
going to abstain, press 3/C.
1 (Vote taken.)

2 PRESIDENT YUGLER: Still have 131 votes.

3 All right.

4 Let's see the tally, please. That carries.

5 Now, speaking to the main motion as amended, if

6 anyone desires to speak pro or con to the amendment to RPC

7 1.6(b)(7) as amended? I see none.

8 So if we can vote on the main resolution for

9 adoption of RPC 1.6(b)(7) as amended. Got a big stop sign

10 there.

11 Okay. You can vote at this time. Press one for

12 yes, two for no, and three if you wish to abstain.

13 (Vote taken.)

14 PRESIDENT YUGLER: Okay. There are 128

15 votes. There were three more. If you haven't voted,

16 please do so at this time.

17 All right. Let's see the tally. Passes 120 to

18 eight. Thank you very much.

19 The next item is item number 12, which is

20 delegate resolution number one, and I'll recognize

21 Mr. Lang. I'm going to have you present up here, and then

22 I'll take the podium. Okay?

23 MR. DANNY LANG: Okay. I think you left

24 your -- do I get to vote twice?

25 Mr. President, members of the Board of
Governors, fellow delegates, Danny Lang, elected region three delegate, former President of the Douglas County Bar Association.

This is a relatively simple policy matter. In view of our national -- excuse me -- our national interest in sustainability, and for those of you that have environmental concerns about carbon emissions, what this basically seeks to do is reduce or eliminate unnecessary travel, trips to the courthouse. It will reduce parking, clearing security, and travel on the highways. It also would be efficient for practicing attorneys to be able to know that they could make routine appearances via either videoconferencing or teleconferencing.

And I have actually been in some discussions with one of the committees. I think it was the UTCR committee, and I've been asked to write a proposed draft that would effectively -- UTCR 5.050, and 4.050 in the criminal cases.

So this is simply an idea that we start looking at ways to -- as lawyers to conserve energy, do our part in avoiding the balance-of-payments problems, the dependence on imported oil, and be simply also more efficient. The present president of the Douglas Bar Association, Randy Rubin, and I were discussing this, and he indicated that, gee, just even leaving his office and
going a mile or two over to the courthouse and parking and going in, when he could handle a routine motion at the option -- there would be rules set out.

No one's going to preclude -- this does not intend to preclude appearing or, in those cases where testimony or credibility must be judged. This is simply a policy matter saying that whenever possible, we need to ask that the Board of Delegates and the Bar consider the optional use of conferencing, of modern technology, to -- rather than having a required physical appearances.

We have some matters where people have -- I've actually had people travel all the way from San Diego, catch a flight, come into Eugene, rent a car, and then the matter is continued. So it would also be -- for those three-minute-type matters, it would certainly be appropriate, especially when you know a matter is going to be continued, rather than having to drive from Salem to Multnomah County Courthouse and so forth.

This is a policy matter, and I will say that it's been well debated. I was invited by the environmental and natural resources section after I submitted this agenda item, and they debated it, they had considerable hearing on it, and they voted to support this resolution.

So thank you, Mr. President. Thank you,
PRESIDENT YUGLER: Is there a second to Mr. Lang's motion?

MR. THOMAS CUTSFORTH: Second.

PRESIDENT YUGLER: Please identify yourself.

MR. THOMAS CUTSFORTH: Tom Cutsforth.

PRESIDENT YUGLER: Thank you, Mr. Cutsforth.

Anyone wishing to speak pro or con, the microphones are open. Mr. Cutsforth, the pro microphone.

MR. THOMAS CUTSFORTH: I'm Tom Cutsforth, region one, elected delegate.

This is a very important matter to us. It's 110 miles for our Circuit Court judge to come from Hood River to Fossil, Oregon. It's 90 miles to get to Condon, Oregon. I am the only civil attorney in the two counties and, therefore, any other attorney would have to travel at least that distance.

We also have the largest of the largest windmill productions in the state of Oregon, and probably in the western hemisphere. We have a thousand huge wind turbines. You ought to come see it. But anyway, I support sustainability, and this just makes good sense.

Thank you.
PRESIDENT YUGLER: Thank you.

Con microphone, please identify yourself.

MR. CHRISTOPHER LARSEN: Chris Larsen, elected delegate for region five. I'm also a Multnomah County pro item judge.

I never really thought that I'd be coming to the con microphone on this, but I would like for the membership to consider a couple things. The last two paragraphs of this, in terms of allowing the optional use of videoconferencing and telephonic appearances, even for large counties such as Multnomah County, this presents a huge issue in terms of costs and actually the ability to actually carry something like this out.

I am absolutely, 100 percent supportive of encouraging sustainability and would wonder if the proponent of this measure, Mr. Lang, would support striking the last two paragraphs and just having the members encourage the Board to recommend or implement policies and procedures intended to enhance sustainability, period, and give this some more thought.

I think this has a lot more ramifications, especially in the criminal context, where you have constitutional right to counsel to appear. It seems to me to be maybe moving too quickly with a general policy of supporting sustainability.
PRESIDENT YUGLER: Okay. Other speakers at the pro and con microphone?

MR. JOHN TYNER: I feel like apologizing. I came here to sleep through this meeting, frankly, instead of speaking twice, but --

PRESIDENT YUGLER: Please state your name.

MR. JOHN TYNER: John Tyner, district four.

In the criminal field you show up for a three-minute thing and wait two hours to do it, plus I travel a lot of areas around here. Almost all arraignments outside the metropolitan area, including Clackamas County, are done by videoconferencing from a jail. And Mr. Cutsforth and I tried a case out in Fossil some years ago, and I know exactly what it's like to drive 240 miles round trip for a ten-minute hearing.

But the point is: This is where we're going. We're seeing electronic filings in federal court, and some parts of the state are just inaccessible. I understand the problem Multnomah County has, but I think we're getting to the point where maybe driving shouldn't be the necessary first thing. And almost every part of my business, we have videoconferencing capacity in our conference room, and we do that quite often. I think the technology should be there. This is a nice push in the right direction. Anyone who litigates quite a lot
probably appreciates that.

In the criminal context, if in custody,
defendants are not required to actually be physically
present but can do it by videoconferencing. I think
there's less onerous ways of ensuring constitutional
protection that we can devise for attorneys.

PRESIDENT YUGLER: Thank you, Mr. Tyner.

Anyone else wish to speak pro or con?

Ms. Hoffman.

MR. JANET HOFFMAN: Thank you. I'm Janet
Hoffman from region five, an elected delegate.

I didn't think I was going to urge a con on
this, but Mr. Tyner raised some issues that I think are
really serious, and that is I've appeared at court
appearances or arraignments where it's been allowed for
counsel to appear by phone, but the client has to
physically appear in order to satisfy rules or orders by
the court to appear at arraignment, status conferences,
and other matters.

And I don't think there's anything more pathetic
than a client standing there all alone in front of a judge
and having the lawyer be on the telephone. And I don't
think we should move to assist that, encourage lawyers not
to stand side by side with their clients. So that if
we're going to get into a situation where you can appear
by phone, I think it needs to be thought through and it needs to be done where lawyers and clients are together in, for example, the lawyer's office and judges allow that, or where it doesn't apply to criminal cases.

So that I would urge that what we do is consider the matter, but not jump into it simply because it's politically correct.

PRESIDENT YUGLER: Okay. Someone at the pro microphone.

MR. ROBERT BERNARD: I'm Robert Bernard from region five. I'm an appointed member of the public. I'm mindful of the logistics matters that go into installing a -- an alternative means of representing your clients in court beyond physically being there. I've had to do this back in Colorado before we moved here. And I know the logistics behind doing that are severe, but I know it can be done, and I'm quite aware -- what this is saying, we're encouraging implementation of alternative means of representation in terms of being there on site. And I support this very much. It's a great use of our resources. It can occur, and the rules and parameters that will establish this in detail will allow us how to get this accomplished.

The one aspect that I'm uncomfortable with, as the member of the public who has implemented this type of
thing in another jurisdiction, is the limitation that says
25 miles from court. I'm reading that to say, as a
layman, you got to be 25 miles away or further.

It's removing it? Oh, it's removing it. Okay.

Thank you for clarifying it for me.

I encourage us to develop this positively,
because it does give us a chance to proceed ahead with
parameters to get this accomplished. Thank you.

PRESIDENT YUGLER: Tom.

MR. THOMAS CHRIST: I'm Tom Christ, an
elected delegate from Portland, Oregon. And like the
prior speaker, I'm a pro tem judge for 18 years hearing
motions, and I share the concerns of the prior speaker
that Multnomah County, at least, does not have the
technology to accommodate this sort of a rule change.

I sit in whatever courtroom is available, and so
I think in 18 years I've been in every one in Multnomah
County, and they do not have the means to accommodate
telephonic arguments, especially if there are more than
two parties to it. It just can't be done.

So to the extent that this resolution is calling
for a rule change that would make this mandatory I think
is a bad idea. If the intent of the resolution is simply
to encourage funding so that Multnomah County and other
counties can acquire the technology necessary for this,
that would be a good thing. But I'm concerned that the
resolution goes even farther than that, and I would oppose
it for that reason. Thank you.

PRESIDENT YUGLER: Mr. Christ, thank you.

Mr. Hinkle?

MR. CHARLES HINKLE: I'm Charlie Hinkle, an
elected delegate from region five in Portland.

This resolution calls upon this House to
encourage funding for optional use of videoconferencing
and expanding the optional telephone appearances by
counsel. There's nothing mandatory about it. This is a
step in the right direction. Those who are concerned
about the Multnomah County Courthouse should welcome this
because the courthouse is going to collapse in the next
earthquake, we're told.

(Laughter.)

MR. CHARLES HINKLE: And I, for one, would
much rather be sitting in front of a video camera in my --

(Laughter.)

MR. CHARLES HINKLE: -- in my office when
that happens. The other point that I'd like to make is
that there's nothing in this resolution that trumps the
constitution. The constitution takes precedence over
this, and anyone who is concerned about constitutional
rights of criminal defendants or anybody else should be --
be assured that nothing that this House does and nothing that any local judge does in terms of encouraging video conference -- conferencing will or can ever compromise the constitutional rights of criminal defendants or anyone else to appear personally in court.

Again, I stress that this is encouraging optional uses. Telephonic appearances, when I've had to appear in court in Astoria, it's been a wonderful, welcome relief not to drive down there, although I love Astoria. We all have to be more conscious I think of our use of natural resources, and this is a very, very modest step. And I encourage the House to support it.

PRESIDENT YUGLER: Thank you.

Anyone else who wishes to speak, who hasn't?

MR. THOMAS CHRIST: I'm still Tom Christ, and I'd like to respond to Charlie's comments. Option doesn't mean option of the court to provide it if requested. Option of the rule means that if you want to appear by telephone, you have a right to appear by telephone if you're more than 25 miles away. And Multnomah County, at least, can't accommodate that. Thank you.

PRESIDENT YUGLER: Anyone else wanting to speak pro or con? I'll give Mr. Lang one minute to wrap up. But there are no other speakers, so we'll close
debate, Mr. Lang.

MR. DANNY LANG: Thank you. I think the debate was appropriate, and again, echoing one of the last pro speakers, there's nothing intended here to limit anyone's right or limit appearing. It's simply on those routine matters that right now require two weeks' advance notice or request in notice to -- if you're more than -- and you can only do it if you're more than 25 miles away. I'm referring to the civil rule, and which I'm not changing. That would be done by committee, so on, as other people mentioned for implementation. This is just a policy matter.

But right now, basically if you're within 25 miles of a courthouse, even if you've talked to opposing counsel, you're going to go down there and set the matter over, you still have to physically appear. That seems pretty wasteful of your time, our time, billing our clients for that kind of time, and burning up the highways, tires, traffic safety, parking, congestion. And so for sustainability reasons, this is just -- as the last pro speaker mentioned, this is an optional, and it's encouraging funding for the future, recognizing if they don't have the equipment, they don't have it yet.

But let's encourage going modern. We just had a Futures Conference. This is in line with that. Thank you
very much, Mr. President.

PRESIDENT YUGLER: Thank you, Mr. Lang.

Now, at this time, to vote on Mr. Lang's resolution number one, House of Delegates resolution number one, to encourage sustainability, press 1/A if you're in favor, 2/B if you're opposed, or 3/C if you don't know or wish to abstain.

(Vote taken.)

PRESIDENT YUGLER: Still have 131 people voting. All right. If we can see the tally. That passes 109 to 25 to three. Thank you very much, Mr. Lang.

Just as a matter of procedure, I just want to point out that allowing Mr. Lang and any proponent to take the podium to present, and not out of any disrespect to Mr. Lang, but after he presents, I'm asking him to then speak from the floor just so I can run the meeting a little easier.

Mr. Lang, your next resolution?

MR. DANNY LANG: All right. Am I invited to use the podium again for my next one?

PRESIDENT YUGLER: Yes, you are.

MR. DANNY LANG: Okay. Danny Lang, region three, elected delegate.

Agenda item 13 suggests that it's time that the state bar, that we take a look at whether or not we're
going to be involved in certification of paralegal
programs; in other words, how people become legal
assistants, legal technicians, and paralegals in
particular, or if at present anyone can raise their hand
anywhere and say, "I'm a paralegal in Oregon," and say
that to a member of the public. And they can do that
because there is no certification of training programs --
in other words, as to what constitutes a certificated
paralegal -- and there are no ethical or background checks
required, and there is no competency certification.

For those of us who have had private practices,
we've all had hiring and staffing privileges in which
we've hired someone and about the second day realized that
when we asked them to get a proof of service, they asked
if it was Army or Navy, and we realized that we had a
problem, that this person may not be qualified as a true
paralegal as they said they were on the application.

Now, this isn't saying we should -- we, the
Oregon State Bar -- should regulate or delegate this
matter. It's just saying we need to study it. The legal
field, both the Washington State Bar and the Oregon State
Bar, have done studies that show that 80 percent of the
civil litigation needs remain unmet. They're going to be
met by somebody out there. They're being met by the TV
ads, Legal Zoom.
The paralegals themselves are well organized. There are representatives here today, I understand, in the audience from the Oregon Paralegal Association and from the Pacific Northwest Paralegal Association. They have contacted me about this motion.

Nationally, there is a very fine magazine -- I actually subscribe to it -- called Legal Assistant Today. And so we need to decide if we're going to be involved in assuring quality control with regard to these people working for us or, if they are going to be providing limited services, scrivener services, which is more in the nature of a legal technician.

So because the world is moving on, the Internet provides documents -- and I attended the Futures Conference. I have a fascinating packet here that was handed out as a vendor packet, offering offshore lawyering, yes, via satellite to India, at 90 percent cost savings -- that's 90 percent less than you're earning -- to offshore legal services.

Now, maybe if we're more efficient, we can charge lower rates to our corporate and business clients, our individual clients, and be more efficient and use paralegals that we know of are certified and properly trained by programs such as the one inaugurated at the Douglas County Umpqua Community College, which has a
two-year paralegal certification program.

At present, there's no ABA certification -- paragraph certification program approved in Oregon. That may be coming, but it's time, I think, that we take a look, one way or the other, as to whether or not we're going to want to affiliate with these various paralegal professional associations, whether or not we're going to want to have something to say about the content of what is a certified paralegal, and get involved with, when we hire people, knowing that they have a certain level of competency, so when we delegate functions to them, we're not malpracticing.

Also, it's my understanding, from information provided by these entities, that in some states, in some cases, judges will actually award attorney fees and will recognize in your billing for attorney fees paralegal services if they were certified paralegals. So it actually can be a revenue enhancer if you have certified people and if a judge says, "I want to know what they did on the case, and I want to know if they were really certified paralegals for competency."

When I go in a hospital or Rick goes in a hospital and we see somebody in a white coat, we assume that that person's an RN if it says "nurse," and, you know, it would be amazing if they weren't, and, you know,
they did a complete exam and you found out that they were
the janitor.

So I think it's time that we start looking at
who are these people, what's going on out there, and we
would have a better quality control to deliver to people
in Oregon, because when I say "paralegal," people -- I
think a lot of the public thinks, well, that must be part
of the Bar, or they're in your office, they're a
paralegal. So.

I think it's time that we have some sort of
study as to whether or not it's the Oregon State Bar gets
involved in this, or these other entities will go to the
legislature and set up their own licensing and their own
parallel bodies to the Oregon State Bar. I'm not
advocating one or the other; I'm just saying maybe we need
to study it at this time. Thank you. And I'll go to my
seat.

PRESIDENT YUGLER: Thank you. That's how
it's going to work.

All right. Mr. Lang's resolution is on page 7.
And is there someone to second Mr. Lang's resolution?

MR. THOMAS CUTSFORTH: I'll second it.

PRESIDENT YUGLER: Mr. Cutsforth.

All right. Okay. It's been seconded. And now
the pro and con microphones are open. Anyone wishes to
speak for or against Mr. Lang's resolution, now is the
time.

Mr. Dazer.

MR. NICHOLAS DAZER: Thank you, Nick
Dazer, elected region five delegate.

This just seems a little unnecessary to me. If
it's in terms of protecting the public from unqualified
staff at my law office, I bear responsibility ultimately
for everything that's done for that client. So, in terms
of protecting the public, I think that's already covered.
I choose who I hire and whether or not they stay. Well,
to some extent.

(Laughter.)

PRESIDENT YUGLER: Mr. Dazer is at
Bullivant House.

MR. NICHOLAS DAZER: Yes. Thank you.

There's a committee for that too.

But I think the historical perspective on the
other time that this was tried is particularly helpful,
because it was abandoned for lack of helpfulness, and I
just -- I think this is unnecessary, and we should vote
no.

PRESIDENT YUGLER: Thank you, Mr. Dazer.

MR. FREDERIC CANN: This is Mr. Cann,
Frederic Cann, region five.
I'm on the unlawful practice of law committee also. Paralegals unlawfully practicing law is a question that we address once a month. We meet once a month. There is a great need for more access to justice, and I am not necessarily in favor of certification of paralegals, but the issue certainly should be studied. It has been studied to great depth in Washington state. It is very controversial up there. The thing we should do is study it so that we have an answer so that we can say whether or not paralegals, whatever they are, have a role in the legal system in this state with clarity. So I'm in favor of the motion.

PRESIDENT YUGLER: Thank you, Mr. Carr.

Mary?

MS. MARY CRAWFORD: I'd like to talk pro, but I can't get to any microphone. So...

PRESIDENT YUGLER: We got you covered.

MS. MARY CRAWFORD: Oh, thank you.

My name is Mary Crawford. I'm the chair of the diversity committee, and I'd like to sort of look at this through a different frame of mind in terms of, if we study this and develop a relationship with the providers of the people that are going to be the pipeline for some people that have interest in the legal field, it might be a
potential pipeline for diversity within the legal
community and help us with people that are interested in
becoming lawyers and members of the Bar.

So I think establishing a relationship with the
people that provide the education could be a tool for us.
So I'm speaking for this proposal in -- in using it as a
tool, I think.

