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

North Dakota State Bar Association

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

OFFICERS

DAVID L. PETERSEN President
DAVID S. MARINGPresident-Elect
MICHAEL J. WILLIAMS Secretary-Treasurer
LAWRENCE E. KING..... Immediate Past President
WILLIAM NEUMANN Executive Director

PROCEEDINGS

June 14, 2007

PRESIDENT LAWRENCE KING: We will call the 108th 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 Scouts Troop 73 and Cub Scouts Pack 3. The Eagle Scout who will be running the ceremony is Cody Streyle. Cody.

MR. CODY STREYLE: Please stand for the Presentation of the Colors, the Pledge of Allegiance and the singing of the National Anthem. Color guard, advance!

PRESIDENT KING: Thank you, again, to the Cub Scout Pack 3 and Scout Troop 73, and also Kelsey Anderson.

I want to take a quick moment to express my great appreciation and gratitude to everyone on the local committee. Dave Maring was the chair. Mitch Armstrong; Randy Bakke; LeeAnn Barnhardt; Annette Bendish; Bruce Carlson; Al Hoberg; Connie Hofland; Petra Mandigo; Tim Purdon; Alex Reichert; Tony Weiler; and Peter Welte. Also, Margie Lee, Dianne Peterson and Jo Peterson, who have again volunteered to organize the North Dakota Bar Foundation silent auction. You know, planning our meeting, it's a big job. It takes a tremendous amount of effort and energy, and we appreciate their willingness to help.

And I can tell you I think the reason I feel like the whole convention has gone so smoothly is you simply delegate it to the staff and to this local committee and it gets done tremendously. So join me in thanking them.

PRESIDENT-ELECT DAVID L. PETERSEN: Now the moment that Lawrence has been waiting for, his address. One can't begin to think about how much time and effort Lawrence has put in this year, and we all on the Board of Governors really appreciate this. So thank you, Lawrence.

PRESIDENT KING: Do I get to turn this over yet? Am I done? Not quite. You know, seriously, it's been my distinct honor and pleasure to serve as your Association's president over the last year. You know, it's been a busy year with a lot of different things and exciting things that have been going on. I want to talk for just a few minutes about some of those and highlight a few of them.

The year started at last year's annual meeting—at least for me—and the members of this Association debating and discussing several different initiated measures and what stance the State Bar Association of North Dakota should take on them.

The Jail for Judges Initiative in South Dakota was a direct and unprecedented attack on the independence of the judiciary and, indeed, our system of justice. After debating the issue, you authorized the Board of Governors to provide financial assistance to the South Dakota State Bar Association which was coordinating opposition to that particular measure. Through the tremendous efforts of the South Dakota State Bar Association, that measure was defeated. I believe it was 11 to 89 percent, a nine-to-one margin. And while admittedly, or likely, SBAND's financial contribution did not sway the entire election, but your willingness to speak as one voice against such a measure, in addition to backing that up with financial support, was an important and commendable task for us to take.

The membership also discussed and debated the Initiated Family Law Measure in North Dakota, the Shared Parenting Initiative, which would have mandated 50-50 custody of children unless one of the parents was declared unfit, and it also removed the best interests of the children analysis in determining child custody. This was at a time, at the annual meeting when we debated it, the proponents were still collecting signatures. As it turned out, they received enough signatures to get on the ballot. The Family Law Section conducted a comprehensive review of the proposed initiated measure. It obtained input from many of its members regarding what impact that measure would have on actual families, children, and the administration of the judicial system, and in particular on family law matters in North Dakota.

Because of the direct and substantial impact that measure would have had on the legal system, SBAND joined a consortium of other groups in educating the public regarding the impact this measure would have had, if passed.

The measure was ultimately defeated in the November election by roughly a 57 to 43 percent margin; but during that process, the education process, your executive director, Bill Neumann, and I, along with other members of the consortium, traveled throughout the state talking to local bar associations; but probably as importantly, to editorial boards throughout the state. And during that process the people we spoke with agreed that the initiated measure was not a good fix. However, questions were raised during that process as to whether the present system worked and whether it worked perfectly or not, and during that process SBAND made a determination to request that the Legislature assign a legislative committee in the interim to examine child custody and child visitation issues in North Dakota and recommend any appropriate changes.

That concurrent resolution directed the Legislative Council to study the issue of fairness, equity and the best interests of children as they relate to issues of child custody and visitation. I'm pleased to inform you that out of the numerous issues that have been identified for potential study during the interim, this was one of the relatively few selected for study.

On behalf of SBAND, we'll continue to work with the Legislative Council and any assigned task force to examine and study this question of child custody and visitation in North Dakota. The issue is important to the judicial system as well as to North Dakota families.

As long as we're talking about the legislative session, let me quickly update you on a few other matters. As you may recall, last year President Williams discussed three unique task forces that had been on the work during his tenure.

Two of those were the Uniform Commercial Code Task Force, chaired by Lowell Bottrell, and the second was the Uniform Trust Code, chaired by Bill Guy.

After the Uniform Commercial Code Task Force completed its work, a bill was introduced in the Legislature to implement the recommended changes. SBAND supported that bill and the work of the task force. I'm pleased to advise any of you who are not already aware that the bill passed and was signed into law.

The Uniform Trust Code involved a massive effort on behalf of the entire committee. And I'll mention more about that in just a little bit. Again, SBAND supported the efforts of the task force and the proposed legislation, and that legislation was passed into law.

In addition to the initiated measures in the legislative session, I want to just mention a couple other things that we've been working on over the last year.

The first, as Dean LeBel mentioned earlier, is the Young Lawyers Law Student Liaison Committee. I asked Mike Williams to chair that committee. And we thought it was important to have, in essence, a seasoned attorney who had been through the SBAND process chair it, and yet it is made up almost entirely of younger lawyers who have just recently graduated from law school. Dean LeBel has been instrumental with this committee, as well.

Through this committee we wanted to accomplish several things. First of all, we wanted to get law students more involved in the Association and the services and benefits it provides; we also wanted to assist these law students in their transition from being a student to practicing law.

The committees worked extremely hard in moving these objectives forward. And later Mike Williams will provide you a detailed report regarding the committee's work.

The other committee I wanted to really briefly mention was the Membership Services Committee. We formed this committee in order to examine what additional services and benefits SBAND could provide to its members. Through the fiscal direction of Bill Neumann, we were in a position to utilize some surplus funds towards additional services to the members. There were many different suggestions and ideas on how best to accomplish this goal. The Board of Governors discussed and debated it a fair amount.

In order to kind of get our arms around that, we appointed the Membership Services Committee consisting of a diverse set of attorneys to represent both geographical diversity as well as practice diversity. We wanted to make sure that we had ample representation from rural and small-town practitioners.

The committee was made of Maureen Holman, out of Fargo; Lisa Gibbens, out of Grafton; Valeska Hermanson, of Williston; Paul Sanderson, out of Bismarck; and Mike Wagner, out of Bismarck.

We also sent out a blast e-mail to the members, specifically asking them what types of services they would like to see provided to them.

