



**Federal Bar Association
National Council Meeting**

Midyear Meeting 2019

Saturday, March 23, 2019 at 2:15 p.m.

The Ritz-Carlton Pentagon City
Arlington, VA



Federal Bar Association

National Council Meeting Agenda

Saturday, March 23, 2019

2:15 pm EST

The Ritz-Carlton Pentagon City

Arlington, VA

- | | | |
|---|--|---|
| 1. Call to Order | 2:15 pm | Maria Vathis |
| 2. Consent Agenda (Tab A) <ul style="list-style-type: none">• Approval of the Minutes (Sept. 15, 2018)• ABA Delegate Report• Federal Bar Building Corporation Report | 2:20 pm | Maria Vathis |
| 3. Report from the President (Tab B) <ul style="list-style-type: none">• Midyear Update• Actions of the Board of Directors• Nominations and Elections Committee Report | 2:30 pm | Maria Vathis |
| 4. Report from the Treasurer (Tab C) <ul style="list-style-type: none">• Year-end Financials as of Sept. 30, 2018 (unaudited)• Financial Update as of Jan. 31, 2019 | 2:45 pm | West Allen |
| 5. Reports <ul style="list-style-type: none">• Report from the President of the Foundation (Tab D)• Report from the Executive Director• Report from the President-Elect• Report from the Chair of the Government (Tab E) Relations Committee• Report from the Chair of the Constitution, Bylaws, (Tab F) Rules, and Resolutions Committee• Report from the Chair of the Membership Committee | 3:00 pm
3:10 pm
3:20 pm
3:30 pm
3:40 pm
4:00 pm | Henry Quillian
Stacy King
Christian Adams
Rachel Rose
Paul Vamvas
Jonathan Hafen |
| 6. Unfinished Business <ul style="list-style-type: none">• 2019 Convention—Tampa | 4:15 pm | Maria Vathis |
| 7. New Business | 4:30 pm | Maria Vathis |
| 8. Adjournment | 4:45 pm | Maria Vathis |



Federal Bar Association

Policy No. 1-9: National Council Standing Rules

Approved By: Board of Directors

Date Approved: September 7, 2011

Date Effective: September 7, 2011

Policy:

The Federal Bar Association's Constitution and Bylaws govern assemblies of the National Council. Where these documents are silent, the current edition of *Robert's Rules of Order Newly Revised* applies, per the Bylaws. Pursuant to Robert's Rules of Order and the National Council's past practices, please note the following

1. The chair must recognize a speaker before that speaker's comments are before the body.
2. Except as permitted by Robert's Rules, speakers are not to be interrupted. Person wishing to speak should remain seated until a speaker concludes. Rising from a chair first does not give priority unless the chair instructs persons wishing to speak to approach the microphones. Priority is given to those who have not spoken.
3. Approach the microphone to be recognized. A speaker must state name and position prior to making comments.
4. Prior to making a motion, a speaker should 1. Be recognized and state his or her name and position; 2. Approach the microphone; 3. State name and position; and 4. Hand the written motion to the Chair. A determination will be made as to whether the motion is in order based on the content of such motion before debate shall begin.
5. Any speaker who has spoken on a motion may not speak a second time until all others are heard.
6. Microphones will be marked "pro" and "con". Movants shall speak from the pro microphone, opponents from the con microphone.
7. Prior to a motion being before the body or debated, the Chair shall 1. State the name of the motion; 2. State the name of the movant and the movant's position; 3. State the name of the second and the second's position; and 4. Read the motion.
8. Debate shall be limited to two minutes per speaker. No member may speak in debate more than two times on the same day to the same question.

9. No member may speak a second time on the same question if another who has not spoken requests the floor.
10. A timekeeper shall signal when allotted time has expired. At that time, the speaker must cease speaking.
11. Comments should be addressed to the Chair. Other speakers should be referred to by title or more formal address rather than first name, such as “the prior speaker from New York”.

Purpose:

To insure an efficient, productive, and orderly meeting of the National Council.

Change Notice:



Federal Bar Association

Governance Summary

National Board of Directors

The national Board of Directors serves as the Federal Bar Association's governing body. The Board oversees the business and financial management of the Association and performs other functions, such as setting policy, that it may consider necessary to accomplish the objectives of the Association. The Board of Directors consists of the President, President-elect, Treasurer, twelve elected directors, up to three *ex officio* (non-voting) members (if not already elected to the board) Chair of the Vice Presidents for the Circuits, Chair of the YLD, and Chair of the Sections and Divisions Council. The immediate past-president may attend board meetings as an *ex officio* member at the invitation of the current president. The Board of Directors generally meets in person four times per year, including one meeting held in conjunction with each of the Annual and Midyear Meetings, and additionally meets by teleconference as required.¹

The Board of Directors' authority is limited only in the following ways:

- (1) Amendments to the Association's Constitution and Bylaws must be considered and reported-on by the Constitution, Bylaws, Rules, and Resolutions Committee, approved by both the Board of Directors and the National Council, and in the case of amendments to the Constitution, approved by the membership;
- (2) Any decision of the Board of Directors may be altered, amended, or reversed by a majority vote of the National Council; and
- (3) The Board of Directors and National Council establish annual dues for members and associates, which dues adjust automatically from time-to-time under the Bylaws.

National Council

The President chairs both the Board of Directors and the National Council. The National Council is currently composed of approximately 345 members. The National Council members are selected by elected position or appointment. A quorum of the National Council is established when twenty-five percent of the members of the National Council in good standing are present. Over the last several years, an average of 35% of the National Council members have attended the National Council meeting. The National Council consists of the following members:

- All members of the Board of Directors
- All Past National Presidents
- All Circuit Vice Presidents
- Chairs of all Divisions, Sections, and Standing Committees
- President of the Federal Bar Building Corporation
- President of the Foundation of the Federal Bar Association
- General Counsel of the Federal Bar Association
- The ABA Delegate
- Every Chapter President or other Chapter officer as designated by the Chapter President
- One other delegate from each Chapter to be selected by the Chapter
- Not more than 20 members to be appointed annually by the President

¹ Also, the current practice is for the Executive Committee, consisting of the President, President-elect and Treasurer, to meet telephonically with the Executive Director and the General Counsel on a monthly basis.

TAB A

Consent Agenda



Federal Bar Association

National Council Meeting Agenda

Saturday, September 15, 2018

8:00 am to 11:00 am EDT

New York Marriott Downtown, Financial I-III

New York, New York

CALL TO ORDER

President Kip Bollin called the meeting to order at 8:21 AM ET with a quorum present. The agenda was adopted as distributed prior to the meeting.

APPROVAL OF THE CONSENT AGENDA

A motion to approve the consent agenda for the September 15, 2018, meeting was made by Mr. Simeon Baum and properly seconded. The motion to approve the consent agenda and the minutes of the March 24, 2018 meeting carried unanimously.

REPORT OF THE PRESIDENT

President Bollin reported on the actions of the Board of Directors since the last meeting of the National Council:

September 13, 2018 meeting

- Approved the Immigration Law Section’s revised bylaws
- Approved the FY2019 Budget
- Adopted a statement on the Rule of Law
- Approved the creation of a zero-dollar dues category for Faculty Advisors Associates
- Approved the National Convention Committee’s recommendation of Memphis Mid-South Chapter as host chapter for the 2022 FBA National Meeting and Convention

Report from the Nominations and Elections Committee

President Bollin gave the report of Nominations and Elections Committee. The following individuals were elected to terms beginning Oct. 1, 2018:

Officers

President-Elect..... Christian K. Adams

Treasurer..... W. West Allen

Directors

Group 1..... Hon. Karoline Mehalchick

Group 2..... John R. Thomas, Jr.

Group 3..... Kevin A. Maxim

Group 4..... Jessica R. Toplin

Vice Presidents for the Circuits

1st Circuit..... Scott P. Lopez

2nd Circuit Ernest T. Bartol

3rd Circuit..... Frank J. McGovern

4th Circuit Hannah Rogers Metcalfe

5th Circuit Hon. Barry W. Ashe

6th Circuit Glen R. McMurry

7th Circuit	Melissa N. Schoenbein
8th Circuit	Adine S. Momoh
9th Circuit	Laura Conover
10th Circuit.....	Daniel W. Lewis
11th Circuit.....	Michael S. Vitale
D.C. Circuit.....	Elizabeth Pugh

Final Remarks and President's Awards

President Bollin stated that it has been an honor to serve as president and reported on the success of the Civics Program, Mentorship Program and the Rising Professional's Symposium.

President Bollin presented the President's Award to Kevin Maxim for his outstanding dedication and service as General Counsel to the Federal Bar Association. President Bollin also recognized Stacy King for her effort and dedication as Executive Director for the FBA and presented her with a gift to recognize her 20-year anniversary with the organization.

REPORT OF THE TREASURER

Mr. Adams presented the treasurer's report which included the financial update as of July 31, 2018. Three members had questions regarding the report. All questions were addressed by Ms. King with no further questions.

REPORT FROM THE EXECUTIVE DIRECTOR

Ms. King recognized the Southern District of New York and Eastern District of New York Chapters and thanked them for their hospitality. Ms. King gave a report on the history of the FBA for the last 20 years noting areas of the FBA's growth from 1998 to 2018.

REPORT FROM THE PRESIDENT-ELECT

Ms. Vathis reported on the key areas she will be focusing on during her term as president including health and wellness, women in the law, and the importance of civility.

Ms. Vathis thanked President Bollin for his service as President and presented him with an award of appreciation to thank him for his leadership.

REPORT FROM THE GOVERNMENT RELATIONS COMMITTEE

Chair West Allen recognized the members of the Government Relations Committee (GRC) and presented the committee report noting the key areas of focus and various accomplishments that were achieved by the committee this year. There were no questions resulting from Mr. Allen's report.

Mr. Allen announced that Rachel Rose will be the new GRC Chair for FY2019. President Bollin thanked Mr. Allen for his leadership on the GRC Committee during the last 6 years as Chair.

REPORT FROM THE CONSTITUTION, BYLAWS, RULES AND RESOLUTIONS COMMITTEE

Mr. Kevin Maxim gave the report of the Constitution, Bylaws, Rules and Resolutions Committee in Chair Anh Kremer's absence. Mr. Maxim started by recognizing the members of committee. Mr. Maxim's report focused on the committee's recommendations as follows:

(a) Proposed Amendment to FBA Constitution and Bylaws Regarding Law Student Chapters and Faculty Advisor Associate Memberships

Mr. Maxim noted that the committee has recommended approval of these revisions to the governing documents as per the report and the Board of Directors recommends the approval of these amendments as proposed.

Mr. David Ferrari moved to approve part (a) Proposed Amendment to FBA Constitution and Bylaws Regarding Law Student Chapters and Faculty Advisor Associate Memberships. The motion was properly seconded and carried unanimously.

(b) Mr. David Ferrari's e-mail titled "Bylaw Amendment Proposals" dated July 14, 2018.

Mr. Ferrari requested that the proposals be withdrawn and stricken from the committee's report. There were no objections, and by unanimous consent part (b) *Mr. David Ferrari's e-mail titled "Bylaw Amendment Proposals" dated July 14, 2018*, was stricken from the committee's report.

REPORT FROM THE FOUNDATION OF THE FBA

Foundation President Jeanette Bazis reported on the Foundation's activities and programs for the last year. There were no questions regarding the foundation's report.

Foundation Board of Directors Election

Ms. Bazis reported that the Foundation's Nominating Committee submitted the following nomination to the Foundation of the FBA: Mr. Aaron Bulloff. President Kip Bollin noted that nominations were closed and asked if there were any objections to elect Mr. Aaron Bulloff as Director of the Foundation of the Federal Bar Association. There were no objections. Mr. Bulloff was elected to the Foundation Board of Directors by unanimous consent.

REPORT FROM THE FEDERAL BAR BUILDING CORPORATION

President Bob Mueller gave the report of the Federal Bar Building Corporation (FBBC). Several members posed questions regarding the report. All questions were addressed by Mr. Mueller.

FBBC Board of Directors Nominations

Mr. Mueller announced the nominations for the FBBC Board of Directors and noted that nominations closed as of August 1, 2018. Mr. Mueller noted that the FBBC Nominations Committee nominated FBA past national presidents Ms. Adrienne Berry, Mr. James Bland, and Ms. Juanita Sales Lee to assume the open seats as of October 1, 2018, each for a term of three years. President Kip Bollin asked if there were any objections to electing Ms. Adrienne Berry, Mr. James Bland and Ms. Juanita Sales Lee to the FBBC Board of Directors. There were no objections. All were elected to the FBBC Board of Directors by unanimous consent.

