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Proceedings of the One Hundred Eighteenth Annual Meeting of the North Dakota State Bar Association

North Dakota State Bar Association

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PROCEEDINGS OF THE ONE HUNDRED EIGHTEENTH
ANNUAL MEETING OF THE NORTH DAKOTA
STATE BAR ASSOCIATION

OFFICERS

CHARLES DEMAKISPresident
DARCIE EINARSON President-Elect
AUBREY J. FIEBELKORN-ZUGERSecretary-Treasurer
JOSEPH A. WETCHImmediate Past President
TONY J. WEILER Executive Director

PROCEEDINGS

June 16, 2017

(Whereupon, the meeting was commenced at 7:30 a.m.)

MR. DEMAKIS: We will call the meeting to order. The first item on the agenda is presentation of the colors and the national anthem. (The national anthem was sang and the colors were presented.)

At this time, we'd like to recognize the 2017 planning committee members for the outstanding work they did in putting together all the events in Fargo for this annual meeting. If you're in the room, please stand when I read your name: Jennifer Albaugh, Michael Carlson, Jonathan Casper, Connie Cleveland, Lori Conroy, Aubrey Fiebelkorn-Zuger, Ian McLean, Kasey McNary, Michael Montgomery, Tami Norgard, and Jade Rosenfeldt. You did outstanding work. It's been a great program and social evens thus far.

The next matter on the agenda is the Outstanding Chair Award. This year's recipient is John Olson. John has been chair of the Lawyer's Assistance Committee for the past nine years and has served as chair for a number. John, if you are in the room, would you please come forward.

Thank you, John. You also have been doing a bunch of work with the Judicial Nominating Committee and that has been very busy lately. Next, if Levi Andrist would please step forward and he will announce the recipients of the Justice for All Award.

MR. ANDRIST: Good morning, everyone. As chair of the Volunteer Lawyer Program and Pro Bono Committee, I have the honor to introduce our Justice for All lawyers. The State Bar Association of North Dakota is proud to recognize members who provide 50 or more pro bono legal services per year. Lawyers who serve the poor and non-profit without charge and with

no expectation of a fee should be celebrated and should be recognized here and in our communities. By generously donating their time and talent, they change lives by helping people who otherwise can't afford counsel. SBAND and all of us here are tremendously proud of our members who render free legal services to low income individuals and non-profits and want them to be recognized. Since 2014 and every year there after, SBAND will give special recognition to members who provide 50 or more hours in a calendar year with no expectation of a fee.

If you would, please, hold the applause to the end, and we'll get a picture with the whole group here. You can all come up if you are present: Tracy Laaveg, Susan Swanson, Bob Keogh, Kristy Albrecht, Alisha Ankers, Meg Morley, Matthew Zimney, Aubrey Fiebelkorn-Zuger, John Doff, Jessica Foss, Lyle Thomison, Ashley Flagstad, Rujeko Muza, and Cindy Turcotte. Let's show them our appreciation, please. Congratulations to all the Justice for All recipients.

I guess this is the point on the agenda where I'm supposed to make an address. Tony asked me to say a few words and my response was, "A few words," but I'll give you a few more than that this year.

In June 2011, I came on the Board of Governors with Joe Wetch and Aubrey Zuger. At that time Judge Hill was still on the board. Sandy Tevar was there, Judge Hagerty, a lot of influential voices with a lot of knowledge and a lot of institutional knowledge. Aubrey is still on the board. Joe just completed his term. I have one year left, and I find it odd that I'm now the institutional knowledge of the Board of Governors. It's been quite an interesting six years thus far and a great last year, that just seemed to fly by.