The Membership Services Committee took all of this information and ultimately made the recommendation to the Board of Governors that SBAND contract with Casemaker, a legal research database company. They had a booth out there and I hope you've had an opportunity to talk with them about that. Although Casemaker may not be and it's not intended to replace Westlaw—it's not as comprehensive a legal database—

it does provide computerized legal research and databases to those attorneys and firms that do not have contracts with other entities. We believe this will be a tremendous benefit and asset to our small rural practitioners in particular. As I indicated, they have a booth out there. If you haven't had a chance, please make sure you grab them.

This last year has been very interesting for me. I've had an opportunity to attend ABA meetings and discuss issues relevant to the state bar associations throughout the country. I had the opportunity to work with the judiciary here in North Dakota and, in particular, Chief Justice VandeWalle, on various issues. The relationship between the bar and the bench in North Dakota is strong. Indeed, having discussed the issue of relationships between bench and bar with other bar leaders throughout the country, I don't think there's any question that others are envious of the situation here in North Dakota.

I want to personally thank Chief Justice VandeWalle for his leadership and fostering of that positive relationship. Thank you, Chief.

It's been a very busy year and I believe we've accomplished many things. However, those accomplishments were only possible through the hard work of members like yourselves and the work you perform on committees. It also clearly would not have been possible without the work and the efforts of the SBAND staff.

Being right here in Bismarck, it really gives me an advantage. I had the opportunity to work closely with the staff. I'm incredibly impressed with their hard work and their dedication.

I really urge each of you to take the time to express your gratitude to the Association and the staff when you get a chance to see them.

And I know I've mentioned their names before, but they can't really be mentioned enough. Jeanne; Justine; Carrie; McDonna, who has been out in the area; Jane; and also Jean, who has been with us for the summer.

I also want to thank Bill Neumann, our Executive Director. To put it simply, Bill has made my job incredibly easy. I've been very impressed with Bill's dedication, analysis and leadership over the last year. While we may not have agreed on every single issue, I can tell you the reason SBAND has had any success that it may have had over the last year is through the leadership and direction of Mr. Bill. Thank you for making my job easy.

That tells you a little bit about your Association and what it's been up to for the last year. I want to take a quick second personal privilege.

Not too long ago a Minot attorney passed away. Mark Hays was a law school classmate of mine. In fact, we were in the same study group. You know, due to the nature of our practices, for many, many years I never had a

case with him. Within the last couple of years, I did have an opportunity to work with Mark. Mark and I each had one defendant in a tragic wrongful death case. Actually, Dave Maring represented the plaintiff. We had the opportunity to spend a couple of days in Montana for depositions, and during that time I could see Mark's passion. He had a passion for his family; he had a passion for his dogs, who were like children to him; and he had a passion for practicing law. You could see that passion in his eyes when he talked about legal issues with you. Unfortunately, his life was tragically cut short while he was in Texas spending time training his dogs. He was far too young to pass away.

His passing reminded me that life can be unexpectedly short. As lawyers, we become busy with our practices, with our community involvement and other such things, including SBAND. While these are all worthy and they're all important, don't let it consume you.

Remember what John Lennon wrote:

"Life is what happens to you while you're busy making other plans.

"Live life to the fullest and pursue those things which you have a passion for."

I want to thank you again for the opportunity to represent this organization over the last year. It's been my honor and my pleasure. Thank you.

Well, now we're ready for the State of the Judiciary. I want to introduce Chief Justice VandeWalle. I was looking at his biography, and I think everyone knows him well enough that I don't need to go through a lot of it. But it was interesting. He was raised at Noonan, and I remember seeing something about a tornado hitting there last week. So, hopefully, all is well in Noonan.

He was admitted to the bar of North Dakota in 1958. In 1978 he was appointed to the Supreme Court. He's been elected Chief Justice effective 1993, and he's been the Chief Justice ever since.

As I checked his bio again today, it actually updates exactly how long he's been serving. He served as Chief Justice 28 years, ten months as of June 14th, 2007.

Sean Carter made the comment that he was amazed that when he was here he ran into the justices, including the Chief Justice. That accessibility, that ability to run into him at a function like this impressed him. And I can tell you, as bar president, he was always accessible and always providing his opinion when asked.

Please join me in welcoming Chief Justice Gerald VandeWalle.

CHIEF JUSTICE GERALD W. VANDEWALLE: Thank you. Thank you very much.

For those of you that will notice that I am not wearing a Hawaiian shirt, just imagine that this suit is and just imagine that this glass of water is—what is it, Bill?—a Bahama Mama.

Actually, I was administering the oath of office to the new Highway Patrol troopers and I was not going to go home and change clothes.

President King, members of the North Dakota State Bar Association, I am pleased to be here today to report on the State of the North Dakota Judiciary. I know your time is limited, so I will move right into my remarks. By the way, they will be available, along with some appendixes, in a printed form after I'm through speaking.

In 2006, five of our most experienced trial judges left the bench. That's a considerable number in one year in a state that currently has only forty-two trial judges. Also, since I last spoke with you, we have recalculated our judges need using the weighted caseload method we have used for many years. As of 2006, we are seeing a need for five additional judgeships. Our latest study shows an increased judge need in Fargo, Bismarck, Jamestown and Minot.

Although this is only a snapshot in time, if this trend continues, we will be approaching the Legislature in the next biennium to request an increase in the number of judgeships.

Recent judicial elections in other states have unfortunately proven the prediction that Republican Party vs. White would lead to expensive, partisan, and caustic elections. Although we have yet to experience this in North Dakota, what happens in those states reflects on all of us. The threat that this poses to a fair, independent and impartial court system cannot be overstated.

Outside of judicial elections, we have already seen the rise of out-of-state interest groups providing funding and support for change in North Dakota. We need only look to N.D. Family Alliance v. Bader and similar cases, plus the initiated measure in the last election, to realize that they are here and we are not immune to these forces. Without restrictions, special and single interest groups are allowed to choose the candidate they will endorse. The candidates seem unable to control the tone or tenor of these groups or the content of their advertisements, and judicial races can become a race to the bottom.

Although the Legislative Council declined to continue the interim study of judicial selection that it began last biennium, I urge this Association to continue the Task Force it assembled and to monitor the unfolding events and to continue to consider appropriate alternatives in

either the judicial selection process or other related areas to confront these potential problems.

It is customary for lawyers to shake hands with opposing counsel and congratulate them on a good fight after a hard-won legal battle. Lawyers are trained to respect the process and not to take legal maneuvering personally. With this background, it is sometimes easy to forget the degree to which a legal battle becomes a personal battle for the litigants. Nowhere is this more evident than in family law cases where, in order to win, one party must call into question the other's parenting skills, question the degree of their closeness to their child, and mock their ability to provide adequate love and protection for their child.

Our current adversarial system can do a disservice to parents and their children. We can no longer pretend that we are unaware of that fact.

Several years ago, we enacted a rule that allowed for court-sponsored mediation. It was a worthy goal, but as a program, it has failed. It is time to try something else. This is too important an issue to individual litigants and to society, as a whole, to not try another method.

Realizing that, we pursued and received funding from the Legislature to establish a pilot family law mediation project. The pilot project will be administered by the Supreme Court and handled on a contract basis with sites located in the Northeast Central and South Central Judicial Districts.