REPORT FROM THE MEMBERSHIP COMMITTEE

Chair Jonathan Hafen recognized the members of the Membership Committee and reported on the goals and accomplishments of the committee over the past year. There were no questions resulting from Mr. Hafen's report. Mr. Hafen presented FBA milestone pins to those that were in attendance that had been continuous FBA members for 15, 20, 25 and 30 years.

NEW BUSINESS

Faculty Advisor Dues Category

Mr. Simeon Baum moved to create a zero-dollar active member and associate member dues category for Faculty Advisors. The motion was properly seconded and was approved unanimously.

Request by David Ferrari to rescind Policy 2-6: Section and Division Administrative Fee

Mr. Ferrari made a motion to substitute Policy 2-6 with the following language rather than rescinding it: "All sections under 300 members will pay \$ 1.00 per member annually for an administrative fee; the National Board of Directors may set the fee for sections with over 300 members with the approval of the National Council." The motion was properly seconded. As a point of order, Mr. Ferrari asked if the administrative fee is legal based on the governing documents. President Bollin overruled Mr. Ferrari's point of order and stated that the Board of Directors determined that the administrative fee is allowed per the Constitution and Bylaws. Mr. Ferrari asked the National Council to overrule the decision of the chair on the

point of order. The motion was properly seconded and did not pass. After debate ended on the motion to amend Policy 2-6, President Bollin called for the vote on the motion. The motion did not pass.

FBA Tampa Chapter

Ms. Erin Jackson, treasurer of the Tampa Bay Chapter encouraged all to attend the 2019 Annual Convention in Tampa, Florida.

Recognition Awards

Mr. Ernest Bartol recognized the following Circuit Vice Presidents: Mr. Matthew Moschella, Vice President for the First Circuit; Hon. Karoline Mehalchick, Vice President for the Third Circuit; Mr. Brett Barfield, Chair, Vice Presidents for the Circuits (not present); and Ms. Sheri H Mecklenburg, Vice President for the Seventh Circuit. President Kip Bollin recognized the chairs of the standing committees and task forces.

National Officers Swearing In

Hon. Michael Newman gave the oath of office to the National Officers for the 2018-2019 year.

PRESIDENT'S FINAL REMARKS AND ADJOURNMENT

President Bollin adjourned the meeting at 11:32 AM ET.

Respectfully submitted,

Stacy King
Executive Director



Federal Bar Association

*ABA House of Delegates Mid-Year Meeting
January 28, 2019
Las Vegas*

FBA Delegate Report (2/18/19)

To FBA Board of Directors and National Council:

As the FBA's Delegate to the ABA House of Delegates, I attended the ABA Mid-Year Meeting in Las Vegas on January 28, 2019. There were approximately 32 proposed Resolutions considered and several resolutions were robustly debated.

The FBA leadership of the Criminal Law Section recommended that Resolution 109A urging the Attorney General to rescind the "Zero Tolerance" and "Operating Streamline policies" be tabled on the basis that the proposed policy was based on erroneous assumptions. The ABA HOD approved this resolution.

There was also robust debate on Resolution 105, which recommended the ABA concur in the action of the Council of the Section of Legal Education and Admission to the Bar to revise Standard 316 to require at least 75 percent of a law school's graduates who sit for a bar examination to pass within two years of their graduation date. The ABA rejected this proposal. Under ABA procedures, the House of Delegates can review a change in ABA legal education standards twice, but the Council can enact the change without the House's concurrence.

For more detailed information regarding the actions taken by the ABA House of Delegates on all Resolutions, see the attached Daily Journal.

Respectfully submitted by:

A handwritten signature in cursive script that reads "Ashley L. Belleau".

Ashley L. Belleau
Federal Bar Association ABA Delegate

Attachment: ABA House of Delegates Daily Journal

**AMERICAN BAR ASSOCIATION
HOUSE OF DELEGATES**

**2019 MIDYEAR MEETING
LAS VEGAS, NEVADA**

DAILY JOURNAL

<u>RPT NO.</u>	<u>PROPOSED BY</u>	<u>SHORT TITLE</u>	<u>ACTION</u>
10A	NEW YORK STATE BAR ASSOCIATION	Encourages online providers of legal documents to adopt the <i>ABA Best Practices for Online Document Providers</i> .	Withdrawn
10B	NEW YORK STATE BAR ASSOCIATION CONNECTICUT BAR ASSOCIATION	Condemns federal government shutdowns which impair the legal system and undermine the Rule of Law.	Approved as Amended*
10C	VIRGIN ISLANDS BAR ASSOCIATION PUERTO RICO BAR ASSOCIATION	Opposes the withholding of funds previously appropriated by Congress for disaster relief and recovery, or their diversion for other purposes, and reaffirms support for the Principles of Rule of Law in Time of Major Disaster.	Approved
100	JUDICIAL DIVISION NATIONAL CONFERENCE OF FEDERAL TRIAL JUDGES NATIONAL CONFERENCE OF STATE TRIAL JUDGES STANDING COMMITTEE ON THE AMERICAN JUDICIAL SYSTEM BUSINESS LAW SECTION SECTION OF LITIGATION SECTION OF DISPUTE RESOLUTION SECTION OF INTELLECTUAL PROPERTY LAW TORT TRIAL AND INSURANCE PRACTICE SECTION SECTION OF ANTITRUST LAW	Adopts the <i>ABA Guidelines for the Appointment and Use of Special Masters in Federal and State Civil Litigation</i> , dated January 2019, and recommends that Bankruptcy Rule 9031 be amended to permit courts responsible for matters under the Bankruptcy Code to use special masters in the same way as they are used in other federal cases.	Approved

* See attached

101A	YOUNG LAWYERS DIVISION	Encourages federal, state, local, territorial, and tribal legislatures and court systems, in conjunction with state and local bar associations, to support and assist with the establishment and maintenance of lactation areas in courthouses for members of the public, including lawyers, jurors, litigants, witnesses, and observers.	Approved
101B	YOUNG LAWYERS DIVISION	Urges the enactment of a rule by the highest courts or legislative bodies of all states, territories, and tribes charged with the regulation of the legal profession, as well as by all federal courts, providing that a motion for continuance based on parental leave of either the lead attorney or another integrally involved attorney in the matter shall be granted under certain conditions.	Approved as Revised*
102	STANDING COMMITTEE ON SPECIALIZATION	Grants reaccreditation to the DUI Defense law program of the National College for DUI Defense, and extends the existing accreditation periods of the Family Trial Law and Criminal Trial Law programs of the National Board of Trial Advocacy.	Approved
103	STANDING COMMITTEE ON PARALEGALS	Grants approval to three programs, grants reapproval to thirteen paralegal education programs, withdraws the approval of two programs at the request of the institutions, and extends the term of approval to 31 paralegal education programs.	Approved
104	SECTION OF INTELLECTUAL PROPERTY LAW	Encourages a consistent approach to the application of the "fair use" doctrine in copyright law in the context of the digital environment and with respect to repackaging copyrighted material.	Approved as Revised*

* See attached

105	SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR	Concurs in the action of the Council of the Section of Legal Education and Admissions to the Bar in making amendments dated January 2019 to Standard 316 (Bar Passage) of the <i>ABA Standards and Rules of Procedure for Approval of Law Schools</i> .	Did not Concur; 88;334
106A	STANDING COMMITTEE ON GUN VIOLENCE SECTION OF CIVIL RIGHTS AND SOCIAL JUSTICE CRIMINAL JUSTICE SECTION COMMISSION ON DOMESTIC AND SEXUAL VIOLENCE	Opposes laws that would authorize teachers, principals or other non-security school personnel to possess a firearm in, or in the vicinity of, a pre-K through grade 12 public, parochial, or private school, and the use of government or public funds to provide firearms training to teachers, principals, or other non-security school personnel, or to purchase firearms for those individuals.	Approved
106B	STANDING COMMITTEE ON GUN VIOLENCE COMMISSION ON DISABILITY RIGHTS SECTION OF CIVIL RIGHTS AND SOCIAL JUSTICE CRIMINAL JUSTICE SECTION COMMISSION ON DOMESTIC AND SEXUAL VIOLENCE COMMISSION ON SEXUAL ORIENTATION AND GENDER IDENTITY	Urges federal, state, local, territorial and tribal governments to reduce potential harm that individuals may inflict on themselves or others by enacting statutes, rules, or regulations allowing individuals to temporarily prevent themselves from purchasing firearms.	Approved
106C	STANDING COMMITTEE ON GUN VIOLENCE CRIMINAL JUSTICE SECTION SECTION OF CIVIL RIGHTS AND SOCIAL JUSTICE COMMISSION ON DOMESTIC AND SEXUAL VIOLENCE	Urges that the possession of firearms in and around courthouses be limited to persons with an official role in security and that such persons be required to complete annual training in firearm safety.	Withdrawn

107A	SECTION OF CIVIL RIGHTS AND SOCIAL JUSTICE CRIMINAL JUSTICE SECTION	Urges the federal judiciary, Congress, and the Department of Homeland Security to enact legislation and adopt policies to protect the privacy interests of those crossing the border by imposing standards for searches and seizures of electronic devices, protection of attorney-client privilege, the work product doctrine, and lawyer-client confidentiality.	Approved as Revised*
107B	SECTION OF CIVIL RIGHTS AND SOCIAL JUSTICE COMMISSION ON DOMESTIC AND SEXUAL VIOLENCE COMMISSION ON DISABILITY RIGHTS COMMISSION ON RACIAL AND ETHNIC DIVERSITY IN THE PROFESSION COMMISSION ON SEXUAL ORIENTATION AND GENDER IDENTITY COMMISSION ON HISPANIC LEGAL RIGHTS AND RESPONSIBILITIES COMMISSION ON WOMEN IN THE PROFESSION	Urges legal employers not to require pre-dispute mandatory arbitration of claims of unlawful discrimination, harassment or retaliation based upon race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity or expression, marital status, or status as a victim of domestic or sexual violence.	Approved as Amended*
108	SENIOR LAWYERS DIVISION COMMISSION ON LAW AND AGING COMMISSION ON LAWYER ASSISTANCE PROGRAMS SECTION OF STATE AND LOCAL GOVERNMENT LAW SOLO, SMALL FIRM AND GENERAL PRACTICE DIVISION STANDING COMMITTEE ON LEGAL AID AND INDIGENT DEFENDANTS NATIONAL CONFERENCE OF THE ADMINISTRATIVE LAW JUDICIARY	Urges the American Bar Association to adopt and federal, state, local, territorial, and tribal courts, governmental entities, bar associations, public health agencies, lawyer assistance programs, lawyer regulatory entities, institutions of legal education, and law firms to implement the recommendations and action points in the report, <i>Experienced Lawyers, American Families, and the Opioid Crisis—Report of the Opioid Summit May 2018</i> .	Approved

* See attached

109A	CRIMINAL JUSTICE SECTION COMMISSION ON IMMIGRATION	Urges the Attorney General to rescind the “Zero Tolerance” and “Operation Streamline policies” that mandate the prosecution of all persons alleged to have improperly entered the United States for the first time, a misdemeanor under 8 U.S.C. 1325; end the practice of expedited mass prosecution of immigrants; and allow for an individualized determination in deciding whether to file criminal charges.	Approved
109B	CRIMINAL JUSTICE SECTION	Urges federal, state, local, territorial and tribal legislatures to define criminal arrests, charges and dispositions that are eligible for expungement or removal from public view by sealing, and set out procedures for individuals to apply for the same.	Approved
109C	CRIMINAL JUSTICE SECTION	Urges federal, state, local, territorial and tribal legislatures to enact legislation, and correctional and detention facilities to enact policies, to provide all women prisoners in all forms of detention with unrestricted access to free toilet paper and a range of free feminine hygiene products, in sufficient quantities to address their needs.	Approved
109D	CRIMINAL JUSTICE SECTION	Urges federal, state, local, territorial and tribal legislatures to amend existing laws or enact new laws to clearly define child torture and make child torture a felony offense regardless of whether a serious physical injury occurs, and to promote training, for all court and medical personnel in these cases, on emerging evidence-based and effective practices to improve government responsiveness to severe maltreatment of children that does not inflict serious bodily injury.	Approved