PRESIDENT YUGLER: Thank you, Mary.

Any other people want to speak pro, con?

Someone in the back.

MS. HEATHER VAN METER: Heather Van Meter
from region five.

Just two points. There are already professional
paralegal certification programs. They're administered
through tests and continuing education requirements from
paralegal associations. Our paralegals in our office,
some of them have the certifications. There already
exists -- the same exact thing that we're talking about
already exists. And so spending time and resources on it
doesn't make a lot of sense.

Additionally, I've prosecuted unlawful-practice-
of-law cases for the Bar, including one ongoing one, and I
think from that standpoint, this is a very, very bad idea.

We have people that already hold themselves out as
certified paralegal/lawyer types that charge for their
services, that are unlawfully practicing law that we are
prosecuting, and we spend lots and lots of resources doing
that as a Bar, and I don't think we want to get into some
Bar-certification program that exacerbates that problem.

PRESIDENT YUGLER: Thank you,

Ms. Van Meter.

Anyone else wish to speak pro or con?

All right. I don't see anyone else who wishes
to speak. So let's proceed to vote on Mr. Lang's
resolution, which is on page 7. And if you're in favor of
Mr. Lang's resolution, please press 1/A; if you're
opposed, 2/B; and if you want to abstain, 3/C.

(Vote taken.)

PRESIDENT YUGLER: Okay. Last opportunity
to vote. There's 129 responses. We've had 131. We still
have a quorum. I just want to point that out.

130. All right. Anyone else?

All right. At this time let's see a tally.

Mr. Lang, your motion fails. All right.

Next item is item number 14 on the agenda, which
is House of Delegates resolution number three. Mr. Lang,
this is yours again. Please feel free to speak from
there.

MR. DANNY LANG: Danny Lang, region three,
elected delegate, presenter.
Recently there were two measures, ballot measures, for mandatory sentences on the ballot, and it has occurred that I think there's been an intrusion upon judicial discretion with regard to our judges in Oregon, and so part of this is intended that we communicate to the public -- it's really a public information function.

There was a letter that's in your packet that was actually sent by Nancy Cozine, staff counsel with the Office of the State Court Administrator, to Karen Garst. So I got into the -- the letter was in response to my agenda item prior to the September 13th scheduled HOD meeting.

I did speak with one of the legislative analysts that works with the legislative fiscal office, and, first of all, they do prepare extensive analysis, which is set forth in the bottom of her letter. However, that's an in-gross-type figure -- in other words, $10 million or $100 million or $200 million -- and that's really for internal use within government agencies or the legislature.

When the people go to the ballot box and vote, they have no idea what it means if somebody steals an extra slice of pizza, and they're going to wind up serving six years of some mandatory sentence that may cost the taxpayers 180 or 200 thousand dollars. So simply as an
informational tool, it wouldn't be that difficult.

No, it's not sent to juries. The back page of this letter, I think, has a lot of misconceptions. It talks about would a jury be told about it? No, there's nothing to do with juries. This is simply that if a judge was wishing to add, for informational purposes, we would have public information on a case-by-case basis, so that the public would have a better feel next time they vote, a more informed electorate.

And I think it also preserves -- it may not add any discretion or power to our judges, but I think it helps to be in force, that our judges have an important function. So I'm supporting this, and I brought this to support the judiciary.

We had a Ballot Measure 40 a few years ago that was sought to have some perhaps adverse impacts on the judiciary, and we see these mandatory measures, and it concerns me that a Circuit Court judge may become like the people at the front counter at McDonald's that push Big Mac, large fries, and a Coke when it comes to sentencing.

So at least if the cost was added to the number -- in other words, if the cost is 4,000 a month for incarceration and somebody is going to have a sentence of 50 months, then that $200,000 would simply be made known, made public, and the media could pick it up. And we'd see
it on a case-by-case basis and county by county, rather
than somebody putting a ballot measure out there. And one
of these ballot measures, The Oregonian I believe came out
and said it was going to cost $1.1 billion.

How can we relate to a billion dollars? I know
Rick's math wasn't that good earlier today. So, I can't
relate to a billion dollars. I think if we get a little
more data here -- I don't expect that this will probably
pass, but I think that it's -- you know, it's change.

It's like somebody once proposed sliced bread.

And, again, because there are no other states
that do this doesn't mean we in Oregon can't be on the
forefront. We passed the bottle bill, good or bad. We've
got the doctor-assisted suicide, good or bad. I think we
had one of the early marijuana law bills.

And so I think this would be an interesting
approach to having a better informed electorate, better
informed taxpayers to know the impact of sentencing as
compared to alternatives to sentencing, programs to avoid
recidivism, and rehabilitation programs, those costs
compared to the costs of simply putting somebody in a
state, barred hotel 24/7. It's an informational measure
only. Thank you.

PRESIDENT YUGLER: Mr. Lang's resolution is
before you. Is there a second for Mr. Lang's resolution?
MS. MICHELLE ING: Michelle Ing. I second the motion.

PRESIDENT YUGLER: Okay, Michelle.

Now is the time, if you want to speak for or against Mr. Lang's resolution. Please step forward to the pro or con microphone.

MR. BRIAN THOMPSON: Brian Thompson, Lane County Bar.

I object in general to this. It's a deeply political matter. It's not a matter for the bar association to study incarceration costs. That's budget and legislation. That belongs to -- it's a legislative matter. It's just not our bailiwick. We shouldn't be spending our funds on this. Improvement of the judiciary, educating the judiciary, all the stuff to go along with it, great. This is just really a political matter, and I don't think -- where it's appropriate for us to vote on it at this time.

PRESIDENT YUGLER: Thank you.

Mr. Cutsforth.

MR. THOMAS CUTSFORTH: Tom Cutsforth, region one, elected delegate.

I have to concur with what the previous speaker said. I also have to wonder if the Portland bar can't do telephones, if Multnomah County can't do video, how on
earth is a judge going to sit here and do this? I'm all
in favor of the electronic courtroom, but we're asking
people to do something that should be done by the
executive department of the State of Oregon.

PRESIDENT YUGLER: Thank you, Tom.

Anyone at a pro microphone? I don't see anyone.

Ms. Johnson.

MS. KELLIE JOHNSON: Thank you. Kellie
Johnson, Board of Governors representative, Portland,
region five.

On behalf of the Board of Governors, we oppose
this resolution. While the spirit of the resolution is
understood, the actual practical effect is a
cost-and-time-encumbering process itself that would be
unnecessarily duplicitous and not address the real
problem, which is the lack of funding and the increased
need for both treatment and incarceration space for
defendants and inmates.

I believe it would already burden criminal
Circuit Courts. It assumes that we have the time, the
manpower, and the technology capacity to have this
information readily available to courts on a case-by-case
basis. I don't think it's the most effective way to
educate our community, if that's the purpose.

And the bottom line, as a district attorney
myself, in the criminal justice system daily judges, DAs, and defense attorneys know very well the costs associated with incarceration and are already engaged in the type of triage required to handle the increase in offenders and the lack of funding and the space.

So, we need a new courthouse. We need technology. There's lots of things we could spend our money on. But this part I don't think is broke. We don't need to fix it.

PRESIDENT YUGLER: Thank you, Ms. Johnson.

Anyone else wish to speak? Anyone at a pro microphone?

All right. Well, not seeing anyone else at a microphone, I think it's time to vote on Mr. Lang's resolution number three, which is item number 14 on your agenda. If you're in favor of Mr. Lang's resolution, press 1/A; if you're opposed, 2/B; if you want to abstain, 3/C.

(Vote taken.)

PRESIDENT YUGLER: I see 125 responses, 126. Anyone else who wishes to vote, now's your opportunity.

Sold, 127. Okay. All right. Let's see the tallies, Jared.

All right. Mr. Lang, your motion fails. 111 is
against, 13 in favor, three abstained.

The next item is item number 15 on the agenda.

Mr. Lang, this is your delegate resolution number four pertaining to a House of Delegates executive committee.

And the podium's yours again.

MR. DANNY LANG: Danny Lang, region three, elected delegate and presenter of this item.

There's been much discussion in 2008 regarding the House of Delegates, and that discussion was really intensified by what I call as our unfortunate train wreck at Bend, when we didn't have a quorum. So I think one of the problems is that there probably isn't sufficient interest, or maybe the way the House of Delegates operates isn't meeting its goal, which was to help the Board of Governors on certain defined matters and to bring new matters before the Board of Delegates.

So the problem, as I see it, is that we're amorphous. We're like little amoebas in a pond, "we" being delegates. And, you know, there's just a single, once a year -- like the fireflies that come out the end of June and blink a few times and they're gone.

So if we're going to get more thought and be able to have discussion between regions and discussion on the types of agenda items that I have proposed this year -- it's pretty lonely up here, and I'd really like to
have some of you have some more agenda items. But I think
if we had an executive committee, we could generate more
interest and we could work more closely with the Board of
Governors.

One of the other ideas would have been to have
two meetings a year of the House of Delegates, but that
involves more mileage and more costs. Actually, we did
have two meetings this year, if you think about it.

(Laughter.)

MR. DANNY LANG: But -- so if we had an
executive committee that could, by regions, call people up
and remind the delegates from that region and discuss
matters of interest and coordinate more closely with local
bar associations. I think this is a no-cost item. We
could have volunteers appointed by the Board of Governors
to be some sort of principal delegate or on the House of
Delegates committee, and then we'd have a better voice and
a better coordination with the Board of Delegates and
among our fellow delegates.

So I look at this as something like, again,
slicing bread, and I think it merits your consideration,
your favorable vote. Thank you.

PRESIDENT YUGLER: Mr. Lang's resolution
number four, which is found at the top of page 8, is there
a second to Mr. Lang's resolution?
MS. PAULA JENSEN: Second.

PRESIDENT YUGLER: Please state your name.

MS. PAULA JENSEN: Paula Jensen.

PRESIDENT YUGLER: Okay, Ms. Jensen.

It's been seconded.

Anyone want to speak at the pro or con microphone, they are open. Mr. Karnopp, I'll recognize you first --

MR. DENNIS KARNOPP: Thank you.

PRESIDENT YUGLER: -- since you're so spry in getting there.

MR. DENNIS KARNOPP: Dennis Karnopp, region one delegate.

And I was not going to talk about anything because I got an elk tag and I got to get over to far eastern Oregon. So let's move this along.

But in spite of that, I think I've attended every House of Delegates meeting this Bar has had, and I had the honor of chairing the first one in Medford. And at that meeting, when it first started, a lawyer, delegate, got up, and he wanted to challenge me chairing the meeting because the House of Delegates hadn't voted on who the officers should be. Fortunately, I was saved by the statute, which said the President of the Oregon State Bar was the chairman of the House of Delegates meeting.
So I went ahead and chaired that meeting.

But I just want to point out that we don't need an executive committee here. I mean, Mr. Lang, he's got four or five resolutions here. He has the opportunity, and every lawyer has the opportunity, to present whatever they want. It's just a layer of further bureaucracy, it seems to me. And I, for one, am pleased with the House -- I mean with the Board of Governors and the meetings that we have via telephone, and there's nothing to stop any individual lawyer from pursuing, along with other lawyers, any proposal they want to. Thank you.

PRESIDENT YUGLER: Thank you, Mr. Karnopp.

Anyone at the pro microphone? Mr. Georgeff.

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

I really appreciate Danny Lang's enthusiasm.

I'm not kidding about that. I consider him a friend, and we've made common cause on some things before. And I know it becomes lonely up there. For those who remember the 2005 meeting, which had my motion go into defeat, and then a successful initiative petition, and then two years of working out how we were going to handle the elimination of bias, which didn't get solved until you, President Yugler, took a hand. So I know what it's like.
But I'm going to vote against this one, and also
on the next one, and to --

{Laughter.}

MR. GARY GEORGEFF: -- to borrow --

UNIDENTIFIED SPEAKER: Mr. President, would
that be a point of order?

MR. GARY GEORGEFF: -- to borrow a line
from Ronald Reagan, to paraphrase -- and that may be risky
in light of the election results this week -- we really
don't need more government, and that's why I'm going to
vote against this one.

PRESIDENT YUGLER: Mr. Williamson. And
then --

MR. CHARLES WILLIAMSON: In my opinion, the
Board of Governors is our executive committee. I think
they've done a good job at going out and having regional
meetings. We've had the listserv for better
communication. To establish another body that the Bar
staff has to report to isn't a no-cost item. This would
create sort of a hydra-headed Bar, which we don't need.

Thank you.

PRESIDENT YUGLER: Thank you.

I'll take one more from the con microphone and
then -- in the back.

MS. ROBIN POPE: Hi, Robin Pope. And I'm
not a member of the House of Delegates. I'm a private attorney, sole practitioner from Beaverton.

PRESIDENT YUGLER: Okay.

MS. ROBIN POPE: And I'm a former President of the Washington County Bar. And some of us out in Washington County, we feel that it's already -- because of the House of Delegates, most attorneys in Oregon are more removed from the Bar than ever before, and I know that we're welcome to come here, but there is already separation. And it seems like by adding this extra layer, it's just adding layers onto an onion, and it's going to get harder and harder to peel them, and we don't want you to do that. Thank you.

PRESIDENT YUGLER: Thank you.

Last comment.

MR. JONATHAN LEVY: I'm Jonathan Levy, Portland, chair of the estate planning section.

I was a member of the first House of Delegates and chair -- I'm sorry -- chair of the computer section when I was practicing in a different area. And I'd like to second the comments just before. I think that we have lost something intangible by centralizing the administration and having moved away from the town meeting forum that we used to have when we met every year or every other year in Seaside, or wherever the meetings were.
I'm not proposing an amendment, but I think we need to consider what we're losing by centralizing. I think it was a better Bar when we had the Town Hall meeting. It was less fractured, it was more collegial, it was more cohesive, and there was less of a sense of us versus them between the practicing lawyers and the, quote, Bar, the headquarters.

And I'm not suggesting that we amend this proposal to go back to the house of -- to the Town Hall, but -- which I'd like to do, but this is a step in the wrong direction.

PRESIDENT YUGLER: Thank you.

At this time --

MR. DANNY LANG: Could I have it for one minute?

PRESIDENT YUGLER: Oh, I'm sorry. Sure, Mr. Lang. I forgot. I apologize.

MR. DANNY LANG: Thank you for your comments. Picking up on the last speaker, Mr. Levy, this is not to centralize; it's really the other way around. It's to have someone in each region that would then, during the off season, before this meeting, maybe go around to the local bars and meet with local bars and local sections and basically a coordinator. So we'd be going back a little bit to more local input.
This is anything but more centralization, and these people aren't going to have an office or rented space or staff. They're just among us who would volunteer within our region to serve as a coordinator and be able to better work with the Board of Governors. It's not we/they, and it's to get actually more grassroots, more local enthusiasm, interest, and communications. That's what it is. Thank you.

PRESIDENT YUGLER: Thank you. All right.

Mr. Lang, thank you very much.

Time to vote on resolution number four. And I think we know the drill. One for yes, two for no, and three to abstain.

(Vote taken.)

PRESIDENT YUGLER: All right. 127 responses. Last opportunity to vote.

Okay. Let's see the tally, please. Fails 112 to 13 to two.

Okay. Mr. Lang, the last resolution you have is House of Delegates resolution number five, which is on page 8 of your materials.

MR. DANNY LANG: Danny Lang, region three, elected delegate, in case any of you forgot.

(Laughter.)

MR. DANNY LANG: First of all, I do have --
and I've already pre-sent it to the Board of Governors.
There's a protocol here. I did move to amend, amending my
agenda item, my proposed resolution. And I'll give the
written amendment to President Yugler.
And the amendment is simply to make the new
number for the quorum to be 70 percent instead of 50
percent of the number of elected delegate positions, and
we can count both elected delegates and the ex officios,
because at Bend, when our meeting failed, there was an
informal discussion off the record, and the Board of
Governors was concerned that 50 percent was too low. I
agree with them.
So I've gone to 70 percent, which at Bend we
would have made it because we needed 110 votes. We would
have -- we had 92. This would have been 70 percent of the
elected, would be -- 77 plus one would have been 78, and
we had 82 people there.
Earlier today we had a proposal to authorize, in
essence, alternates, and that still doesn't address the
quorum, per se. So I think it's time that we put in black
and white a quorum number. And I think this is a workable
number, so I'm moving to amend in response to the Board of
Governors' suggestion. So I'm going to 70 percent plus
one as the amendment.
PRESIDENT YUGLER: Okay. Maybe I can
handle it this way: The original motion, which is at a 50 percent amount, to define the quorum at 50 percent plus one, is on page 8 of your materials. And then Mr. Lang wants to amend that -- or do you want to withdraw the original one and substitute your amended motion?

MR. DANNY LANG: I'm willing to do that as long as that doesn't offend the 45-day rule of getting the item on the agenda. So if the parliamentarian will allow that as a more expedient method of getting it on the agenda, that's fine.

PRESIDENT YUGLER: Okay. I'll do it this way, then. First of all, is there a second to the original motion?

MS. DIANE GRUBER: I second.

PRESIDENT YUGLER: Okay. Ms. Gruber seconded. Before I have debate on that, we'll consider Mr. Lang's remarks a motion to amend the original resolution, to change it from 50 percent plus one to 70 percent plus one.

Is there a motion -- which is a motion. Is there a second to his amendment to change it to 70 percent plus one?

MR. THOMAS CUTSFORTH: I'll second it.

PRESIDENT YUGLER: Mr. Cutsforth. Okay.

All right. Now it's time for debate on the
amended motion, which is in your packet, which is to redefine the quorum for the House of Delegates to 70 percent plus one of the number of elected delegate positions. Anyone speaking pro or con?

MR. BRIAN THOMPSON: Brian Thompson, Lane County Bar President, con.

Again, I'll restate what I said previously: The issue in Lane County has been communication from the Bar as to date and time. It has not been an unwillingness to attend. The prior resolution which passed in our case probably will not help, and this will not either. We would like to participate. We need more time to get a Saturday off so we're not leading Cub Scouts or soccer games around and get coverage for it.

It doesn't address the fundamental problem, which seems to be systemic in the staff or the procedure put in place for the staff to execute, whatever it is, more likely the procedure, and this just doesn't address the underlying problem of getting at least delegates from Lane County to come. Thank you.

MR. GARY GEORGEFF: Point of order?

PRESIDENT YUGLER: Yes.

MR. GARY GEORGEFF: We're just talking about the motion to amend?

PRESIDENT YUGLER: To amend, that's
correct. We're just right now talking about amending it, not to the substance of an amended motion yet.

So anyone else wishing at this time to speak to the amendment, not to the substance of the amendment, but to the fact of the amendment, step up. Mr. LeChevallier.

MR. ROBERT LECHEVALLIER: I guess this would be another -- Rob LeChevallier.

I don't understand the "one." Why 70 percent plus one? Why not just 70 percent?

PRESIDENT YUGLER: Mr. Bachofner, you want to get to the mic?