Some members of the bar may take offense to the notion of court-sponsored mediation. I hope not. However, they may feel it is an intrusion into pre-trial negotiations and fear it will have an adverse effect on their ability to settle cases in their client's favor. We are moving with care to develop protocols to address these concerns. But, there should be no mistake—we do intend to change how contested family law cases are handled, and we are going to do so with the deliberate intent of making it less acrimonious for these disputes to be resolved. We cannot erase the pain that occurs when a family splits apart, but we will do everything within our power to ensure that the court system is not adding to it.

I have asked the Joint Committee on Alternative Dispute Resolution, chaired by Rebecca Thiem, for their recommendations. I understand the committee has appointed an expanded subcommittee to study the matter and make recommendations to our Court, and I look forward to receiving their report.

Nationally, the issue of juror privacy has been a topic of much discussion. This has been largely driven by jurors themselves raising concerns about retaliation, identity theft, post-trial contact from litigants and the media, and other general privacy issues. It is not unusual for us to see these same types of concerns raised in our own juror surveys.

In response to these concerns, we have adopted the ABA standards on juror privacy and handling juror information. These standards include differentiating among information collected for jury qualification, jury administration and voir dire.

The modified juror qualification form, which only requires prospective jurors to answer questions to determine if they qualify to serve as a juror, is probably the most visible of these changes. Some of you have expressed concern by the change. We do not intend to interfere with a lawyer's ability to prepare for trial; however, our first priority has to be to the persons who sacrifice time and money to carry out the very important function of jury service.

In 2006, the Gender Fairness Implementation Committee did a ten-year assessment of our efforts to reduce gender bias in the court system. The assessment revealed that we have made great strides in mitigating gender bias in employment, in decisionmaking, and in treatment of litigants and counsel.

The area of domestic violence remains a concern, and one of the recommendations that came out of the assessment was that we should study the processes, procedures and statutes governing protection orders. This recommendation was put before the Legislature and was chosen as an interim study resolution.

The Legislature also chose, as you have already been told, to study best practices related to child custody. Child custody, as you well know, was an issue this last election and this past legislative session, and it will continue to be an issue. We cannot say that how we handle child custody is the best system nor can we say with any reliance that another system would be better. I welcome the interim study and look forward to the recommendations that come from it.

We live in a changed society. Over the past 20 years, increased access to higher education and fingertip access to information have transformed how the average citizen does business. This is obvious in the reduction of the role of broker or middleman across a wide spectrum of services.

Investment, real estate, and travel come most easily to mind. It is also obvious in the increased number of self-represented litigants that contact the Court every day.

In addition to the "do-it-yourself" culture that now exists, is the economic reality of court-related costs. Many people simply cannot afford to hire an attorney to represent them, or believe they cannot afford an attorney, regardless of how much they may want to, and choose to proceed on their own. While we should and do provide access to the courts to the self-represented, at the same time we must balance their plight with the rights of

parties represented by counsel and the need for respect for court rules and procedures.

As a court system, we have a duty to provide adequate information to all litigants. We have committed to expanding the number of resources we offer, including better training for clerks of court and more web-based information about the court system in general and about how different cases proceed through the court.

The Legislature treated the judicial branch well this last session, and I am grateful. Our budget raised few questions. Although some might say it was due to the large surplus, other budgets faced more problems. We have worked hard to make the budget process transparent, and we have been candid in its preparation and presentation. I believe the hard work and integrity of Sally Holewa, State Court Administrator, and Susan Sisk, our Director of Finance, are major reasons for our success.

I also gratefully acknowledge the support of the State Bar Association, its president, its Board of Governors, its Legislative Committee, and Bill Neumann, its Executive Director. There was little lawyer bashing or judge bashing in this Legislature. The president, the executive director and the Legislative Committee obviously did a superb job in testifying before committees, explaining proposed legislation, and providing information and assistance to the Legislature.

Along this same line, this past year we conducted a public trust and confidence survey. Overall, we found that court users have a very positive perception of the court system. Comparison with the 1999 Public Trust and Confidence survey shows that perceptions have improved dramatically since 1999.

We found that the factors with the greatest increase in positive scores are those factors that the court can directly control; that is, monitoring the progress of cases, availability of judicial services, helpfulness and behavior of court staff, ease of process, enforcement of orders, clarity of orders, and perception of judicial integrity.

The survey did indicate some issues remain, in particular those related to the cost of bringing a case to court and lack of information about the courts, as well as a perception that judicial decisions are affected by political and campaign concerns. I believe that the latter perception is primarily due to the national scene in view of the few contested judicial elections in North Dakota.

We also found that 46 percent of respondents were at the courthouse to get case information, file papers or make payments. We see each of these as areas in which the Court can strive to develop technological solutions

that will give citizens a choice of going to the courthouse or accessing information remotely.

We know that perceptions about the courts are not developed in isolation. They are a reflection of the entire legal community. I applaud you for your efforts to make the legal system fair and understandable. I also thank you for the time and talent you provide in serving on court committees and joint court and bar association committees. We would not have the fine system of justice we now have in North Dakota nor respect for that system without you.

Although the bar and the judiciary do not and need not always agree on a given issue, the cooperation and open discussion between the bar and the bench benefits not only judges and lawyers, but the public as well. I am grateful for that relationship; I do not take it for granted, and I intend to continue to encourage fostering it. This has been just an excellent annual meeting. Thank you for allowing me to be a part of it.

PRESIDENT KING: Thank you, Chief Justice.

The next section is the Volunteer Lawyer presentation. It's a presentation of an award. You know, community service comes in many forms, and the Association is very proud of the efforts of its Volunteer Lawyer Program and, really, 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. Sean Carter talked about it earlier.

Indeed, I've got on my desk, when I was with the American Bar Association Young Lawyers Division, a little pencil holder, and on it was the theme that year, and that theme still rings true. "Without access there can be no justice." And there are a lot of people who simply do not have access to the greatest legal system in the world. And so, quite frankly, this is one of the most important awards I think we give away.

Every year we recognize those individuals who donate an extraordinary amount of time to pro bono cases. This year the top three attorneys contributing to SBAND's Volunteer Lawyer Program were Bonnie Humphrey, at 346.9 hours; Robert Keogh, 133 hours; and Cynthia Schaar, at 76 hours. If you'd all come to the podium, we have a small gift of appreciation.

PRESIDENT KING: It's a nice fold-out chair so they can sit back and relax for just a little bit. Thank you.

I also want to thank, again, the SBAND staff, Carrie Molander and McDonna Fryer, for the work they do with the Volunteer Lawyer Program on a daily basis. Also, our summer law student intern, Jean Lengowski, has been involved in that program. Thank you.

Next, the Outstanding Chair Award. Every year the president of the Association has the honor and, really, the pleasure of naming the

outstanding committee chair. You know, this year it was tough. You see all of the work that the chairs of these committees do, and it's an incredible amount. The chairs of the inquiry committees worked hard, and work hard every year. But while it was hard, because they've all put in a lot of work, it was also easy.