110A	NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS	Approves the Uniform Criminal Records Accuracy Act, promulgated by the National Conference of Commissioners on Uniform State Laws, as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein.	Approved
110B	NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS	Approves the Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images Act, promulgated by the National Conference of Commissioners on Uniform State Laws, as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein.	Approved
110C	NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS	Approves the Uniform Fiduciary Income and Principal Act, promulgated by the National Conference of Commissioners on Uniform State Laws, as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein.	Approved
110D	NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS	Approves the Uniform Nonparent Custody and Visitation Act, promulgated by the National Conference of Commissioners on Uniform State Laws, as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein.	Approved
110E	NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS	Approves the Uniform Supplemental Commercial Law for the Uniform Regulation of Virtual-Currency Businesses Act promulgated by the National Conference of Commissioners on Uniform State Laws, as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein.	Approved

111	SECTION OF FAMILY LAW SECTION OF SCIENCE AND TECHNOLOGY LAW COMMISSION ON SEXUAL ORIENTATION AND GENDER IDENTITY	Adopts the Model Act Governing Assisted Reproduction dated January 2019 and approves the 2019 Model Act as an appropriate Act for those states desiring to adopt the specific substantive law contained in the Act.	Approved as Revised*
112	TORT TRIAL AND INSURANCE PRACTICE SECTION	Urges Congress and the United States Department of Defense to direct the Armed Forces and its Public Private Venture housing contractors to enact uniform breed-neutral pet policies for families living in military housing.	Approved as Revised*
113	NATIONAL LGBT BAR ASSOCIATION COMMISSION ON SEXUAL ORIENTATION AND GENDER IDENTITY	Opposes laws, regulations, and rules or practices that discriminate against LGBT individuals in the exercise of the fundamental right to parent; urges lawmakers in jurisdictions where such discriminatory laws, regulations, and practices exist to promptly repeal them; and urges bar associations and attorneys to defend victims of anti-LGBT discrimination, and to recognize and support their colleagues taking on this work.	Approved
114	COMMISSION ON SEXUAL ORIENTATION AND GENDER IDENTITY	Urges Congress to enact the federal Equality Act, H.R. 2282 (115th Congress), or similar legislation which explicitly affirms that: (1) discrimination because of sexual orientation or gender identity is sex discrimination prohibited by the Civil Rights Act of 1964 and certain other federal statutes; and (2) federal statutory protections for religious freedom do not authorize violation of nondiscrimination laws, and affirms that religiously neutral laws of general applicability prohibiting discrimination based on sexual orientation or gender identity do not improperly burden the religious free exercise rights of those operating places of public accommodation.	Approved as Revised*

* See attached

115	COMMISSION ON DOMESTIC AND SEXUAL VIOLENCE SECTION OF CIVIL RIGHTS AND SOCIAL JUSTICE LAW STUDENT DIVISION	Opposes the imposition upon sexual assault victims of a legal burden of resistance before legal protection attaches, and urges federal, state, local, territorial, and tribal jurisdictions to oppose, laws or rules that allow consent to sexual activity to be inferred in whole or in part from inaction or lack of verbal or physical resistance.	Approved as Amended*
116	RULE OF LAW INITIATIVE	Encourages states and entities working to implement the Global Compact on Refugees and the Global Compact for Safe, Orderly and Regular Migration to take additional steps to address root causes of displacement and forced migration, develop policies that discourage the criminal prosecution of migrants and refugees, encourage the accountable use of prosecutorial discretion, and protect migrants and refugees from bias and discrimination regardless of gender, race, sexual orientation, sexual identity, national origin, and religion.	Approved
200	HOUSE COMMITTEE ON CREDENTIALS AND ADMISSIONS	Recommends that the California Lawyers Association be admitted into the ABA House of Delegates as the secondary state bar of California and that it receives five of the State Bar of California's current eleven delegates.	Approved

* See attached

AMERICAN BAR ASSOCIATION
NEW YORK STATE BAR ASSOCIATION
CONNECTICUT BAR ASSOCIATION
REPORT TO THE HOUSE OF DELEGATES
RESOLUTION

- 1 RESOLVED, that the American Bar Association condemns ~~the~~ federal government
2 shutdowns, which impaired ~~ed~~ our legal system and undermined ~~ed~~ the rule of law.
3
4 FURTHER RESOLVED, that the American Bar Association calls upon the President of
5 the United States and Congress to refrain, now and in the future, from allowing the
6 federal budget process to injuriously impact the proper functioning of the federal
7 judiciary and the rule of law.

Deletions struck through; additions underlined

REVISED 101B

RESOLUTION

1 RESOLVED, That the American Bar Association urges the enactment of a rule by all
2 state, local, territorial, and tribal legislative bodies or their highest courts charged with the
3 regulation of the legal profession, as well as by all federal courts, providing that a motion
4 for continuance based on parental leave of either the lead attorney or another integrally
5 involved attorney in the matter ~~shall~~ be granted if:

6 a) consented to by all parties

7 b) or if not consented to by all parties and the movant demonstrates:

- 8 i. the motion is made within a reasonable time after the reason for the
9 continuance has been discovered;
10 ii. there is no substantial prejudice to another party;
11 iii. the criminal defendant's speedy trial rights are not prejudiced, and
12 iv. the judge finds that the request was not made in bad faith, including for
13 purposes of undue delay.
14

Deletions struck through; additions underlined

RESOLUTION

- 1 RESOLVED, That the American Bar Association supports the principle that the doctrine
2 of “fair use” should be applied consistently and in a manner consistent with the
3 ~~constitutional goal of~~ provision for copyright, which is “to Promote the Progress of
4 Science and useful Arts” ~~by giving authors exclusive rights in their works for limited times,~~
5 by securing for limited times to authors and inventors the exclusive right to their
6 respective writings and discoveries.” (see U.S. Const., Art. I, §8, cl.8); and
- 7 FURTHER RESOLVED, That the American Bar Association supports the principle that
8 when a user of copyrighted works (i) merely repackages all or substantially all of the
9 copyrighted material and (ii) delivers it to the copyright owner’s actual or potential market,
10 that use should not in and of itself be deemed a transformative use that would weigh in
11 favor of fair use, regardless of whether the user can deliver that copyrighted material more
12 efficiently than the copyright owner or its current licensees; and
- 13 FURTHER RESOLVED, That the American Bar Association supports the principle that
14 ~~the~~ such a copyright owner’s actual or potential market ~~includes~~ are those markets that
15 are traditional, reasonable or likely to be developed, regardless of whether the copyright
16 owner has already entered a particular market or has plans to do so.

Deletions struck through; additions underlined

REVISED 107A

RESOLUTION

1 RESOLVED, That the American Bar Association urges the federal judiciary to recognize
2 the substantial privacy and confidentiality interests, as well as the important national
3 security and law enforcement interests, implicated by searches and seizures of
4 electronic devices at the border; and
5

6 FURTHER RESOLVED, That the American Bar Association urges Congress to enact
7 legislation and, until legislation is enacted, urges the U.S. Department of Homeland
8 Security to adopt policy, that would:
9

- 10 (1) require a warrant based on probable cause for seizures (other than
11 temporary seizures for searches other than forensic searches or for the
12 purpose of obtaining a warrant) and forensic searches of electronic devices
13 carried by ~~individuals~~ American citizens and lawful permanent residents
14 entering the country, or by any person leaving the country, at the border
15 unless an exception to the warrant requirement other than the border search
16 exception applies;
- 17 (2) prohibit any government entity from denying an American citizen or lawful
18 permanent resident entry or exit based on the person's failure to disclose
19 an access credential or provide access to an electronic device for a search;
- 20 (3) ~~implement policies and procedures to preserve~~ fully protect the attorney-
21 client privilege, the work product doctrine, and the lawyer's ethical obligation
22 to maintain confidential information during border crossings; and
- 23 (4) require the federal government to record each instance in which it conducts
24 a forensic search of an electronic device seized at the border and issue an
25 annual report summarizing such searches.

Deletions struck through; additions underlined

107B
Amended

RESOLUTION

1 RESOLVED, That the American Bar Association urges legal employers not to require
2 that, before a dispute arises, employees agree to pre-dispute mandatory arbitration of
3 claims of unlawful discrimination, harassment or retaliation based upon race, sex, religion,
4 national origin, ethnicity, disability, age, sexual orientation, gender identity or expression,
5 marital status, genetic information, or status as a victim of domestic or sexual violence.

Deletions struck through; additions underlined

REVISED 111

AMERICAN BAR ASSOCIATION
MODEL ACT GOVERNING
ASSISTED REPRODUCTION [2019]

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77	...
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80	ARTICLE 9. HEALTH INSURANCE
81	
82	SECTION 901. INFERTILITY AND EXPERIMENTAL PROCEDURES
83	SECTION 902. REQUIRED NOTICE
84	SECTION 903. QUALIFICATION OF PROVIDERS
85	
86	ARTICLE 10. QUALITY ASSURANCE
87	
88	SECTION 1001. QUALIFICATION OF PROVIDERS
89	SECTION 1002. COLLABORATIVE REPRODUCTION REGISTRIES
90	SECTION 1003. HEALTH INFORMATION MANAGEMENT
91	SECTION 1004. PATIENT SAFETY
92	
93	ARTICLE 11. ENFORCEMENT
94	
95	SECTION 1101. DAMAGES
96	
97	ARTICLE 12. MISCELLANEOUS PROVISIONS
98	
99	SECTION 1201. LIMITATION OF MEDICAL PROFESSIONAL LIABILITY
100	SECTION 1202. SEVERABILITY
101	
102	...
103	

REVISED 111

SECTION 102. DEFINITIONS

1. "ART Storage Facility" means a licensed facility that stores reproductive, biological, or genetic material used in Assisted Reproductive Technology ("ART"), and is in compliance with the Fertility Clinic and Certification and Success Rate Act of 1992 (FCSRCA, or Public Law 102-493).
2. "Assisted Reproduction" means a method of causing pregnancy through means other than by sexual intercourse. In the foregoing context, the term includes, but is not limited to:
 - (a) Intrauterine or intracervical insemination;
 - (b) Donation of eggs or sperm;
 - (c) Donation of Embryos;
 - (d) In vitro fertilization ("IVF") and Embryo Transfer; and
 - (e) Intracytoplasmic sperm injection.
- ...
6. "Collaborative Reproduction" means any Assisted Reproduction in which an individual other than an Intended Parent provides genetic material or any Assisted Reproduction involving a Gestational or Genetic Surrogate.
14. "Escrow Account" means an independent, insured, bonded escrow depository maintained by a licensed, independent, bonded escrow company; or an insured and ~~bonded~~-trust account maintained by an attorney.
 - (a) For purposes of this section, a non-attorney ART ~~a~~Agency may not have a financial interest in any escrow company holding client funds. A non-attorney ART ~~a~~Agency and any of its officers, managers, owners of more than 5% ownership interest, directors or employees shall not be an agent of any escrow company holding client funds; and
 - (b) Client funds may only be disbursed ~~by the attorney or Escrow Agent~~ as set forth in the assisted reproduction agreement and the fund management agreement between the Intended Parent(s) and the Escrow Account holder.
- ~~15. "Escrow Agent" means the trustee for an Escrow Account.~~
- ~~15.~~ "Evaluation" means a ~~Consultation~~ consultation with and, where required by this Act, an assessment in accordance with ASRM guidelines as to whether a Participant is cleared to proceed with participation in any ART procedure.
- ~~17.~~ "Gamete" means a cell containing a haploid complement of DNA that has the potential to form an Embryo when combined with another Gamete. Sperm and eggs