MR. JOHN BAHOFTER: I think that was based on a 50 plus one, meaning greater than -- you have to have a majority, at least. So 70 plus one is probably based on just keeping the "plus one" in there.

(Laughter.)

PRESIDENT YUGLER: There you go. All right. What we're doing -- thank you.

What we're doing right now is just voting on the amendment. So if anyone else wants to speak pro or con to amending Mr. Lang's original resolution, and then we can vote on the substance of that.

So at this time if you're about ready on the motion to amend, if you are in favor of amending his motion so we can then proceed to vote on the substance of
whether or not there ought to be 70 plus one, say yes. If you are against the amendment and want to proceed to the original motion, which is 50 plus one, which would be the next step here, you'd vote two.

(Vote taken.)

PRESIDENT YUCLER: Okay. 125 responses. Anyone else who's not voted?

127. Okay. See the tally.

Okay. So your motion passes 70 to 47 to ten. So now we're going to proceed to vote on the amended motion, which is whether the quorum requirement ought to be changed to provide that a quorum is satisfied by 70 percent plus one of the number of elected delegates.

Yes. Anyone wishing to speak pro or con to the substance of that motion? And someone's going to the "other." Mr. Gerking is going to the con microphone.

That's my guess.

MR. TIMOTHY GERKING: Tim Gerking, Board of Governors.

I'm speaking on behalf of the board to oppose this resolution because we believe that this resolution would further -- well, it really -- reducing the quorum would reduce the representational nature of this body, would reduce the significance of what we do here.

Currently there are 200 members -- 219 members
of the House of Delegates. So we need a quorum of 110.
This resolution will change that, instead of -- because
there are approximately a hundred members, elected
members, through the House of Delegates, and if I
understand this resolution, we would now only -- if it was
passed, we would now only need -- we would then only need
75 elected members to be present and voting. So that
would reduce -- that would just reduce the number of
people who need to be here to vote, and it would not --
this meeting would not be as significant as it is now.

The Board of Governors, over the past several
years, has studied ways to improve attendance at the -- at
these meetings, and to assure that there is a quorum at
every meeting we have passed mileage reimbursement, and
we've just allowed the ex officio members to designate
alternates. We're considering other options, biannual
meetings, to improve communication between the HOD and the
BOG, and I believe that is -- we believe that is a healthy
possibility.

And there are other things: having one location
for HOD meetings, which would be the Bar center, or maybe
in Eugene instead of having the meetings in distant
locations. So there are ways to achieve this quorum. And
I think we should all congratulate ourselves for having a
very representational meeting today. I think we've got
131 people here, and that's more than I can recall ever. At least my four years on the Board of Governors, we've never had that many. And I think part of that is because this meeting is here at the Bar center. And thanks again for being here.

PRESIDENT YUGLER: Thank you, Mr. Gerking.

Mr. Cutsforth from the "other" podium.

MR. THOMAS CUTSFORTH: Thank you. I'm afraid that this may have an unintended consequence. What if we only have 70 elected members but we have 112 members present?

I think there's an unintended consequence here that wasn't provided for in the resolution, and I believe I can't really support the resolution for that matter. But I'm not at a con; I just would like someone to address that, if that's true. Thank you.

PRESIDENT YUGLER: Maybe Mr. Lang will do that in a minute. Mr. Georgeff.

MR. GARY GEORGEFF: Thank you, President Yugler. Gary Georgeff, elected delegate, residing in Rossland, British Columbia.

I want to vote against this one for several reasons. Point one, I think it's premature because we haven't seen how the board-resolution fix that we just adopted plays out. And I'm not sure, but I think it may
take a statutory change to change the meaning of a quorum that radically.

Also, the numbers are too small. I mean, I will agree 70 percent plus one is better than the 50 percent plus one, which Mr. Lang originally had, but we're still talking only about something like 76 members of the OSB, and the whole Board of Governors already counts as part of that to make a quorum.

Also, the history on this. I'm sorry my friend Bob Browning and fellow HOD delegate isn't here today. It's not his fault. He had something scheduled before, and he just couldn't change it on this rescheduled meeting. But I've talked to him about the history of the way the elected delegate versus the Bar President, section chair thing came up. And my understanding is it was carefully thought out at the time.

Obviously, elected delegates mostly go by population, but the theory was we can put out section chairs, county bar presidents so that we can get some more regional representation at the meetings.

And if we look back at the statistics, the elected delegates don't do that bad. We get at least more than half of them in the meetings. We do not -- we've been having the problems with the section chairs, the bar presidents, the ex officio members. So we want to
encourage them to be here. We don't want to have them
still not showing up. So we should have a minimum
tinkering, I think.

The Board of Governors' resolution number three
which we just adopted I think is a good fix. And so, you
know, if that doesn't work and we play that out and
democracy seems to be dying from lack of interest, then
maybe we do some other things, like completely restructure
the House of Delegates or maybe abandon the House of
Delegates and go to everything done on Web sites,
electronic voting, or maybe we go back to Town Hall
meetings.

But let's try the Board of Governors' fix first.

To use an analogy, to sum up, which at least Mr. Karnopp
is going to appreciate, I think: Just because we had one
failed meeting and our horse came up lame doesn't mean we
shoot the horse and get another one. We put new shoes
back on. We'll saddle 'er up and ride 'er out and see if
it works next time. Thank you.

PRESIDENT YUGLER: Giddy up. Okay.

(Laughter.)

PRESIDENT YUGLER: I'm going to take two
more comments, then --

MS. MARY OBERGAARD: You can't close
debate, Mr. President.
PRESIDENT YUGLER: Is there someone --

UNIDENTIFIED SPEAKER: We've been standing here for quite a bit.

PRESIDENT YUGLER: Oh, you have.

UNIDENTIFIED SPEAKER: Long before --

MS. MARY OVERGAARD: You can't close debate.

PRESIDENT YUGLER: I can't see if you're at the microphone back there or just standing by the wall.

UNIDENTIFIED SPEAKER: This side of the room is at the microphone.

PRESIDENT YUGLER: I apologize.

MR. TIMOTHY ZIMMERMAN: Tim Zimmerman, region four, elected delegate.

I guess I kind of want to mirror some of what Gary Georgeff had just said, in that we've already passed a resolution asking for the section heads to appoint somebody. I think that's the fix we need. I think that if we reduce our quorum, we are discouraging participation rather than encouraging it, and I urge this body to vote against it.

PRESIDENT YUGLER: Thank you.

Anybody at a pro microphone? We have an "other." Okay.

MS. DENISE SOTO: Denise Soto, and I'm
President of the Linn County -- Linn County Bar
Association. And I'm at "other" because I'm not sure what
the solution really is. Is there anyone here representing
Benton County?

UNIDENTIFIED SPEAKER: Here.

MS. DENISE SOTO: Excellent. I'm not sure
if the Benton County Bar Association is really existing,
and the Linn County Bar Association is hanging on by
threads. There are 3.5 people doing everything for the
entire county. And so I think part of the problem is --
is we didn't get House of Delegates training 101 in law
school, and so when I moved into the presidency, I had no
idea that I was a delegate. I was just organizing the
association, trying to breathe life back into it.

So part of the problem could be ignorance and
lack of support in the smaller counties. Thank you.

PRESIDENT YUGLER: Thank you.

I see someone at the pro microphone.

MR. WILLIAM HABERLACH: Yes. I'm Bill
Haberlach, an elected delegate from Medford. I think it's
region three, and I call for the question to terminate
debate.

MR. SHAWN LINDSAY: I second it. Shawn
Lindsay.

PRESIDENT YUGLER: Motion to close debate
is nondebatable and requires two-thirds, as I remember.

Mr. Westwood nodded his head. He's still with us.

(Laughter.)

PRESIDENT YUGLER: All right. Jared, the
motion is to close debate, otherwise known as calling for
the question. We're going to need two-thirds. Someone is
going to need to do the math when we get the total.

(Laughter.)

PRESIDENT YUGLER: All right. Wait a
second here. Okay. If you wish to close debate on the
subject, please press one. If you don't want to close
debate, press two. If you want to abstain, press three.

(Vote taken.)

PRESIDENT YUGLER: 112.

MS. KAREN GARST: I calculated on 127. Did
we have 127?

PRESIDENT YUGLER: Hold on a second. There
are 113 responses. Anyone who has not voted on closing
debate and would like to.

Wait a minute. 117, 18. Must be all the
abstentions coming in. 119. All right.

Anyone else wanting to vote on this? Now's your
chance. Okay. Let's see the tally.

Okay.

(Laughter.)
UNIDENTIFIED SPEAKER: Thanks for
disenfranchising regular members of the Bar.

PRESIDENT YUGLER: Debate is closed. Let's
move to the question. Thank you very much.

All right. Now we're going to vote on
Mr. Lang's resolution, and he has one minute to close.

MR. DANNY LANG: This motion is so that we
don't have another train wreck. It's designed that there
are enough safeguards, I think, that we wouldn't have any
loss of democracy by going to 70 percent of the elected
delegates, and there was uncertainty expressed by the lady
at the "other" microphone and by the gentleman at the Lane
County Bar that we don't know how the use of alternates is
going to work. And if we don't pass this motion, then
we're -- as I understand it, we're still at 110 needed.

I was at the 2005 as an ex officio delegate, and
I think we delayed the meeting waiting for people to
arrive. That's when I said this could happen, and I
apologize it took me two years to get around to writing
the motion, the agenda item. And the irony of it was that
my motion or agenda item was on for Bend, and then the
train wreck before we got to vote on it.

I don't know what the cost of that was, but a
few people have worked it out as an estimate. That was
about $40,000 of our dues money that was unproductive,
notwithstanding all of your time, staff time, and all the
resources that were committed.

So I welcome -- this is another motion intended
to complement the Board of Governors, not in opposition,
and it's nice that we have the alternatives, but this I
think is a numerical fix. Its time has come so we don't
wake up and have in '09 or '11 another possible train
wreck. This is just good insurance. Thank you very much.
Thank you.

PRESIDENT YUGLER: Okay. Just a reminder,
we're voting on Mr. Lang's amended motion to change the
quorum requirements, the substance of the motion, which
would change the quorum requirement to 70 plus one of the
number of elected delegates, and you can vote now.

(Vote taken.)

PRESIDENT YUGLER: 126 responses. If
anyone else wants to vote, now is your opportunity. Any
other votes? Okay. The tally, please.

All right. Mr. Lang, your motion fails 97 to 27
to two.

The next item on the agenda is delegate
resolution number six. Mr. Duvall, give you the podium.
This resolution is found on page 8 and 9 of your book.

MR. HUBERT DUVALL: Thank you. Hugh
Duvall, region two, elected delegate.
This resolution directs the Bar to continue in its work toward fair compensation for appointed counsel. Right now private attorneys willing to represent indigent defendants are being paid, in most cases, $45 per hour. I emphasize "those still willing to do so." This is unacceptable, and this resolution deserves our support. Thank you.

PRESIDENT YUGLER: Is there a second to Mr. Duvall's motion?

MR. JOHN TYNER: Second.

PRESIDENT YUGLER: John, Mr. Tyner beat you to it. Mr. Tyner's second.

And this time the motion is open for discussion, pro and con.

No discussion? All right. At this time we can proceed to vote on resolution number six. If you're in favor, press one. If you're opposed, two. If you wish to abstain, three.

(Vote taken.)

PRESIDENT YUGLER: Okay. 113 responses.

Anyone else wanting to vote, now's your opportunity. 114. Okay. See the tally. Motion passes 108 to eight. Thank you, Mr. Duvall.

Next motion is Mr. Kent's, House of Delegates resolution number seven. Mr. Kent?
MR. CHRISTOPHER KENT: Thank you, Rick.

Chris Kent, region five, Board of Bar Governors.

If you bothered to read through the packet, you may be wondering why there is resolution number 18 and 19, which seem virtually identical. Yes, you're right, they are, with the exception of the one I have is paragraph 4, which says, in addition to the one proposed by Dennis Karnopp, adds one other category of folks, which is in paragraph 4: Actively participate in and support the fundraising efforts of those nonprofit, low-income legal service providers in Oregon that are not supported by the Campaign for Equal Justice.

It's meant to include other organizations such as St. Andrew Legal Clinic and other organizations that provide nonprofit legal services.

So, Mr. Karnopp and I -- we met and decided that his resolution should go forward. So I'm going to ask that mine be withdrawn by unanimous consents. We -- Mr. Karnopp is going to allow, I think when it's his turn, to amend his to add that paragraph four. You may wonder why we're doing it that way. We decided to do it that way because, frankly, Dennis is a former bar president and has been to every BOD meeting. He has a snazzy --

(Laughter and applause.)

MR. CHRISTOPHER KENT: And that's the third
reason; And a snazzy background section. So I'd ask the
President to ask this be withdrawn by unanimous consent.

PRESIDENT YUGLER: First I need a second.

MS. THERESA WRIGHT: Second.

PRESIDENT YUGLER: A lot of seconds.

Terry -- Ms. Wright spoke up first, seconded. And I'll
ask for unanimous consent to withdraw the motion. Any
opposition?

Hearing no opposition, that carries. Thank you.

Now, Mr. Karnopp, the last item on the formal
agenda is delegate resolution number eight.

MR. DENNIS KARNOPP: Thank you very much,

Mr. President. I'm Dennis Karnopp. I'm a delegate
from -- let's see -- region one. That's Bend.

Actually, there was a blue sheet handed out,
which has the amendment on it that combines these two, and
let me apologize. I said, well, you go ahead and do it.
He said, oh, you know, you're old. You got gray hair.
You might go ahead and take this shot, if you get it. So
I've lived this long, to the end of this meeting, and I
very much want to support this.

And in all seriousness, we all understand what's
going on in the country and with the economy. I think
that makes it even more serious for the problems that
those who can't afford to pay for legal services will
have. And I assume this body, everyone here, has read
this resolution before, and I would offer the resolution
with the amendment as shown on this sheet.

MR. CHRISTOPHER KENT: Second.

PRESIDENT YUGLER: Mr. Kent seconded.

Do you wish to speak to the body of the motion?

MR. DENNIS KARNOPP: No.

PRESIDENT YUGLER: All right. Let's get

out of here.

All right. Resolution -- anyone want to speak
pro or con to the delegate resolution? All right.

Mr. Harnden? All right.

MR. EDWIN HARNDEN: I just -- I don't want
to let it go by without at least one pro speaker, although
I think everyone in the room probably is pro on this.
This is the one year -- and each year seems to grow the
population of people that need these services, but I think
this is the one resolution that impacts every single
lawyer throughout the state, and every lawyer that I know
throughout the state supports the legal aid services,
supports all of the other nonprofits that provide this.

And it's the one thing that we're -- one of
those things that we're known for throughout the state
that doesn't apply to just Portland or to just Bend or any
other section of the state, but applies to all of us. So
I would encourage everyone to vote yes.

PRESIDENT YUGLER: Thank you, Mr. Harnden.

Anyone else wish to speak for or against the motion?

All right. At this time if you're in favor of resolution number eight, please press one. Oh.

UNIDENTIFIED SPEAKER: Don't we have to vote on the amendment?

PRESIDENT YUGLER: You're absolutely right. I thought there was unanimous consent to withdraw. You're correct.

All right. So the first thing we need to vote on -- first of all, I'll ask if there's unanimous consent to the amendment. If there's any objection to the amendment, please speak.

Okay. Hearing none, that will carry. Thank you.

And now we can move to the substance of the motion. And if you're in favor of the substance of the motion, please press one. If you're opposed, press two. And if you want to abstain, press three.

(Computer audio.)

PRESIDENT YUGLER: Command is vote yes.

How did that happen?

(Vote taken.)
PRESIDENT YUGLER: All right. Anyone else wanting to vote? 123 responses so far. Okay. All right. See the tally, please.

118 in favor, two opposed, and three abstentions. The motion carries.

Now, at this time I just want to point out that anyone at the beginning of the meeting that pushed C, saying that we would take two hours, is correct, and there's a cookie outside for you.

(Laughter.)

PRESIDENT YUGLER: We have finished one minute under. I do need a motion to adjourn, but before doing that I just wanted say two things, if I may.

First of all, thank you to everyone for coming. This is an example of how we can be a self-governing profession. I think that's important.

Secondly, thank you to Danny Lang for bringing to the floor many resolutions. In years past, there have been delegate resolutions that have failed, that the board has acted on, nevertheless, and worked on, and I want to thank you for that. And it's been a privilege to preside and to serve this year. And I'll entertain a motion to adjourn.

MR. JOHN BACHOFNER: Actually -- John Bachofner, out-of-state delegate -- before we do so, I
would suggest that this body give a round of applause in
respect for Karen Garst, who is retiring. This will be
her last HOD meeting.

(Applause.)

MR. JOHN BAHOFNER: Thank you for your hard
work.

Now I move to adjourn.

PRESIDENT YUGLER: Thank you. Is there a
second?

UNIDENTIFIED SPEAKER: Second.

PRESIDENT YUGLER: Anyone opposed?

Unanimous consent. It passes. Thank you.

(MEETING ADJOURNED AT 3:31 P.M.)

* * *
CERTIFICATE

I, Robin L. Nodland, an Oregon Certified Shorthand Reporter, a Registered Diplomate Reporter, and a Certified Realtime Reporter, do hereby certify that I reported in stenotype the proceedings had upon the hearing of this matter, previously captioned herein, before President Rick Yugler; that I transcribed my stenotype notes through computer-aided transcription; and that the foregoing transcript constitutes a full, true and accurate record of all proceedings had during the hearing of said matter, and of the whole thereof.

Witness my hand at Portland, Oregon, this 8th day of December, 2008.

[Signature]

Oregon CSR No. 90-0056

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<td>Call</td>
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<td>11:30</td>
<td>Meeting</td>
<td>Administration meeting</td>
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<td>12:15</td>
<td>Lunch</td>
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<td>14:00</td>
<td>Training</td>
<td>Technology training</td>
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<td>16:30</td>
<td>Conference</td>
<td>Business strategy discussion</td>
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<td>18:00</td>
<td>Closing</td>
<td>Wrap up and depart</td>
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**Notes:**
- Call took 30 minutes.
- Meeting was delayed 15 minutes.
- Lunch was 30 minutes late.
- Training was interrupted twice.
- Conference was extended by 30 minutes.
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OREGON STATE BAR
2008 HOUSE OF DELEGATES MEETING

Sunriver Resort
17728 Abbott Drive
Sunriver, Oregon

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

Presiding Officer:
Oregon State Bar President, Richard S. Yugler

---

1. PROCEEDINGS

2. PRESIDENT YUGLER: I want to welcome

3. everybody. I’m Rick Yugler. I’m President of the Bar,

4. and we’re to have our meeting of the House of Delegates

5. today. Welcome, everybody.

6. First I want to thank Gretta Capri, Robin

7. Freeland on behalf of the Oregon Court Reporters

8. Association for being our official reporters this year.

9. (Applause)

10. PRESIDENT YUGLER: I want to give you a

11. brief overview of the parliamentary procedure real quick.