This year I'm pleased to recognize William L. Guy III as chair of the UTC Task Force. Bill's not able to be with us right now. He'll be here tonight to accept it, and we'll present the award and have some comments at that time. But I can tell you that his work on that committee was nothing short of, I think, as Bill said, herculean. It was incredible.

Ultimately, after that task force years of work, hours, hundreds of hours work, they submitted a 52-page bill to the Legislature, and that bill was passed this year.

While all of the chairs work hard, Bill Guy worked incredibly hard on this task force, and I congratulate him on winning the Outstanding Chair of the Year Award. And we will present that tonight at the banquet.

Now we will hear the Financial Report from Mark Hanson, secretary-treasurer. Mark.

MR. MARK HANSON: Thank you, Lawrence. President King, members of the State Bar Association of North Dakota. This is the financial report for the year 2007.

Before I begin my report, I would like to point out that a copy of my report, which I am basically going to read to you verbatim, is at the back of the General Assembly booklet that is made part of your information you were provided. Also attached to the General Assembly booklet is a report on the 2007 budget and the 2006 audit. And I'm going to briefly address the issues in each of those.

First, with regard to the audit. The Board of Governors was pleased with the findings of the 2006 audit, which, once again, gave the Association an unqualified opinion, which is the highest opinion available for an association.

And, again, that is a tribute to Bill and his staff. The 2006 audit reflects year-end assets of \$877,326, up from \$803,832 in 2005, about a \$74,000 increase in year-end assets. This includes \$471,003 in restricted cash assets, \$46,171 in equipment, and inventory of \$4,297. In 2006, the Association saw revenues of just over one million dollars, at \$1,015,296, as compared to \$938,830 in 2005, about an \$80,000 increase, and incurred expenditures of \$895,236, as compared to \$786,000 in 2005, for a net increase of approximately \$20,000 for year-end balance in 2006.

Our unrestricted general fund assets as of December 31, 2006, were \$338,118, for total net assets in the amount of \$809,121, up from \$689,061 in 2005.

Second, Revenues—what everyone wants to hear about and is glad to hear about. During the year 2006, the Association generated \$1,015,296 in total revenue; as I said before, up from about \$938,000 in 2005. Forty-five percent of total revenue, or \$453,160, was from license fees.

Under Expenditures: Our total expenditures for 2006 amounted to \$895,236, as I said before, but that includes total disciplinary expenses of \$148,372 and general and administrative expense of \$605,153. Included in the administrative expenses are CLE seminar costs and office overhead.

The 2007 Budget: And, again, this is attached to the General Assembly tab. The 2007 budget is based on the same general methodology and philosophy as the 2006 budget. The Board is continuing to monitor trends.

All Association expenses are closely monitored by the Board of Governors to guarantee that you, the membership, receive the best value for your dollar. And I can tell you that President-elect David Petersen looks through those with a fine-tooth comb. And that's not a joke.

It's amazing how he looks at that. Most of us just look at page 17; right? Well, David, looks at every one of those. And we appreciated that.

The Board tracked all spending through detailed monthly financial reports to ensure that your Association can continue to provide the quality services and programs that you have come to expect.

As an editorial comment, I think the fact that this Bar Convention was provided at a 150-dollar total cost for all the CLEs and the meals and everything is a tribute to Bill, again, and his staff and how they are able to look at our budget and our expenses and our revenue and our expenditures.

If you would like more information about the budget, please contact Bill at the SBAND office.

And, see, you thought this was going to be a boring presentation, didn't you? Thank you for your time.

PRESIDENT KING: Are there any questions regarding the financial report? You're off the hook, Mark.

The committee and section reports are in the General Assembly materials. You can read through those. But Mike Williams is going to give a report on the Young Lawyers and Law Student Liaison Committee. Mike.

MR. MIKE WILLIAMS: Thank you, President King.

We established the Young Lawyer and Law Student Liaison Committee about a year ago with the intention of strengthening the bond between the young lawyers and the law students and their Bar Association. And

initially we've done much. The report of our details is included in your materials.

We've done much. And for those young lawyers, I think you'll see some exciting new programs and services coming out of your Association that will be especially attractive to you.

The one program, however, that's taken much of our attention is the mentorship program. And we see great value to establishing a mentorship program with the UND Law School. You heard Dean LeBel talking about it earlier today. And this is one of our highest priorities.

Our goal is to have the mentorship program operational this fall and to have a mentor for each and every law student in the second and third year class at the Law School this fall. It's an ambitious goal. We hope to be able to achieve it with your help.

What I've done is I've asked Chris Nyhus of Mandan to come up and talk to you just briefly about how you can become a part of the mentorship program and why. Chris.

MR. CHRIS NYHUS: Thanks, Mike.

My name is Chris Nyhus. I work over in Morton County; I'm an assistant state's attorney over there, and I am a young lawyer. I've only been out of law school for about a year and I've been practicing for about seven or eight months. I know some of you in the audience, but I can't see you because of the lights.

The way to become a mentor is to contact myself or Jennifer Stanley and the other members on the committee, Ken Beach and Jeanne McLean. Forgive me. I didn't go to UND. Jeanne, I have not met you, but you have been nominated by Dean LeBel to be on the committee. And I will be sitting outside at the SBAND law-related education table, which is in the exhibitor room.

This program is designed to work in conjunction with what's already at the Law School. I've been informed that there's a program by the trial lawyers for the students there, the Student Trial Lawyers Association, and that involves about 80 students. We would like to not replace what's going on, but supplement it. This program will fill the void for students who—you know, they expect to go into areas of law that aren't related to litigation—transactional work or things like that—and we need people from—you know, people like myself who have just become members of the bar to folks in this room who have a wealth of experience.

Just a couple other comments. Oh! The reason I'm not wearing a tie is because the executive director told me not to. So please forgive me. Again, I'll be sitting right outside the door here. Thank you.

MR. WILLIAMS: Thanks, Chris. I've got just one more thing to add, and that's that I've been a part of the North Dakota Trial Lawyers Association mentorship program for the past two years, and I can tell you that with regard to the student trial lawyers who have participated in this program, we have just had an overwhelmingly positive response. The students have loved it. The mentors who put in their time have loved it. It just seems like going back to law school. I remember all of the struggles on, "Well, what classes do I take?" "And which ones are going to help, which ones aren't?" "How am I ever going to find a job?"

Fortunately for me, John and Carol Kapsner hired me sight unseen, almost. But there are all of these worries that you have as a law student, and it helps to just have somebody to bounce some of those off of. It's been a really valuable program. The mentors who have participated have thoroughly enjoyed it. It doesn't take tons and tons of time, but it reaps great rewards. So I'd encourage all of you to consider volunteering. Sign up with Chris at the table out here. And if you don't sign up today, we'll be bugging you with some e-mails and other notices to sign up later. Thank you.

PRESIDENT KING: I'll now call on Jack McDonald to provide the Bar Foundation report. Jack.

MR. JACK McDONALD: Hi! My name is Jack McDonald. I represent the not-so-young lawyers organization. And I'm president of the Bar Foundation this year. And the report for the Bar Foundation is in your packet, and so we won't go over it in detail.