- 149 are Gametes. A Gamete may consist of nuclear DNA from one human being combined
 150 with the cytoplasm, including cytoplasmic DNA, of another human being.
 151
- 152 ~~48-17.~~ "Gamete Provider" means an individual who provides sperm or eggs for use in
 153 Assisted Reproduction.
 154
- 155 ~~49-18.~~ "Genetic Surrogate" means an adult, not an Intended Parent, who enters into a
 156 Surrogacy Agreement to bear a Child and who is a Gamete Provider for the Child.
 157
- 158 ~~20-19.~~ "Genetic Surrogacy Agreement" is a written contract between Intended Parent(s)
 159 and a Genetic Surrogate.
 160
- 161 ~~24-20.~~ "Genetic Surrogacy Arrangement" means the process by which a Genetic
 162 Surrogate intends to carry and give birth to a Child.
 163
- 164 ~~22-21.~~ "Gestational Surrogate" means an adult, not an Intended Parent, who enters into
 165 a Surrogacy Agreement to bear a Child and who is not a Gamete Provider for the
 166 Child.
 167
- 168 ~~23-22.~~ "Gestational Surrogacy Agreement" is a written contract between Intended
 169 Parent(s) and a Gestational Surrogate.
 170
- 171 ~~24-23.~~ "Gestational Surrogacy Arrangement" means the process by which a Gestational
 172 Surrogate intends to carry and give birth to a Child.
 173
- 174 ~~25-24.~~ "Independent Legal Representation" (also referred to herein as "Independent
 175 Legal Counsel") means representation of the Participants by separate legal counsel
 176 as required by the applicable rules of professional responsibility.
 177
- 178 ~~26-25.~~ "Infertility" means the definition of such term as set forth in the most recent
 179 International Glossary on Infertility and Fertility Care published by ASRM, or if ASRM
 180 shall discontinue such publication and shall not adopt or promulgate a successor
 181 definition, the clinical definition of such term set forth in the most recent Revised
 182 Glossary of ART Terminology published by the World Health Organization~~the~~
 183 ~~definition set forth by ASRM.~~
 184
- 185 ~~27-26.~~ "Intended Parent" means an individual who intends to be legally bound as a Parent
 186 of the Child.
 187
- 188 ~~28-27.~~ "Legal Spouse" an Intended Parent, a Donor, a Gestational or Genetic Surrogate,
 189 and the Legal Spouse of any of the foregoing, if applicable, who is involved in
 190 Collaborative Reproduction under this Act~~means an individual married to another.~~
 191
- 192 ~~29-28.~~ "Medical Evaluation" means a consultation with and an evaluation by a physician
 193 ~~meeting the requirements of Section 903.~~
 194

REVISED 111

- 195 ~~30-29.~~ "Medical Information" means any protected individually identifiable health
196 information obtained by a health care ~~provider~~ Provider in the course of Medical
197 Evaluation, Consultation, diagnosis, or treatment.
198
- 199 ~~31-30.~~ "Mental Health Counseling" means additional Consultation(s) after an initial
200 Consultation for the purpose of advising and supporting the Participant throughout the
201 implementation of any ART procedure.
202
- 203 ~~32-31.~~ "Mental Health Evaluation" means a Consultation with and an evaluation by a
204 mental health professional meeting the requirements of Section 301.
205
- 206 ~~33-32.~~ "Parent" means an individual who has established a Parent-Child Relationship
207 under this Act or other applicable law.
208
- 209 ~~34-33.~~ "Parent-Child Relationship" means the legal relationship between the Child and a
210 Parent of the Child.
211
- 212 ~~35-34.~~ "Participant" means an Intended Parent, a Donor, a Gestational or Genetic
213 Surrogate, and their Legal Spouse of any of the foregoing, if applicable, who is
214 involved in Collaborative Reproduction under this Act.
215
- 216 ~~36-35.~~ "Patient" means an individual participating in Assisted Reproduction under the
217 direction of a Provider.
218
- 219 ~~37-36.~~ "Physician" means an individual licensed to practice medicine.
220
- 221 ~~38-37.~~ "Provider" means an individual, including all medical, psychological, or counseling
222 professionals: (a) licensed to administer health care; (b) who is qualified under this
223 Act to provide Assisted Reproduction services; and (c) has a Provider-Patient
224 relationship with a Participant. Any professional corporation or corporation licensed by
225 the State to provide health care, of which a Provider is an owner or employee, is also
226 a Provider.
227
- 228 ~~39-38.~~ "Record" means information inscribed in a tangible medium or stored in an
229 electronic or other medium that is retrievable in perceivable form.
230
- 231 ~~40-39.~~ "Retrieval" means the procurement of eggs or sperm from a Gamete Provider.
232
- 233 ~~41-40.~~ "State" means a State of the United States, the District of Columbia, Puerto Rico,
234 the United States Virgin Islands, or any territory or insular possession subject to the
235 jurisdiction of the United States.
236
- 237 ~~42-41.~~ "Surrogacy Agreement" is a written contract between Intended Parent(s) and a
238 Gestational or Genetic Surrogate.
239

240 43.42. "Surrogacy Arrangement" means the process by which a Gestational or Genetic
241 Surrogate intends to carry and give birth to a Child.

243 44.43. "Transfer" means a procedure for Assisted Reproduction by which an Embryo or
244 sperm is placed into the body of the individual who will give birth to a Child.

246 **ARTICLE 2. INFORMED CONSENT**

248 The requirements of Article 2 apply only to medical facilities providing ART to
249 Participants Providers.

251 **SECTION 201. INFORMED CONSENT STANDARDS**

253 1. Informed consent must be obtained by the ART Provider from provided by all
254 Participants to the ART Provider prior to the commencement of any medical or scientific
255 procedures or treatment.

257 2. Informed consent requires that all of the following be provided to all Participants orally
258 and in a Record that meets the requirements of Section 202:

260 (a) (a) A statement that the Patient Participant retains the right to withhold or
261 withdraw consent at any time prior to Transfer of Gametes or Embryo Transfer
262 without affecting the right to receive and/or make decisions about future care
263 or treatment; or risking the loss or withdrawal of any program benefits to which
264 the Patient Participant would otherwise be entitled.

266 (b) (b) A statement that the ART Provider retains the right to withdraw for
267 reasonable justification and with reasonable notice.

269 (c) (c) A statement that the Donor's, right to withhold or withdraw consent to
270 fertilization terminates upon Retrieval of his or her Gametes, subject only to the
271 terms of any prior agreement in a Record pursuant to Article 5.

273 (d) (d) A statement of the known, potential medical and procedural risks and
274 benefits of ART. Such description shall include the inherent risk of Embryo loss
275 due to aneuploidy, thawing, and failure of implantation; the risks associated
276 with the use of hormones and other drugs that may be used; the procedural
277 risks associated with egg Retrieval and/or other ART procedures; the incidence
278 of, and risks regarding, multiple pregnancies and selective reduction; and the
279 incidence and risk of birth defects associated with IVF.

281 (e) (e) A statement of acknowledgement that alternative therapies and options
282 have been discussed in detail.

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- 284 (f) ~~(f)~~-A statement that the ~~Patient~~Participant shall be informed that there may be
- 285 foreseen, or unforeseen legal consequences and that Independent Legal
- 286 Representation is advisable and may be required by this Act or by State law.
- 287
- 288 (g) ~~(g)~~-A statement describing ~~all~~-existing confidentiality protections.
- 289
- 290 (h) ~~(h)~~-A statement of guarantee that a ~~Patient~~Participant, whether a Donor,
- 291 Intended Parent, Gestational Surrogate or Genetic Surrogate ~~(a-Participant)~~,
- 292 has access to all of his/her Medical Information to the extent allowed by
- 293 applicable law and not otherwise waived by the Participant. The
- 294 ~~Patient~~Participant may have to pay a fee for copies of the Record.
- 295
- 296 (i) ~~(i)~~-A statement that the Intended Parent has a right to access a summary of
- 297 medical and psychological information about Donors and Gestational or
- 298 Genetic Surrogates as described in this Act.
- 299
- 300 (j) ~~(j)~~-A statement that the release of any Participant-identifiable information,
- 301 including images, shall not occur without the consent of the Participant in a
- 302 Record.
- 303
- 304 (k) ~~(k)~~-A statement that the Intended Parent(s) or an Embryo Donor, not the ART
- 305 Provider or ART Storage Facility, has the right to possession and control of
- 306 their Embryos, subject to any prior agreement in a Record or as provided in
- 307 Section 504.
- 308
- 309 (l) ~~(l)~~-A statement of the need for Intended Parents to agree in advance who shall
- 310 acquire the right to possession and control of the Embryos or Gametes in the
- 311 event of marriage dissolution or separation of the Intended Parents, death of
- 312 one or both of them, or subsequent disagreement over disposition in
- 313 compliance with the provisions of Section 501 of this Act.
- 314
- 315 (m) ~~(m)~~-The policy of the ~~provider~~Provider regarding the number of Embryos
- 316 Transferred and any limitation on the number of Embryos Transferred, as well
- 317 as the existence of national guidelines as published by the ASRM.
- 318
- 319 (n) ~~(n)~~-A statement of the need for Participants to decide whether the Embryos or
- 320 Gametes can be used for purposes other than Assisted Reproduction.
- 321
- 322 (o) ~~(o)~~-Signed in presence of member of staff of the Provider or notary.

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SECTION 202. RECORD AUTHORIZATION REQUIRED

1. The Provider must document informed consent in a Record for each Participant that must:

- (a) ~~(a)~~-Be in plain language;

- 330
- 331 ~~(b)~~ (b) Be dated and signed by the Provider and by the Participant in the presence
- 332 of a member of the staff of the ~~P~~provider or before a notary;
- 333
- 334 ~~(c)~~ (c) State that disclosures have been made pursuant to this Act;
- 335
- 336 ~~(d)~~ (d) Specify the length of time the consent remains valid; and
- 337
- 338 ~~(e)~~ (e) Advise the party signing the informed consent document of the right to
- 339 receive a copy of the Record.

340 ...

341

342

343 4. Prior to the start of any medications, the Record must reflect whether the Participants

344 have entered into a written legal agreement as shown by:

- 345
- 346 ~~(a)~~ A legal clearance letter provided by an ~~attorney~~ legal counsel, if the
- 347 Participant(s) were represented by legal counsel; or
- 348
- 349 ~~(b)~~ A copy of the executed legal agreement if the Participant(s) were not
- 350 represented by legal counsel.

351

352 **SECTION 203. DISCLOSURES**

353

354 1. Disposition of cryopreserved Gametes or Embryos: Prior to each Retrieval, a Provider

355 must disclose to all Intended Parents and Donors, whose identity is known to the

356 Provider, the following possible dispositions of Embryos:

- 357 ...
- 358
- 359
- 360 (c) Donation:
- 361
- 362 ...
- 363
- 364 (ii) To an anonymous individual for Embryo Transfer, either directly or
- 365 through the ~~provider~~ Provider, or through a third-party Embryo
- 366 donation program;
- 367
- 368 ...
- 369

370 2. Right to transport. A Provider is not required to offer all possible dispositions, but the

371 ~~P~~provider must inform the ~~Patient~~ Participant that other ~~P~~providers may offer other options

372 and that the ~~Patient~~ Participant has the right to transport Embryos to other ~~P~~providers.

373

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REVISED 111

374 3. Embryo Transfer disclosure. Before each Embryo Transfer cycle, the Provider must
375 provide each Intended Parent with the following information in a Record, where
376 applicable:

377
378 (a) ~~(a)~~ Method used to achieve fertilization and the results of semen analysis,
379 —including, but not limited to, motility, count, and morphology;

380
381 (b) ~~(b)~~ Number of eggs retrieved;

382
383 ...

384
385 6. Disclosure regarding multiple births/Retrievals. Where relevant, a Provider must
386 disclose in a Record, to Participants other than Donors, prior to Retrieval, the known risks
387 of multiple births to the Participant and to the fetuses, including the positive and negative
388 factors involved in selective reduction; and the known potential birth defects related to
389 IVF. A Provider must disclose prior to Retrieval to individuals undergoing egg retrieval
390 the known potential present and future risks of multiple courses of ovarian stimulation
391 drugs. A Provider must disclose prior to Embryo Transfer to a Gestational Surrogate or
392 Genetic Surrogate the number of Embryos to be transferred.

393
394 ...

SECTION 301. MENTAL HEALTH EVALUATION

396
397 ...

398
399
400 2. All other Participants known to the ART Provider, other than Intended Parents, must
401 undergo a Mental Health Evaluation with a Mental Health Professional in accordance with
402 the most recently published Professional Guidelines of ASRM prior to Collaborative
403 Reproduction ART procedure. The results of this Mental Health Evaluation shall only be
404 used to determine suitability to participate in Collaborative Reproduction.

405
406 ...

407
408 4. For purposes of this Article, Mental Health Professional is an individual who:

409
410 (a) ~~(a)~~ Holds a master's or doctoral degree in the field of psychiatry, psychology,
411 counseling, social work, psychiatric nursing, marriage and family therapy, or
412 State equivalent; and

413
414 (b) ~~(b)~~ Is licensed, certified, or registered to practice in the mental health field; and

415
416 (c) ~~(c)~~ Has received training in reproductive physiology; the testing, diagnosis, and
417 treatment of Infertility; and the psychological issues in Infertility and
418 Collaborative Reproduction. If there are questions about inherited or genetic

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419 disorders, the Mental Health Professional must refer the Participant to a
420 qualified professional for Consultation.

