



---

1-1-2010

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

North Dakota State Bar Association

Follow this and additional works at: <https://commons.und.edu/ndlr>



Part of the [Law Commons](#)

---

### Recommended Citation

North Dakota State Bar Association (2010) "Proceedings of the One Hundred Eleventh Annual Meeting of the North Dakota State Bar Association," *North Dakota Law Review*. Vol. 86 : No. 2 , Article 7.

Available at: <https://commons.und.edu/ndlr/vol86/iss2/7>

This Proceedings is brought to you for free and open access by the School of Law at UND Scholarly Commons. It has been accepted for inclusion in North Dakota Law Review by an authorized editor of UND Scholarly Commons. For more information, please contact [zeineb.yousif@library.und.edu](mailto:zeineb.yousif@library.und.edu).

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

OFFICERS

SANDI TABOR .....President  
KRISTI PETTIT ..... President-Elect  
MICHAEL J. WILLIAMS ..... Secretary-Treasurer  
JANE DYNES ..... Immediate Past President  
WILLIAM NEUMANN ..... Executive Director

PROCEEDINGS

June 17, 2010

PRESIDENT JANE DYNES: Hello, everybody. I would like to call the 111th Annual Meeting of the State Bar Association of North Dakota to order. We'll begin our meeting with the presentation of the colors by the Boy Scout Troop 89.

(Presentation of Colors by Boy Scout Troop 89 from Corpus Christi Church in Bismarck, made up of Brian Kalvoda, Kevin Kalvoda, William Thompson, and Andrew Thompson, with Joseph Kalvoda, Scout Master. (Applause.)

PRESIDENT DYNES: Our National Anthem will be sung by Jim Fleming.

(Singing of National Anthem by Attorney James Fleming of Bismarck.) (Applause.)

PRESIDENT DYNES: Thank you, Boy Scout Troop 89 and Jim Fleming. At this time I'm going to announce that I have appointed Justice Daniel Crothers to serve as the parliamentarian, and he will help me keep this meeting on track. Thank you, Justice Crothers.

I would like to extend our heartfelt appreciation and gratitude to everyone on the local committee who brought this meeting together for all of us to enjoy. The meeting members include: Annette Bendish, chair; Scott Strand, co-chair; Mich Armstrong, Lee Ann Barnhardt, Julie Buechler Boschee, Carey Goetz, Kara Johnson, Tiffany Johnson, Brent Kary, Jessica

Knutson, Petra Mandigo-Hulm, Doug Murch, Zach Pelham, Christina Sambor, and Tony Weiler. Let's give them a big round of thanks. (Applause.)

For the past several years we've had some dedicated volunteers that have helped put together the North Dakota Bar Foundation Silent Auction. I want all of you to recognize that Marge Lee, Holly Crothers, Kathy Benson and Charlotte Hill have volunteered their time and expertise to help the Bar Foundation Silent Auction again this year. Also, Tiffany Johnson and Jessica Knutson were inducted into this select group of people and have served this year. They've done a fabulous job, as well.

Planning our annual meeting is a huge undertaking. It takes a tremendous amount of time and energy, and we appreciate their willingness to help. (Applause.)

MS. SANDI TABOR: Our Bar Association has had many gifted leaders over the years, and our current president is no exception. She has led with quiet determination and helped the association stay the course. Please help me welcome and thank Jane Dynes for her year as she is ready to give her final speech to the Bar Association. Jane. (Applause.)

PRESIDENT DYNES: Over the past year, several people have asked me on numerous occasions what it's like to be bar president. Those conversations were spur-of-the-moment, and my responses probably varied on the particular day I was having or the instant circumstances; but I can honestly tell you that my experience as bar president has been nothing but positive. Serving as president allowed me to view our profession from a completely new perspective. That shift in viewpoint helped me to better appreciate all that our association does and can do to serve the people of our state, our members, and to support the rule of law. It's been an honor to serve as your president, and I am grateful to have had the opportunity. Thank you so very much. (Applause.)

And now I call on Justice Gerald VandeWalle to present the State of the Judiciary address. (Applause.)

CHIEF JUSTICE GERALD W. VANDEWALLE: Thank you. Thank you. Please be seated. Unfortunately, mine's not going to be as short as Jane's was.

President Dynes and members of the State Bar Association of North Dakota, I am pleased to deliver the court's annual message to the 111th Meeting of the State Bar Association. Clarence Darrow, yesterday's speaker, is quoted in the New York Times of April 19, 1936, as saying: "There is no such thing as justice, in or out of courts."

With all due respect to Mr. Darrow, I hope to prove him wrong, at least with regard to access to justice in the courts. Nevertheless, I am also aware

of the following words from the 1929 Report of the National Commission on Law Observance that “No system of justice can rise above the ethics of those who administer it.” To that end, access to the court system is a matter with which we are always concerned. Who gets access and how that affects their ability to seek justice is both a societal issue and a very personal subject for litigants and their attorneys. We have been working on issues of access in a number of ways.

This past year we began the implementation of a new case management system in the trial courts. At this time all the counties in the East Central and Southeast Judicial Districts are using the Odyssey system. One of the features of this system of which we are most excited is the ability to electronically file documents. Our electronic filing system requires no special licenses or software on the part of the attorney, nor are there any extra fees associated with using electronic filing. We are also making access to electronic documents available over the web to license North Dakota attorneys, again at no charge. We are doing this because we believe it will assist you in working more efficiently. Like the judges, you will have fingertip access to the documents in a case and more immediate knowledge of when orders and judgments are issued.