I just want to briefly outline for those of you who are not maybe familiar with the Bar Foundation, it really operates on two different levels. One is to administer the IOLTA funds, the interest on lawyer trust accounts program. That's the money that's accumulated by all the trust accounts from the lawyers' trust funds. And the other mission of the Bar Foundation is to support public service law-related operations throughout North Dakota to try to increase public awareness.

Last year, the year 2006, was a very good year for IOLTA funds. We had an interest rate increase—not a great one, but it did creep up a little bit—and it gave us about another fifty-seven to sixty thousand dollars in IOLTA income for year 2006. And, of course, with an extra sixty thousand dollars, we went right out and spent it right away. We didn't want to keep anything in the budget.

So the IOLTA committee as a separate committee from the Bar Foundation did decide that they're going to continue to fund the SBAND Volunteer Lawyer program that you just heard about, the Legal Services of North Dakota, the Southern Minnesota Regional Legal Services and the

SBAND Constitutional Symposium program. That was one of the Bar Foundation programs that you heard Wednesday morning with President Jefferson and Justice Marshall.

We have a balanced budget for 2007. You'll be glad to hear that. And we're going to continue most of the grants and program expenses that we've had in past years. Right now, we have \$282,697.59 in our reserve fund. You can see how we distributed the IOLTA funds. They're listed in your packet. I won't go through those again.

I would like to thank the IOLTA committee. The IOLTA committee is chaired by John Petrik of the Vogel Law Firm. And that's why we had the lunch sponsored by the Vogel Law Firm today, I guess.

John is the chairman of the IOLTA committee. The other members of the committee are Lowell Bottrell, from Fargo; Heidi Heitkamp, from Mandan; Larry Rolfson, from Bismarck; and Jill Denning-Gackle, from Garrison.

The other part of the Bar Foundation is the public service function. Each year, we distribute most of the money we receive from donations and grants, and so forth, into service projects.

In terms of specific grants for 2007, the Bar Foundation approved funding for the Law School in honor of Professor Randy Lee. We increased the chair. In addition, scholarships were provided for Law Review/Note Comment award. We present an award for the best Law Review note of the year. We give homecoming scholarships for the top first-year law students. And this year we started a grant to the UND Law School for public interest law to help some law students go to public interest law firms in the summertime. The Bar Foundation provided \$5,000, and Dean LeBel found a slush fund for \$7,000, and so we were able to contribute \$12,000 for three stipends for public interest law for this summer.

Membership has been good for the Bar Foundation. We've had good donations from the membership. We raised approximately \$52,000 in 2006, and our funding is on a good road for this next year. So we hope we have an even better year this next year.

Our major fundraising—and apart from the funds we get from the members through their dues and individual donations, our major fundraiser is always the silent auction that's going to be held this evening. So I would certainly encourage you to come to our silent auction tonight. The reception starts at 6:30. It will go from 6:30 to 7:30. It will be in the room right next to us where we had the CLE earlier today. And there are a lot of items to be auctioned off. It's donation to the foundation, so we encourage you to be generous in your bidding on the projects. We've had several people who

have agreed to host the reception tonight—MDU Resources Foundation, the Serkland Law Firm, Maring Williams Law Office, the Nilles Firm—who are going to host the reception. We want to thank them very much.

One last note to end my presentation: The silent auction was really put together by a key group of four women who have worked on it for several years—Margie Lee, Dianne Peterson, Jo Peterson, and Holly Crothers. I want to thank them very much for all the work they do in organizing the auction, getting all the items out, the description of the items, and so forth.

And then, finally, I would like to acknowledge the members of the Bar Foundation. The members who serve on the Bar Foundation, in addition to myself, are Jack Marcil, Lisa Wheeler, Mike Stefonowicz, Paul Richard, Robert Thomas, Lolita Romanick, Mike Halpern, Ben Thomas, Gordy Schnell.

And then the ex officio members are Mike Williams, as the immediate past president; Lawrence King, as the current president; and Dean Paul LeBel, from the Law School. And, finally, we get expert assistance from Bill Neumann, who is the executive director of the Bar. He's also secretary-treasurer of the Bar Foundation. And Jeanne Schlittenhard is the executive director of the Foundation. So we thank them all very much. Thank you.

PRESIDENT KING: Jack, you're reminding me it's time for a haircut again. Mine's getting a little long compared to yours. I'd like to call on Dave Petersen to read the resolutions of thanks. Dave.

MR. PETERSEN: Resolution #2, the appreciation resolution. And, again, these are all found in your General Assembly packet. But I've been asked to read them verbatim.

WHEREAS, members of the South Central Judicial District and others have put considerable time and efforts into planning and organizing the 2007 Annual Meeting of the State Bar Association of North Dakota, and

WHEREAS, these 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: Dave Maring, the Chair, for planning and overall coordination of a multitude of details; Mitch Armstrong; Randy Bakke; LeeAnn Barnhardt; Annette Bendish; Bruce Carlson; Al Hoberg; Connie Hofland;

Petra Mandigo; Tim Purdon; Alex Reichert; Tony Weiler; and Peter Welte.

And to Margaret Lee, Dianne Peterson, Jo Peterson, Holly Crothers, and to the attorneys and law firms for sponsorships and donations to the North Dakota Bar Foundation silent auction; and to MDU Resources Foundation, the Serkland Law Firm, Maring Williams Law Office, and the Nilles Law Firm for sponsoring the North Dakota Bar Foundation reception.

Resolution #3: Appreciation.

WHEREAS, the businesses and organizations that graciously sponsored portions of the 2007 Annual Meeting and those that participated as exhibitors are:

Sponsors:

ABA Retirement Funds

Alerus Financial

ALPS

Basin Electric Power Cooperative

Big Muddy Bar Association

Blue Cross-Blue Shield of North Dakota

Botsford & Qualey Land Company

Edward Jones

Eide Bailly

Kranzler Kingsley/K2 Interactive

LexisNexis

Maring Williams Law Office

MDU Resources Foundation

Nilles Law Firm

North Dakota Bar Foundation

with a grant from IOLTA

North Dakota Commission for CLE

Qwest

Serkland Law Firm

Smith Bakke Porsborg & Schweigert

Starion Financial

United Printing/Spit'n Image

Vogel Law Firm

Wheeler Wolf Law Firm

Zuger Kirmis & Smith

And let me add this statement here: As Lawrence indicated earlier, the registration fees for full memberships or full attendees here was reduced by \$100 per person, and that is largely due to the generosity of these sponsors.

Exhibitors:

ABA Retirement Funds

Casemaker

Commonwealth Law Book

Guardian & Protective Services

Nicholas Bourdeau, CPA

Kranzler Kingsley

Legal Services of North Dakota

Noridian Insurance Services

SBAND Law Related Education

SBAND Volunteer Lawyer Program

Starion Financial

Thomson West

UND Law School

WHEREAS, without their participation and financial support, the 2007 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 #4: Appreciation.

WHEREAS, President Lawrence E. King and his wife, Tammy, have served the State Bar Association of North Dakota during the past year at 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 Lawrence and Tammy King for their dedicated efforts.

I move the adoption of these three resolutions. May I have a second?

MR. JAMES HILL: Second.