12. You have a handbook here which says overview of

13. procedures.* That should make it very easy. Everyone can

14. read that.

15. But I wanted to remind you that, in addition to

16. the procedures we’re using today, that you have in your

17. packet an expense reimbursement form. So for your

18. mileage we had a resolution at the House last year the

19. Board approved mileage reimbursement for your attendance

20. at the House. So don’t forget to send those in if you

21. want part of your mileage reimbursed.

22. We have electronic voting for our system, and

23. everyone should have received one of these plastic cards.

24. And you have in your handout instructions about how to

---

1. please push 1A; if you think we will not, push 1B (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. 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 No. 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

---

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

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

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

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

Rick?

PRESIDENT YUGLER: Thank you, Jim.

Part of my responsibility as the President of
the Bar and the Bar Act of the procedures of the House of
Delegates is to present a report on to you of the proceedings
of the Board of Directors since our last meeting.

I've been very proud to serve as your President, and you

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

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

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

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

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

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| 1. dues for 2010. In fact, you may have realized this:  
2. We're in 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. MLEC 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 want 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  |

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| 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 $200,000 limitation that we have had on  
6. our coverage for 20 years. It's been at a $200,000  
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 $200,000 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 OAP 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 Manache  
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  |

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| 1. seriously 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 these 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 is healthy, and despite a loss from investment returns  
25. this past year and an increase in doing frequency, it is  |

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| 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 reciprocally 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 Gary 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 ASA president Bill Newcomb. We  
21. created an advisory board of OSBA 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 |
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<td>many tribal courts as we can. We've been able to meet with three or four tribal courts this year, and I hope before the end of the year to add tribal courts to our network of connections, because we do have a shared interest and concern for the practice of law. Two years ago the House of Delegates approved a renewal of a $30-per-member assessment. This year we had a successful OLPO program, and this year with the help of the diversity section, the affirmative action committee, and minority bar, we hired Frank Cardo as our diversity program administrator. The Bar continues to work hard to improve our commitment to diversity. We need to make sure that our Bar reflects the public, so that members of the public have confidence in our profession and in the legitimacy of the rule of law. This year also I'm pleased to report that one year ago, at this meeting of the House of Delegates, you approved a resolution calling on the Board of Governors to oppose Initiative S1 and Initiative S3. Initiative S1 would have put a cap on attorneys' fees in contingent fee cases, and Initiative S3 would have created basically mandatory penalties for so-called frivolous litigation. I'm pleased that the Bar worked with the Campaign Against One-Sided Measures, and neither of those measures qualified for the ballot. So we will not face those challenges this year. (Applause.) PRESENTYUGLER: But I need to warn you that the threat is not gone. The initiative proponents have threatened to refile those measures for 2010, and I call on the House to remain vigilant in the year ahead should those measures be refiled. Finally, I'm pleased to report that our relationship with the Bench I think is excellent. This year I've had the pleasure to work with our Chief Justice, with Chief Judge David Brewer. There's a task force of our Bar and the Chief to Implement the Oregon Courts program. We've worked with the Chief to make sure that the Oregon Public Officials Compensation Commission is staffed and implemented, so we don't face the challenges that we have over the last few years for inadequate judicial salaries. And their report was delivered just a few weeks ago, calling for further increases in judicial salaries so that we can continue to attract and maintain the best and brightest on our Bench. We need to make sure that the court, the Bar, and the public are prepared to move forward into the future. Oregon Courts is part of that, adequate salaries is part of that, and I think the Bar is at the forefront of being a full partner with the Bench and making sure that our profession is as prepared as possible for the future. That concludes my report. I just want to tell you that my year is not over. There's still a few more months to go, and I really am thankful for the confidence you have put in me as your President. You have a great Board of Governors who works diligently every month to make sure that we remain self-governing and that we can be proud to be lawyers representing our clients. Thank you very much. (Applause.) PRESENTYUGLER: Before I move to discuss the agenda, I'd like to call on Chief Justice David Brewer to provide us with some comments. Our Chief Justice is, I think, with Justice Ruth Bader Ginsburg this morning in Portland, and I want to thank Chief Justice David Brewer for joining us this morning. RON. DAVID BREWER: Good morning. I bring you greetings from the Chief, who would, frankly, give anything to be here with this group today. He asked me to pass on to you his strong belief that the partnership with the Oregon State Bar is the most important relationship that our Oregon judicial branch has, with any of its external stakeholders.</td>
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<td>Today, because I want to talk from the Chief's perspective today -- involve technology, workload challenges, performance measurement, especially judicial accountability, a piece of that, and the crucial legacy that the courts have to deliver fair and impartial justice. And those are interconnected themes, and you'll hear a little bit of that in the next few minutes as I go through some of the projects and challenges the Chief asked me to discuss with you today. But I agree with Rick: The partnership between the Bench and Bar in Oregon has never been stronger. Our communication, which is the prime mover behind any partnership, has never been better. And it's absolutely critical that we help you, not just with our hand out for your support, but in any way that this organization feels that the Bench can also fulfill its part of the partnership, because it has to be bilateral to work, and we're very, very keenly aware of that. I'd like to focus on several key partnerships -- Rick alluded to a couple of them; I'll be brief -- between the Bench and the Bar that are critical to our progress in the coming years. The first, as Rick alluded to, is technology. You’ve heard about the eCourt project that the Chief is rolling out. It's the most ambitious angle project that the Oregon Judicial Department has engaged in I think in its history. In terms of both its scope of the action plan, frankly, and the budget that's involved too. And we have a history in our public sector, in Oregon and across the nation, of not doing these projects well. And one of the things that we've learned and determined to do is not to repeat some of the mistakes reflected in that history, but go forward very, very purposefully. We've got a five-year plan to build a statewide courthouse that's accessible to all. We call it eCourt, and it's a web-based courthouse. It will be the one place where the public can conduct its business with any court throughout the state 24/7, from throughout the world, through the use of the web. Much of the groundwork for this plan was laid last year, and I just want to mention a couple of the initiatives. First is the web portal. This is the door that will provide a common and consistent electronic access point to all of the state's Circuit Courts. Not to make them all plain vanilla, but, again, to have the same look and feel and basic information protocols that are being shared around the state. We'll add new service delivery to the portal over the next several years. These will enable our court...</td>
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<td>Users be able to file documents electronically, pay fees and fines over the Internet, and have online access to case information and public records. They'll be made possible by using electronic content management, e-filing systems. The Supreme Court's pilot project for e-filing and e-payment was rolled out a month and a half ago. It's had several users. Early reports are that the Bar training is working well. We do want your feedback on that because the Court of Appeals is the next rollout for both e-payment and e-filing. And we're planning to have first modules of document management done by next March. This will be an absolutely critical advance in our court for getting its work done. We'll be able to go paperless sooner rather than later, eliminate all the archaic file-transfer problems we've got, including the loss of threaded information that doesn't end up getting published. One of the most important things in your law firm and in our courts is to maintain institutional knowledge, have it properly secured, indexed, and threaded. This is something, because we run on a demand filed in terms of our workload in the court system, that I'm excited about as we move forward. Rick mentioned to you we've got a policy law and standards committee. One of the biggest challenges in the...</td>
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judges in the branch receive the median salary of the 12
to contiguous western states, which would be a substantial
increase for our judges across the board.

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

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

-22-

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

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

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

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

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.

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

Real quickly a couple of other things, and then
14 I'll sit down. We talked yesterday some about the risks
15 of erosion of civil justice in this state. As you know,
16 the jury trial is declining on the civil side especially,
17 but really on the criminal side too around the state.
18 We've got a bunch of young lawyers now who have less
19 in their bellies for the idea of trying their case to a
20 jury and for that whole — the importance of that whole
21 issue of public participation and validation of our
22 justice system.
23 Those of us who tried a bunch of jury trials
earlier in our careers understand the zeal that you feel
for that part of the process. ADs have been great. I've
been one of the earliest, strongest advocates for AD, but
we've got to watch and make sure the pendulum doesn't
swing so far in that direction that people feel that they
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
be able, willing, and ready to try cases. We've got some
good judges now that are trying to do that.
9 The American College of Trial Lawyers -- there
10 may be some people on that team here today -- are looking
11 at three possible approaches and are thinking of drafting
12 Uniform Trial Court Rules that the Chief can look at that

would make some options available to make jury trials
quicker and less expensive. One of them is a trial
13 de novo project, kind of like a little bit of the old
14 district court, where you go in and try something to a
15 six-person jury real quick, and then you can get a trial
16 de novo if you need it, on the theory that you probably
17 wouldn't once the jury spoke.
18 Another would be a fast track, where you agree
19 to limit some motion practice and agree to limit some
discovery and, in exchange for that, you get a quicker
20 trial date.
21 A third thing that's being done is civil lawyers
22 can't get into a courtroom around the state now are
23 volunteering with DAs' offices and PEs' offices to help
24 try misdemeanors. So you get a win-win. Many of those
25 DAs and PEs don't have enough lawyers to try the
26 misdemeanor cases, and many civil lawyers can't get
27 experience in a courtroom.
28 I raise those issues briefly. The Chief cares
depth about them. We can't get the public to support us
29 if they don't trust us. They don't trust us unless we
30 hold the window back and involve them. And jury
31 participation is the number one way to do it.
32 I tried, as a judge and lawyer, hundreds of jury
33 trials, and I can count on the fingers of one hand where
34 the jury went south. There's something magical about what
35 they do, and we're at risk of losing that.
36 Finally, I want to mention the strategic
37 planning process that the Chief's got going, and I want to
38 solicit your input and support for that. All of you have
39 heard of the Justice 20/20 Vision for Oregon courts. That
40 was adopted in 2000. State planned elements with some
41 priorities that were adopted in 2006, and a number of
42 initiatives are under way in connection with that.
43 We have to, just like you, engage in purposeful,
44 strategic planning, where the process is critical but it
45 doesn't become the product. And that's what we're trying
46 to do right now. We're in the process of adopting a
47 2006-2014 strategic plan, which we hope to do by December
48 of this year. Committee's been meeting since July. It's
49 on the fast track. It's going to have us look at
50 important demographic and environmental factors, including
51 access to information.
52 The demographic issues in our society in Oregon
53 and around the country, both an aging society and
54 population, increased non-English speakers in the courts
55 and interpreter use, immigration, and a matter of bringing
56 justice to all and respecting cultural diversity. Also,
57 drug and alcoholic epidemics, specialty courts, court
58 governments, fueled growth and complexity, and business
29
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 chaired 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 the 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

30
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 reconvene 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. Get a few more sluggers.
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 to 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

31
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 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 places and minutes 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, held
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.

32
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's 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 resolution 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 St. John's, 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' resolutions
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

34

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
8 PRESIDENT YUGLER: Thank you, Gary.
9 MR. ROBERT LECHEVALIER: Rob Lechevalier,
10 elected delegate from Region 6.
11 I think also it would be helpful to find out,
12 maybe by voting, to find out how many elected delegates
13 are here versus nonelected delegates, just to determine
14 whether we have -- whether we have a majority of the
15 elected delegates.
16
17 PRESIDENT YUGLER: I think we -- well, we
18 can proceed in that fashion. I am not opposed to having a
19 general discussion, but the difficulty is that without a
20 quorum, then it is nothing other than a general
21 discussion. If people wanted to, for a test vote, to
22 push -- maybe we can bring up a test question, Jared, I/A
23 if you are elected and I/E if you are ex officio. Maybe
24 we can do that and just satisfy curiosity. I know we can
25 figure it out in the back. This might be a quick way to
26 answer that question.
27 We're going to have -- press one for you if you are

35

1 elected, and press two if you're ex officio.
2 Tell me when you get that on there, Jared.
3 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 get 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 100
24 responses, which shows we are two short of a quorum,
25 because we need 110 for a quorum.

36

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 guidelines 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 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. TERA WANGEL: Please remember to
20 return your voting devices. 75 buds for anybody who does
21 not. Thank you.
22 Okay. Why don't I do this: Since we are not --
23 don't have a quorum, we can't conduct business, I want to
24 provide a few minutes for people who would want to speak
<table>
<thead>
<tr>
<th>37</th>
<th>39</th>
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<tbody>
<tr>
<td>1. in favor of the Board of Governors resolution number three, which is item number ten on your agenda.</td>
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<tr>
<td>2. UNIDENTIFIED SPEAKER: Can I just ask one question?</td>
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<tr>
<td>3. PRESIDENT YUGLER: Yes.</td>
<td></td>
</tr>
<tr>
<td>4. UNIDENTIFIED SPEAKER: Can we get the exact number of ex officio members who actually could be here and at the exact number of elected delegates so we know, since we're discussing specifically allowing ex officio and there are 25 here, it would be nice to know how many there actually are.</td>
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<tr>
<td>5. PRESIDENT YUGLER: We can give you an exact number, but there are approximately 50-50, Janet.</td>
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<td>6. UNIDENTIFIED SPEAKER: Mary.</td>
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<tr>
<td>7. PRESIDENT YUGLER: Mary. I'm sorry. All right. There are approximately 110 ex officio members and approximately 110 elected delegates. But we'll get you the exact numbers.</td>
<td></td>
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<tr>
<td>8. I don't want to, by the way, hold people, because we are officially going to adjourn the meeting, so I don't want to hold you if you want to go. But if you do go, please drop your voting thing off.</td>
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<tr>
<td>9. Maybe I can do this: As to item number ten on the agenda, who believe that we ought to have a designee -- maybe, Jared, if you could bring up that question -- who believe that we ought to allow ex officio members have a designee. Get that one up there. It would be number nine.</td>
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<tr>
<td>10. Okay. Why don't we do this. This is just an advisory vote for us, and the resolution that's described in your packet, we're not going to take time to debate this because this is just an advisory vote, and we're not conducting business. But those who believe that it would be advisable to allow ex officio members to appoint a delegate in their stead, press one. And if you're opposed and think that ex officio members ought not be able to -- or we ought not change it so that ex officio members can have a designee in their absence, press two. And if you really don't know, press three.</td>
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<tr>
<td>11. (Vote taken.)</td>
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<tr>
<td>12. PRESIDENT YUGLER: I know some folks left. That's fine.</td>
<td></td>
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<tr>
<td>13. So that's good news. All right.</td>
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</tr>
<tr>
<td>14. Now, let's consider Danny's resolution. Danny, why don't I just give you a minute to describe your resolution. And again, I'm not going to ask for any debate. This is resolution item number sixteen on the agenda, delegate resolution number five. Why don't you describe it.</td>
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<td>15. MR. DANNY LANG: Thank you, Mr. President.</td>
<td></td>
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<th>40</th>
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<tbody>
<tr>
<td>1. another item which was that we have an executive committee, maybe a presiding delegate from each region that could have gone around and made sure that those delegates that are absent knew the meeting was on, reminded, and just kept the interest, keep things going so we have maybe some compelling. It wouldn't have taken much. I think if we had had an executive committee, we would have had two or three more people here today.</td>
<td></td>
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<tr>
<td>2. So I'm going to ask you to pass my resolution.</td>
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<tr>
<td>3. I don't see this as an alternative to the Bar -- or the Board of Governors' resolution. I like them both. So, that's it from a delegate. Thank you, from the region.</td>
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<td>4. PRESIDENT YUGLER: Okay. As I said, I'm not going to really have a debate on this as an advisory.</td>
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<tr>
<td>5. I do want Tim Gerling on the Board to discuss with you -- or summarize for you the Board's discussion about this resolution, and then again we'll just ask for an advisory vote here.</td>
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<tr>
<td>6. MR. TIMOTHY GERLING: Good morning. I'm a fourth-year member of the Board of Governors, and I'm chair of the policy and governance committee that I'm pleased to be a part of for the next two years. And I will say this: that over that period of time, the Board has carefully considered this problem of obtaining a quorum at your annual meeting, and we have been attempting...</td>
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to address that problem.

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

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

Another possibility would be to simply have all of our House of Delegates meetings take place in a more centralized location, not geographically, but maybe centralized for the majority of the HOD members, which would be at the Bar center in Tigard. These are -- these are possible solutions that we’re still working on, but this solution that Danny has suggested we think is the right way to solve this problem.

PRESIDENT YUSLER: Thank you.

Okay. Now, again, just for the enjoyment of the Board of Governors, not that we, if you are in favor of Danny’s resolution, press one; if you are opposed, press two; if you don’t know or want to abstain, press three. And trust me when I say we -- the Board of Governors takes to heart everything that this body does.

So, think carefully and press your button.

(Vote taken.)

PRESIDENT YUSLER: Okay. With that, I want to pledge to you again that the Board will discuss, debate, and propose some additional solutions. With that, I want to thank you again for making the effort, for coming, and for adjourn this meeting.

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

PRESIDENT YUSLER: I’m informed that we have a quorum, so I’m going to call the meeting to order.

I’m Rick Yusler, President of the Oregon State Bar for 41 days. And I want to thank you all for attending, and to 108 of you, thank you all for attending again.

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

(Appause.)

PRESIDENT YUSLER: And I want to introduce Karen’s successor, Teresa Schmid, who’s --

(Appause.)

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

And I also want to thank Gretta Capri and Robin Noland of the Oregon Court Reporters Association for being with us once again.

(Appause.)

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

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

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

Proposed amendments must be presented in writing, as well as any new items that may be added to the agenda once we finalize the agenda. There’s a pink form.

If you want to add something, it needs to be in writing, and that’s there for your convenience.

And a reminder: In moving to close debate, which is often called “calling for the question,” it does not require a delegate to make a proper motion and to be seconded. It’s not debatable and will require two-thirds vote to close debate before we move to a main motion.