Justice Sandstrom and the members of the Operations Group which meets on a nearly weekly basis, the members of the Court Technology Committee, our staff in Information Technology, and the staff in the offices of the clerks of court have spent many, many hours to roll out this case management system, and I thank them for their dedication. On rare occasions, situations arise where a defendant in a criminal case is deemed incompetent to represent himself, yet refuses to hire an attorney, even though he has the financial means to do so. We recognize this as a serious issue and we are exploring legislative solutions that would authorize the Commission on Legal Counsel for Indigents to provide defense services to the defendant in these instances.

Our Family Mediation Program continues to receive high marks from participants. Ninety-one percent of participants state they are satisfied with the overall mediation process, while ninety-four percent indicated they prefer mediation over going to court. I cannot overemphasize that the primary purpose of this program is not simply to settle cases. Rather, the overriding purpose is to use mediation to minimize family conflicts, encourage shared decision-making and support healthy communication among family members. We have been conducting continuing evaluation of the program since its inception and the participants continue to tell us in great numbers that they like the program. Based on this encouraging feedback, we expanded the program this past year to include the Southwest, Northwest and

Northeast Judicial Districts. Beginning in July we will bring the program to the East Central and Southeast Judicial Districts. Once this is completed, the program will be available statewide.

We were able to develop this program with the advice, assistance and cooperation of the Joint Alternative Dispute Resolution Committee, and I thank them for their work.

Justice Carol Kapsner and Judge Donovan Foughty are co-chairing the Court's Commission to Study Racial and Ethnic Bias in the Courts. The Commission has been meeting since December of 2009.

In June the Commission held its first set of public meetings to gather direct input from members of the New Americans communities in Fargo. Six more meetings are planned throughout the state and on the reservations within the state.

In addition to listening to our court users, the Commission is also looking at the makeup of the court work force, the North Dakota Bar, and the representation of minorities on jury panels. While I have been asked to have the Commission investigate areas outside the judicial system and legal system, we need to look at our own house. To that end the commission will be issuing an interim report at the end of the year and we will be asking the legislature for funding to continue the important work of implementing the recommendations of the Commission. I ask you to cooperate with the Commission.

Justice Kapsner is also chairing our Judicial Planning Committee. This Committee is charged with studying the administration and operation of the judicial system, assessing the demands and expectations of court users and the public, and developing short- and long-term plans for the court to improve the administration and operation of the judicial system. The Committee began meeting in June 2009 and is expected to continue to meet throughout the coming year. The main focus of the committee is on these areas: The core services that must be offered in every county and how technology may impact that service; the interaction between the judiciary and county government; standards for courtroom facilities; and funding mechanisms for judicial use of space in county facilities.

I remember sitting for the bar examination and I'm willing to bet that most of you do, too. Although it is a fixed experience in the minds of each one of us, in reality the bar exam and scoring standards continue to change and evolve over the years. When I wrote the exam all those years ago it consisted of essay questions on eighteen subjects written by the local bar examiners. Today North Dakota's Bar Exam consists of three components: The Multistate Examination, the Multistate Essay Examination, and the Multistate Performance Test, all prepared by the National Conference of

Bar Examiners. We have not tested state-specific issues since July 1999, and I tell you this not to bring back unpleasant memories of writing those essay exams, but as a preface for explaining why we are looking at adopting the Uniform Bar Examination.

Uniform Bar Examination is comprised of these same three components that we are now using. A move to the Uniform State Bar Examination, as recommended by the State Board of Law Examiners and the Joint Committee on Attorney Standards, will not require significant change in either court rules or in the way we administer the bar exam. The benefit of moving to the Uniform Bar Examination means that our North Dakota lawyers whose score meets the criteria established by other Uniform Bar Exam states will be admitted to practice in those states. Right now, Missouri is the only other state that has signed onto the Uniform Bar Examination, but it is anticipated that within a short time several other states will also join in. As we speak, the Uniform Bar Examination Committee chaired by Becky Thiem and on which I also serve is meeting in New York with representatives of several New England States to explore their participation. The proposed amendments to the Admissions to Practice Rules are currently out for comment. That comment period ends June 21.

Please let us know your thoughts on this proposal. I warn you, however, that comments along the lines of “Let them suffer” or “Things were a lot harder when I sat for the bar exam” will be greeted with a certain sense of recognition, but won’t be counted in the final decision.

Access in justice within the court system comes in a variety of forms. Last month we celebrated the 10th anniversary of the juvenile drug courts in Fargo and Grand Forks, the first juvenile drug courts in North Dakota. Spearheaded by Justice Mary Maring, juvenile drug courts are now also operating in Bismarck, Minot, Williston and Devils Lake, the newest of the juvenile drug courts. The Bismarck adult drug court was the first drug court in North Dakota and was the result of the cooperative efforts between the Department of Corrections and Judge Gail Hagerty and the South Central Judicial District judges. Adult drug courts are now operating in Fargo, Grand Forks and Minot, as well. These problem-solving courts work because the people involved are using their skills and knowledge to improve the access to justice and a better life for the participants. I expect the call to continue for additional drug courts for mental health courts, veterans’ courts, reentry courts and other similar courts. We will need to examine what we can do with the human resources available within the judicial system as well as without, since these courts require the efforts of a variety of agencies and service providers.