MR. PETERSEN: It's been moved and seconded. All in favor say aye. Opposed, same sign. Thank you. (Resolutions adopted.) (Applause.)

PRESIDENT KING: And actually, I think the last year's was \$280 or \$285. So we just about cut it in half. And we're looking to at least keep it where it's at now as far as the price for the Annual Meeting next year or—well, at least keep it where it's at. Maybe we shouldn't make promises yet. I'd like to call on Jason Vendsel to address Resolution #1. Jason.

MR. JASON VENDSEL: Bear with me while I read the resolution. Apparently, we have to read it into the record.

Resolution #1: Malpractice Insurance Disclosure.

WHEREAS, the mission of the State Bar Association of North Dakota is to promote justice and to serve the lawyers and the people of North Dakota; and

WHEREAS, the Executive Director of the Association and various members of the Board of Governors have been approached by various individuals, including legislators, who have expressed the need for malpractice insurance disclosure; and

WHEREAS, a significant number of states have implemented mandatory malpractice insurance disclosure rules; and

WHEREAS, the Board of Governors has reviewed and considered the mandatory malpractice disclosure requirements by various jurisdictions throughout the United States; and

WHEREAS, the Board has prepared a proposed rule dealing with mandatory malpractice insurance disclosure to be presented to the Supreme Court for its consideration, which is attached to this resolution as Exhibit 1; and

NOW, THEREFORE, BE IT RESOLVED the membership of the State Bar Association, assembled at the Annual Meeting on June 14, 2007, hereby approves the attached proposal for submission to the North Dakota Supreme Court, outlining the requirements for mandatory malpractice insurance disclosure by all attorneys licensed to practice in the state of North Dakota.

Do I have to read the exhibit?

PRESIDENT KING: I don't believe so, unless someone asks. It's attached. Is there a second to that motion?

MR. JAMES HILL: Second.

PRESIDENT KING: There's a second to the motion. Let me back up for a second before I recognize any speakers on this. I am appointing Justice Daniel Crothers to serve as parliamentarian to help keep things on track, if necessary. The chair recognizes Jason Vendsel to speak to the resolution.

MR. VENDSEL: I come here with some mixed emotions on this disclosure requirement. When it was initially brought up about a year and a half ago, I raised kind of a stink at the Board of Governors meeting. And like most associations, if you're at a meeting and you raise Cain, they put you on the committee.

So I was put on the committee, which immediately we did some research, and I determined that at that point just under half of the states in our country had some sort of malpractice disclosure requirements, and they covered the gamut. They went from as invasive as requiring malpractice to being so little as simply checking your box. And there was lots of stuff in between.

For example, South Dakota requires you to put on your letterhead the extent—or how much malpractice coverage you actually have. We had a couple of members of the committee who were opposed to this initially for different reasons and we were able to quell it initially based upon the ABA's position. The ABA has waffled on it to a fair extent. And as the year passed, more and more states began to fall with different degrees of malpractice requirements.

And probably the final blow was this legislative session we heard from a number of legislators who came to the executive director and various members of the board and expressed a concern that malpractice wasn't required by the lawyers and how could lawyers be handling other people's money and not be bonded.

Now, the obvious answer to that is that malpractice insurance isn't going to pay for theft, anyhow, but that is probably a more complicated answer than most of the legislators wanted to hear.

So with that in mind, we reassembled the committee. And I would submit we had a different task at that point.

What we did is we went in and looked again at what some of the states have done, and we have ultimately concluded that the best route in going forward is to have some sort of malpractice insurance disclosure requirement.

We could do it by statute and go to the Legislature. That didn't seem appealing to any of us. So what we proposed to do in the subcommittee, and ultimately the Board of Governors, was to present a rule to the Supreme Court requiring malpractice disclosure. It doesn't require malpractice insurance; it requires disclosure. And we chose to go with the least-invasive method for this disclosure.

A lot of you are probably members of Minnesota, and you already do it and may not even know. It is simply a check box: "I represent private clients. I have malpractice insurance."

That is available at the asking to the general public, but I highly suspect there are not a lot of requests for that information.

Now, I said I have some mixed emotions. I truly do. I can see a lot of benefits to this and I can see a lot of negatives to it. Like I said, my committee is ultimately proposing that we approach the Supreme Court with this rule.

I can't guarantee that this rule will be adopted by the Supreme Court as drafted. I can't even suggest that the Legislature won't attack it and make it far worse. I can tell you for certain that the lead goose leads the pack and gives directions to the rest. And all we're proposing here is that we be the lead goose.

This isn't the end of the discussion. This isn't the end of the problem. We may well face it before the Legislature, but we can say with strong voice we're attempting to address the issue.

And with that, I would move for the adoption of Resolution 1.

PRESIDENT KING: There's a motion and a—

MR. HILL: Second.

PRESIDENT KING: Any discussion? There is a motion, a second. Further discussion? Do we have any other microphones? Or, Jason, you'll be the—

MR. VENDSEL: I'll be wandering around with this.

PRESIDENT KING: Okay. And if I don't see your hand, shout out, please. In the back of the room. If you could state your name for the record.

MR. RICHARD BAER: I can understand why there's misgivings.

PRESIDENT KING: Can you just state your name for the record?

MR. RICHARD BAER: My name is Richard Baer, Bismarck. What are we trying to do here? What is the purpose of this and where is it going? It says that they're not requiring malpractice insurance; but I can see that's coming at us down the road. But I don't know what this bill addresses. I don't know what we're trying to protect, or who, or what purpose it serves. I just—I think it's another reporting requirement and apparently no purpose is served. What is it for? I mean, so a legislator is upset about it. Why? Why? What do we care about it? What's it for?

MR. VENDSEL: Mr. President, Jason Vendsel, again. I obviously didn't do a very good job of explaining it. The purpose of this is because of our fear that they are going to require malpractice insurance. This is an effort to somewhat thwart what we expect to come down the pike. We've heard commentary from various legislators that it should be required. I don't agree with that. I frankly agree with you that we're maybe starting a

fight we shouldn't. But the reality is we're trying to frame the argument as best we can.

MR. RICHARD BAER: Well, I think we have the cart before the horse here. But I also noticed that it applies to private practitioners, only, and I would say close to half of the people that are present here don't have to pay malpractice insurance because they're government-sponsored. So I highly think that if this is going to be voted on by the people that are impacted, it should be voted on by those that are going to be impacted, rather than having the whole assembly do it. Maybe it should be tabled and done by a paper ballot. I just don't see that we're accomplishing anything. And if you're worried about the Legislature, we can deal with those guys in two years.

PRESIDENT KING: Other discussion? Over here, Jason, in back, right behind you. Oh? Now we've got one up here.

MR. PETRIK: I'm John Petrik, of Bismarck. And this discussion is not new. I think we talked about it ten years ago when I was on the Board of Governors. And I view it as a consumer protection matter and that we should adopt it.

I just have a question as far as what other professionals' disclosure requirements are. I'm quite sure—I just assisted an engineer in registering in North Dakota, and I'm quite sure that there was no disclosure requirement for a professional engineer. Does anybody know what other professionals have to do?

PRESIDENT KING: Jason, do you either want to comment, or anyone else on the committee?