421
422 **SECTION 302. ADDITIONAL COUNSELING REQUIREMENTS**
423

424 1. An ART procedure using Collaborative Reproduction shall not be initiated or performed
425 until:

426
427 (a) ~~(a)~~-All Participants made known to the ART Provider have been offered Mental
428 Health Counseling following the initial Mental Health Evaluation or Consultation
429 as provided for in Section 301; and

430
431 (b) ~~(b)~~-The Mental Health Professional(s) have prepared and delivered to the
432 medical Provider(s) a statement in a Record that he or she has met with the
433 Participant(s) and that they have undergone the requisite Mental Health
434 Evaluation and/or Consultation;
435

436 ...

437
438 **SECTION 402. INFORMATION ABOUT DONORS**
439

440 ...

441
442 2. COLLECTION OF INFORMATION.

443
444 For Gametes collected after the effective date of this Act, a Gamete bank or Provider
445 licensed in this State shall collect from a Donor the Donor's identifying information and
446 medical history at the time of the donation. ~~If the Gametes of a Donor are sent to another
447 Gamete bank or Provider, a sending Gamete bank or Provider also shall forward any
448 identifying information and medical history of the Donor, including the Donor's signed
449 declaration under Section 402 (3) regarding identity disclosure, to a receiving Gamete
450 bank or Provider. A receiving Gamete bank or Provider licensed in this State must collect
451 and retain the information about the Donor and the sending Gamete bank or Provider. A
452 Gamete bank or Provider licensed in this State which receives Gametes of a Donor
453 collected by another Gamete bank or Provider shall collect the name, address, telephone
454 number, and electronic mail address of the Gamete bank or Provider from which it
455 received the gametes. A Gamete bank or Provider licensed in this State shall disclose the
456 information collected under this Section 402(2) as provided under Section 402(4).~~
457

458 ...

459
460 4. DISCLOSURE OF IDENTIFYING INFORMATION AND MEDICAL HISTORY.

461
462 (a) On request of a Child conceived by Assisted Reproduction who is at least 18
463 years of age, a Gamete bank or Provider licensed in this State which collected,
464 stored, ~~or released for use~~ the Gametes used in the Assisted Reproduction

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465 shall make a good-faith effort to provide the Child with identifying information
466 of the Donor who provided the Gametes, unless the Donor signed and did not
467 withdraw a declaration under paragraph 3(b)(ii) of this Section. If the Donor
468 signed and did not withdraw a declaration under paragraph 3(b)(ii) of this
469 Section, the Gamete bank or Provider must make a good-faith effort to notify
470 the Donor, who may elect disclose the Donor's identity declaration under
471 paragraph 3(b)(i) of this Section.
472

473 (b) Regardless of whether a Donor signed a declaration under paragraph 3 of this
474 Section, on request by a Child conceived by Assisted Reproduction who is at
475 least 18 years of age, or, if the Child is a minor, by a Parent or guardian of the
476 Child, the Gamete bank or Provider licensed in this State which collected the
477 gametes used in the Assisted Reproduction shall make a good faith effort to
478 provide the Child or, if the Child is a minor, the Parent or guardian of the Child,
479 access to non-identifying medical history of the Donor.
480

481 ~~(b)(c)~~ On request of a Child conceived by Assisted Reproduction who attains 18
482 years of age, a Gamete bank or Provider licensed in this State which received
483 the gametes used in the Assisted Reproduction from another Gamete bank or
484 Provider shall disclose the name, address, telephone number, and electronic
485 mail address of the Gamete bank or Provider from which it received the
486 Ggametes.
487

488 5. RECORDKEEPING. A Gamete bank or Provider licensed in this State, which collects,
489 ~~stores, or releases~~ Gametes for use in Assisted Reproduction, shall ~~collect and maintain~~
490 identifying information and medical history about each Donor. The Gamete bank or
491 Provider shall ~~collect and maintain~~ records of Gamete screening and testing and comply
492 with reporting requirements, in accordance with federal law and applicable law of this
493 State other than this Act. A Gamete bank or Provider licensed in this state that receives
494 Ggametes from another Gamete bank or Provider shall maintain the name, address,
495 telephone number, and electronic mail address of the Gamete bank or Provider from
496 which it received the Ggametes.
497

498 ... 499 SECTION 501. DISPOSITION OF GAMETES AND EMBRYOS 500

501 ...
502 ...
503
504 5. Any party to an Embryo storage or disposition agreement may withdraw his or her
505 consent to the terms of the agreement in writing prior to an Embryo Transfer to a uterus
506 of an Intended Parent, Gestational Surrogate, or Genetic Surrogate.
507

508 (a) ~~(a)~~ Notice of said withdrawal of consent to the terms of the agreement must be
509 given in a Record to the parties to the agreement and to the Providers and ART
510 Storage Facility, if any.

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511
512 ~~(b) (b)~~ After receipt of said notice in a Record by the other Intended Parent and/or
513 by the ART Provider or ART Storage Facility of that individual's intent to avoid
514 Embryo Transfer, an Intended Parent may not Transfer the Embryos into the
515 uterus of any individual with the intent to have a Child. No prior agreement to
516 the contrary will be enforceable.

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517
518 ~~(c) (c)~~ In the event that an Embryo Transfer occurs after receipt of notice in a
519 Record of that individual's intent to avoid Embryo Transfer as set forth in
520 paragraph 5(b) of this Section that Intended Parent will not be the Parent of a
521 resulting Child.

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522 ...

525 **SECTION 504. ABANDONMENT OF GAMETES OR EMBRYOS AND**
526 **DISPOSITION OF ABANDONED GAMETES OR EMBRYOS**

527 1. A Gamete or an Embryo is deemed to be abandoned only if:

528
529
530 ~~(a) (a)~~ At least five years have elapsed since last communication from Intended
531 Parents to Provider and/or ART Storage Facility unless the Participants select
532 another time by agreement as provided in a Record; and

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533
534 ~~(b) (b)~~ A diligent attempt to notify the interested Participants, as well any
535 Provider(s) who contracted for storage, that the Gamete or Embryo is deemed
536 to be abandoned (such attempt shall include, but not be limited to, notice by
537 certified mail (or equivalent trackable medium) to each interested Participant's
538 permanent address or last known address, and shall require a period of not
539 less than ninety days to elapse before any action is taken); and

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540
541 ~~(c) (c)~~ The interested Participants have acknowledged that they have been
542 informed of the provisions of (a) and (b) of this paragraph in an agreement in a
543 Record executed prior to storage with the Provider and/or ART Storage Facility.

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544 ...

547 **SECTION 602. PARENTAL STATUS OF DONOR**

549 1A. A Donor is not a Parent of a Child conceived by means of Assisted Reproduction.

550
551 2B. A determination that an individual is a Donor under paragraph (1A) of this Section
552 does not require proof of a written agreement or compliance with Articles 1 through 5 of
553 this Act.

554
555 3C. Donor Agreements Authorized.

556

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557 (a) ~~1.~~ A Gamete Donor and an Intended Parent(s) may enter into an agreement in
558 a Record providing:

559
560 (i) That the Donor agrees to donate Gametes in order for the Intended
561 Parent(s) to conceive a Child through Assisted Reproduction; and

562
563 (ii) That the Donor, and spouse if married, has no property, parental, or
564 other rights, responsibilities and claims with respect to any resulting
565 Gametes, Embryos, and any Child born as a result of the Gamete
566 donation; and

567
568 (iii) That any donated Gametes, and any Embryos formed from the
569 donated Gametes, shall be the sole property and responsibility of the
570 Intended Parent(s), subject to the terms of the Donor agreement; and

571
572 (iv) That the Donor is not a Parent of any Child conceived through
573 Assisted Reproduction using the Donor's gamete(s), and the
574 Intended Parent(s) shall be the Child's Parent(s) with all the rights
575 and responsibilities resulting therefrom.

576
577 (b) ~~2.~~ Any Donor limitations as noted in Section 204 should be specified in the
578 Donor agreement.

579 ...
580 ...

581 SECTION 604. CONSENT TO ASSISTED REPRODUCTION

582 ...
583 ...

584 ...
585
586 2. Failure of an Intended Parent to sign a consent in a Record as required by paragraph
587 (1) of this Section, before or after birth of the Child, does not preclude a finding of
588 parentage if:

589
590 (a) ~~(a)~~ The individual seeking to establish that the Intended Parent is a Parent of
591 the Child proves by clear-and-convincing evidence the existence of an express
592 agreement entered into before conception that the Intended Parent and the
593 individual who gave birth intended they both would be Parents of the Child; or

594
595 (b) ~~(b)~~ The individual giving birth and the individual alleged to be an Intended
596 Parent resided together with the Child during the first two years of the Child's
597 life and openly held out the Child as their own, unless the individual dies or
598 becomes incapacitated before the Child becomes two years of age or the Child
599 dies before the Child becomes two years of age, in which case a court may find
600 consent to parentage under this paragraph if a party proves by clear-and-
601 convincing evidence that the individual giving birth and the individual intended
602 to reside together in the same household with the Child and both intended that

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603 the individual would openly hold out the Child as the individual's Child, but that
604 the individual was prevented from carrying out that intent by death or
605 incapacity.

607 **SECTION 605. LIMITATION ON LEGAL SPOUSE'S DISPUTE OF PARENTAGE**

608
609 1. Except as otherwise provided in Section 605(2), an individual, who at the time of a
610 Child's birth, is the Legal Spouse of the woman who gave birth to the Child by Assisted
611 Reproduction, may not challenge the individual's parentage of the Child unless:

- 612 (a) ~~(a)~~—Not later than two years after the birth of the Child, the individual
- 613 commences a proceeding to adjudicate the individual's parentage of the Child;
- 614 and
- 615
- 616
- 617 (b) ~~(b)~~—A Court finds the individual did not consent to the Assisted Reproduction,
- 618 before, on, or after birth of the Child, or withdrew consent under Section 606.
- 619

620 2. A proceeding to adjudicate a Legal Spouse's parentage of a Child born by Assisted
621 Reproduction may be commenced at any time if the court determines the:

- 622
- 623 (a) ~~(a)~~—Legal Spouse neither provided a gamete for, nor consented to, the
- 624 Assisted Reproduction;
- 625
- 626 (b) ~~(b)~~—Legal Spouse and the woman who gave birth to the Child have not
- 627 cohabited since the probable time of Assisted Reproduction; and
- 628
- 629 (c) ~~(c)~~—Legal Spouse never openly held out the Child as the Legal Spouse's Child.
- 630
- 631 ...
- 632

633 **ARTICLE 7. SURROGACY**

634 **SECTION 701. SURROGACY AGREEMENTS AUTHORIZED**

635 A. 1. A Gestational or Genetic Surrogate and, if married, the Gestational or Genetic
636 Surrogate's Legal Spouse and the Intended Parent(s) may enter into an agreement in a
637 Record providing that:

- 638
- 639
- 640
- 641 1.(a) The Gestational or Genetic Surrogate agrees to attempt pregnancy by
- 642 means of Assisted Reproduction;
- 643
- 644 2.(b) The Gestational or Genetic Surrogate and, if married, the Gestational or
- 645 Genetic Surrogate's Legal Spouse have no claims to parentage with respect to
- 646 any Child resulting from the Assisted Reproduction procedure(s); and
- 647

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648 ~~3.(c)~~ The Intended Parent(s) shall be recognized as the sole Parent(s) of the
649 Child.

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651 ~~B.~~ 2. A Surrogacy Agreement may provide for payment of consideration under Article
652 8 of this Act.

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654 ~~C.~~ 3. A Surrogacy Agreement may not limit the right of the Gestational or Genetic
655 Surrogate to make any health and welfare decisions regarding the Surrogate and the
656 Surrogate's pregnancy. This Act does not enlarge or diminish the surrogate's right to
657 terminate or to continue the pregnancy.

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659 ~~D.~~ 4. A Genetic Surrogacy Agreement shall be subject to the following additional
660 requirements and is enforceable only if:

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662 1.(a) Judicially validated as provided in Section 706; and

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664 2.(b) The Assisted Reproduction procedure(s) utilized to attempt a pregnancy are
665 performed under the supervision of a licensed Physician.