Many of you know that I serve on the ABA's 20/20 Commission on Ethics. One of the issues this Commission is reviewing is that of the admission of foreign lawyers. There are several proposals that are circulating to adopt model rules that would allow foreign lawyers to appear in court under the *pro hac vice* rule, to be registered as corporate counsel and to be allowed to perform legal services on a temporary basis under the protection of Rule 5.5 of the Rules of Professional Conduct. Frankly, these are the easy issues. The more difficult issues with which the 20/20 Commission will deal in the next two and one-half years include multi-disciplinary practice, investor-owned and publicly traded law firms and, perhaps more significantly for us, if and how lawyers are regulated and, if regulated, who will regulate the profession. The United Kingdom, Australia and Scotland have enacted or are considering substantial changes to how the profession is regulated in their countries. While the American Bar Association has renewed its commitment to regulation of the profession by the courts in the various states, it comes as no surprise that not everyone agrees with that position. Indeed, the United States Congress and federal agencies have become increasingly active in regulating the legal profession in certain areas. With technology and the globalization of the practice of law, and specialization in ADR, for many lawyers, including the lawyers in North Dakota, the courts and the judicial system are simply irrelevant to their particular practice. These are difficult issues with which we are wrestling. The primary purpose of regulation of the profession is, of course, the protection of the client. Fortunately for me, Justice Crothers chairs the Client Protection Committee of the Center for Professional Responsibility of the ABA. I'm able to draw on his expertise.

Professor Stephen Gillers of New York University School of Law, also a member of the 20/20 Commission, is presenting a CLE session tomorrow morning and from the description of his topic I expect he will go into these issues in much greater detail. I will keep you informed of the work and progress of the Commission and of the several other committees on which I also serve and which are also considering many of these same issues.

Following precedent, this message was entitled "The State of the Judiciary." I consider it more of a report to you, the members of the State Bar Association, and the title has been changed to incorporate the fact this is a report to you. However, I close with my observations on the state of the judicial system in North Dakota. I am happy to be able to say that your judicial system is in good shape. We are able to handle cases efficiently; we are fortunate to live in a state which has the financial resources to adequately fund the judicial system; we have made some strides in resolving some of our problem areas. Nevertheless, there is still much to be done

and access to justice remains a burning issue. I am pleased to hear that the Board of Governors has proposed the establishment within the State Bar Foundation of a fund to which lawyers who for various reasons are unable to perform pro bono activities may contribute to support this important program of the association.

Our judicial system is in good shape not only because we have been given adequate financial resources; rather, it is the people with whom I am privileged to work, the justices, the district court judges, our employees, our Clerk of Court Penny Miller, our State Court Administrator Sally Holewa, and the other judicial and administrative personnel, the leadership of this association and you, the lawyers, who really make our legal system tick. I am proud of our judicial system and I hope you are, too.

Thank you for the privilege of appearing before this 111th Meeting of the State Bar Association of North Dakota. (Applause.)

EXECUTIVE DIRECTOR WILLIAM A. NEUMANN: The agenda says it's time for the Executive Director's report. When bar directors get together, they talk about bar associations. A couple of weeks ago I was in a group with half a dozen directors, we were talking about bar associations, both mandatory and voluntary, and one of them made an interesting observation. She said that, "You know, the difference between mandatory and voluntary bar associations is that voluntary bar associations spend all their time and effort trying to make their members happy. Mandatory bar is just trying not to make them angry."

For the last five years or so, we've tried to do both. We've tried to be the best of both worlds for you. We've tried to continue to have the benefit of the power of mandatory membership with the benefits of having a voluntary—that are more of a feature of a voluntary bar association.

About five years ago your Board of Governors created something called the Member Benefits Committee. It's chaired by Mo Holman. That committee has considered a lot of good possibilities and some maybe not so good, but they've looked at them and considered them.

One of them is Casemaker, which is now used on a regular basis by about a fourth of our members; online legal research at no cost to the member.

Another is the Member Assistance Program. Any lawyer living in North Dakota or a member of the lawyer's family who has problems, emotional, mental, problems with chemicals, my kids who have problems with their parents, they can call an 800 number, a toll free number any time of the day. Somebody will always be there to answer that hotline to refer them to the help that they may need.



A few years ago we reduced the registration fee for the annual meeting. We think the annual meeting is a very important member benefit, not only because of the wonderful bargain that the CLE at the meeting is—and we’ve tried to give you quality—but also because of the comradery, and among other things, the remarkable opportunity to witness the leadership talents of a district judge, a candidate for district judge, an ABA delegate, and the Attorney General himself last night. Last night gave a whole new meaning to the term “bar leadership.”

In the future we plan to continue to try to give our members the best of both worlds: the power of mandatory membership, combined with the benefits and the emphasis on benefits of a voluntary bar association. We hope it meets with your approval. If it doesn’t, let me know. I’d be happy to hear from you, especially if you’re not happy. Thank you very much. (Applause.)

PRESIDENT DYNES: Community service comes in many forms. The association is very proud of the efforts of its Volunteer Lawyer Program and all of the individuals who donate hundreds of hours providing free legal time to those who would otherwise not be able to afford our civil justice system.

Each year we recognize those individuals who donate an extraordinary amount of time for pro bono cases. This year there will be three recipients of the Pro Bono Award. I’m going to read their names and ask them to come forward and receive a token of our appreciation. Chief Justice VandeWalle is going to help out by coming over here and assisting the recipients in getting their gifts.

This year the top three attorneys contributing to SBAND’s Volunteer Lawyer Program were Robert Keogh with 338 hours. (Applause.) Also, Kent Morrow, 220 hours. (Applause.) And, finally, Paul Murphy with 147 hours. (Applause.) I just want to let you know that Bob and Mr. Morrow were also recipients last year because they were the top two in donating pro bono hours.

Please help me thank these exceptional volunteers. Thanks to everybody for your diligent efforts. (Applause.) I did that so quick you didn’t even notice. Every year the president of this association, this year—me, has the honor and pleasure of naming the outstanding committee chair. This year I am very pleased to recognize Sandi Tabor, chair of the Pro Bono Task Force.

As chair, Sandi guided an eighteen-member group for a year, at least, through a mountain of information and resources with the goal of trying to come up with ways that SBAND could improve its Pro Bono Program. We’ll hear more about their recommendations in a bit, but right now I’d

like to ask Sandi to accept this award and our sincerest thanks for your dynamic and important leadership. (Applause.) Thank you, Sandi.