Now, we do have the fancy electronic voting
<table>
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<th>47</th>
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| 1. system. So, everyone, if you have one of these, please take it out because we're going to have a test question and see if these things work. The instructions are in your packet, but the main thing you need to know about this handy-dandy electronic voting system is you may not leave with these things in your pocket. We know who you are because everyone who picked one up has a number attached to his or her name, and if we don't get it back, there's a $50 charge. So please make sure to return these when you leave. Secondly, each vote will be entered into an electronic database that can be viewed, as needed, for verification. And the buttons are pretty simple. It's worked out pretty well. Use 1/A for yes, 2/B for no, and 3/C for abstaining. The other buttons will not register your vote. But remember, the last button you press will register your vote. So if at first you make a mistake and you press yes, before I say, 'The votes are going to be tallied,' you can press no, because the last button you press before the votes are tallied is the one that's going to count. So even if you press the same number, if you press 3/A three, four, or five times, because you're worried about it being registered, it's only going to register that. The last button you press is the one that's going to count. When the votes have been recorded, you'll see a green light on your device. After you've pressed your button, if it flashes orange in your hand, then it means that your vote was not recorded and you need to press it again. So we're going to have a test question, and I'm going to ask you to press 1/A if you think that we will get through our agenda in under 60 minutes, press 2/B if you think it will take 90 minutes, and 3/C if you think we're going to be here for two hours. So please record your votes. (Vote taken.)
<p>| 1. chocolate, vanilla, or both? |
| 2. PRESIDENT YUGLER: Well, it's the test question. As you can see, we have 125 responses, so we do have a quorum. No doubt about that. All right. So anyone who hasn't pressed their button, now's your last opportunity, and we can now close that question and see what the result is. Oh, my God. All right. Wow, we're already divided. I'm not sure that's a good sign or a bad sign, but we're going to find out. All right. Now, the first order of business that we did not get to when we last met was to finalize the agenda, to adopt a final meeting agenda. And everybody has in their pocket, of course, the agenda that was printed and timely delivered to everybody. And just to summarize the agenda, there are eight items -- items number eight through 15. Board of Governors resolutions are items number one through four -- excuse me. They're on there as items eight, nine, ten, and 11. But those will be Board of Governors resolutions number one through four. That's followed by eight different resolutions from delegates from the House, and item number 20 was excluded. And the reason item number 20 was excluded, I would like to explain, is because BOG bylaw 3.4 permits... |
| 46 |
| 1. that's going to count. | 48 |
| 2. When the votes have been recorded, you'll see a green light on your device. After you've pressed your button, if it flashes orange in your hand, then it means that your vote was not recorded and you need to press it again. | 1. the Board of Governors to exclude any item outside of the limitations set forth in Keller v. State of California, |
| 3. So we're going to have a test question, and I'm going to ask you to press 1/A if you think that we will get through our agenda in under 60 minutes, press 2/B if you think it will take 90 minutes, and 3/C if you think we're going to be here for two hours. So please record your votes. | 3. and House of Delegates rule 5.6 provides that any excluded item may be added back only by overriding the vote of the Board of Governors. |
| 4. (Vote taken.) | 5. So at this time we have an agenda with items number eight through 19, and we have excluded item number 20, and I am asking at this time whether we'll have a motion for adoption of the agenda or to add or delete item from the agenda. |
| 5. PRESIDENT YUGLER: Oh, don't vote yet. I'm sorry. I have to follow instructions. | MS. MICHELLE ING: Mr. Yugler. |
| 6. Okay. Here we go. Number one: Chocolate, vanilla, or both. So question -- so 1/A if you think we're going to be here in under an hour, 2/B if you think 90 minutes, and 3/C if you think two hours. So let's record our votes. | PRESIDENT YUGLER: Yes, Ms. Ing, I'll recognize you. |
| 7. UNIDENTIFIED SPEAKER: How many times can you vote? | MS. MICHELLE ING: Michelle Ing from Salem, elected delegate from Region 6. |
| 8. PRESIDENT YUGLER: You can only vote once. | 10. I move to suspend the rules. I have an agenda item to add. It is -- the item I want to add does not -- does not prejudice the body. It is a topic that came up at our Futures Conference regarding out-of-state attorneys practicing in Oregon without a license through -- through openings in the arbitration rules. And I think that the body should consider that additional agenda item, and I request that this -- I request for a suspension of the rules, sir. |
| 9. It's the last time you press. | PRESIDENT YUGLER: All right. A motion to... |</p>
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<th>51</th>
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<tbody>
<tr>
<td>1. suspend the rules to add an item that was not submitted</td>
<td>1. Mr. Gerry Gaydos: Seconded.</td>
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<tr>
<td>2. within the 45-day time frame for submitting motions</td>
<td>2. President Yugler: And Mr. Gaydos has</td>
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<tr>
<td>3. requires a two-thirds vote and is nondebatable. So at</td>
<td>3. seconded.</td>
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<tr>
<td>4. this time do you have a second for your motion?</td>
<td>4. All right. Again, nondebatable motion. All in</td>
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<tr>
<td>5. Mr. Danny Lang: I will second.</td>
<td>5. favor of adopting and approving the final agenda, press</td>
</tr>
<tr>
<td>6. President Yugler: Mr. Lang has seconded</td>
<td>6. yes -- number one for yes, number two for no.</td>
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<td>7. your motion.</td>
<td>7. (Vote taken.)</td>
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<tr>
<td>8. All right. So the first item to vote on is --</td>
<td>8. President Yugler: Okay. All right. Let's</td>
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<td>9. well, actually, the item is going to require suspension of</td>
<td>9. see the total.</td>
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<tr>
<td>10. the rules to add this to the agenda. So, nondebatable.</td>
<td>10. All right. That carries. Two people -- we have</td>
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<tr>
<td>11. Ms. Michelle Ing: I move to suspend the</td>
<td>11. an agenda. Thank you very much, everybody.</td>
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<tr>
<td>12. rules, sir.</td>
<td>12. The first item on the agenda that we have just</td>
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<td>13. President Yugler: Done that.</td>
<td>13. approved is item number eight, in-memorium resolution, and</td>
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<td>14. Ms. Michelle Ing: Okay. And nondebatable.</td>
<td>14. the chair will recognize Mr. Gaydos.</td>
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<td>15. President Yugler: It's been seconded. So</td>
<td>15. Mr. Gerry Gaydos: If you haven't opened</td>
</tr>
<tr>
<td>16. all in favor of suspending the rules to add Ms. Ing's</td>
<td>16. your packet, if you could, and look at this sheet, I ask</td>
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<td>17. agenda item, and after which, if this does pass, then she</td>
<td>17. you to look at that sheet as we do a little in memorandum.</td>
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<td>18. can present her motion to actually add it to the agenda</td>
<td>18. I ask you to review those names, for we're not</td>
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<td>19. and actually describe the motion. But in favor of</td>
<td>19. going to read each of them, and I want you to take a</td>
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<tr>
<td>20. suspending the rules, in favor of her presenting her</td>
<td>20. moment to slow down, to take a deep breath, to remember</td>
</tr>
<tr>
<td>21. motion to suspend, press 1/A if you're in favor, 1/B if</td>
<td>21. the members of the Bar and Bench, the lives and commitment</td>
</tr>
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<td>22. you're against -- 2/A, excuse me -- 2/B if you're against,</td>
<td>22. of those who have passed during this last year.</td>
</tr>
<tr>
<td>23. and 3/C if you wish to abstain. And do not vote yet. Now</td>
<td>23. This is a moment, although too short, one</td>
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<tr>
<td>24. vote. (Vote taken.)</td>
<td>24. that causes us, in addition to remembering, to reflect on</td>
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<td>25.</td>
<td>25. what each contributed to our profession and to the Oregon</td>
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<tbody>
<tr>
<td>1. President Yugler: Okay. Can we vote,</td>
<td>1. State Bar. This is the moment to celebrate the face that</td>
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<tr>
<td>2. Jared?</td>
<td>2. each put on the rule of law. Each of those who have</td>
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<tr>
<td>3. Unidentified Speaker: Wait a second.</td>
<td>3. passed made the rule of law a reality to their clients, to</td>
</tr>
<tr>
<td>4. President Yugler: Jared, can we vote on</td>
<td>4. their communities. Each brought honor to themselves and</td>
</tr>
<tr>
<td>5. this? Oh, we're going to vote again.</td>
<td>5. their profession.</td>
</tr>
<tr>
<td>6. Unidentified Speaker: It's resetting.</td>
<td>6. This is a moment to celebrate professionalism of</td>
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<td>7. President Yugler: Okay. Okay. All right.</td>
<td>7. each, the statesmanship of each, and that sense that the</td>
</tr>
<tr>
<td>8. Vote now.</td>
<td>8. rule of law is important in our communities. Our Bar and</td>
</tr>
<tr>
<td>9. (Vote taken.)</td>
<td>9. our state is for better for all those lives well lived. I</td>
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<td>10. President Yugler: We have 123 responses.</td>
<td>10. ask you to stand in a moment of silence and prayer.</td>
</tr>
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<td>11. All right. Let's tally the votes, because I don't vote</td>
<td>11. (Pause.)</td>
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<tr>
<td>12. unless there's a tie. And the results, 75. I say that is</td>
<td>12. Mr. Gerry Gaydos: Thank you.</td>
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<tr>
<td>13. more than two-thirds, wouldn't you, Ms. -- no? 66.</td>
<td>13. I ask you to reflect, as you leave today, on</td>
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<tr>
<td>14. what's two thirds -- oh, two-thirds of those present.</td>
<td>14. what each of these individuals meant to their communities,</td>
</tr>
<tr>
<td>15. Okay.</td>
<td>15. their partners, and their families. And when you return</td>
</tr>
<tr>
<td>16. Unidentified Speaker: It would have to be</td>
<td>16. to your busy lives, I ask you not to forget and to</td>
</tr>
<tr>
<td>17. 83.</td>
<td>17. remember to celebrate and to commit to assisting all those</td>
</tr>
<tr>
<td>18. President Yugler: Motion fails. All</td>
<td>18. who need legal services in their memory. Thank you.</td>
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<tr>
<td>19. right. Thankfully, someone can do math.</td>
<td>19. President Yugler: Was there a second to</td>
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<td>20. (Laughter.)</td>
<td>20. Mr. Gaydos's resolution?</td>
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<tr>
<td>22. turn to the first -- I do need a motion to adopt the</td>
<td>22. President Yugler: Mr. Mucci.</td>
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<tr>
<td>23. agenda as otherwise printed.</td>
<td>23. I'm going to ask for unanimous consent to</td>
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<tr>
<td>24. Mr. Dennis Karnopp: So moved.</td>
<td>24. Mr. Gaydos's resolution. Are there any objections?</td>
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<tr>
<td>25. President Yugler: Mr. Karnopp has moved.</td>
<td>25. Motion carries. Thank you, Mr. Gaydos.</td>
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The next item is item number nine, and this is to be presented by Mr. Tim Gerking. Tim?

MR. TIMOTHY GERKING: This is 806 resolution number two. The Board of Governors is asking the House of Delegates to approve resolution number two to allow for the continuous and uninterrupted provision of legal services in the event of a catastrophe or major disaster in Oregon, or in another jurisdiction, that impacts the provision of legal services.

This is in response to the disruption of legal services that occurred in the Gulf Coast -- or the Gulf region as a result of the hurricanes, and it's consistent with an ABA model court rule that was passed by the American Bar Association House of Delegates in 2007.

There are two situations where this might arise. One is a disaster that occurs in Oregon, where Oregon residents or displaced persons from another jurisdiction who come to Oregon are in need of legal services; and the second situation might occur if there's a disaster in another jurisdiction that causes the temporary displacement of lawyers from that jurisdiction to Oregon.

In the first situation, in the event of a disaster here in Oregon, it must -- the disaster must be an actually declared emergency by the governor's office.

The lawyer who is seeking to practice here in Oregon must do so on a temporary basis, and the services must be on a pro bono basis pursuant to an established pro bono program.

In the second situation, where we've got displaced lawyers coming to the state of Oregon, that must also be pursuant to a declaration of an emergency in the affected state. It must also be the provision of legal services must also be on a temporary basis, and that lawyer's practice must be limited to services that arise out of or are reasonably related to the services he or she provided in the affected jurisdiction.

So I would move that this resolution be adopted.

MS. THERESA WRIGHT: Second.

PRESIDENT YUGLER: Ms. Wright seconded it.

Want to speak further?

MR. TIMOTHY GERKING: No.

PRESIDENT YUGLER: All right. At this time Mr. Gerking's resolution, item number nine, Board of Governors resolution number two, is open to debate. If you want to speak pro or con, please step up to either of the microphones.

Don't see anyone who wants to speak, one member there.

MR. TIMOTHY ZIMMERMAN: Tim Zimmerman, region four, elected delegate. I move to close debate.

PRESIDENT YUGLER: Okay. There is no debate.

(Laughter.)

PRESIDENT YUGLER: So we will move to the question. And all in favor of Mr. Gerking's resolution -- if we have that up on the board, please -- press 1/A; all against, please press 3/8; and if you abstain, please press 3/C at this time.

(Vote taken.)

PRESIDENT YUGLER: All right. We have 120 -- more people are showing. Look at that, 120 people here, not including the chair. That's great. Okay, 131 people.

All right. So let's see the tally.

Motion passes 122 to six, with three abstentions. Thank you very much.

Mr. Gerking, you also have the floor for item number ten, Board of Governors resolution number three.

MR. TIMOTHY GERKING: We're asking the House of Delegates to approve Board of Governors resolution number three to amend House of Delegates rule of procedure 3.1. And this resolution is intended to make it easier to obtain a quorum for the annual HOD meeting.

In recent years, including this one, we've had some attendance problems with -- for our annual meeting,
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1 agree to change his motion slightly, and instead of having
2 "or otherwise," which is somewhat vague, perhaps we can
3 give more direction to the local bars and the sections by
4 stating, instead of "or otherwise," strike "or otherwise"
5 and insert, "or by a resolution adopted by that
6 organization's governing board or committee."
7 Mr. Gerking, would you accept that as a
8 modification?
9 MR. TIMOTHY GERRING: Could you state that
10 again?
11 MR. PETER MOZENA: Yes. Strike the words
12 "or otherwise" and insert "or by a resolution adopted by
13 that organization's governing board or committee."
14 PRESIDENT YUGLER: Well, this is an
15 amendment. You're moving to amend?
16 MR. PETER MOZENA: Point of order. I
17 believe I have the right, under parliamentary procedure,
18 to ask the moving party if he will modify it, and if he
19 chooses to, it's totally up to Mr. Gerking if he will
20 proceed.
21 MR. TIMOTHY GERRING: That will be fine.
22 PRESIDENT YUGLER: Thank you.
23 MR. WARD GREENE: I agree as well.
24 PRESIDENT YUGLER: Yes. Could you write
25 down your
26

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Okay. Ms. Garst, if you could hand me the
amended resolution.
Okay. The amended motion, which both the
proponent and seconder have accepted, is to change the
resolution to read delegates -- an amendment to HOD rule
procedure 3.1, to state that: Delegates shall be
selected as provided in the Bar Act and bylaws and
policies of the State Bar. There shall be no alternate
delegates except that a section or local bar association
may designate an alternate delegate, provided the
alternate delegate is a person duly authorized by the
organization's bylaws, or by resolution adopted by that
organization's governing board or committee.
Have I correctly stated the amendment?
Oh. "To act in the section chair's or bar
president's stead." There we go.
All right. Now, those who want to speak pro or
con, in favor of the resolution as amended.
MR. BRIAN THOMPSON: Brian Thompson, Lane
County Bar Association President.
I don't know how much the rule might assist in
Lane County. We just didn't get notice of this in time.
Speaking of the bar presidents lack, notice of these
meetings was not given to the bar presidents -- I see
heads nodding -- was not given to us in time to adjust our

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1 schedules. I was at Cub Scouts. I was a Cub Scouts
2 leader, I had to be there, could not get another party in
3 that time, and that has been a recurring problem for the
4 bar presidents that I have spoken to.
5 So I don't think this will fix the problem,
6 because I couldn't call a meeting in time after it got
7 done. That's my comment.
8 PRESIDENT YUGLER: Thank you.
9 Recognize someone from the pro microphone.
10 MR. JONATHAN LEVY: I'm Jonathan Levy,
11 Portland. I'm the state chair of -- I support this. I
12 could not attend the original meeting because of a family
13 conflict. My section took this seriously. We voted to
14 name an alternate, but then we learned that the rule of
15 this body prohibited that person from appearing. Thanks.
16 MR. JOHN TYNER: John Tyner. There should
17 be an "other" microphone. Oh, there it is.
18 PRESIDENT YUGLER: Tyner, you are
19 recognized from the "other" microphone.
20 MR. JOHN TYNER: Is there another one here?
21 Was it the intent of the author of this
22 amendment to increase the flexibility for the
23 associations? And the question I have: Would additional
language limit the flexibility of the organizations, and
24 would that be the general intent? Mr. Gerking?
25

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1 MR. TIMOTHY GERRING: Well, I think the
2 intent of the resolution would be --
3 PRESIDENT YUGLER: Tim, I'll have you speak
4 up there by the mic. Go to the pro microphone, I suppose.
5 MR. TIMOTHY GERRING: Where's the pro?
6 PRESIDENT YUGLER: Next one. One more
7 back.
8 MR. TIMOTHY GERRING: Well, I don't know.
9 I don't think the amendment would overly restrict the
10 intent of the -- the intent of the proposal. Provides a
11 little more definition for I, so that's why I would
12 support it.
13 MR. JOHN TYNER: I would move to eliminate
14 the new motion because I think it does limit the
15 flexibility of the organization. So as a con, I'd make
16 that motion.
17 UNIDENTIFIED SPEAKER: I second it.
18 PRESIDENT YUGLER: Okay. Well, now it's
19 going to get confusing because the proponent and the
20 seconder has accepted the amendment. So this is a motion
to amend.
21 MS. MARY OVERGAARD: It's a motion to amend
to restore the original language.
22 PRESIDENT YUGLER: That's correct. It's
23 been seconded, and we can debate whether to amend to go
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1 back to the original language.
2 All right. So that is the current motion, to
3 delete the amendment and go back to the original language.
4 Anyone want to speak pro or con? Peter?
5 MR. PETER MOZENA: Well, otherwise, the
6 problem with the "or otherwise," it just gives me
7 assistance at all to the sections or to the local bars.
8 All the alternate language that has been accepted by
9 Mr. Gasher does it -- it gives the opportunity
10 for the local bars and the sections to know how to name
11 that alternate.
12 If you leave the "or otherwise" in, what that
13 does is perhaps would give an extra opportunity. The only
14 extra opportunity it would give to the local bars and
15 sections is to perhaps have the chair or the bar president
16 appoint someone. Now, that might be some additional
17 flexibility, but, you know, keeping with sort of a
18 democratic model that you want the governing board or
19 section to have, at least it is something that is agreed
20 to by that governing board or committee.
21 It seems to me it's just a more democratic way
22 to do it, to get an alternate in that is at least
23 acceptable to that governing board or committee. And it
24 gives some definition to the people on what that "or
25 otherwise" means.