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667 SECTION 702. ELIGIBILITY

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669 ~~A.~~ 1. A Gestational or Genetic Surrogate shall be deemed to have satisfied the
670 requirements of this Act if the Gestational or Genetic Surrogate has met the following
671 requirements at the time the Surrogacy Agreement is executed and prior to the
672 anticipated pregnancy. The Gestational or Genetic Surrogate:

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674 1.(a) Is at least twenty-one (21) years of age; and

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676 2.(b) Has given birth to at least one (1) Child; and

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678 3.(c) Has completed a Medical Evaluation relating to the anticipated pregnancy;
679 and

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681 4.(d) Has completed a Mental Health Evaluation relating to the anticipated
682 Surrogacy Arrangement; and

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684 5.(e) Is represented by Independent Legal Counsel and has undergone legal
685 consultation regarding the terms of the Surrogacy Agreement and the
686 potential legal consequences of the Surrogacy Arrangement; and

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688 6.(f) Has or will obtain a health insurance policy or other coverage for major
689 medical treatments and hospitalization and the health insurance policy has a
690 term that extends throughout the duration of the expected pregnancy and for
691 eight (8) weeks after the birth of the Child.

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693 B. 2. The Intended Parent(s) shall be deemed to have satisfied the requirements of
694 this Act if the Intended Parent(s) have met the following requirements at the time the
695 Surrogacy Agreement is executed and prior to the anticipated pregnancy:

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697 4.(a) Intended Parent(s) have completed a Consultation relating to the
698 anticipated Surrogacy Arrangement; and

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701 2.(b) Intended Parent(s) are represented by Independent Legal Counsel and
702 have undergone legal consultation regarding the same and the potential legal
703 consequences of the Surrogacy Arrangement.

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705 C. 3. The relevant State regulatory agency may adopt rules pertaining to the required
706 Medical Evaluations, Consultations and Mental Health Evaluations for a Surrogacy
707 Agreement. Until the relevant State regulatory agency adopts such rules, Medical
708 Evaluations, Consultations and Mental Health Evaluations and procedures shall be
709 conducted in accordance with the recommended guidelines published by ASRM. The
710 rules may adopt these guidelines or others by reference.

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712 SECTION 703. REQUIREMENTS FOR A SURROGACY AGREEMENT

714 A. 1. A Surrogacy Agreement is enforceable only if:

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716 4.(a) It meets the contractual requirements set forth in Section 703(2B); and

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718 2.(b) It contains at a minimum each of the terms set forth in Section 703(3C); and

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722 3.(c) If the Surrogacy Agreement is a Genetic Surrogacy Agreement, it must be
723 judicially validated, as required by Section 706, prior to attempting pregnancy
724 by means of Assisted Reproduction.

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725 B. 2. A Surrogacy Agreement shall meet the following requirements:

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727 4.(a) It shall be in writing; and

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729 2.(b) It shall be executed prior to the commencement of any medical procedures
730 in furtherance of the Surrogacy Arrangement (other than Medical Evaluations,
731 Consultations or Mental Health Evaluations necessary to determine eligibility
732 of the parties pursuant to Section 702 of this Act), by:

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734 (i) (a) A Gestational or Genetic Surrogate meeting the eligibility
735 requirements of Section 702(1A) of this Act and, if married, the
736 Gestational or Genetic Surrogate's Legal Spouse; and

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738 (ii) (b) The Intended Parent(s) meeting the eligibility requirements of
Section 702(2B) of this Act; and

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3.(c) The Gestational or Genetic Surrogate, and, if married, the Gestational or Genetic Surrogate's Legal Spouse, and the Intended Parent(s) shall be represented by Independent Legal Counsel in all matters concerning the Surrogacy Arrangement and the Surrogacy Agreement; and

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4.(d) Each of the parties acknowledge in writing that they received information about the legal, financial, and contractual rights, expectations, penalties, and obligations of the Surrogacy Agreement; and

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5.(e) If the Surrogacy Agreement provides for the payment of Compensation to the Gestational or Genetic Surrogate, the Compensation shall be placed in an Escrow Account with an independent Escrow Agent prior to the Gestational or Genetic Surrogate's commencement of any medical procedure (other than Medical Evaluations, Consultation or Mental Health Evaluations necessary to determine the Gestational or Genetic Surrogate's eligibility pursuant to Section 702(1A) of this Act); and

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6.(f) Each party's signature shall be notarized or witnessed by two (2) competent adults who are not parties to the Surrogacy Agreement.

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G. 3. A Surrogacy Agreement shall provide for:

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4.(a) The express written agreement of the Gestational or Genetic Surrogate to:

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(i) (a) — Undergo Assisted Reproduction procedure(s) to achieve a pregnancy and attempt to carry and give birth to a Child; and

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(ii) (b) — Surrender custody of any Child resulting from such Assisted Reproduction procedure(s) to the Intended Parent(s) immediately upon birth; and

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2.(b) If the Gestational or Genetic Surrogate is married, the express agreement of the Gestational or Genetic Surrogate's Legal Spouse to:

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(i) (a) — Undertake the obligations imposed on the Gestational or Genetic Surrogate pursuant to the terms of the Surrogacy Agreement; and

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(ii) (b) — Surrender custody of any Child resulting from such Assisted Reproduction procedure(s) to the Intended Parent(s) immediately upon birth; and

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3.(c) The right of the Gestational or Genetic Surrogate to utilize the services of a Physician chosen by the Gestational or Genetic Surrogate to provide care to the Gestational or Genetic Surrogate during the pregnancy; and

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4-(d) The right of the Gestational or Genetic Surrogate to make any health and welfare decisions regarding the Surrogate and the Surrogate's pregnancy including continuation or termination of the pregnancy; and-

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5-(e) The express written agreement of the Intended Parent(s) to:

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(i) (a) Accept custody of any Child resulting from such Assisted Reproduction procedure(s) immediately upon birth regardless of number, gender, or mental or physical condition; and

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(ii) (b) Assume sole responsibility for the support of the Child immediately upon birth; and-

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6-(f) Intended Parent(s) payment of reasonable legal, medical and/or ancillary expenses, including:

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(i) (a) The premiums for a health insurance policy that covers medical treatment and hospitalization for the Gestational or Genetic Surrogate unless otherwise mutually agreed upon by the parties, pursuant to the terms of the Surrogacy Agreement; and

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(ii) (b) The payment of all uncovered medical expenses; and

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(iii) (c) The payment of reasonable legal fees for the Gestational or Genetic Surrogate's legal representation; and

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(iv) (d) The payment of life insurance premiums; and

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(v) (e) Other reasonable financial arrangements mutually agreed upon by the parties, including any applicable reimbursement and compensation schedule, pursuant to the terms of the Surrogacy Agreement.

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4. A court has jurisdiction to determine the Parent-Child Relationship pursuant to a Surrogacy Agreement where:

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4-(a) At least one of the parties to the Surrogacy Agreement is a resident; or

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4-(b) At least one of the medical procedures pursuant to the Surrogacy Agreement occurs; or

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4-(c) The birth occurs or is anticipated to occur.

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- 829 4.(d) If none of the above applies, the appropriate jurisdiction for determining the
830 Parent-Child Relationship may be determined under the Uniform Child Custody
831 Jurisdiction and Enforcement Act.
- 832
- 833 E. 5. A Surrogacy Agreement is enforceable even if it contains one or more of the
834 following provisions:
- 835
- 836 4.(a) The Gestational or Genetic Surrogate's agreement to undergo all medical
837 exams and/or treatments, and to follow activity restrictions, as instructed by the
838 Physician for the success of the pregnancy (although there shall be no specific
839 performance remedy for a breach of such provisions); and/or
- 840
- 841 2.(b) The agreement of the Intended Parent(s) to pay the Gestational or Genetic
842 Surrogate reasonable Compensation; and/or
- 843
- 844 3.(c) The agreement of the Intended Parent(s) to pay for or reimburse the
845 Gestational or Genetic Surrogate for reasonable expenses (including, without
846 limitation, medical, legal, or other professional or necessary expenses) related
847 to the Surrogacy Arrangement and to the Surrogacy Agreement.
- 848
- 849 **SECTION 704. TERMINATION OF SURROGACY AGREEMENT**
- 850
- 851 A. 1. Prior to Pregnancy
- 852
- 853 4.(a) Before a Gestational or Genetic Surrogate undergoes the Assisted
854 Reproduction procedure(s) to attempt pregnancy, and subject to the terms of
855 the Surrogacy Agreement, any party may terminate the Surrogacy Agreement
856 by giving written notice of termination to all other parties.
- 857
- 858 2.(b) No party may terminate the Surrogacy Agreement after an Embryo Transfer
859 procedure and prior to a pregnancy test at a time to be determined by a
860 qualified Physician.
- 861
- 862 3.(c) Any party who terminates a Genetic Surrogacy Agreement after the
863 appropriate Court issues an order validating a Genetic Surrogacy Agreement
864 under Section 706 but before the Genetic Surrogate becomes pregnant by
865 means of Assisted Reproduction shall also file notice of the termination with the
866 appropriate Court. On receipt of the notice, the appropriate Court shall order a
867 stay on all medical procedures contemplated under the terms of the Genetic
868 Surrogacy Agreement.
- 869
- 870 4.(d) Except as otherwise agreed to among the parties in the Surrogacy
871 Agreement, no party shall be liable to any other party for terminating the
872 Surrogacy Agreement before the Gestational or Genetic Surrogate becomes
873 pregnant by means of Assisted Reproduction.
- 874

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875 B.2. After Pregnancy is confirmed;

876

877 4.(a) Subject to the provisions of Section 714(3C), no party may terminate a
878 Surrogacy Agreement once a successful pregnancy is confirmed.

879

880 SECTION 705. ESTABLISHMENT OF PARENT CHILD RELATIONSHIP IN
881 GESTATIONAL SURROGACY

882

883 A. 1. RIGHTS OF PARENTAGE

884

885 4.(a) Except as provided in this Act, a woman who gives birth to a Child is a
886 Parent of that Child for purposes of State law.

887

888 4.(b) The parties to a Gestational Surrogacy Agreement shall assume the rights
889 and obligations of this Article if:

890

891 (i) (a) The Gestational Surrogate satisfies the eligibility
892 requirements set forth in Section 702(1A); and

893

894 (ii) (b) The Intended Parent(s) satisfy the eligibility requirements set
895 forth in Section 702(2B); and

896

897 (iii) (c) The Gestational Surrogacy Agreement complies with the
898 requirements of Section 703.

899

900 4.(c) In the case of a Gestational Surrogacy Agreement satisfying the
901 requirements set forth in this Article:

902

903 (i) (a) The Intended Parent(s) shall be the Parents of the Child for
904 purposes of State law immediately upon the birth of the Child; and

905

906 (ii) (b) The Child shall be considered the Child of the Intended
907 Parent(s) for purposes of State law immediately upon the birth of the
908 Child; and

909

910 (iii) (c) Parental rights shall vest in the Intended Parent(s)
911 immediately upon the birth of the Child; and

912

913 (iv) (d) Sole custody of the Child shall rest with the Intended Parent(s)
914 immediately upon the birth of the Child; and

915

916 (v) (e) Neither the Gestational Surrogate nor the Gestational
917 Surrogate's Legal Spouse, if any, shall be the Parent of the Child for
918 purposes of State law immediately upon the birth of the Child.

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4.(d) If the parentage of a Child born to a Gestational Surrogate is alleged not to be the result of the Assisted Reproduction procedure(s), the appropriate Court shall order genetic testing to determine the parentage of the Child. If the Child was not conceived as result of the Assisted Reproduction procedure(s), the Parent-Child Relationship shall be determined as provided under other applicable State law.

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5.(e) In the case of a Gestational Surrogacy Arrangement meeting the requirements set forth in this Section 705, in the event of a laboratory error in which the laboratory transfers Embryo(s) not legally belonging to the Intended Parent(s), the Intended Parents will be the Parents of the Child for purposes of State law unless otherwise determined by a Court in an action which can only be brought by one or more of the parties to the Surrogacy Agreement or the genetic contributors within two (2) years of the date of the Child's birth.

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2. ADMINISTRATIVE ESTABLISHMENT OF THE PARENT-CHILD RELATIONSHIP.

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~~B. If an applicable State law provides for the administrative establishment of the Parent-Child Relationship, that process may be utilized by the parties for purposes of establishing a Parent-Child Relationship.~~

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~~If an applicable State law provides for the administrative establishment of the Parent-Child Relationship, that process may be utilized by the parties for purposes of establishing a Parent-Child Relationship.~~

SECTION 706. ESTABLISHMENT OF PARENT CHILD RELATIONSHIP IN GENETIC SURROGACY

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A. 1. RIGHTS OF PARENTAGE

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4.(a) The parties to a Genetic Surrogacy Agreement shall assume the rights and obligations of paragraphs 2 and 3 of this Sections 706(1A)(a) and 706(1)(b) if:

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(i) (a) The Genetic Surrogate satisfies the eligibility requirements set forth in Section 702(1A); and

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(ii) (b) The Intended Parent(s) satisfy the eligibility requirements set forth in Section 702(2B); and

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(iii) (c) The Genetic Surrogacy Agreement complies with the requirements of Section 703 and has been judicially pre-approved prior to the commencement of any medical procedures in furtherance of the Surrogacy Arrangement (other than Medical Evaluations, Consultation or Mental Health Evaluations necessary to determine eligibility of the parties pursuant to Section 702 of this Act) as set forth in this Section 706.