MS. TABOR: Let me at least look. (Off the record.)

PRESIDENT DYNES: Now I call on Mike Williams, secretary-treasurer, to present our Financial Report. Mike.

TREASURER MICHAEL J. WILLIAMS: Now for the most exciting report of the annual meeting. This is the Financial Report for the year 2009. A copy of the report, the 2010 budget, and the 2009 audit are provided in the General Assembly handouts.

First, the audit. The Board of Governors was pleased with the findings of the 2009 audit which, once again, gave the association an unqualified opinion, which is the highest opinion available for an association.

The 2009 audit reflects year-end assets of \$1,203,844, which is up from \$1,171,440 in 2008. This includes \$552,809 in restricted cash assets, \$21,184 in equipment, and inventory of \$1,575. In 2009 the association's revenue was \$1,189,055, which compares to \$1,122,264 in 2008, and we incurred expenditures of \$1,164,095, compared to \$982,662 in 2008, for net increase of \$181,433 in expenses for year-end 2009. This increase includes the amount your Board of Governors approved for the ever-popular dues refund. \$121,767 was designated to be refunded to members who were licensed as of September 30, 2008. Our unrestricted general fund assets as of December 31, 2009, were \$575,887, for total net assets in the amount of \$1,128,696, which is up from \$1,103,736 in 2008.

Everybody still awake? Just checking.

Revenues. During the year 2009 the association generated \$1,189,055 in total revenue, which is up from \$1,122,264 in 2008. Forty-one percent of total revenue or \$486,957 was from license fees available for SBAND's general operations and 14 percent or \$171,880 is legislatively mandated for operation of the disciplinary system.

Expenditures. Our total expenditures for 2009 amounted to \$1,164,095, which includes total disciplinary expenses of \$157,307 and general and administrative expenses of \$834,657. Included in the administrative expenses are CLE seminar costs, office overhead, and did I mention the dues refund issued in 2009.

The 2010 Budget. All of our association expenses are closely monitored by the Board of Governors to guarantee that you, our membership, receive the best value for your dollar. Our Board tracks all spending through detailed monthly financial reports to ensure that your association can continue to provide the quality service and programs that you all have come to expect. The Board continues to monitor all trends. And if you would like more information about the budget, do not call me. Please

contact Bill or anyone at the SBAND office and they can answer your questions. Thank you. (Applause.)

PRESIDENT DYNES: Committee, Section and Task Force Reports are included in the General Assembly materials and I encourage you to read them. Right now I'd like to thank all the volunteers on all committees and in all sections and on all task forces. And now Sandi Tabor will give a report to our assembly on the Pro Bono Task Force.

MS. TABOR: Thank you, Jane. Formed in June 2008, the Pro Bono Task Force presented its final report to the Board of Governors at its April meeting. The entire report with the attachments is included on a disk that's with your annual meeting materials, just in case you want to read it.

The Task Force addressed and made recommendations in twelve different topic areas, including the status of pro bono services, how to expand our member participation, local bar legal aid clinics, a Judicare model, unbundled legal services, case triage, and the Volunteer Lawyer Program staffing, the role of the judiciary, the role of technology, the role of the law school, the role of law firms, the role of corporations and, last, but certainly not least, the role of the State Bar Association.

Our study resulted in some twenty-five recommendations, ranging from suggested changes to various rules dealing with unbundling legal services in pro bono cases to a resolution authorizing the Bar Association to work with the Bar Foundation to establish a Pro Bono Fund, as Justice VandeWalle mentioned during his remarks.

The concept of the Pro Bono Fund originated from discussions regarding how we could encourage more members to get involved in pro bono work, but at the same time recognizing that many of us are not comfortable handling family law cases, which, of course, are the majority of the cases dealt with in legal services. The Pro Bono Fund would be a way for us to recognize our obligation under the Rules of Professional Conduct by providing a voluntary donation which will, in turn, be used to enhance access to civil legal services to the poor.

The resolution is included with your General Assembly materials and it basically covers three things:

First, it states that the Bar Association recommends that the Bar Foundation establish and administer the Pro Bono Fund. It also recognizes that we should set up some type of a recognition program for lawyers who donate the equivalent of one hour of pro bono services for every \$70 donated. By that way—or excuse me—by the way, the \$70 is an amount that Legal Services of North Dakota compensates its contract attorneys for taking land or LSND cases.

The fund will be used to help subsidize the increase in case work handled by various legal service organizations, and what we hope is that it will provide a basis for funding for even more contract attorneys to take on more of the family law cases that just at some times dominate the system.

Finally, the Board agreed with our recommendation to establish an Implementation Committee to do just that, implement the recommendations. This group will be put together shortly after the Annual Meeting and they will work during the summer to put their plan together. The recommendation says that they will report to the Board of Governors with their implementation plan at the September board meeting of the Board of Directors.

In closing, I've worked on hundreds of SBAND committees over my career and this task force was one of the most dedicated and enthusiastic committees I have had the pleasure of serving with. They thought outside the box, they were excited about thinking outside the box, and they dared to dream. So my many thanks to all of those who served on it, and the list of the eighteen participants is included with the report in your materials.

And, finally, a thank you to all of you for your kind attention, and hopefully for your support of our resolution, which we will be discussing shortly. If any of you wish to work on the Implementation Committee, get a hold of Bill or me. And it's not going to be a huge committee. I think there's only six or seven, but by all means, please, we'd welcome some volunteers to agree to help us put together the implementation plan. And with that, I thank you. (Applause.)

PRESIDENT DYNES: I now call on Carey Goetz to give us a report on the Young Lawyer Section.