When I came on last year as president of the Bar my one focus was looking at a road map for our association. We've been able in the last year to implement a strategic plan with achievable and sustainable goals and focus on how we can best service all of you, the members. This plan is a focus for two years but designed to evolve and grow and continually be changed and implemented beyond those two years. We're fortunate to have a dedicated and motivated director of staff. They truly are the life blood of the association. Without them I don't know if we'd get anything done. Over the past year, I attended several conferences and meetings, and I've been able to bring back a tremendous amount of information from what's going on in the bar world. Associations such as our's, as well as the profession, are facing more and more challenges on all fronts. Issues facing our bar are common across the country, and the size of the bar is no deterrent to the challenge. Big or small, mandatory or optional, we're all facing similar challenges. One thing that struck me in talking with other bars and other bar leaders is that we are tremendously lucky with the relationship we have with our Supreme Court

and our Bench. I'd say it's one of the best in the country. We have an active and involved Bench, but yet they also leave us to our agenda as well. There are plenty of other states that are not near as lucky as we are. When I started down the path of leadership in 2015 I had my concerns of what to expect and how things would go. The past year has had a few challenges, but the work has been done, and the challenges have been met, and it's been tremendously rewarding. I've been fortunate to work with a board of 14 of the brightest and best lawyers in the State of North Dakota. They put in countless hours as volunteers, are dedicate. And to you, I say thank you for the service on the board and to the lawyers of North Dakota. I'd also like to thank my wife, Ashley, that's here today, for lending her unconditional support over the past year, and really since I began on the board in 2011. She's listened to frustrations, concerns, and general venting over issues that we faced over the last year and the last six years, and has always had a very sound response and calming influence. There's been a few missed activities and scheduling problems, but she's always been there to lend support. Our two boys, Alex and Caiden, elected to go to the lake with grandma and grandpa instead of coming to the bar meeting. They didn't find it as interesting. So to them, I also say, "Thank you." They've been very understanding and are always good for a laugh when dad is doing bar stuff. I've greatly enjoyed the last six years on the board and especially this last year, and I'd like to thank all of you as well. Thank you.

Our next item is an update from the Chief. Chief Justice VandeWalle, would you please come forward, sir.

CHIEF JUSTICE VANDEWALLE: Thank you. Thank you. I can't see a thing. Thank you. I'm breathless from walking in the back. Thank you very much for the opportunity. I'm not going to take a lot of time. Simply to say, Charles, you're right, relationship is great due to the lawyers and the judges. I appreciate it. I ask also for your patience in the years ahead as we've had to cut our budget. Things are going to slow down, people, whether we like it or not. But I know with your cooperation, we're going to make it through this. As far as working with the association is concerned, Tony, Charles, they've all been great. We don't always agree, but we do most of the time. When we don't agree, we disagree civilly. I think that's the basis of our relationship. I trust it will continue in the future. I hope it will. I look forward to working with you. I'm still breathless, as you can tell. And finally, this is going to be very difficult, because I'm going to start to cry. Thank you very much for the recognition yesterday, the award. I look forward to next year and that's it. Thank you very much.

MR. DEMAKIS: Thank you, Chief. I know it's been a pleasure every time I had a chance to talk with you the past year, and there's some conversations I will not forget. Executive Director report, Mr. Weiler, please come forward.

MR. WEILER: Personal injury waiting to happen with those stairs. Good morning, everyone. Thank you for being here. I want to first start off by thanking Chares for a really good year. I appreciate your leadership and your dedication and what you do. When you take a job like this – Man, those lights are bright, aren't they? You feel like you're under the microscope up here – when you start a job like this, your biggest concern, my biggest concern, was working for a board of 14 lawyers, which has now expanded to 15 lawyers. What I found is that actually it's been extremely rewarding. Every year though you get a new, like, main boss, right, because every year you have a new president. So it's a little bit like *Forest Gump*, a box of chocolates, you never know what you're going to get. You have to be able to adapt and roll with that, and that's been actually very rewarding and very pleasurable with the few presidents I've dealt with. And Charles, it's been a great year. I really appreciate your leadership of the bar, your friendship, and your, you know, real guidance in helping us go forward over the next several years. Charles was presented a gift already by the association, but it was too big to bring with, so we gave it to him early. We got him a Yeti cooler, but we had to give it to him early. He's probably got it full of fish or something at the lake. I do also want to thank the two members of my staff that are here, Carrie Molander and Jeanne Schlittenhard. They were wearing ref shirts yesterday. I think we may go with ref shirts every year just so I can find them in the crowd. They are in the back back there, and both of them are, like, trying to hide around the corner. Where are you going? I can still see you. They're not suppose leave the room when I'm giving them recognition. But they do a really, really, really good job for us, for you. They really help make the association operate and tick the way it does. We have just over 3,000 members. We ended 2016 with over 3,000 members. That's the most members we've ever had in the history of the State Bar Association of North Dakota. And if you go back to 2007, we had 800 members. So in 10 years, we've added over 1,000 members. It's not a problem. It's a good thing. It helps with the stability of our bar. It helps with the vitality of an association, but it has some challenge because a lot of those lawyers are out of state. We still run about 50 percent of our members are in North Dakota. So we have to be mindful as an association that there are some of our member who aren't in the State of North Dakota. I'm not sure why Jeanne and Carrie would leave the room when I gave them recognition. They are over there now. I want to thank them. Thanks, Jeanne, you do a great job, and you're back in the room