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1 I think if you're going to want some additional
2 way of doing it, then you should say so. I think we live
3 with vagueness as an enemy to the law, and I think
4 removing the vagueness is a good thing in making it clear.
5 PRESIDENT YUGLER: All right. Thank you,
6 Peter.
7 John.
8 MR. JOHN BACHOFNER: John Bachofner, elected
9 delegate from out of state.
10 With respect to my colleague, I don't
11 necessarily read it that way. I think the "or otherwise"
12 relates to the previous -- previous language that they're
13 duly authorized, if they're otherwise duly authorized,
14 whether it's through the bylaws or some other format, then
15 they're going to be authorized.
16 The change you've made limits it to two
17 different options: Either the bylaws or by resolution.
18 So the amendment that's proposed now would make greater
19 flexibility for the organizations. So I'd support it for
20 that reason.
21 MR. PETER GLAZER: I don't intend to
22 speak. I'm Peter Glazer, the President of Clackamas
23 County Bar Association. This is my first and probably
24 only HOD meeting ever.
25 Let me tell you what goes on in Clackamas

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1 County. We don't have bylaws. We don't have a board. We
2 have four officers, and they are self-perpetuating. They
3 appoint or I have in the past appointed, and I was last
4 year appointed by last year's president.
5 If you use "or otherwise," I agree with what
6 John Bachofner said: You have the duly authorized
7 qualifier, but if you use the amended language, we would
8 not be able to appoint somebody.
9 PRESIDENT YUGLER: Peter, I'll recognize
10 someone from the con microphone.
11 MR. TOM KRAVNICH: Tom Kranovich, elected
12 delegate from region six, and winner of the Peter Glazer
13 look-alike contest.
14 (Laughter.)
15 MR. TOM KRAVNICH: Also a past president
16 of the Clackamas County Bar Association.
17 I really believe that we do need this limiting
18 language so that other bar associations, like mine, follow
19 some kind of process in getting delegates to this august
20 body.
21 PRESIDENT YUGLER: All right. Thank you.
22 You guys just switched seats. How are we going to figure
23 this one out?
24 Pro microphone.
25 MS. JOAN KELSEY: Joan Kelsey, I'm chair

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1 of the real estate section and region four, and I live in
2 Tillamook.
3 I was very conflicted of the original date for
4 this meeting and waited until the last possible moment,
5 which was in my mind, five days before the meeting, to
6 send in the -- my RSVP that I couldn't make it due to a
7 conflict. It would have been extremely useful for me to
8 be able to pick up the telephone, having been previously
9 authorized by my section in a meeting without a
10 resolution, especially if it was -- we normally don't
11 conduct things by resolution. It's motions. And we have
12 very specific minutes that track what goes on in those
13 meetings.
14 So, just as a clarification, a resolution is not
15 something I'm familiar with in the work that we do. It
16 would have been really -- very wonderful for me to be able
17 to pick up the telephone and simply appoint one of the
18 officers of the real estate section to appear in my stead,
19 and there were people who were waiting in to do that.
20 So I guess I would support the original
21 language, because I understand the "or otherwise" to allow
22 us to have an alternative to requiring a vote of the
23 entire section to amend the bylaws, because we might not
24 be able to do that in time, but to simply be able to
25 produce a delegate to participate in this meeting, if
That's the point of it. Thank you.

President Yugler: Okay. Is there anyone else who wishes to speak pro or con to the present motion, which is to return to the original language of the resolution?

Mr. Frederic Cain: Frederic Cain. I think it's region five, Multnomah County.

You know, we observe national politics and state politics and conventions, and one of the greatest—one of the concerns from time to time is credentialing. Now, I realize this body here doesn't have that much power, but still, when we have contested matters, it probably is important that we have a clear credentialing process. And the "or otherwise," where a body—member of a body can simply call up another member and appoint that member really creates serious credentialing problems.

President Yugler: Okay. Thank you, Fred.

Anyone else want to speak at a pro microphone?

Rob.

Mr. Robert LeChevallier: Rob LeChevallier, elected delegate, region six.

I kind of agree with some other speakers, that I think we should know—have some process, and if there's a problem of a last-minute appointment, you could always have a resolution in advance. At any time the chair

I cannot attend, they can appoint another member of the board.

So you could authorize it by resolution in advance. Otherwise, how do you know who has authority to speak for the section or for the bar association? So it could be done in advance for a period of years, you know, a couple years. That way, whenever the chair can't attend, they can appoint someone. So I still—I don't think you would be--would be restricted from an appointment if your board agreed with that.

President Yugler: Okay. Is there anyone else who'd like to speak pro or con?

All right. Not seeing anyone at the microphone, the present motion is to restore the original language. If you're in favor of that motion, please press 1/A; if you're opposed, please press 2/B; and if you wish to abstain, 1/C.

(Vote taken.)

President Yugler: Okay, 131. Anyone has voted? Last change.

Let's see the tally. And the motion carries to restore the original language. All right.

So now we're back to the original language. In your book, which is found on page 5 of your book—and I'm not going to state the original language because it's printed and it's easy to find.

Now, all in—anyone who wants to speak to the original motion, as to the original language, please come to the pro or con microphone. Mr. Greene?

Mr. Ward Greene: Thank you, I'm Ward Greene. I'm a member of the Board of Governors.

I just wanted speak in favor of it, because I think the intent originally was each of these organizations or sections would have a voice, and I think really this clarifies what was intended originally, and that is that if the president for some reason or the section chair or the — whoever it was who was designated at the office couldn't attend, that they would appoint someone in their stead.

And again we're having trouble with attendance. So it just seemed like a good idea, a good way to keep the local bars involved and keep the sections involved.

President Yugler: Mr. Greene.

Anyone else want to speak pro or con to the original language, which is now before us as a main motion?

All right. Not seeing anyone else, it is time to vote. If you're in favor of the original resolution, which is found on page 5, which is Board of Governors resolution number three, please press 1/A if you're in favor, 2/B, if you're opposed, and 3/C if you desire to abstain.

More people. Okay.

(Vote taken.)

President Yugler: All right. If you haven't pressed your button, last change.

Let's see the tally. The motion carries 123 to one. Very good. Congratulations, everyone.

Next item of business is item number 11, and again the chair recognizes Mr. Gerding.

Mr. Timothy Gerding: I'm not sure why I'm having all the fun here. This is DOG resolution number four. We're asking the House of Delegates to approve this resolution to amend a rule of professional -- rule of professional conduct 1.6, subsection B, so it can be submitted to the Supreme Court for its approval.

1.6 is a rule that provides that lawyers keep all client matters confidential unless the client provides informed consent. Subsection B currently contains six exceptions to that rule. And this resolution would create a seventh exception: For allowing a lawyer who is subject to a diversion agreement or is under probation or is subject to a conditional reinstatement or conditional admission to share client confidences with the Bar's monitoring or supervising attorney.
And we also have an amendment to that resolution that would make it clear that the supervising or the monitoring lawyer would have the same responsibilities to keep that information confidential as the client's lawyer except to provide information to -- except to carry out his or her obligations pursuant to that agreement that he or she is working under. So I think we first have to deal with the amendment.

PRESIDENT YUGLER: All right. The initial motion is for adoption of the amendment to RPC 3.6(b)(7), which is on page 6 of your materials. Is there a second?

MR. BRIAN THOMPSON: Second.

PRESIDENT YUGLER: Identify yourself, please.

MR. BRIAN THOMPSON: Brian Thompson, Lane County.

PRESIDENT YUGLER: Thank you, Mr. Thompson. And Mr. Geringer also moved to amend the resolution that's found on page 6 with language that should have been handed out and found in your packet. Ms. Stevens has it. And it contains the additional sentence, and I'll read it for our record. The amended language in subsection C would provide that: "A lawyer may reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary: to comply with the terms of a diversion agreement, probation, conditional reinstatement or conditional admission pursuant to BR 2.10, AR 6.2, ARB 8.7 or Rule for Admission Rule 6.16." Here's the amended -- amending language to that:

"A lawyer serving as a monitor of another lawyer on diversion, probation, conditional reinstatement or conditional admission shall have the same responsibilities as the monitor to preserve information relating to the representation of the monitored lawyer's clients, except to the extent reasonably necessary to carry out the monitoring lawyer's responsibilities under the terms of the diversion, probation, conditional reinstatement or conditional admission and in any proceeding relating thereto."

Mr. Geringer's second motion. Is there a second to that?

MS. THERESA WRIGHT: Second.

PRESIDENT YUGLER: I'll recognize Ms. Wright. Ms. Wright seconded it.

Now, is there anyone who wishes to speak pro or con to this resolution? To the amendment?

All right. Hearing none, all in favor of the amendment press 1; if you're opposed, press 2/8; if you're going to abstain, press 3/C.
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1 going a mile or two over to the courthouse and parking and
2 going in, when he could handle a routine motion at the
3 option -- there would be rules set out.
4 No one's going to prejudge -- this does not
5 intend to prejudice appearing or, if the cases where
6 testimony or credibility must be judged. This is simply a
7 policy matter saying that whenever possible, we need to
8 ask that the Board of Delegates and the Bar consider the
9 optional use of conferencing, of modern technology, to --
10 rather than having a required physical appearance.
11 We have some matters where people have -- we've
12 actually had people travel all the way from San Diego,
13 catch a flight, come into Eugene, rent a car, and then the
14 matter is continued. So it would also be -- for those
15 three-minute type matters, it would certainly be
16 appropriate, especially when you know a matter is going to
17 be continued, rather than having to drive from Salem to
18 Multnomah County Courthouse and so forth.
19 This is a policy matter, and I will say that
20 it's been well debated. I was invited by the
21 environmental and natural resources section after I
22 submitted this agenda item, and they debated it, they had
23 considerable hearing on it, and they voted to support this
24 resolution.
25 So thank you, Mr. President. Thank you.

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1 colleagues.
2 PRESIDENT YUGLER: Is there a second to
3 Mr. Lang's motion?
4 MR. THOMAS CUTSFORTH: Second.
5 PRESIDENT YUGLER: Please identify
6 yourself.
7 MR. THOMAS CUTSFORTH: Tom Cutsforth.
8 PRESIDENT YUGLER: Thank you.
9 Cutsforth.
10 Anyone wishing to speak pro or con, the
11 microphones are open. Mr. Cutsforth, the pro microphone,
12 MR. THOMAS CUTSFORTH: I'm Tom Cutsforth,
13 region one, elected delegate.
14 This is a very important matter to us. It's 110
15 miles for our Circuit Court judge to come from Hood River
16 to Fossil, Oregon. It's 90 miles to get to Condon,
17 Oregon. I am the only civil attorney in the two counties
18 and, therefore, any other attorney would have to travel at
19 least that distance.
20 We also have the largest of the largest windmill
21 productions in the state of Oregon, and probably in the
22 western hemisphere. We have a thousand huge wind
23 turbines. You ought to come see it. But anyway, I
24 support sustainability, and this just makes good sense.
25 Thank you.

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1 PRESIDENT YUGLER: Thank you.
2 Con microphone, please identify yourself.
3 MR. CHRISTOPHER LARSEN: Chris Larsen,
4 elected delegate for region five. I'm also a Multnomah
5 County pro tem judge.
6 I never really thought that I would be coming to the
7 con microphone on this, but I would like for the
8 membership to consider a couple things. The last two
9 paragraphs of this, in terms of allowing the optional use
10 of videoconferencing and telephonic appearances, even for
11 large counties such as Multnomah County, this presents a
12 huge issue in terms of costs and actually the ability to
13 actually carry something like this out.
14 I am absolutely, 100 percent supportive of
15 encouraging sustainability and would wonder if the
16 proponent of this measure, Mr. Lang, would support
17 striking the last two paragraphs and just have the
18 members encourage the Board to recommend or implement
19 policies and procedures intended to enhance
20 sustainability, period, and give this some more thought.
21 I think this has a lot more ramifications,
22 especially in the criminal context, where you have
23 constitutional right to counsel to appear. It seems to me
24 to be maybe moving too quickly with a general policy of
25 supporting sustainability.

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1 PRESIDENT YUGLER: Okay. Other speakers at
2 the pro and con microphones?
3 MR. JOHN TYNER: I feel like apologizing.
4 I came here to sleep through this meeting, frankly,
5 instead of speaking twice, but --
6 PRESIDENT YUGLER: Please state your name.
7 MR. JOHN TYNER: John Tyner, district four.
8 In the criminal field you show up for a
9 three-minute thing and wait two hours to do it, plus I
10 travel a lot of areas around here. Almost all
11 arrangements outside the metropolitan area, including
12 Clackamas County, are done by videoconferencing from a
13 jail. And Mr. Cutsforth and I tried a case out in Fossil
14 some years ago, and I know exactly what it's like to drive
15 240 miles round trip for a one-minute hearing.
16 But the point is: This is where we're going.
17 We're seeing electronic filings in federal court, and some
18 parts of the state are just inaccessible. I understand
19 the problem Multnomah County has, but I think we're
20 getting to the point where maybe driving shouldn't be the
21 necessary first thing. And almost every part of my
22 business, we have videoconferencing capability in our
23 conference room, and we do that quite often. I think the
24 technology should be there. This is a nice push in the
25 right direction. Anyone who litigates quite a lot
probably appreciates that.

In the criminal context, if in custody, defendants are not required to actually be physically present but can do it by videoconferencing. I think there's less onerous ways of ensuring constitutional protection that we can devise for attorneys.

PRESIDENT YUGLER: Thank you, Mr. Tyner.

Anyone else wish to speak pro or con?

Ms. Hoffman.

MR. JANET HOFFMAN: Thank you. I'm Janet Hoffman from region five, an elected delegate.

I didn't think I was going to urge a can on this, but Mr. Tyner raised some issues that I think are really serious, and that is I've appeared at court appearances or arraignments where it's been allowed for counsel to appear by phone, but the client has to physically appear in order to satisfy rules or orders by the court to appear at arraignment, status conferences, and other matters.

And I don't think there's anything more pathetic than a client standing there all alone in front of a judge and having the lawyer be on the telephone. And I don't think we should move to assist that, encourage lawyers not to stand by side by side with their clients. So that if we're going to get into a situation where you can appear by phone, I think it needs to be thought through and it needs to be done where lawyers and clients are together in, for example, the lawyer's office and judges allow that, or where it doesn't apply to criminal cases.

So that I would urge that what we do is consider the matter, but not jump into it simply because it's politically correct.

PRESIDENT YUGLER: Okay. Someone at the microphone.

MR. ROBERT BERNARD: I'm Robert Bernard from region five. I'm an appointed member of the public.

I'm mindful of the logistics matters that go into installing a -- an alternative means of representing your clients in court beyond physically being there. I've had to do this back in Colorado before we moved here. And I know the logistics behind doing that are severe, but I know it can be done, and I'm quite aware -- what this is saying, we're encouraging implementation of alternative means of representation in terms of being there on site. And I support this very much. It's a great use of our resources. It can occur, and the rules and parameters that will establish this in detail will allow us how to get this accomplished.

The one aspect that I'm uncomfortable with, as the member of the public who has implemented this type of thing in another jurisdiction, is the limitation that says 25 miles from court. I'm reading that to say, as a layman, you got to be 25 miles away or further.

It's removing it? Oh, it's removing it. Okay.

Thank you for identifying it for me.

I encourage us to develop this positively, because it does give us a chance to proceed ahead with parameters to get this accomplished. Thank you.

PRESIDENT YUGLER: Tom.

MR. THOMAS CHRIST: I'm Tom Christ, an elected delegate from Portland, Oregon. And like the prior speaker, I'm a pro tem judge for 18 years hearing motions, and I share the concerns of the prior speaker that Multnomah County, at least, does not have the technology to accommodate this sort of a rule change.

I listen in whatever courtroom is available, and so I think in 18 years I've been in every one in Multnomah County, and they do not have the means to accommodate telephonic arguments, especially if there are more than two parties to it. It just can't be done.

So to the extent that this resolution is calling for a rule change that would make this mandatory I think is a bad idea. If the intent of the resolution is simply to encourage funding so that Multnomah County and other counties can acquire the technology necessary for this,

by phone, I think it needs to be thought through and it needs to be done where lawyers and clients are together in, for example, the lawyer's office and judges allow that, or where it doesn't apply to criminal cases.

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that would be a good thing. But I'm concerned that the resolution goes even further than that, and I would oppose it for that reason. Thank you.

PRESIDENT YUGLER: Mr. Christ, thank you.

MR. CHARLES HINKLE: I'm Charlie Hinkle, an elected delegate from region five in Portland.

This resolution calls upon this House to encourage funding for optional use of videoconferencing and expanding the optional telephone appearances by counsel. There's nothing mandatory about it. This is a step in the right direction. Those who are concerned about the Multnomah County Courthouse should welcome this because the courthouse is going to collapse in the next earthquake, we're told.

(Laughter.)

MR. CHARLES HINKLE: And if, for one, would much rather be sitting in front of a video camera in my -- (Laughter.)

MR. CHARLES HINKLE: -- in my office when that happens. The other point that I'd like to make is that there's nothing in this resolution that trumps the constitution. The constitution takes precedence over this, and anyone who is concerned about constitutional rights of criminal defendants or anybody else should --
be assured that nothing that this House does and nothing that any local judge does in terms of encouraging video conference — conferencing will or can ever compromise the constitutional rights of criminal defendants or anyone else to appear personally in court.

Again, I stress that this is encouraging.

Optional uses. Telephonic appearances, when I’ve had to appear in court in Astoria, it’s been a wonderful, welcome relief not to drive down there, although I love Astoria.

We all have to be more conscious I think of our use of natural resources, and this is a very, very modest step.

And I encourage the House to support it.

PRESIDENT YUGLER: Thank you.

Anyone else who wishes to speak, who hasn’t?

MR. THOMAS CHRIST: I’m still Tom Christ.

And I’d like to respond to Charlie’s comments. Of course it does not mean that the court will provide it if requested. Option of the rule means that if you want to appear by telephone, you have the right to appear by telephone if you’re more than 25 miles away.

Multnomah County, at least, can’t accommodate that. Thank you.

PRESIDENT YUGLER: Anyone else wanting to speak pro or con? I’ll give Mr. Lang one minute to wrap up. But there are no other speakers, so we’ll come over to debate, Mr. Lang.

MR. DANNY LANG: Thank you. I think the debate was appropriate, and again, echoing one of the past pro speakers, there’s nothing intended here to limit anyone’s right or limit appearing. It’s simply on those routine matters that right now require two weeks’ advance notice and/or in the civil rule, and which I’m not officially changed. That would be done by committees, or so, as the people mentioned for implementation. This is just a policy matter.

But right now, basically if you’re within 25 miles of a courthouse, even if you’ve talked to opposing counsel, you’re going to go down there and set the matter over, you will have to physically appear. That seems pretty wasteful of your time, our time, billing our clients for that kind of time, and burning up the highways, traffic safety, parking congestion. And so for sustainability reasons, this is just — as the last pro speaker mentioned, this is an optional, and it’s encouraging funding for the future, recognizing if they don’t have the equipment, they don’t have it yet.

But let’s encourage going modern. We just had a Futures Conference. This is in line with that. Thank you.

giving me involved in certification of paralegal programs; in other words, how people become legal assistants, legal technicians, and paralegals in particular, or if at present anyone can raise their hand anywhere and say, “I’m a paralegal in Oregon,” and say that to a member of the public. And they can do that because there is no certification of training programs — in other words, as to what constitutes a certified paralegal — and there are no ethical or background checks required, and there is no competency certification.

for those of us who have had private practices, we’ve had hiring and staffing privileges in which we’ve hired someone and about the second day realized that when we asked them to get a proof of service, they asked if it was Army or Navy, and we realized that we had a problem, that this person may not be qualified as a true paralegal as they said they were on the application.