MS. CAREY GOETZ: The Young Lawyer Section for the State of North Dakota has been revitalized, revamped and hopefully reconnected this last year. After last year's board—or last year's annual convention, we had a lot of changes. We've expanded our membership, eliminated dues, and we now have a member on the Board of Governors.

This year we have done several new things with the aid of our officers and with the aid of the prior chair, Scott Strand. Our accomplishments this year or achievements include the Admissions Day CLE; we presented the Young Lawyers Panel, advice for new lawyers from other young lawyers; and we also presented a panel to the law school, to the law students there, to provide networking and career advice to them. We will be having another panel tonight with more experienced attorneys providing advice to us, and we will be presenting Justice Maring, Judge Herauf, Judge Narum and Mike Williams to the Young Lawyers after our meeting tonight.

Probably the biggest thing that we had this year was the Leadership Forum. This was a forum that was put together through SBAND. It was limited to twenty-five young lawyers. It's the first time we've done that in the state. And we had a national-renowned speaker, Kathy Story, come up from Memphis to spend two days with twenty-one young lawyers. The program was actually limited to twenty-five. We had some great sponsors. We had the Women Lawyer Section, the Young Lawyer Section, the Government and Administrative Section, and the Real Property Section. And tuition for most of these applicants was actually covered through the help of our sponsors. We spent two days together focusing on developing leadership skills early in the practice, empowerment to contribute to our bar and our community, diversity, and commitment to all other areas of life, not just the practice of law, which I think is something that young lawyers need to be taught to focus on other things, in addition to their law career. Each young lawyer that participated was required to make three goals or commitments and those would be either to the bar, their community or personal commitments; and we anticipate hosting another leadership forum in 2011.

Finally, the ABA Young Lawyers Section now has representation from North Dakota again, after several years of South Dakota holding the position. I appointed Kara Johnson of Bismarck to hold that position in, I believe, March or April. She's already been to two meetings to bring back ideas and advice to help us continue to reconnect and grow our Young Lawyer Section. So we are very excited to have that ABA spot back through the help of Kara. And that is what we've been up to. Thank you. (Applause.)

PRESIDENT DYNES: And now Jack McDonald will give us a report on the North Dakota Bar Foundation. Jack.

MR. JACK McDONALD: Thank you, Jane. The Bar Foundation report is in the handout materials, so you can follow all the details. I just wanted to reiterate a few—a couple of comments about it.

The Bar Foundation, as you know, has two roles: One of them is to administer the IOLTA funds, which are vastly disappearing quickly, and the second one is to administer the general public service function, donate some scholarships and do some other things. I'll plug in a minute, but the primary funds for the Bar Foundation's public service function, a lot of it comes from the silent auction which will be held tonight.

The update on the IOLTA accounts. You can see in the handout that as of December 31st of 2009 the program generated only \$79,744 in interest, whereas a year ago it generated \$140,867, so we're down quite a bit in the general fund, in the funds from the IOLTA.

The IOLTA Committee. There is a separate IOLTA Committee from the Bar Foundation, and they decide how the awards are given and they decided this year to award grants that were requested to the SBAND Volunteer Lawyers Program, Legal Services of North Dakota, the Southern Minnesota Legal Services, and the North Dakota Council for Abused Women's Services. They requested—the committee decided to award the requested amount for the Law Related Education Program, “We the People” and “Graduating into the Adult World.” They granted one-half of the request for the People's Law School and because of the lack of funds, had to deny the request for the Constitutional Symposium that we had the first day. So, as you know, as I said, the grants are—the IOLTA funds are disappearing and it's going to cause a problem in the future.

I want to thank especially John Petrik, the Chair of the IOLTA Committee, who has worked in that role for several years and it's a tough job, especially with the requests increasing and the funds decreasing.

The current IOLTA Committee members are: John Petrik, David Petersen—that's Grafton Dave Petersen—Larry Rolfson, Jill Gackle-Denning from Garrison, and Krista Andrews from Fargo.

The second portion is the Bar Foundation's Public Service Commission, and we try to perform that in several different ways. This year we distributed the money to various public education and lawyer education services; and we continued the funding for the law school in honor of Professor Lee; we partially fund a chair in the law school in honor of Randy Lee; we provide scholarships for the Law Review Case/Note Comment Award, the student who writes the best Case/Note Comment; we provide homecoming scholarships for the top first year law students and we give a grant, which is a growing program, to the law school for their Public Service Internship Program in the summer.

The total foundation revenue for 2009 was \$45,911 and that was made through—mostly through the annual meeting, reception, through dues check-offs, and through contributions from our members. And we decided to distribute refund checks to its members and so that, as you heard from Mike Williams, that amounted to about \$61 to each member. And we encourage people if they wanted to, to refund that and donate it to the Bar Foundation, and we did receive \$7,300 from that, so that helped a lot.

Our financial report, which is in the handouts, also, reflects we have \$27,000 in unrealized gains and securities held by the foundation. I want to proudly report that we hold no credit swaps or any derivatives of any kind, so—one of our—as you've heard earlier, one of our main functions, the evening function for the year for the Bar Foundation will be our silent auction tonight starting at 6:30 in the room right behind me here, and so I

hope that you all come at 6:30—6:30 to 7:30. And, you know, don't try to get bargains. This is not a blue light special, so we hope that you do bid and bid often and bid well.

Just two things I want to point out that's going to be a little different—well, one thing that's a little different this year. But, first of all, I do again want to thank Marge Lee and Charlotte Hill, Holly Crothers and Kathy Benson for helping arrange and get the donations, get the items for the auction, help arrange it and set it up, and also for the two newbies who are going to be inducted into the sanctified circle, Tiffany Johnson and Jessica Knutson.