MR. VENDSEL: I'm not sure what the other disclosure requirements are. I know that at least one legislator has said how do we handle other people's money and not be bonded. That was the comment that really drove our committee to the point of the proposal we've submitted.

PRESIDENT KING: Any further discussion?

MR. BRENT EDISON: I'm Brent Edison, from Bismarck. It seems to me that this is really fairly timid in terms of a consumer protection measure, and I think we ought to be doing this because it's the right thing to do, and it simply allows clients to be able to find out those lawyers who have malpractice coverage and those who don't. I don't think this is any onerous kind of requirement, and I think as a self-regulating profession, we ought to be out ahead and we ought to at least go this far at this time. Thank you.

PRESIDENT KING: Further discussion?

MR. MEL WEBSTER: My name is Mel Webster. I'm a lawyer in private practice in Bismarck. I've been practicing since 1984; not a long

time, but fairly long, and I've had malpractice insurance ever since I started practicing. And that was a personal decision.

I guess, you know, the point that I really agree with is one that was made by Dick Baer. This particular resolution applies only to those attorneys who are in private practice, and I would like to have, you know, at least a straw vote of those attorneys taken, you know, to see what the position of private practitioners is. You know, I think that they should be permitted to register their opposition or support of this particular measure. And I would, you know, ask that it be tabled—defeated until such time as a straw vote of all private practitioners is taken by mail or, you know, electronic means.

PRESIDENT KING: Just from a procedural perspective to try to give some information to that, the resolution, itself—the proposed resolution—was published at least in *The Gavel* prior to the meeting. It's got to be published 30 or 60 days in advance.

MR. RICHARD BAER: Dick Baer, once again. In response to Mr. Edison's comments: If we're talking about a bond situation, we're talking about two separate things here. We're talking about malpractice; we're talking about posting a bond or having what we already have at the state. We pay into a fund for—or that sort of thing, and I don't know what risk we're talking about here. How many lawyers are impacted? What's the cost going to be? And what have we actually gained by putting somebody's name on a list or adding them to another government list? I don't understand how this helps to address some perceived problem, which I'm at a loss to find out what is the problem. What are the numbers? What's the statistics? What's the loss? What's the risk?

PRESIDENT KING: And, Jason, maybe you can correct me if I'm wrong. My understanding is that the committee is looking at bonding as a separate issue and has taken a different—or looking at that from a different perspective; that this question arose—and whether to do it or not is, obviously, the debate—but the question arose out of the national movement as far as different states passing further and sometimes much more comprehensive and onerous requirements.

MR. VENDSEL: That's accurate. I don't want to say we tabled it. We sort of put that off earlier, about a year ago, until there was a reference to bonding by the Legislature. That's what brought it up. This is our effort to frame the argument, which, in all likelihood, is coming.

I don't disagree with anything you've said. This to me is the least offensive alternative. I have a check mark on my Minnesota license every year, and I literally had to look at it this year to make sure that's what it was. Whether it will solve the problem, I don't know. But the problem is

that the Legislature, or at least some legislators, believe that lawyers should have malpractice insurance, or even bonding, and this is an effort to say we're attempting to police our profession.

And with respect to this should be presented to the lawyers, I agree with that entirely. There was discussion at the Board on whether, you know, this would be brought up to the Supreme Court without us; whether maybe we should even submit it without bringing it to the General Assembly. There was a fair amount of disagreement on that, and we were ultimately able to get it here.

I would like if we had a method where we could have every practitioner in the state, you know, give their opinion. I'd be thrilled with it.

But right now our bylaws and our constitution—this is where we do it. We come to a meeting and that's where we have to discuss it. It's an argument for another day that we should have e-mail sent.

PRESIDENT KING: Further discussion? Further discussion?

MR. JAMES HILL: Jim Hill, from Bismarck. I waited till the end to see where the tenor of the debate was on this issue.

I will tell you, as the ABA delegate, this has been an issue that has been kind of below the surface at pretty much every ABA meeting I've been at the last ten years or so. The ABA has been somewhat indecisive on what they want to do with this issue because they feel it is within the jurisdiction and the purview of the individual states. The Center for Professional Responsibility of the ABA has actually sponsored this rule but cannot agree that it become a model rule.

I would suggest to you and my colleagues Dick Baer and Mel Webster that the reason this came and will impact trial practitioners, the people like myself and you folks, is because that's precisely the issue that's arisen for the public. The public is looking at the people they are dealing with.

I was on this committee and I will tell you I was on the other end. I was behind Jason, arguing against any mandatory feature. But I've become convinced after the last ten years or so that this is an issue that the public is demanding. And the concern of the committee was that if we allow the public debate to be driven through the Legislature, that the Supreme Court's going to be forced to deal with some type of rule that invades the power of the Court to regulate lawyers, and we aren't even going to be at the table defining what we think is a reasonable statement as to what we should do to inform the public on what is clearly a consumer issue.

Now, you can argue that this is nothing more than a contractual relationship. If I want to hire Sherry King—or Sherry Mills Moore—not Sherry King—

PRESIDENT KING: I didn't know!

MR. JAMES HILL:—I can ask—she can ask me if I have liability coverage and I can say “yes” or “no.” Now, this isn’t going to be the end-all or be-all. It is somewhat of a contractual issue. All this is going to do is we’re asking the Supreme Court to do essentially what Minnesota is doing.

We simply report on our yearly report for our licensing. We indicate what we have, where it is. If somebody calls and asks the Board of Law Examiners—we haven’t even got to the point of knowing how that’s going to happen. But if she investigates or if she simply asks, “Does Sherry Mills Moore have coverage?” “Yes.” Now, how invasive could that possibly be?

The concern that we have is that if our Legislature—and they are getting very focused on these issues. The bond issue is a very disconcerting issue. And we’re looking at that as a bar. A bond is almost impossible to buy for an organization of this size. Malpractice coverage, however, is an entirely different issue. And what we want to be able to say to the Legislature, if we get this issue in 2008 or 2010—I’m most assured probably it will be here in 2008—is that we have looked at what is appropriate and reasonable. And if we don’t do anything, I think the Legislature’s going to come up with some plan that is going to be entirely unacceptable. Then it’s going to be in the hands of Supreme Court. They’re going to have to try and figure out whether the Legislature has invaded the territory of the Court, the bar will be off the table, we won’t even be able to argue. This is just a smart move for our Association to follow, really, what is a national trend with the least minimally invasive issue, period.

So I’d ask you to support this and hope that when we go to the table with the Court that we will come up with a plan that we feel is the best. And I’ll tell you that Jason was arguing with me on this side, and we have focused on what we think is the most minimally invasive area on this issue.

PRESIDENT KING: Further discussion? Any other discussion? Hearing none—the question has been called. All those in favor of the motion say “aye.” Opposed? Abstentions?

The chair would rule the motion passed. Any other resolution? That was the last.

Moving on. It’s appropriate for us to just take a moment to remember our colleagues who have died since the last time we met last year, from June 1st, 2006 through June 10th, 2007. I’ll read those names.