Now, ULS isn’t saying we should — we, the Oregon State Bar, should regulate or delegate this matter. It’s just saying we need to study it. The legal field, both the Washington State Bar and the Oregon State Bar, have done studies that show that 80 percent of the civil litigation needs remain unmet. They’re going to be met by somebody out there. They’re being met by the TV ads, Legal Zoom.
The paralegals themselves are well organized.

There are representatives here today, I understand, in the audience from the Oregon Paralegal Association and from the Pacific Northwest Paralegal Association. They have contacted me about this motion.

Nationally, there is a very fine magazine—I actually subscribe to it—called Legal Assistant Today.

And so we need to decide if we’re going to be involved in assuring quality control with regard to these people working for us or, if they are going to be providing limited services, scavenger services, which is more in the nature of a legal technician.

So because the world is moving on, the Internet provides documents—and I attended the Futures Conference. I have a fascinating packet here that was handed out as a vendor packet, offering offshore lawyering, yes, via satellite to India, at 90 per cent cost savings—that’s 90 per cent less than you’re earning—to offshore legal services.

Now, maybe if we’re more efficient, we can change lower rates to our corporate and business clients, our individual clients, and be more efficient and use paralegals that we know are certified and properly trained by programs such as the one inaugurated at the Douglas County Umpqua Community College, which has a two-year paralegal certification program.

At present, there’s no ABA certification—paralegal certification program approved in Oregon. That may be coming, but it’s time, I think, that we take a look, one way or the other, as to whether or not we’re going to want to affiliate with these various paralegal professional associations, whether or not we’re going to want to have something to say about the content of what is a certified paralegal, and get involved with, when we hire people, knowing that they have a certain level of competency, so when we delegate functions to them, we’re not malpracticing.

Also, it’s my understanding, from information provided by these entities, that in some states, in some cases, judges will actually award attorney fees and will recognize in your billing for attorney fees paralegal services if they were certified paralegals. So it actually can be a revenue enhancer if you have certified people and if a judge says, “I want to know what they did on the case, and I want to know if they were really certified paralegals for competency.”

When I go in a hospital or if I go in a hospital and we see somebody in a white coat, we assume that that person’s an RN if it says “nurse,” and you know, it would be amazing if they weren’t, and you know,

1. they did a complete exam and you found out that they were
2. the junior.
3. So I think it’s time that we start looking at
4. who are these people, what’s going on out there, and we
5. would have a better quality control to deliver to people
6. in Oregon, because when I say “paralegal,” people—I think a lot of the public thinks, well, that must be part
7. of the Bar, or they’re in your office, they’re a
8. paralegal. So,
9. I think it’s time that we have some sort of
10. study as to whether or not it’s the Oregon State Bar gets
11. involved in this, or these other entities will go to the
12. legislature and set up their own licensing and their own
13. parallel bodies to the Oregon State Bar. I’m not
14. advocating one or the other; I’m just saying maybe we need
15. to study it at this time. Thank you. And I’ll go to my
16. seat.
17. (Laughter.)
18. PRESIDENT YUGLER: Thank you. That’s how
19. it’s going to work.
20. All right. Mr. Lang’s resolution is on page 7.
21. And is there someone to second Mr. Lang’s resolution?
22. (Laughter.)
23. MR. THOMAS CUTSFORTH: I’ll second it.
24. PRESIDENT YUGLER: Mr. Cutforth.
25. All right. Okay. It’s been seconded. And now
26. the pro and con microphones are open. Anyone wishes to
27. speak for or against Mr. Lang’s resolution, now is the
28. time.
29. (Laughter.)
30. MR. NICHOLAS DAZER: Thank you, Nick.
31. Dazer, elected region five delegate.
32. This just seems a little unnecessary to me. If
33. it’s in terms of protecting the public from unqualified
34. staff at my law office, I bear responsibility ultimately
35. for everything that’s done for that client. So, in terms
36. of protecting the public, I think that’s already covered.
37. I choose who I hire and whether or not they stay. Well,
38. to some extent.

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I'm on the unlawful practice of law committee also. Paralegals unlawfully practicing law is a question that we address a couple of times a month. We meet once or twice a month.

There is a great need for more access to justice, and I am not necessarily in favor of certification of paralegals, but the issue certainly should be studied. It has been studied to great depth in Washington state. It is very controversial up there.

The thing we should do is study it so that we have an answer so that we can say whether or not paralegals, whatever they are, have a role in the legal system in this state with dignity. So I'm in favor of the motion.

PRESIDENT YUGLER: Thank you, Mr. Cann.

Mary?

MS. MARY CRAWFORD: I'd like to talk pro, but I can't get to any microphone. So...

PRESIDENT YUGLER: We got you covered.

MS. MARY CRAWFORD: Oh, thank you.

My name is Mary Crawford. I'm the chair of the diversity committee, and I'd like to sort of look at this through a different frame of mind in terms of, if we study this and develop a relationship with the providers of the people that are going to be the pipeline for some people that have interest in the legal field, it might be a

potential pipeline for diversity within the legal community and help us with people that are interested in becoming lawyers and members of the Bar.

So I think establishing a relationship with the people that provide the education could be a tool for us. So I'm speaking for this proposal in -- in using it as a tool, I think.

PRESIDENT YUGLER: Thank you, Mary.

Any other people want to speak pro, con?

Someone in the back.

MS. HEATHER VAN METER: Heather Van Meter from region five.

Just two points. There are already professional paralegal certification programs. They're administered through tests and continuing education requirements from paralegal associations. Our paralegals in our office, some of them have the certifications. There already exists -- the same exact thing that we're talking about already exists. And so spending time and resources on it doesn't make a lot of sense.

Additionally, I've presented unlawful-practice-of-law cases for the Bar, including one ongoing one, and I think from that standpoint, this is a very, very bad idea. We have people that already hold themselves out as certified paralegal lawyer types that charge for their

| services, that are unlawfully practicing law that we are prosecuting, and we spend lots and lots of resources doing that as a Bar, and I don't think we want to get into some Bar certification program that exacerbates that problem.

PRESIDENT YUGLER: Thank you.

Ms. Van Meter,

Anyone else wish to speak pro or con?

All right. I don't see anyone else who wishes to speak. So let's proceed to vote on Mr. Lang's resolution, which is on page 7. And if you're in favor of Mr. Lang's resolution, please press 1A; if you're opposed, 2B; and if you want to abstain, 3C.

(Vote taken.)

PRESIDENT YUGLER: Okay. Last opportunity to vote. There's 129 responses. We've had 131. We still have a quorum. I just want to point that out.

130. All right. Anyone else?

All right. At this time let's see a tally.

Mr. Lang, your motion fails. All right.

Next item is item number 14 on the agenda, which is House of Delegates resolution number three. Mr. Lang, this is yours again. Please feel free to speak from there.

MR. DANNY LANG: Danny Lang, region three, elected delegate, presenter.

Recently there were two measures, ballot measures, for mandatory sentences on the ballot, and it has occurred that I think there's been an intrusion upon judicial discretion with regard to our judges in Oregon, and so part of this is intended that we communicate to the public -- it's really a public information function.

There was a letter that's in your packet that was actually sent by Nancy Cazise, staff counsel with the Office of the State Court Administrator, to Karen Garot. So I got into the -- the letter was in response to my agenda item prior to the September 13th scheduled HOD meeting.

I did speak with one of the legislative analysts that works with the legislative fiscal office, and first of all, they do prepare extensive analysis, which is set forth in the bottom of her letter. However, that's an in-gross-type figure -- in other words, $15 million or $100 million or $200 million -- and that's really for internal use within government agencies or the legislature.

When the people go to the ballot box and vote, they have no idea what it means if somebody steals an extra slice of pizza, and they're going to wind up serving six years or some mandatory sentence that may cost the taxpayers $150 or 200 thousand dollars. So simply as an...
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<tr>
<td>1. Informational tool, it wouldn't be that difficult.</td>
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<tr>
<td>2. No, it's not sent to juries. The back page of this letter, I think, has a lot of misconceptions. It talks about would a jury be told about it? No, there's nothing to do with juries. This is simply that if a judge was willing to add, for informational purposes, we would have public information on a case-by-case basis, so that the public would have a better feel next time they vote, a more informed electorate.</td>
</tr>
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<td>3. And I think it also preserves -- it may not add any discretion or power to our judges, but I think it helps to be in force, that our judges have an important function. So I'm supporting this, and I brought this to support the judiciary.</td>
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<td>4. We had a Ballot Measure 40 a few years ago that was sought to have some perhaps adverse impacts on the judiciary, and we see these mandatory measures, and I concern me that a Circuit Court judge may become like the people at the front counter at McDonald's that push Big Mac, large fries, and a Coke when it comes to sentencing.</td>
</tr>
<tr>
<td>5. So at least if the cost was added to the number -- in other words, if the cost is $4,000 a month for incarceration and somebody is going to have a sentence of 50 months, then that $200,000 would simply be made known, made public, and the media could pick it up. And we'd see it on a case-by-case basis and county by county, rather than somebody putting a ballot measure out there. And one of these ballot measures, The Oregonian I believe came out and said it was going to cost $1.1 billion.</td>
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<td>6. How can we relate to a billion dollars? I know Ricks math wasn't that good earlier today. So, I can't relate to a billion dollars. I think if we get a little more data here -- I don't expect that this will probably pass, but I think that it's -- you know, it's change.</td>
</tr>
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<td>7. It's like somebody once proposed sliced bread.</td>
</tr>
<tr>
<td>8. And, again, because there are no other states that do this doesn't mean we in Oregon can't be on the forefront. We passed the bill, good or bad. We've got the doctor-assisted suicide, good or bad. I think we had one of the early marijuana law bills.</td>
</tr>
<tr>
<td>9. And so I think this would be an interesting approach to having a better informed electorate, better informed taxpayers to know the impact of sentencing as compared to alternatives to sentencing, programs to avoid recidivism, and rehabilitation programs, those cases compared to the costs of simply putting somebody in a state, Bureau of Corrections 24/7. It's an informational measure only. Thank you.</td>
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<td>10. PRESIDENT YUGLER: Mr. Lang's resolution is before you. Is there a second for Mr. Lang's resolution?</td>
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<td>1. MS. MICHELLE ING: Michelle Ing. I second the motion.</td>
</tr>
<tr>
<td>2. PRESIDENT YUGLER: Okay, Michelle.</td>
</tr>
<tr>
<td>3. Now is the time, if you want to speak for or against Mr. Lang's resolution. Please step forward to the microphone.</td>
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<tr>
<td>4. MR. BRIAN THOMSON: Brian Thomson, Lane County Bar.</td>
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<td>5. I object in general to this. It's a deeply political matter. It's not a matter for the bar association to study incarceration costs. That's budget and legislation. That belongs to -- it's a legislative matter. It's just not our bailiwick. We shouldn't be spending our funds on this. Improvement of the judiciary, educating the judiciary, all the stuff to go along with it, great. This is just really a political matter, and I don't think -- where it's appropriate for us to vote on it at this time.</td>
</tr>
<tr>
<td>6. PRESIDENT YUGLER: Thank you.</td>
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<tr>
<td>7. Mr. Cumforth.</td>
</tr>
<tr>
<td>8. MR. THOMAS CUTSFORTH: Tom Cutsforth, region one, elected delegate.</td>
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<td>9. I have to concur with what the previous speaker said. I also have to wonder if the Portland bar can't do telephones, if Multnomah County can't do video, how on</td>
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<td>1. earth is a judge going to sit here and do this? I'm all in favor of the electronic courtroom, but we're asking people to do something that should be done by the executive department of the State of Oregon.</td>
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<tr>
<td>2. PRESIDENT YUGLER: Thank you, Tom.</td>
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<tr>
<td>3. Anyone at a pro microphone? I don't see anyone.</td>
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<tr>
<td>5. MS. KELLIE JOHNSON: Thank you, Kellie Johnson, Board of Governors representative, Portland, region five.</td>
</tr>
<tr>
<td>6. On behalf of the Board of Governors, we oppose this resolution. While the spirit of the resolution is understood, the actual practical effect is a cost-and-time-consuming process itself that would be unnecessarily duplicative and not address the real problem, which is the lack of funding and the increased need for both treatment and incarceration space for defendants and inmates.</td>
</tr>
<tr>
<td>7. I believe it would already burden criminal Circuit Courts. It assumes that we have the time, the manpower, and the technology capacity to have this information readily available to courts on a case-by-case basis. I don't think it's the most effective way to educate our community, if that's the purpose.</td>
</tr>
<tr>
<td>8. And the bottom line, as a district attorney</td>
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myself. In the criminal justice system daily judges, DAs, and defense attorneys know very well the costs associated with incarceration and are already engaged in the type of triage required to handle the increase in offenders and the lack of funding and the space.

So, we need a new courthouse. We need technology. There's less of us we could spend our money on. But this part I don't think is broke. We don't need to fix it.

PRESIDENT YUGLER: Thank you, Ms. Johnson.

Anyone else wish to speak? Anyone at a pro microphone?

All right. Well, not seeing anyone else at a microphone, I think it's time to vote on Mr. Lang's resolution number three, which is item number 14 on your agenda. If you're in favor of Mr. Lang's resolution, press 1/A; if you're opposed, 2/B; if you want to abstain, 3/C.

(Vote taken.)

PRESIDENT YUGLER: I see 125 responses.

126. Anyone else who wishes to vote, now's your opportunity.

Sold. 127. Okay. All right. Let's see the tallies, Jared.

All right, Mr. Lang, your motion fails. 111 is against, 13 in favor, three abstained.

The next item is item number 15 on the agenda.

Mr. Lang, this is your delegate resolution number four pertaining to a House of Delegates executive committee.

And the podium's yours again.

MR. DANNY LANG: Danny Lang, region three, elected delegate and presenter of this item.

There's been much discussion in 2008 regarding the House of Delegates and that discussion was really intensified by what I call our unfortunate train wreck at Bend, we didn't have a quorum. So I think one of the problems is that there probably isn't sufficient interest, or maybe the way the House of Delegates operates isn't meeting its goal, which was to help the Board of Governors on certain defined matters and bring new matters before the Board of Delegates.

So the problem, as I see it, is that we're amorphous. We're like little amoebas in a pond, "we" being delegates. And you know, there's just a single, once a year -- like the fireflies that come out the end of June and blink a few times and they're gone.

So if we're going to get more thought and be able to have discussion between regions and discussion on the types of agenda items that I have proposed this year -- it's pretty lonely up here, and I'd really like to...
101

So I went ahead and chaired that meeting.
2
But I just want to point out that we don't need
3
an executive committee here. I mean, Mr. Lang, he's got
4
four or five resolutions here. He has the opportunity,
5
and every lawyer has the opportunity, to present whatever
6
they want. It's just a layer of further bureaucracy, it
7
seems to me. And I, for one, am pleased with the House --
8
I mean with the Board of Governors and the meetings that
9
we have via telephone, and there's nothing to stop any
10
individual lawyer from pursuing, along with other lawyers,
11
any proposal they want to. Thank you.
12
PRESIDENT YUGLER: Thank you, Mr. Karnopp.
13
Anyone at the pro microphone? Mr. Georgeff.
14
MR. GARY GEORGEFF: Thank you, Mr. Yugler.
15
President Yugler. Gary Georgeff, elected delegate out of
16
state, residing in Auckland, British Columbia.
17
I really appreciate Danny Lang's enthusiasm.
18
I'm not kidding about that. I consider him a friend, and
19
we've made common cause on some things before. And I know
20
it becomes lonely up there. For those who remember the
21
2005 meeting, which had my motion go into defeat, and then
22
a successful initiative petition, and then two years of
23
working out how we were going to handle the elimination of
24
bias, which didn't get solved until you, President Yugler,
25
took a hand. So I know what it's like.

103

1
not a member of the House of Delegates. I'm a private
2
attorney, sole practitioner from Beaverton.
3
PRESIDENT YUGLER: Okay.
4
MS. ROBIN POPE: And I'm a former President
5
of the Washington County Bar. And some of us out in
6
Washington County, we feel that it's already -- because of
7
the House of Delegates, most attorneys in Oregon are more
8
removed from the Bar than ever before, and I know that
9
we're welcome to come here, but there is already
10
separation. And it seems like by adding this extra layer,
11
it's just adding layers onto an onion, and it's going to
12
get harder and harder to peel them, and we don't want you
to do that. Thank you.
14
PRESIDENT YUGLER: Thank you.
15
Last comment.
16
MR. JONATHAN LEVY: I'm Jonathan Levy,
17
Portland, chair of the estate planning section.
18
I was a member of the first House of Delegates
19
and chair -- I'm sorry -- chair of the committee section
20
when I was practicing in a different area. And I'd like
21
to second the comments just before. I think that we have
22
lost something intangible by centralizing the
23
administration and having moved away from the town meeting
24
forum that we used to have when we met every year or every
25
other year in Seaside, or wherever the meetings were.

102

1
But I'm going to vote against this one, and also
2
on the next one, and to --
3
(Laughter.)
4
MR. GARY GEORGEFF: -- to borrow --
5
UNIDENTIFIED SPEAKER: Mr. President, would
6
that be a point of order?
7
MR. GARY GEORGEFF: -- to borrow a line,
8
from Ronald Reagan, to paraphrase -- and that may be risky
9
in light of the election results this week -- we really
10
don't need more government, and that's why I'm going to
11
vote against this one.
12
PRESIDENT YUGLER: Mr. Williamson. And
13
then --
14
MR. CHARLES WILLIAMSON: In my opinion, the
15
Board of Governors is our executive committee. I think
16
they've done a good job at going out and having regional
17
meetings. We've had the listeners for better
18
communication. To establish another body that the Bar
19
staff has to report to isn't a no-cost item. This would
20
create sort of a hydra-headed Bar, which we don't need.
21
Thank you.
22
PRESIDENT YUGLER: Thank you.
23
I'll take one more from the pro microphone and
24
then -- in the back.
25
MS. ROBIN POPE: Hi, Robin Pope. And I'm

104

1
I'm not proposing an amendment, but I think we
2
need to consider what we're losing by centralizing. I
3
think it was a better bar when we had the town hall
4
meeting. It was less fractured, it was more collegial, it
5
was more cohesive, and there was less of a sense of us
6
versus them between the practicing lawyers and the, quote,
7
Bar, the headquarters.
8
And I'm not suggesting that we amend this
9
proposal to go back to the house of -- to the town hall,
10
but -- which I'd like to do, but this is a step in the
11
wrong direction.
12
PRESIDENT YUGLER: Thank you.
13
At this time --
14
MR. DANNY LANG: Could I have it for one
15
minute?
16
PRESIDENT YUGLER: Oh, I'm sorry. Sure,
17
Mr. Lang. I forgot. I apologize.
18
MR. DANNY LANG: Thank you for your
19
comments. Picking up on the last speaker, Mr. Levy, this
20
is not to centralize; it's really the other way around.
21
It's to have someone in each region that would then
22
during the off season, before this meeting, maybe go
23
around to the local bars and meet with local bars, and
24
local sections and basically a coordinator. So we'd be
25
going back a little bit to more local input.
105

This is anything but more centralization, and
2 these people aren't going to have an office or rented
3 space or staff. They're just among us who would volunteer
4 within our region to serve as a coordinator and be able to
5 better work with the Board of Governors. It's not
6 weak they, and it's to get actually more grassroots, more
7 local enthusiasm, interest, and communications. That's
8 what it is. Thank you.
9 PRESIDENT YUGLER: Thank you. All right.
10 Mr. Lang, thank you very much.
11 Time to vote on resolution number five. And I
12 think we know the drill. One for yes, two for no, and
13 three to abstain.
14 (Vote taken.)
15 PRESIDENT YUGLER: All right. 127
16 responses. Last opportunity to vote.
17 Okay. Let's see the tally, please. Falls 112
18 to 13 to two.
19 Okay. Mr. Lang, the last resolution you have is
20 House of Delegates resolution number five, which is on
21 page 8 of your materials.
22 MR. DANNY LANG: Danny Lang, region three,
23 elected delegates, in case any of you forgot.
24 (Laughter.)
25 MR. DANNY LANG: First of all, I do have --

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handle it this way. The original motion, which is at a 50
percent amount, to define the quorum at 50 percent plus
one, is on page 8 of your materials. And then Mr. Lang
wants to amend that - or do you want to withdraw the
original one and substitute your amended motion?