Tonight I want to especially salute or today, I mean, I want to especially credit Barnie and Kathy Schumacher of Schumacher Diamonds here in Bismarck. They have donated a one-half karat diamond and they are going to—this is the way it's going to work is they're going to have forty—there will be some girls selling forty, I guess you'd call them, jewelry boxes or ring boxes during the auction starting at 6:30 tonight. Those boxes will go for \$50 apiece. Thirty-nine of those boxes have gems and things in there and one box has the one-half karat diamond. So we hope that you—and as soon as all forty boxes are sold, then you can all open up your boxes and see who got the ordinary gems and who got the one-half karat diamond. So we hope you come and enjoy the Foundation auction 6:30 to 7:30.

And, finally, I'd like to thank the Board of Directors of the Bar Foundation, Jack Marcil, our vice-chair; Jane Dynes, Wally Goulet, Jim Hill, Sherry Mills Moore, Dean Kathryn Rand from the law school, Paul Richards, Lolita Romanick, Mike Stefonowicz, Ben Thomas, Robert Thomas, and Sandi Tabor. Mike Stefonowicz is rotating off the board and the new member will be Tim Priebe from Dickinson. Thank you very much. (Applause.)

PRESIDENT DYNES: Okay. We're moving on to resolutions and notices. And at this time I was to call on Sandi Tabor to read Resolution #1 regarding the Pro Bono Task Force.

MR. JAMES HILL: Madam Chair, I'd like to make a motion.

PRESIDENT DYNES: Would you identify yourself, please.

MR. JAMES HILL: Jim Hill, Bismarck. I move that the reading of the resolutions be waived and that the resolutions be included in the official record of the General Assembly of the State Bar Association of North Dakota.

JUDGE ROBERT O. WEFALD: Second.

PRESIDENT DYNES: Who is the second, please?

JUDGE WEFALD: Wefald.

PRESIDENT DYNES: Judge Wefald. Is there any discussion? Hearing none, it's been moved and seconded that all the resolutions—the reading of the resolutions be waived and that they be reprinted in our record completely. Those in favor, please say “aye.”

GENERAL ASSEMBLY: Aye.

PRESIDENT DYNES: Those opposed say “no.” The motion carried.

\* \* \* \* \*

(Following are Resolutions #1, #2, #3 and #4 as they appear in the 2010 State Bar Association of North Dakota Annual Meeting, General Assembly, handout:)

#### RESOLUTION #1: Pro Bono Fund

WHEREAS, Rule 6.1 of the North Dakota Rules of Professional Conduct provides that lawyers licensed in North Dakota should render public interest legal services; and

WHEREAS, Rule 6.1 provides that “A lawyer may discharge this responsibility by providing professional services at no fee or a reduced fee to persons of limited means or to public service or charitable groups or organizations, by service in activities for improving the law, the legal system or the legal profession, or by financial support for organizations that provide legal services to persons of limited means,” [emphasis added]; and

WHEREAS, the State Bar Association of North Dakota (SBAND) established a Pro Bono Task Force to explore methods to increase lawyer involvement in methods to increase the ability of legal services to persons of limited means; and

WHEREAS, the SBAND Pro Bono Task Force believes that the establishment of a fund within the North Dakota Bar Foundation (Bar Foundation) to receive and administer funds donated by lawyers who choose to discharge their responsibility under Rule 6.1 through financial support for organizations that provide legal services to low income North Dakotans would enhance the availability of such services, and further the purpose of Rule 6.1; and

WHEREAS, the SBAND Pro Bono Task Force believes establishing a North Dakota Bar Foundation Pro bono Fund (Pro Bono Fund) would encourage lawyers who find it difficult, due to



practice scope, position or other limitations related to the direct delivery of legal services to low income North Dakotans, to fulfill their responsibilities under Rule 6.1, and thereby increase the availability of funding for organizations that provide such legal services; and

WHEREAS, the SBAND Pro Bono Task Force recommends that any funds received by the Pro Bono Fund be made available to organizations that provide legal services to low income North Dakotans, as determined by the Bar Foundation Board of Directors; and

WHEREAS, the SBAND Pro Bono Task Force recommends that lawyers donating to the Pro Bono Fund be recognized in all official SBAND methods of recognition as providing the equivalent of one hour of pro bono legal service for each donation to the Pro Bono Fund equal to the Legal Services of North Dakota (LSND) contract compensation rate for legal services, which is currently \$70 per hour;

NOW THEREFORE, IT IS RESOLVED AS FOLLOWS:

1. The State Bar Association of North Dakota requests and recommends that the Bar Foundation establish a Pro Bono Fund to receive donations from lawyers who choose to discharge their responsibilities under Rule 6.1 through financial support of organizations that provide legal services to low income North Dakotans.
2. Lawyers who donate to the Pro Bono Fund shall be recognized in all SBAND official communications as providing the equivalent of one hour of pro bono legal services for each donation to the Pro Bono Fund equal to the LSND contract compensation rate for legal services, which is currently \$70 per hour.
3. SBAND recommends that the Bar Foundation Board of Directors administer the Pro Bono Fund, and determine which organizations shall receive funding from amounts held in the Pro Bono Fund.

\* \* \* \* \*

Resolution #2. Appreciation

WHEREAS, the businesses and organizations that graciously sponsored portions of the 2010 Annual Meeting and those that participated as exhibitors are:

Sponsors:

ALPS

Big Muddy Bar Association

Blue Cross Blue Shield of North Dakota

Crowley Fleck, PLLP

Ebeltoft.Sickler.Kolling.Grosz.Bouray.PLLC

Eide Bailly, LLP

Maring Williams Law Office

Media Productions

North Dakota Bar Foundation

North Dakota Commission for CLE

Qwest

Schumacher Diamond Cutters & Jewelers

Serkland Law Firm

Smith Bakke Porsborg & Schweigert

Starion Financial

Vogel Law Firm

Exhibitors:

ALPS

ABA Retirement Funds

Agency MABU

Anne Carlsen Center

Casemaker

Commonwealth Law Book Co.