Kevin B. Spaeth
Ralph N. Molbert
Comart M. Peterson
Richard L. King
Robert A. Case

Thomas J. Kuchera
Herman R. Wegner
Robert E. Dahl
Theodore “Ted” G. Maragos
Honorable William A. Beede
Douglas P. Roberts
Robert Vaaler
J.E. “Rick” Brown
Mark R. Hays
The Honorable Bruce Van Sickle
Myer Shark
Lawrence J. Lange
John Moosbrugger
Maury Thompson

I’d like to repeat a few lines contained in a eulogy delivered by the late Matt Murphy in speaking of the passing of a country lawyer.

“Warm summer sun shine friendly here.
Warm western wind blow kindly here.
Green sod above, rest light, rest light.
Good night, old friend.
Good night. Good night.”

We will now move into elections. We’ll conduct the elections for the president-elect and secretary-treasurer. We’re operating under our absentee ballot procedures. We will not be having open nominations from the floor except for those candidates who have already filed nominating petitions.

We’ll have a short nominating speech for the candidates who have filed a petition for the office of president-elect and secretary-treasurer.

The chair recognizes Mike Williams to nominate David Maring as president-elect. Mike.

MR. MIKE WILLIAMS: It’s my privilege to nominate David Maring for the office of president-elect of the State Bar Association of North Dakota. And I just want to give a really short, really short, talk regarding David because he told me he’d break my legs if I didn’t keep it very short.

I first met Dave Maring when I was a summer law clerk at the law firm that David and Mary were working at, and on my first day of work the senior partner there took me aside and said, “If you want to know what it means to be a lawyer, you should watch Dave Maring.” And so I watched Dave a little bit and I learned that he just loves the law and he loves dealing

with lawyers. Imagine that! He loves dealing with other lawyers. And those skills would serve him well as our Association president.

Another lawyer in the same firm told me that, "If you want to know what it means to be a lawyer and have a lawyer's work ethic, you ought to watch Dave Maring." And I watched Dave over the course of the summer and many years since. And Dave comes to work early and he leaves late. He's been called one of the most prepared and thorough lawyers that you've ever met. And those skills will serve David well as our Association president.

Another lawyer told me that, "If you want to know what it means to be professional and civil, you ought to watch Dave Maring." And I watched Dave. As good fortune would turn out, Dave and I tried a case against each other years later. He was defending and I was plaintiffing. And I found out what it means to walk the walk when it comes to being professional and civil. It was one of the best trial experiences that I ever had. And when you have somebody who works as hard and who is as good a lawyer as David is, it brings out the best in you. And that's the kind of lawyer that Dave is. And that will serve us well if he were elected president-elect.

Lastly, there was another lawyer who told me that, "If you want to know what it means to give back to your community, you ought to watch Dave Maring." And I've watched him over the years and I've watched a large number of community activities that he's been involved with, and I've been impressed and inspired. And those skills will do us well with him as our Association president.

I have one other thing I'd like to say, and this is a little embarrassing, but my first day at work when I showed up as a summer law clerk in 19-(mumble). On my first day of work I had to borrow a sport coat because I was dirt poor. I was a law student. And I borrowed a sport coat from my brother. And this was in the 1970s. And this sport coat was the loudest, most obnoxious sport coat you can ever imagine. Every color under the rainbow was in it. And the good thing is you could match it with anything. It didn't matter what you wore with it, there was some color in the coat that would match. It was typical Seventies. And when I showed up for my first day of work, Dave said something to me about, "Son, we're going to have to teach you how to dress like a lawyer." And so it has been my great delight over the last couple of days watching Dave Maring show up in these loud, obnoxious Hawaiian shirts. And so this is my chance to get back at him and say, "Son, we need to teach you how to dress like a lawyer."

That being said, it is my privilege to nominate for the office of president-elect, David Maring. (Applause.)

PRESIDENT KING: Is there a second?

MR. ALBERT WOLF: Second.

PRESIDENT KING: There's a second. There's a motion and a second. All those in favor, say "aye." Opposed? Motion carries.

Congratulations, Dave! Our newly elected president-elect (Applause.)

Dave, would you like the floor or the mic for a minute?

MR. DAVID MARING: Not at all.

PRESIDENT KING: Not at all. He's saving himself. The chair recognizes Jason Vendsel to nominate Michael Williams for secretary-treasurer.

MR. JASON VENDSEL: I'm here to nominate Michael Williams as secretary-treasurer of the State Bar Association. He, like his partner, told me to keep it short. But I know he really wanted me to go on and on about how great he is.

Over the last several years I've been on the board and I've seen a lot of lawyers work very hard for this Association and stand up when it's needed. I can speak from personal experience that as your time draws to a close, you tend to get short-timers disease. I, for example, didn't even read page 17 of the financials before our last meeting. But Mike has been on the board for three years and I've not seen the attention wane. I've not seen him become less interested, become a short-timer. Through all of the time he's been with the board he has been very active and very involved.

Every time anything is needed, he is always there to step up to the plate. If we need a mundane rule drafted, he's the man who volunteers. If we create a significant new committee and we want some leadership, such as the Young Lawyers Liaison Committee, Mike's there for the job. Some would suggest that's because he's perhaps the least mature of the group. But I think we all know I have a firm grip on that. In fact, last night I understand he was even being a bouncer out in the exhibit hall. We had some high school kids who were pilfering Hilites, and he stopped that.

At every turn he stands up for this Association and he stands up for practicing lawyers. And that's a significant quality that will serve us well, has served us well in the past, and it will serve us well during his term as secretary-treasurer. And I would proudly nominate Mike Williams as secretary-treasurer of SBAND.

PRESIDENT KING: Is there a second?

MR. MARK HANSON: It's my honor and privilege to second the nomination of Mike Williams to try to fill the very big shoes of the existing secretary-treasurer. (Laughter.)

PRESIDENT KING: There's a motion and a second. All those in favor of the motion, say "aye." Opposed? Motion carries.

Congratulations, Mike! (Applause.)

At this time it is my great pleasure to turn over the gavel to your new president, David Petersen. (Applause.)

PRESIDENT DAVID PETERSEN: I guess that was the moment that he was really looking forward to. I stand before you with thanks and appreciation. You've heard so many thank you's for the many members that put on this meeting, that have done so much work, and all of that is true, and I second that. But I think, most importantly, thanks goes to the 200 to 250 of you who came to this meeting today. It showed an increase of over double of what we've ever had before, and it certainly is, I think, a harbinger of things to come.

So thank you for coming. It was a wonderful time. And we have more yet to come.

Number two, I stand before you with pride and anticipation; pride in what your Board of Governors and Association have done in the past, but anticipation of what we still have left to do. As you've heard today, we have many more important things yet to come.

Finally, I stand before you with humility, that you've entrusted me with this important job. I accept your confidence in me. And we will have a very good year. Thank you very much. (Applause.)

Is there any more business to come before this body? If not, I will invite you to the silent auction at 6:30 and the banquet following.

This meeting is adjourned.

CERTIFICATE OF COURT REPORTER

I, Alvin T. Emineth, a Registered Diplomat 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 Bismarck, North Dakota, this 25th day of June, 2007.

Alvin T. Emineth
Registered Diplomat Reporter
Bismarck, North Dakota
June 14, 2007