now. I want to welcome Darcy. Darcy, I'm looking very much forward to your year. I hope that you are the kind of chocolate that I enjoy. That didn't sound right. I mean that with all due respect. There's some times in life you say something and as soon as you've said it you're like, that just didn't sound right. But I'm really looking forward to it. I've gotten to know Darcy over the last several years. I appreciate her passion for the association, her passion for the work that lawyers do. Because ultimately, as Charles said, we have a strategic plan that guides what we do. And one thing that I learned over the last couple days that everything Mr. Gilbert accomplished in three years as Executive Director of the bar, makes me realize in my four years, I really need to get going to and get a few things done. He's an inspiration. So many of you have been inspirations to me, those that I've worked with, those who have been mentors of mine, and many of you in this room, you really care about the association, you care about the work that lawyers do, but you appreciate the value that being a member of the State Bar Association provides to not only you, but to your clients. So I really want to thank you for being here. You are generally the very dedicated souls that get up for the breakfast business meeting, or else you were just hungry, one of the two.

I just want to mention a couple things briefly. We've been extremely busy, as the Chief said, talking about judges and courts with the Judicial Nominating Committee. I took the job as your Executive Director four years ago on June 1st, and in that time, as the secretary of the Judicial Nominating Committee, I've been involved in the nomination of 23 judges or Justices. That's a large number. There's two things to take away from that. Number one, we've had a lot of turn over in our court. But what I've also found is it has given our governor a real appreciation for the quality of lawyers that we have in North Dakota. This is really going back to the governor, and I think it gave him a real appreciation for the quality of people that have gone forward to him for appointment to the Bench. Just because we have new judges, it hasn't diminished the quality of work being done by our courts, which helps you, and it also helps the citizens of the State. It's been a lot of work. When I got this job, Bill Newman said, "You're the secretary treasurer of the Judicial Nominating Committee." I said, "What's a Judicial Nominating Committee?" Well, I know now what it does and what it is. It's an amazingly dedicated group of lawyers and laypeople who take the work very seriously of sending names forward to the governor. Our new governor has only appointed one judge so far, but he's going to get a lot more to do soon. He's got three judgeships to fill, another one coming. And I've asked the Chief if he would put a moratorium on retiring for judges, but apparently he doesn't have that kind of power, but I kind of wish he would. One thing along those lines is a member survey - excuse me -- a judicial survey that SBAND does.

I want all of you to know that we don't take lightly the fact that we are asking people to rate their peers and that it's a tool that used, not only by the Judicial Nominating Committee, but by the governor. It's something that we have tweaked, we've worked hard on to get better, and it's something we need to continue to look at and we'll continue to do that. We always are looking at member benefits. We want you, even though we are a mandatory bar and you have to be a member of the association, I like to say you get the privilege of being a member of the association, we want to provide you with member benefits. So if there's things we can do better, let me know. If there's things we're doing well, you can let me know that too. I want to thank you for being here. I really do feel privileged to serve as your Executive Director. It's a job I really enjoy. I tell people that working with lawyers is great because most of you really, really, really want to get things done and you want to do things right for the association, for your client, and for the State of North Dakota. So as long as the 15 members of the board will have me, I'll continue to do this job. I really enjoy it, and I hope you all have had a really great time. Annual meetings are really the ultimate in sausage making. It's not pretty, from our standpoint, but in the end it turns out to be pretty good. So thank you and I appreciate you giving me a few minutes this morning. Charles?