Eide Bailly, LLP

Guardian & Protective Services Legal Services of North Dakota

Noridian Insurance Services, Inc.

North Dakota Recorder Information

Pearl Insurance

Pifer's Auction & Realty

SBAND Law Related Education Program

SBAND Lawyer Referral & Information Service

SBAND Volunteer Lawyer Program

UND School of Law

West, A Thomson Reuters

WHEREAS, without their participation and financial support, the 2010 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.

\* \* \* \* \*

Resolution #3: Appreciation.

WHEREAS, the members of the South Central Judicial District and others have put considerable time and efforts into planning and organizing the 2010 Annual Meeting of the State Bar Association of North Dakota, and

WHEREAS, those 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 those persons involved in the planning and organization of this Annual Meeting, particularly:

To: Members at large: Annette Bendish (Chair) for planning and overall coordination of a multitude of details, Scott Strand (Co-Chair), Mitchell Armstrong, Lee Ann Barnhardt, Julie Buechler Boschee, Carey Goetz, Kara Johnson, Tiffany Johnson, Brent Kary, Jessica Knutson, Petra Mandigo-Hulm, Doug Murch, Zach Pelham, Christina Sambor, and Tony Weiler.

To: Margaret Lee and the many volunteers and to the attorneys and law firms for sponsorships and donations to the North Dakota Bar Foundation silent auction; and to Ebeltoft.Sickler.Kolling.Grosz.

Bouray.PLLC for sponsoring the North Dakota Bar Foundation reception.

\* \* \* \* \*

Resolution #4: Appreciation

WHEREAS, President Jane L. Dynes has served the State Bar Association of North Dakota during the past year at a great personal sacrifice to herself, and WHEREAS, the State Bar

Association of North Dakota has been greatly improved and enriched due to her efforts.

NOW THEREFORE, BE IT RESOLVED, that the State Bar Association of North Dakota commend President Jane L. Dynes for her dedicated efforts.

\* \* \* \* \*

PRESIDENT DYNES: At this time it is appropriate for us to take a moment to remember our colleagues. (Off the record.)

PRESIDENT DYNES: Oh, thank you, Sandi, for keeping me on track. We do have Resolution #1 that has come out of the work of the Pro Bono Task Force.

MS. TABOR: Madam President—

PRESIDENT DYNES: Yes, Sandi Tabor.

MS. TABOR: Sandi Tabor from Bismarck. I move the adoption of Resolution #1.

MS. SHERRY MILLS MOORE: Sherry Mills Moore, Bismarck, second.

PRESIDENT DYNES: Is there any discussion on Resolution #1?

JUDGE WEFALD: Well, what did we just do before that?

PRESIDENT DYNES: What we did before was to waive the reading of that resolution and the other resolutions.

JUDGE WEFALD: Okay.

PRESIDENT DYNES: Is there any discussion? If there is not, we will go to a vote because we have a motion and a second. Okay. I'm hearing nothing, so I will go forward. There's been a motion and a second to adopt Resolution #1. All those in favor, please say "aye."

GENERAL ASSEMBLY: Aye.

PRESIDENT DYNES: Those opposed say "no." The motion carried. Thanks again, Sandi. That was one of our biggest bits of business and I walked right past it.

All right. Now I'm going to ask you to turn your attention to the memorials that we'd like to recognize.

We need to take a moment to remember our colleagues who passed away since this time last year, June 14, 2009, through June 14, 2010, and the names are:

Cletus J. Schmidt

The Honorable Ronald L. Hilden

Thomas A. Dahle

Bruce H. Carlson  
The Honorable Rodney S. Webb  
Donald E. McCullagh  
Jim Odegard  
Ralph Vinje  
Michael “Ray” McIntee  
Adam Gefreh  
Alan K. Grindberg  
Gene P. Johnson  
Brad J. Burgum  
Todd W. Foss  
J. Howard Stormon  
The Honorable Lester S. Ketterling  
The Honorable James M. Bekken  
Owen K. Mehrer  
Frank F. Jestrab  
James D. Erickson

All right. We’ll move on to elections. We are going to conduct the elections for president-elect and an ABA delegate. We are operating under our absentee ballot procedures. We will not be having open nominations from the floor except for those candidates who have filed nominating petitions. We will have a short nominating speech for the candidates who filed a petition for the office of president-elect and ABA delegate.

First, we turn our attention to the nomination of president-elect, and I would like to recognize Dave Maring.

MR. DAVID MARING: Thank you, Madam President. Some people are born to be lawyers. Kristi Pettit is one of those people. She graduated from Washburn University in Kansas in 1998. Since that time she has been in Grand Forks practicing law and serving as the city attorney. She also teaches law at the University of North Dakota in the areas of criminal law and criminal procedure.

Some people are born to provide community service. Kristi Pettit is one of those people. She’s been involved in the United Way, the Grand Forks Foundation for Education, the Agassi Enterprises for Mentally Handicapped, and in the Community Violence Intervention Center.

Some people are born to provide service to the bar. Kristi Pettit is one of those people. Kristi has been involved in the SBAND CLE Committee, she’s been involved in the Law Related Education Committee, she’s been involved in the Young Lawyers Leadership Task Force that we just heard about that put on the first-ever leadership forum for Young Lawyers, she’s

been involved as a participant in Inquiry Northeast, and she's been involved, of course, on the Board of Governors for SBAND these last few years.

Some people were born to be leaders. Kristi Pettit is one of those people. She has served as president of our Young Lawyers Section, she's served as president of the Grand Forks County Bar Association, she is one of the founding members of the Randy H. Lee Chapter of the Inns of Court, and she is now the chairperson for Inquiry Committee Northeast.