MR. DANNY LANG: I'm willing to do that as
long as that doesn't offend the 45-day rule of getting the
item on the agenda. So if the parliamentarian will allow
that as a more expedient method of getting it on the
agenda, that's fine.

PRESIDENT YUGLER: Okay. I'll do it this
way then. First of all, is there a second to the
original motion?

MS. DIANE GRUBER: I second.

PRESIDENT YUGLER: Okay. Ms. Gruber
seconded, before I have debate on that, we'll consider
Mr. Lang's remarks to amend the original
resolution, to change it from 50 percent plus one to 70
percent plus one.

Is there a motion -- which is a motion. Is
there a second to his amendment to change it to 70 percent
plus one?

MR. THOMAS CUTSFORTH: I'll second it.

PRESIDENT YUGLER: Mr. Cutsforth. Okay.

All right. Now it's time for debate on the

106

and I've already presented it to the Board of Governors.
2 There's a protocol here. I did move to amend, amending my
3 agenda item, my proposed amendment. And I'll give the
4 written amendment to President Yugler.
5 And the amendment is simply to make the new
6 number for the quorum to be 70 percent instead of 50
7 percent of the number of elected delegate positions, and
8 we can count both elected delegates and the ex officio,
9 because at Bend, when our meeting failed, there was an
10 informal discussion of the record, and the Board of
11 Governors was concerned that 50 percent was too low. I
12 agree with them.
13 So I've gone to 70 percent, which at Bend we
14 would have made it because we needed 110 votes. We would
15 have -- we had 81. This would have been 70 percent of the
16 elected, would be -- 77 plus one would have been 78, and
17 we had 82 people there.
18 Earlier today we had a proposal to authorize, in
19 essence, alterative, and that still doesn't address the
20 quorum, per se. So I think it's time that we put in black
21 and white a quorum number. And I think this is a workable
22 number, so I'm moving to amend in response to the Board of
23 Governors' suggestion. So I'm going to 70 percent plus
24 one on the amendment.
25 PRESIDENT YUGLER: Okay. Maybe I can

108

amended motion, which is in your packet, which is to
2 redefine the quorum for the House of Delegates to 70
3 percent plus one of the number of elected delegate
4 positions. Anyone speaking pro or con?
5 MR. BRIAN THOMPSON: Brian Thompson, Lane
6 County Bar President, con.
7 Again, I'll restate what I said previously: The
8 issue in Lane County has been communication from the Bar
9 as to date and time. It has not been an unwillingness to
10 attend. The prior resolution which passed in our case
11 probably will not help, and this will not either. We
12 would like to participate. We need more time to get a
13 Saturday off so we're not heading Cub Scouts or soccer
14 games around and get coverage for it.
15 It doesn't address the fundamental problem,
16 which seems to be systemic in the staff or the procedure
17 put in place for the staff to execute, whatever it is,
18 more likely the procedure, and this just doesn't address
19 the underlying problem of getting at least delegates from
20 Lane County to come. Thank you.
21 MR. GARY GEORGEFF: Point of order?
22 PRESIDENT YUGLER: Yes.
23 MR. GARY GEORGEFF: We're just talking
24 about the motion to amend?
25 PRESIDENT YUGLER: To amend, that's
109

1 format. We're just right now talking about amending it.
2 not to the substance of an amended motion yet.
3 So anyone else wishing at this time to speak to
4 the amendment, not to the substance of the amendment, but
5 to the fact of the amendment, step up. Mr. LeChevallier,
6 Mr. ROBERT LeCHEVALIER: I guess this
7 would be another — Rob LeChevallier.
8 I don't understand the "one." Why 70 percent
9 plus one? Why not just 70 percent?
10 PRESIDENT YUGLER: Mr. Backman, you want
11 to get to the nitty-
12 MR. JOHN BAHRNOR: I think that was based
13 on a 50 plus one, meaning greater than — you have to have
14 a majority, at least. So 70 plus one is probably based on
15 just keeping the "plus one" in there.
16 (Laughter.)
17 PRESIDENT YUGLER: There you go. All
18 right. What we're doing — thank you.
19 What we're doing right now is just voting on the
20 amendment. So if anyone else wants to speak pro or con to
21 amending Mr. Lang's original resolution, and then we can
22 vote on the substance of that.
23 So at this time if you're ready on the
24 motion to amend, if you are in favor of amending this
25 motion so we can then proceed to vote on the substance of

110

1 whether or not there ought to be 70 plus one, say yes. If
2 you are against the amendment and want to proceed to the
3 original motion, which is 50 plus one, which would be the
4 next step here, you'd vote two.
5 (Vote taken.)
6 PRESIDENT YUGLER: Okay. 125 responses.
7 Anyone else who's not voted?
8 127. Okay. See the tally.
9 Okay. So your motion passes 70 to 47 to len.
10 So now we're going to proceed to vote on the amended
11 motion, which is whether the quorum requirement ought to
12 be changed to provide that a quorum is satisfied by 70
13 percent plus one of the number of elected delegates.
14 Yes. Anyone wishing to speak pro or con to the
15 substance of that motion? And someone's going to the
16 "other." Mr. Gerking is going to the con microphone.
17 That's my guess.
18 MR. TIMOTHY GerkING: Tim Gerking, Board of
19 Governors.
20 I'm speaking on behalf of the board to oppose
21 this resolution because we believe that this resolution
22 would further — well, it really -- reducing the quorum
23 would reduce the representational nature of this body, and
24 would reduce the significance of what we do here.
25 Currently there are 200 members -- 219 members

111

1 of the House of Delegates. So we need a quorum of 110.
2 This resolution will change that, instead of — because
3 there are approximately a hundred members, elected
4 members, through the House of Delegates, and if
5 understand this resolution, we would now only — if it was
6 passed, we would now only need — we would then only need
7 75 elected members to be present and voting. So that
8 would reduce — that would just reduce the number of
9 people who need to be here to vote, and it would not —
10 this meeting would not be as significant as it is now.
11 The Board of Governors, over the past several
12 years, has studied ways to improve attendance at the — at
13 these meetings, and to assure that there is a quorum at
14 every meeting we have passed mileage reimbursement, and
15 we've just allowed the ex officio members to designate
16 alternates. We're considering other options, biannual
17 meetings, to improve communication between the HOD and the
18 BOG, and I believe that is — we believe that is a healthy
19 possibility.
20 And there are other things: having one location
21 for HOD meetings, which would be the Bar center, or maybe
22 in Eugene instead of having the meetings in distant
23 locations. So there are ways to achieve this quorum. And
24 I think we should all congratulate ourselves for having a
25 very representational meeting today. I think we've got

112

1 131 people here, and that's more than I can recall ever.
2 At least my four years on the Board of Governors, we've
3 never had that many. I think part of it is because
4 this meeting is here at the Bar center. And thanks again
5 for being here.
6 PRESIDENT YUGLER: Thank you, Mr. Gerkings.
7 Mr. Cursworth from the "other" podium.
8 MR. THOMAS CUTFORS: Thank you. I'm
9 afraid that this may have an unintended consequence. What
10 if we only have 70 elected members but we have 112 members
11 present?
12 I think there's an unintended consequence here
13 that wasn't provided for in the resolution, and I believe
14 I can't really support the resolution for that matter.
15 But I'm not at a con; I just would like someone to address
16 that, if that's true. Thank you.
17 PRESIDENT YUGLER: Maybe Mr. Lang will go
18 that in a minute. Mr. Georget.
19 MR. GARY GEORGET: Thank you, President-
20 Yugler. Gary Georgett, elected delegate residing in
21 Roseland, British Columbia.
22 I want to vote against this one for several
23 reasons. One, I think it's premature because we
24 haven't seen how the board-resolution fix that we just
25 adopted plays out. And I'm not sure, but I think it may
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take a statutory change to change the meaning of a quorum
2 that radically.
3 Also, the numbers are too small. I mean, I will
4 agree 70 percent plus one is better than the 50 percent
5 plus one, which Mr. Lang originally had, but we're still
6 talking only about something like 76 members of the OSB,
7 and the whole Board of Governors already counts as part of
8 that to make a quorum.
9 Also, the history on this. I'm sorry my friend
10 Bob Browning and fellow OOB delegate isn't here today.
11 It's not his fault. He had something scheduled before,
12 and he just couldn't change it on this rescheduled
13 meeting. But I've talked to him about the history of the
14 way the elected delegate versus the Bar President, section
15 chair thing came up. And my understanding is it was
16 carefully thought out at the time.
17 Obviously, elected delegates mostly go by
18 population, but the theory was we can put out section
19 chairs, county bar presidents so that we can get some more
20 regional representation at the meetings.
21 And if we look back at the statistics, the
22 elected delegates don't do that bad. We get at least more
23 than half of them in the meetings. We do not—we've
24 been having the problems with the section chairs, the bar
25 presidents, the ex officio members. So we want to

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courage them to be here. We don't want to have them
2 still not showing up. So we should have a minimum
3 tending, I think.
4 The board of Governors' resolution number three
5 which we just adopted I think is a good fix. And so, you
6 know, if that doesn't work and we play that out and
7 democracy seems to be dying from lack of interest, then
8 maybe we do some other things, like completely structure
9 the House of Delegates or maybe abandon the House of
10 Delegates and go to everything done on Web sites,
11 electronic voting, or maybe we go back to Town Hall
12 meetings.
13 But let's try the Board of Governors' fix first.
14 To use an analogy, to sum up, which at least Mr. Komopp
15 is going to appreciate, I think: Just because we had one
16 failed meeting and our horse came up lame doesn't mean we
17 shoot the horse and get another one. We put new shoes
18 back on. We'll saddle 'er up and ride 'er out and see if
19 it works next time. Thank you.
20 PRESIDENT YUGLER: Giddy up. Okay.
21 (Laughter.)
22 PRESIDENT YUGLER: I'm going to take two
23 more comments, then—
24 MS. MARY OVERGAARD: You can't close
25 debate, Mr. President.

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1 PRESIDENT YUGLER: Is there someone --
2 UNIDENTIFIED SPEAKER: We've been standing
3 here for quite a bit.
4 PRESIDENT YUGLER: Oh, you have.
5 UNIDENTIFIED SPEAKER: Long before —
6 MS. MARY OVERGAARD: You can't close
7 debate.
8 PRESIDENT YUGLER: I can see if you're at
9 the microphone back there or just standing by the wall.
10 UNIDENTIFIED SPEAKER: This side of the
11 room is at the microphone.
12 PRESIDENT YUGLER: I apologize.
13 MR. TIMOTHY ZIMMERMAN: Tim Zimmerman,
14 region four, elected delegate.
15 I guess I kind of want to mirror some of what
16 Gary Georgoff had just said, in that we've already pressed
17 a resolution asking for the section heads to appoint
18 somebody. I think that's the fix we need. I think that
19 if we reduce our quorum, we are discouraging participation
20 rather than encouraging it, and I urge this body to vote
21 against it.
22 PRESIDENT YUGLER: Thank you.
23 Anybody at a pro microphone? We have an
24 "other." Okay.
25 MS. DENISE SOTO: Denise Soto, and I'm

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1 President of the Linn County — Linn County Bar
2 Association. And I'm at "other" because I'm not sure what
3 the solution really is. Is there anyone here representing
4 Benton County?
5 UNIDENTIFIED SPEAKER: Here.
6 MS. DENISE SOTO: Excellent. I'm not sure
7 if the Benton County Bar Association is really existing,
8 and the Linn County Bar Association is hanging on by
9 threads. There are 3.5 people doing everything for the
10 entire county. And so I think part of the problem is —
11 is we didn't get House of Delegates training 161 in law
12 school, and so when I moved into the presidency, I had no
13 idea that I was a delegate. I was just organizing the
14 association, trying to breathe life back into it.
15 So part of the problem could be ignorance and
16 lack of support in the smaller counties. Thank you.
17 PRESIDENT YUGLER: Thank you.
18 I see someone at the pro microphone.
19 MR. WILLIAM HABERLACH: Yes. I'm Bill
20 Haberlach, an elected delegate from Medford. I think it's
21 region three, and I call for the question to terminate
22 debate.
23 MR. SHAWN LINDSAY: I second it. Shawn
24 Lindsay.
25 PRESIDENT YUGLER: Motion to close debate

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MR. CHRISTOPHER KENT: Thank you, Rick.

Chris Kent, the Oregon Board of Bar Governors.

If you bothered to read through the packet, you may be wondering why there is resolution number 18 and 19, which seem virtually identical. Yes, you're right, they are, with the exception of the one I have is paragraph 4,

which says, in addition to the one proposed by Dennis Karnopp, adds one other category of folks, which is in paragraph 4. I actually participate in and support the fundraising efforts of these nonprofits, low-income legal service providers in Oregon that are not supported by the campaign for Equal Justice.

It's meant to include other organizations such as SR. Andrew Legal Clinic and other organizations that provide nonprofit legal services.

So, Mr. Karnopp and I -- we met and decided that his resolution should go forward. So I'm going to ask that mine be withdrawn by unanimous consent. We -- Mr. Karnopp is going to allow it. I think it's a little too late to

amend it to add that paragraph two. You may wonder why we're doing it this way. We decided to do it this way

because, frankly, Dennis is a former bar president and has been to every HOD meeting. He has a --

(Laughter and applause.)

MR. CHRISTOPHER KENT: And that's the third

reason. And a smazy background section. So I'd ask the President to ask that the withdrawn by unanimous consent.

PRESIDENT YUGLER: First, I need a second.

MS. THERESA WRIGHT: Second.

PRESIDENT YUGLER: A lot of seconds.

Terry -- Ms. Wright spoke up first, seconded. And I'll ask for unanimous consent to withdraw the motion. Any opposition?

Hearing no opposition, that carries. Thank you.

Now, Mr. Karnopp, the last item on the agenda is the resolution number eight.

Mr. Dennis Karnopp: Thank you very much,

Mr. President. I'm Dennis Karnopp. I'm a delegate from -- let's see -- region one. That's Bend.

Actually, there was a blue sheet handed out,

which has the amendment on it that combines these two, and let me apologize. I said, well, you go ahead and do it.

he said, oh, you know, you're old. You got gray hair.

You might go ahead and take this sheet, if you get it. So I've lived through this long, to the end of this meeting, and I very much want to support this.

And in all seriousness, we all understand what's going on in the country and with the economy. I think that makes it even more serious for the problems that those who can't afford to pay for legal services will

have. And I assume this body, everyone here, has read this resolution before, and I would offer the resolution with the amendment as shown on this sheet.

MR. CHRISTOPHER KENT: Second.

PRESIDENT YUGLER: Mr. Kent seconded.

Do you wish to speak to the body of the motion?

MR. DENNIS KARNOPP: No.

PRESIDENT YUGLER: All right. Let's get out of here.

All right. Resolution -- anyone want to speak pro or con to the delegate resolution? All right.

Mr. Hamden? All right.

MR. EDWIN HARVENDER: I just -- I don't want to let it go by without at least one pro speaker. Although I think everyone in the room probably is pro on this.

This is the one year -- and each year seems to grow the population of people that need these services, but I think this is the one resolution that impacts every single lawyer throughout the state, and every lawyer that I know throughout the state supports the legal aid services.

supports all of the other nonprofits that provide this.

And it's the one thing that we're -- one of these things that we're known for throughout the state.

that doesn't apply to just Portland or to just Bend or any other section of the state, but applies to all of us. So

I would encourage everyone to vote yes.

PRESIDENT YUGLER: Thank you, Mr. Hamden.

Anyone else wish to speak for or against the motion?

All right. At this time if you're in favor of the resolution number eight, please press one. Oh.

UNIDENTIFIED SPEAKER: Don't we have to vote on the amendment?

PRESIDENT YUGLER: You're absolutely right.

I thought there was unanimous consent to withdraw. You're correct.

All right. So the first thing we need to vote on -- first of all, I'll ask if there's unanimous consent to the amendment. If there's any objection to the amendment, please speak.

Okay. Hearing none, that will carry. Thank you.

And now we can move to the substance of the motion. And if you're in favor of the substance of the motion, please press one. If you're opposed, press two.

And if you want to abstain, press three.

(Computer audio.)

PRESIDENT YUGLER: Command to vote yes.

How did that happen?

(Vote taken.)
PRESIDENT YUGLER: All right. Anyone else wanting to vote? 123 responses so far. Okay. All right.

See the tally, please.

118 in favor, two opposed, and three abstentions. The motion carries.

Now, at this time I just want to point out that anyone at the beginning of the meeting that pushed C, saying that we would take two hours, is correct, and there's a cookie outside for you.

(President.)

PRESIDENT YUGLER: We have finished one minute under. I do need a motion to adjourn, but before doing that I just wanted say two things, if I may.

First of all, thank you to everyone for coming.

This is an example of how we can be a self-governing profession. I think that's important.

Secondly, thank you to Danny Lang for bringing to the floor many resolutions. In years past, there have been delegate resolutions that have failed, that the board has acted on, nevertheless, and worked on, and I want to thank you for that. And it's been a privilege to preside and to serve this year. And I'll entertain a motion to adjourn.

MR. JOHN BAHOFNER: Actually -- John Bahofer, out-of-state delegate -- before we do so, I would suggest that this body give a round of applause in respect for Karen Carr, who is retiring. This will be her last HOD meeting.

(Applause.)

MR. JOHN BAHOFNER: Thank you for your hard work.

Now I move to adjourn.

PRESIDENT YUGLER: Thank you. Is there a second?

UNIDENTIFIED SPEAKER: Second.

PRESIDENT YUGLER: Anyone opposed?

Unanimous consent. It passes. Thank you.

(MEETING ADJOURNED AT 3:31 P.M.)