MR. DEMAKIS: Thank you, Tony. Aubrey Zuger, treasurer of the association will give us the financial report.

MISS ZUGER: Good morning. I'm going to try to be the fastest report this morning. We have received our audit report recently. The auditors have issued another unmodified or clean report. Financially over the last several years, the bar association has been doing very well. Last year was no exception to that. License fee and come again was slightly up over the previous year leading to our total being flat over the year before. We have net assets of approximately \$160,000, and we continue to expect strong license and pro hac fee income next year. If there are any questions regarding the budget or the financials, please feel free to talk to Tony or me, and I'd be happy to answer any questions. That's all I have. Thank you.

MR. DEMAKIS: Man, Jack already knows it's his turn. So I'll call Jack up to give the bar foundation report.

MR. MCDONALD: Thank you very much, Charles. The North Dakota Bar Foundation report is included in the materials that most of you have on your iPads or other machines now. Just a brief summary for those of you who may not know, the North Dakota Bar Association is the non-profit organization, an arm of the bar association that provides two roles supposedly. One is to administer the State's IOTA income, the lawyer's trust fund income. The second is to provide a general public service fund. So we're going

to try to cover both of those in the report. The IOTA accounts we gathered \$43,255 in the past year for fiscal 2017, and they continue to support the legal services to those who cannot afford funding through the pro bono. In 2015 the bar foundation received an exceptional amount of funds. There was a settlement with the Department of Justice and the Bank of America on a trust bank lawsuit, and the total funds we received, we received two amounts, one for \$233,485, and the second for \$785,909. So we received a total of \$1,119,394, that's a figure that I have not seen usually. It's almost the amount of the local trust fund, I think. As a result of that lawsuit, we were able to make two grant requests, and the two grant requests, we put out an RFP, and we received grant requests from Legal Services of North Dakota and the High Plains Fair Housing Organization in Grand Forks. The buyer foundation made a grant of \$908,131 to legal services of North Dakota. That would be \$227,000 a year for four years. For the High Plains Fair Housing we gave a grant of \$109,606. That amounts to \$54,803 for two years. So that is very nice to be able to distribute those funds to two very worth while organizations. The IOTA funds in 2016, we made Legal Services of North Dakota a grant \$30,000, and the Southern Minnesota Regional Legal Services \$3,500. So the IOTA Committee is a hard working committee. I'd like to thank you those, it's made of up of lawyers and non-lawyers. And then the bar foundation board of directors approved continuing funding for the law school in Honor of Professor - in addition scholarships were approved for the Law Review, Case Note Committee, Homecoming scholarships for the top five first year law students, and a grant to the UND Law School for the public interest law internship. So as a result of our membership and fundraising efforts last year, our total foundation revenue for 2016 was \$74,749, and these contributions were made through donations at the annual meeting, the silent auction we had last year, voluntarily contributions. The pro bono fund we started to help support pro bono efforts started in 2010, that's continued to grow amazingly well, and as of March 31st of this year, we raised a total of \$140,000. I would encourage you to become a member of the foundation by making a contribution if you're not already doing so. I hope that you would continue to support the work of the foundation. The bar foundation members, I'd like to recognize them very briefly: Jack Marcil, Wally Goulet, Charles DeMakis, Han James Hill, Joe Wetch, Tim Priebe, Dean Kathryn Rand, Paul Richards, Han Lolita Romanick, Ben Thomas, and Bob Thomas. Thank you all very much.

MR. DEMAKIS: Jack, you took my agenda. Can I have it back? Okay. So now that Jack gave me back my agenda, we have a few resolutions of appreciation I believe Darcy is going to ready first.

DARCY: Thank you, Charles. Resolution Number 1 is, whereas, President Charles DeMakis and his wife Ashley DeMakis have served the State Bar Association of North Dakota during the past year as a great personal sacrifice to themselves and their family, and whereas the State Bar Association of North Dakota has been greatly improved and enriched due to their efforts. Now therefore be it resolved that the State Bar Association of North Dakota commend President Joe DeMakis and Ashley for their dedicated efforts.