Some people are born to be SBAND presidents. Kristi Pettit is one of those people. I proudly nominate Kristi Pettit for the position of president-elect. (Applause.)

PRESIDENT DYNES: Is there a second?

MS. ALICE SENECHAL: Thank you, President Dynes. I'm pleased to second the nomination of Kristi Pettit for the office of president-elect of the State Bar Association of North Dakota.

During the past several years it has been my pleasure to work with Kristi in the Greater Grand Forks County Bar Association and in the Randy H. Lee American Inn of Court Chapter that we have established in Grand Forks. She has served very well in those organizations, she has served our district well on the Board of Governors, she will serve well as president-elect of the Bar Association and as president of the Bar Association; so I am honored to second her nomination. (Applause.)

PRESIDENT DYNES: It's been moved and seconded that Kristi Pettit be declared SBAND president-elect. Is there any discussion? Hearing none, those in favor, signify by saying "aye."

GENERAL ASSEMBLY: Aye.

PRESIDENT DYNES: Those opposed signify by saying "no." Motion carried. Congratulations to Kristi Pettit, our new president-elect. Kristi, would you like a point of privilege to say a few words?

MS. KRISTI PETTIT: Yes, please. (Applause.)

PRESIDENT DYNES: Kristi Pettit.

MS. KRISTI PETTIT: Thank you very much. Thank you, Dave Maring and Alice Senechal. I appreciate the nomination and I appreciate the support that I had from all of you today.

It has been an honor to serve on the Board of Governors the last three years. I have worked with wonderful people, wonderful representatives. We have a wonderful staff: Bill, Jeanne and the rest. You should be very proud of the people representing you. For the last three years I've seen a group that's working. Everything that they do, every decision they make is to better serve you. They are good stewards of your money, they are good stewards of your time, and it is my goal to continue in that tradition.

I love being an attorney, I especially love being an attorney in North Dakota, and I am excited and honored and looking forward to continuing to serve you in that capacity. Thank you very much. (Applause.)

PRESIDENT DYNES: Thank you, Kristi. The chair will now recognize Sandi Tabor.

MS. SANDI TABOR: Hello. All right. Madam President, I am not going to give a speech as good as Dave Maring's, that's for sure—it was well done, David—but I am standing to nominate Jim Hill to serve yet another term as our ABA delegate.

Jim has represented the association on the ABA House of Delegates since 1994 and starting now he has been appointed or elected, I don't know which—elected—thank you—to be the representative for our district on the ABA Board of Governors. It's been a long time since North Dakota has had a delegate or a member of the Board of Governors of the ABA.

Jim, as you all know, loves the Bar Association. There's just no other way to explain the time and energy he dedicates to this association. And it's because of that that it gives me great pleasure to move yet once again his nomination to serve as our ABA delegate.

MS. SHERRY MILLS MOORE: Sherry Mills Moore. I second that, Jim.

PRESIDENT DYNES: Thank you, Sherry. Thank you, Sandi. It's been moved and seconded that James Hill act once again as our ABA delegate. Is there any discussion? Hearing none, those in favor of the motion please say "aye."

GENERAL ASSEMBLY: Aye.

PRESIDENT DYNES: Those opposed say "no." The motion carries. (Applause.) At this time it is now my great pleasure to turn the gavel over to your new president, Sandi Tabor. (Applause.) (Handing over the gavel.)

PRESIDENT SANDI TABOR: Everybody is ready to go, so this is my short speech. Thank you. I will do my best not to cause any trouble or to do any damage. And with that—

JUDGE WEFALD: What about the secretary-treasurer?

PRESIDENT TABOR: What?

JUDGE WEFALD: What about the secretary-treasurer?

PRESIDENT TABOR: Next year, Bob.

JUDGE WEFALD: We have two-year terms?

PRESIDENT TABOR: Yeah. So next year. Oh, there are questions from the audience. This never happens. Yes.

UNKNOWN PERSON: Did we actually vote on Resolutions 2 through 4?

PRESIDENT TABOR: No, we didn't.

2010]

BAR ASSOCIATION MINUTES

503

PAST PRESIDENT DYNES: Do you want me to come back up, or do you want me to handle it?

PRESIDENT TABOR: I'll handle it. Do I have a motion to adopt—

HON. SONJA ANDERSON: Sonja Anderson moves that we adopt 2, 3 and 4.

PRESIDENT TABOR: Judge Anderson has moved that we adopt Resolutions 2, 3 and 4. Is there a second?

PAST PRESIDENT DYNES: I'll second. Jane Dynes.

PRESIDENT TABOR: Jane Dynes has seconded that motion. All in favor of the motion say "aye."

GENERAL ASSEMBLY: Aye.

PRESIDENT TABOR: Opposed? Thank you. We had a little debate up at our table and figured they'd get published. So, in any event, silent auction starts at 6:30 next-door. Bring your checkbook. As Jack McDonald said, this isn't a blue light special. We need money, so be ready to spend a little tonight. It's going to be a great banquet. We have some lovely entertainment. The banquet itself will start at 7:30 in this room.

And with that, thank you all for your kind attention and in attending, and we'll see you later. (Applause.)

#### CERTIFICATE OF COURT REPORTER

I, Ann M. Bremer, a Registered Professional Reporter,

DO HEREBY CERTIFY that I recorded in shorthand the foregoing proceedings had and made of record at the time and place hereinbefore indicated.

I DO HEREBY FURTHER CERTIFY that the foregoing typewritten pages contain an accurate transcript of my shorthand notes then and there taken.

Dated at Minot, North Dakota, this 15th day of July, 2010.

Ann M. Bremer Registered Professional Reporter