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~~2.(b)~~ In the case of a Genetic Surrogacy Agreement satisfying the requirements set forth in ~~paragraph 1 of this~~ Section 706(1A)(a):

- (i) ~~(a)~~—The Intended Parent(s) shall be the Parents of the Child for purposes of State law immediately upon the birth of the Child; and
- (ii) ~~(b)~~—The Child shall be considered the Child of the Intended Parent(s) for purposes of State law immediately upon the birth of the Child; and
- (iii) ~~(c)~~—Parental rights shall vest in the Intended Parent(s) immediately upon the birth of the Child; and
- (iv) ~~(d)~~—Sole custody of the Child shall rest with the Intended Parent(s) immediately upon the birth of the Child; and
- (v) ~~(e)~~—Neither the Genetic Surrogate nor the Genetic Surrogate's Legal Spouse, if any, shall be the Parent of the Child for purposes of State law immediately upon the birth of the Child.

~~3.(c)~~ In the case of a Genetic Surrogacy Arrangement meeting the requirements set forth in this Section 706, in the event of a laboratory error in which the laboratory transfers Embryo(s) not legally belonging to the Intended Parent(s), the Intended Parents will be the Parents of the Child for purposes of State law unless otherwise determined by a Court in an action which can only be brought by one or more of the parties to the Surrogacy Agreement or the genetic contributors within two (2) years of the date of the Child's birth.

~~B.~~ 2. JUDICIAL PRE-APPROVAL OF GENETIC SURROGACY AGREEMENT

~~4.(a)~~ Prior to the commencement of any medical procedures in furtherance of the Genetic Surrogacy Arrangement (other than Medical Evaluations, Consultation or Mental Health Evaluations necessary to determine eligibility of the parties pursuant to Section 702 of this Act), the Intended Parent(s), the Genetic Surrogate, and Genetic Surrogate's Legal Spouse, if any, shall commence a proceeding to obtain judicial pre-approval of a Genetic Surrogacy Agreement by filing a petition in the appropriate Court. A proceeding to obtain judicial pre-approval of a Genetic Surrogacy Agreement may not be maintained unless all parties to the Genetic Surrogacy Agreement join in the petition. A copy of the fully-executed Genetic Surrogacy Agreement must be filed with the petition.

~~2.(b)~~ If the requirements of ~~paragraph 1 of this~~ Section 706(2B)(a) are satisfied, the appropriate Court shall issue an order validating the Genetic Surrogacy Agreement and declaring that the Intended Parent(s) will, subject to the

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issuance of a final post birth order, be the sole Parent(s) of a Child born during the term of the Genetic Surrogacy Agreement.

3-(c) The Court shall issue an order under this Section 706(2B) only on finding that:

- (i) (a) —The requirements of Section 702 have been satisfied; and
- (ii) (b) —The requirements of Section 706(2B) have been satisfied; and
- (iii) (c) —All parties have voluntarily entered into the Genetic Surrogacy Agreement meeting the requirements of Section 703 and understand its terms; and
- (iv) (d) —Adequate provision has been made for all reasonable health-care expenses associated with the Genetic Surrogacy Agreement, including responsibility for those expenses if the Genetic Surrogacy Agreement is terminated, as set forth in Section 703(3C)(f6); and
- (v) (e) —The consideration, if any, to be paid to the Genetic Surrogate is reasonable.

3. PARENTAGE UNDER A JUDICIALLY PRE-APPROVED GENETIC SURROGACY AGREEMENT

4-(a) Upon birth of a Child pursuant to a judicially pre-approved Genetic Surrogacy Agreement, all parties shall jointly file a notice with the appropriate Court that a Child has been born as a result of the Assisted Reproduction procedure(s). Thereupon, the appropriate Court shall issue an order:

- (i) (a) —Confirming that the Intended Parent(s) are the Parent(s) of the Child; and
- (ii) (b) —If necessary, ordering that the Child be surrendered to the Intended Parent(s); and
- (iii) (c) —Directing the agency maintaining birth records to issue a birth certificate naming the Intended Parent(s) as Parent(s) of the Child on an expedited basis.

2-(b) If the parentage of a Child born to a Genetic Surrogate is alleged not to be the result of the Assisted Reproduction procedure(s), the appropriate Court shall order genetic testing to determine the parentage of the Child. If the Child was not conceived as result of the Assisted Reproduction procedure(s), the Parent-Child Relationship shall be determined as provided under other applicable State law.

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~~3.(c)~~ If the parties fail to comply with ~~paragraph 1 of this~~ Section 706(3C)(a), the appropriate State agency may, upon request of any party, file notice with the appropriate Court that a Child has been born to the Genetic Surrogate as a result of Assisted Reproduction. Upon proof of a Court order issued pursuant to Section 706(2B) validating the Genetic Surrogacy Agreement, the appropriate Court shall order that the Intended Parent(s) are the sole legal Parent(s) of the Child and are financially responsible for the Child.

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~~4.(d)~~ If a birth results under a Genetic Surrogacy Agreement that is not judicially pre-approved as provided in this Section 706, the Parent-Child Relationship shall be determined as provided under other applicable State law specifically taking into consideration the intent of the parties at the time of the execution of the Genetic Surrogacy Agreement and the best interests of the Child. An Intended Parent has standing to request and be awarded legal parentage of the Child for the purposes of this provisions and any parentage proceeding hereunder.

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SECTION 708. DUTY TO SUPPORT

~~A. 1.~~ Any individual who is considered to be the Parent of the Child pursuant to Section 705 or Section 706 of this Act shall be obligated to support the Child.

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~~B. 2.~~ Intended Parents who are parties to a non-compliant Gestational Surrogacy Arrangement or an unapproved Genetic Surrogacy Agreement may be held liable for support of the resulting Child under other law.

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~~C. 3.~~ Breach of the Surrogacy Agreement by the Intended Parent(s) shall not relieve such Intended Parent(s) of the support obligations imposed by this Act.

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SECTION 709. EFFECT OF SURROGATE'S SUBSEQUENT MARRIAGE

~~A. 1.~~ GESTATIONAL SURROGACY

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Subsequent marriage of the Gestational Surrogate after execution of a Surrogacy Agreement under this article does not affect the validity of the Surrogacy Agreement, consent to the Surrogacy Agreement from the Gestational Surrogate's Legal Spouse is not required, and the Gestational Surrogate's Legal Spouse is not a presumed Parent of the resulting Child.

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~~B. 2.~~ GENETIC SURROGACY

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After the issuance of an order validating a Surrogacy Agreement between Intended Parents and a Genetic Surrogate under this article, subsequent marriage of the Genetic

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1103 Surrogate does not affect the validity of a Surrogacy Agreement, consent to the
1104 Surrogacy Agreement from the Genetic Surrogate's Legal Spouse is not required, and
1105 the Genetic Surrogate's Legal Spouse is not a presumed Parent of the resulting Child.

1106 ...
1107

1108 1109 SECTION 714. DAMAGES

1111
1112 ~~A. 1. Except as expressly provided in the Surrogacy Agreement, the Intended~~
1113 ~~Parent(s) shall be entitled to all remedies available at law or equity in the event of a breach~~
1114 ~~of the Surrogacy Agreement.~~

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1115
1116 ~~B. 2. Except as expressly provided in the Surrogacy Agreement, a Gestational or~~
1117 ~~Genetic Surrogate shall be entitled to all remedies available at law or equity in the event~~
1118 ~~of a breach of the Surrogacy Agreement.~~

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1119
1120 ~~C. 3. There shall be no specific performance remedy available for a breach by a~~
1121 ~~Gestational or Genetic Surrogate of a Surrogacy Agreement that:~~

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1122
1123 ~~1.(a) Limits the right of the Gestational or Genetic Surrogate to make decisions~~
1124 ~~regarding the Gestational or Genetic Surrogate's own health or pregnancy;~~
1125 ~~and/or~~

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1126
1127 ~~2.(b) Forces the Gestational or Genetic Surrogate to undergo Assisted~~
1128 ~~Reproduction for the purposes of becoming pregnant; and/or~~

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1129
1130 ~~3.(c) Requires or prevents a Gestational or Genetic Surrogate from terminating~~
1131 ~~the pregnancy.~~

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1132 ...
1133

1134 1135 ARTICLE 9. HEALTH INSURANCE

1136 1137 SECTION 901. INFERTILITY AND EXPERIMENTAL PROCEDURES

1138
1139 ~~1. The ASRM or other appropriate governmental regulatory authority may designate, from~~
1140 ~~time to time, a list of ART procedures and treatments considered to be experimental.~~

1141 1142 SECTION 902. REQUIRED NOTICE

1143
1144 ~~1. Each group health benefit plan that offers assisted reproductive health services shall~~
1145 ~~provide notice in a Record to each enrollee in the plan of the specific coverage provided~~
1146 ~~for these services.~~
1147

1148 2. The notice required under this Section must be prominently positioned in any literature,
1149 insurance application, or insurance policy plan description made available or distributed
1150 by the group health benefits plan to enrollees.

1151
1152 **SECTION 903. QUALIFICATION OF PROVIDERS**
1153

1154 A health insurer may require that any licensed Physician participating in the treatment of
1155 Infertility must be:

1156 (a) Board certified in Obstetrics and Gynecology by the American Board of
1157 Obstetrics and Gynecology and have a practice comprised substantially of
1158 Infertility cases; or
1159

1160 (b) Board certified in both Obstetrics and Gynecology and in Reproductive
1161 Endocrinology by the American Board of Obstetrics and Gynecology, with a
1162 practice comprised substantially of Infertility cases; or
1163

1164 (c) Board certified in both Andrology and Urology by the American Board of
1165 Urology.
1166

1167
1168 **ARTICLE 409. QUALITY ASSURANCE**
1169

1170 **SECTION 4004901. QUALIFICATIONS OF PROVIDERS**
1171

1172 1. ART Providers and ART Storage Facilities (hereafter "Program") shall assure the
1173 quality of their services by developing and complying with at least the following quality
1174 assurance measures:

1175 (a) Personnel. The Program shall document that senior and supervisory staff
1176 are adequately trained, including formal training in genetics. Documentation
1177 shall also include staff participation in laboratory training programs and regular
1178 updating of staff skills and knowledge.
1179

1180 (b) Equipment. The Program shall develop, implement, and test regularly
1181 backup and contingency plans for cryopreservation systems, computer
1182 systems, and records.
1183

1184 (c) Testing. The Program shall use a laboratory that participates in proficiency
1185 testing and on-site inspection, in compliance with the requirements for
1186 certification promulgated by the State Department of Health, if any. If genetic
1187 diagnostic services are provided, the Program or the laboratory shall comply
1188 with the applicable guidelines of organizations otherwise recognized by ASRM,
1189 such as the College of American Pathologists and the American College of
1190 Medical Genetics.
1191

1192
1193 **SECTION 4002902. COLLABORATIVE REPRODUCTION REGISTRIES**

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1. Collaborative Reproduction registries (or equivalent) created for the purpose of maintaining contact, medical, and psychosocial information about Donors, Gestational or Genetic Surrogates, and Children born as a result of ART, or to benefit the public health, operating within this jurisdiction shall incorporate, at a minimum, the following elements:

- (a) ~~(a)~~ Establish procedures to allow the disclosure of non-identifying information, while protecting the anonymity of Donors; and
- (b) ~~(b)~~ Establish procedures to allow the disclosure of identifying information about Participants only if mutual consent of all parties affected is obtained prior to the release of such information; and
- (c) ~~(c)~~ Maintain medical and genetic information and updated current health information, including change in health status, about the Donor; Donors or Providers are not required to update such information unless required by written agreement; and
- (d) ~~(d)~~ Establish procedures to allow disclosure of non-identifying medical and psychosocial information to the resulting Child; and
- (e) ~~(e)~~ Establish whether a resulting Child is authorized to contact a program; and
- (f) ~~(f)~~ Retain all records involving third party reproduction until the resulting Child has reached the age of 40.