MR. DEMAKIS: Charles DeMakis.

DARCY: Oh –

MR. WEILER: That's my fault.

MR. DEMAKIS: It's Tony's fault. Very good. Resolution 2, appreciation whereas members of the 2017 Annual Meeting Planning Committee and Subcommittee and others have put considerable time and efforts into planning and organizing the 2017 annual meeting of the State Bar Association of North Dakota, and whereas the persons deserve special thanks for their efforts. Now therefore be it resolved that the State Bar Association of North Dakota extends a special thank you to the persons involved in the planning and organization of this annual meeting, particularly Jennifer Albaugh, Michael Carlson, Jonathan Casper, Connie Cleveland, Lori Conroy, Aubrey Fiebelkorn-Zuger, Ian McLean, Kasey McNary, Michael Montgomery, Tami Norgard, and Jade Rosenfeldt. Our third resolution is appreciation. The businesses and organizations that graciously sponsored portions of the 2017 annual meeting and those that participated as sponsors and exhibitors are platinum sponsors, Vogel Law, Lawyers Assistance Program, North Dakota CLE Commission, SBAND Women Lawyer Section. Gold Sponsor, Alps, Eide Bailly, Fredrickson and Byron, Marion Williams Law Office, Nilles Lawyers, Pierce Durick, Serkland Law Firm, Severson, Wogland, and Liebl, Starion Financial. Silver sponsors are First International Bank, Crowley Fleck, Fargo Moorhead Convention and Visitors Bureau, Sanford Health. And our bronze sponsors, AVA Members Retirement and UND School of Law. Without their participation and financial support the 2017 Annual Meeting of the State Bar Association of North Dakota would not have been the success that it was. Be it further resolved that the above be thanked for their gracious support.

The next item on the agenda is memorials. I do not have a list, but I believe we're going to display them on the screen. Thank you.

Our next item of business is election of secretary treasurer. If you are moving, please identify yourself, because it's hard for me to see. Is there any nominations for secretary treasurer?

MR. ANDRIST: Thank you, Mr. President. Levi Andrist. I enthusiastically nominate Aubrey Fiebelkorn-Zuger for secretary treasurer.

MR. DEMAKIS: Thank you. We have a motion by Levi for Aubrey Fiebelkorn Zuger for secretary treasurer. Is there a second?

UNIDENTIFIED SPEAKER: I'll second.

MR. DEMAKIS: Can you tell me who you are please?

UNIDENTIFIED SPEAKER: (Inaudible)

MR. DEMAKIS: All those in favor?

IN UNISON: AY.

MR. DEMAKIS: Any opposed? Aubrey you are elected secretary treasurer again. The motion continues. This one is great because that means I'm done.

The next item on the agenda the election of president elect. Are there nominations for president elect?

UNIDENTIFIED SPEAKER: I nominate my friend Zachary Pelham.

MR. DEMAKIS: Thank you. There's a motion for Zachary Pelham for president elect. Is there a second? Bob Keogh. Thank you, Bob. Second by Bob Keogh. All those in favor?

IN UNISON: Ay.

MR. DEMAKIS: Any opposed? Motion carries. Zachary Pelham, you are now president elect of the bar association. And that means I'm going to ask Darcy to come forward, because I am now past president.

DARCY: Thank you. It was so nice to see everyone here this week. I really appreciate all the attendance. It was really a fun conference. Thank you, Tony and staff, for everything you do. Thank you so much, Charles, for your year. Is Joe Wetch here today? Joe is our immediate past president, and you really can't see anything up here. Okay. He's not here. We had an award. Other than that, there being no further business before this association, I will call this meeting adjourned.

(This meeting was concluded at 8:36 a.m.)

REPORTER'S CERTIFICATE

I, Samantha Goodwin, a certified Shorthand Reporter, 51 Broadway, Suite 130, Fargo, North Dakota, do hereby certify that these 22 pages of type-written material constitute a full and accurate transcript of my original notes, as the purport to contain, of the transcript proceedings reported by me at the time and place hereinbefore mentioned.