SECTION 4003903. HEALTH INFORMATION MANAGEMENT

2. The Provider:

- (a) ~~(a)~~ Shall attempt to maintain, contact information, including an address, of the Participants for contact by Patients, resulting Children, and Participants; and
- (b) ~~(b)~~ Shall participate in a national Donor and Collaborative Reproduction registry, if established as described in Section 4002902 of this Act, so that Intended Parents and Donors can provide the program with address information; and
- (c) ~~(c)~~ Shall participate in a national Donor and Collaborative Reproduction registry, if established as described in Section 4002902 of this Act, by collecting medical and genetic information and updated current health information, including change in health status of the Donor; and

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1240
1241 (d)(d) Shall maintain an accurate record of the disposition of all Gametes and
1242 Embryos.

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1243 ...

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1244
1245 4. Disclosure of Medical Information.

1246
1247 (a)(a) Medical Information may be disclosed to an interested party or resulting
1248 Child only if an authorization is provided in accordance with applicable law; and

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1249
1250 (b)(b) The Program may disclose aggregate, non-identifiable data for quality
1251 assurance and reporting requirements, for the limited purpose of:

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1252
1253 (i) Ensuring a standard for the maintenance of records on laboratory
1254 tests and procedures performed, including safe sample disposal; and

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1255
1256 (ii) Maintaining records on personnel and facilities, schedules of
1257 preventive maintenance; and

1258
1259 (iii) Ensuring minimum qualification standards for personnel.

1260
1261 SECTION 4004904. PATIENT SAFETY

1262
1263 The program shall:

1264
1265 1. Conduct medical testing for sexually transmitted diseases in Gamete Providers,
1266 whether Donors or Intended Parents, and Gestational and Genetic Surrogates in
1267 compliance with the laws and regulations of or applying to appropriate governmental
1268 regulatory authorities; and

1269 ...

1270
1271
1272 ARTICLE 4410. ENFORCEMENT

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1274 SECTION 44041001. DAMAGES

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1276 ...

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1278 ARTICLE 4211. MISCELLANEOUS PROVISIONS

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1280 SECTION 42041101. LIMITATION OF MEDICAL PROFESSIONAL LIABILITY

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1282 ...

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1284 SECTION 42021102. SEVERABILITY

1285 ...

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RESOLUTION

- 1 RESOLVED, That the American Bar Association urges Congress and the United States
- 2 Department of Defense to direct the Armed Forces and its Public Private Venture housing
- 3 contractors to enact uniform breed-neutral pet policies for families living in military
- 4 housing in the United States.

Deletions struck through; additions underlined

RESOLUTION

1 RESOLVED, ~~T~~that the American Bar Association urges Congress to pass enact the
2 ~~federal Equality Act, H.R. 2282 (115th Congress), or similar~~ legislation which explicitly
3 affirms that: (1) discrimination because of sexual orientation, or gender identity, gender
4 identity/expression, sex stereotyping, or pregnancy is sex discrimination prohibited by the
5 Civil Rights Act of 1964 and ~~certain~~ other federal statutes; and ~~(2) federal statutory~~
6 ~~protections for religious freedom do not authorize violation of nondiscrimination laws; and~~
7 adds sex, sexual orientation and gender identity protections to those statutes; and

8 FURTHER RESOLVED, That the American Bar Association supports enactment of the
9 Equality Act (H.R. 2282, 115th Congress) or similar legislation that advances LGBTQ
10 rights; and

11
12 FURTHER RESOLVED, Tthat the American Bar Association urges all courts within the
13 United States to recognize that religiously neutral laws of general applicability prohibiting
14 discrimination on the based basis of sex or (which includes discrimination on the basis
15 of sexual orientation or gender identity/expression) do not improperly burden the religious
16 free exercise rights of those operating places of public accommodation. This resolution
17 does not apply to the application of nondiscrimination laws to religious institutions to the
18 extent that application would substantially interfere with the exercise of a fundamental
19 religious tenet of the religious institution.

Deletions struck through; additions underlined

115 Amended

RESOLUTION

- 1 RESOLVED, That the American Bar Association opposes the imposition upon sexual
2 assault victims of a legal burden of resistance before legal protection attaches; and
3
4 FURTHER RESOLVED, That the American Bar Association opposes, and urges federal,
5 state, local, territorial, and tribal jurisdictions to oppose, laws or rules that allow consent
6 to sexual activity to be inferred ~~in whole or in part~~ from inaction or lack of verbal or
7 physical resistance.

Deletions struck through; additions underlined

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Federal Bar Building Corporation

TO: FBA National Council

FROM: Joyce Kitchens, FBBC President

SUBJECT: FBBC Report Concerning Evolution of the FBBC and Current Investment Funds

DATE: February 20, 2019

On March 26, 2010, the Board of Directors of the Federal Bar Building Corporation (FBBC) unanimously adopted a resolution reflecting that the then-approximately \$4 million (\$4,000,000) investment portfolio of the FBBC, together with growth, dividends, interest, and other income, be maintained by the FBBC as an operational reserve, to be used for the sole purposes of anticipated operating expenses, capital improvements, and necessary repairs. At a subsequent meeting of the Board, then-President Alan Harnisch appointed Judge Delissa Ridgway, Gerald Gilbert, and Robert Mueller (chairman) to comprise this special committee to study and make recommendations to the Board regarding various questions directly or indirectly relating to this reserve.

Historical Context

The FBBC was incorporated in the District of Columbia in December 1958 and was organized under provisions of Section 501(c)(2) of the Internal Revenue Code. Its stated purpose was to purchase or build and maintain office headquarters for the FBA and the Foundation of the FBA.

The first such home for the FBA was in an office building at 1815 H Street, N.W., in Washington, D.C. That building, and the neighboring building at 1819 H Street, were built with monies generated by fund-raising efforts, donations, events, etc., by past-President Earl W. Kintner. Those buildings, owned by the FBBC, were built without any funds from the FBA.

When these buildings began to seriously deteriorate and began to experience vacancies, the FBBC determined to sell them and locate other appropriate offices for the FBA and the Foundation. The buildings were sold in 1997, and the FBBC purchased a building at 2215 M Street, NW, as the future home of the FBA and the Foundation. The purchase was made with funds realized from the H Street sale, with no mortgage. The remainder of monies realized from the H Street sale was invested by the FBBC with the intent and for the purpose of paying all operating expenses and reasonable repairs and maintenance from the growth and income of the investment corpus. There was no plan to charge the FBA any rent for its use of the building, nor was any rent in fact charged initially. Neither was any thought given to initiating rent for the Foundation.

In the 1998-2002 timeframe, three unforeseen things changed this financial blueprint. First, soon after moving to the new building, the FBBC had to replace the roof at a total cost of \$58,000. In 2001 a drain on the roof of the building malfunctioned and caused substantial damage to our

building and a restaurant next door. The cost of re-routing the water and repairing damage to the FBA headquarters and restaurant was approximately \$85,000. Additionally, during this same timeframe, it became clear that substantial expenses loomed on the near horizon for several necessary and relatively major capital repairs (e.g., replacement windows). The amount of these realized and anticipated expenses was substantial and not foreseen in the FBBC's financial planning for this early time period. Second, we unexpectedly lost the 4th floor tenant in the building, from whom we had received and reasonably expected to continue to receive approximately \$100,000 per year. This put an enormous squeeze on the investment portfolio. Third, the investment market took a significant downturn, with the result that the investment portfolio on which the FBBC relied for income, discussed above, suffered major losses and was no longer sufficient to generate the necessary income to cover expenses.

As a temporary measure to help delay the breaking point of this crisis, the FBBC took the step of initiating a rent requirement from the FBA. The plan was to begin by charging rent in the amount of \$36,000 per year and to increase it each year to a level of \$120,000 per year. In fact, in early 2007, when the rent was at \$60,000 per year as of October 2006, the FBBC had decided to sell the building and to relocate the FBA headquarters; therefore, the rent level was retained at \$60,000 per year, where it still exists today. No rent was ever charged of the Foundation, largely because of the relatively small physical space used by the Foundation.

The decision to sell the M Street building fortuitously was made at a point when the commercial real estate selling market in DC still was relatively strong. A sale was consummated in January 2007, and the FBA headquarters and staff moved to temporary office space in Crystal City, Virginia. New office condominium space was located at 1220 N. Fillmore Street, Arlington, VA, to become the new FBA headquarters. The contract for this space, executed in the spring of 2008, was a lease with option to purchase after two years, which the FBBC planned from the outset to exercise.

Upon the sale of the M Street building and the relocation to Arlington, the financial plan of the FBBC was clearly established: Invest \$5,000,000 in short term funds that would be adequate to finance the lease/planned-purchase of the space, and invest the remaining \$4,100,000 from the M Street sale in a long-term portfolio that would produce income sufficient to pay for operating expenses and reasonable capital maintenance and improvements. Just short of the schedule in January of 2010, the FBBC exercised its option to purchase this space, and the short-term investments and a small part of the long-term portfolio were liquidated, leaving the balance of the long-term investments to produce income for operating expenses.

The general world-wide economic downturn that started in 2007 presented a realistic threat to this financial plan. Fortunately, the skill and advice of our investment counselors and the fortuitously low level of expenses required at the time permitted the FBBC to weather that storm. The result is that, at the present time, with the global economy having markedly improved and with the forecast encouraging, the long-term investment portfolio has returned a level that currently significantly exceeds the value prior to the onset of the severe recession.

It is in this historical context that the FBBC considered various questions relating to establishing and maintaining a portfolio sufficient to cover anticipated operating expenses, real estate taxes, repairs and upkeep in the future, and to provide reserve funds sufficient to cover unforeseen property expenses and economic challenges. It is impossible to overstate the determination of the current Board of Directors to learn from the M Street experience and to take

all steps necessary to avoid similar threatening factors in the future. The headquarters office space is the principal physical asset of the FBA and the Foundation, and there can be no doubt that the FBBC's primary mission, now and in the future, must be to maintain the financial integrity of its investments so as to protect the future financial well-being of the FBA and the Foundation of the FBA. All other policies and decisions made by the FBBC must be in the context of that primary mission.

Special Committee's Investment Recommendations

The FBBC special committee met initially by teleconference on Monday, January 17, 2011. Additionally, the committee had the benefit of comments and suggestions on an interim draft report in a meeting of the Board of Directors in February 2011, and on several occasions thereafter. Bearing in mind the historical context set forth above, the committee submitted the following investment recommendations.

- On an assumption of maintaining an investment portfolio that will produce an average annual income of 5-6%, the FBBC should achieve and maintain a portfolio balance of \$6 Million (\$6,000,000).
 - The committee concludes that a portfolio investment balance of \$4 million (\$4,000,000) on average should be sufficient to produce income adequate to cover all operational expenses and relatively minor repairs (hereinafter “operational reserve”), as well as county real estate taxes, without need to invade this corpus for that purpose. All reasonable efforts should be made to avoid any invasion of this corpus.
 - The committee concludes that an additional portfolio investment of \$2 million (\$2,000,000) on average should be a sufficient reserve (hereinafter “capital improvement reserve”) for the following nonexclusive purposes:
 - Periodic scheduled or predictable capital improvements and replacements;
 - Unforeseen expenses such as unscheduled repairs;
 - An economic downturn that results in a reduction of the \$4 million (\$4,000,000) corpus to the point where it is insufficient to produce adequate income to cover operational expenses.
 - [At that point in time, the FBBC's investment portfolio was approximately \$1,675,000 less than the target of \$6 million (\$6,000,000). As of January 31, 2019, the value of the portfolio of investments is \$5,614,966. – approximately \$385,034 less than the target.]
- Any activity that causes the total portfolio balance to fall below \$6 million (\$6,000,000) will trigger a focused determination by the FBBC to take all reasonable steps to fully restore the total portfolio balance. Such steps might include postponing some or all planned discretionary expenditures, adjusting the investment strategy, and/or increasing tenant rent. Until such time as the total portfolio is restored to \$6 million (\$6,000,000), all decisions and actions by the FBBC must be reasonably consistent with the primary objective of restoring the total portfolio.
- At the end of any given fiscal year of the FBBC (October 1 through September 30), any balance in the total portfolio that exceeds \$6 million (\$6,000,000) shall be distributed to the Federal Bar Association and/or the Foundation of the Federal Bar Association, as provided in the tax code for a Section 501(c)(2) corporation. All revenues in excess of total operating

expenses and reserves for future expenses must be distributed to the owners, per relevant provisions of the U.S. tax code and IRS regulations.

Related Recommendations of the Special Committee

- The FBBC should continue the business practice of charging rent from the FBA.
 - This practice, originally started on M Street out of economic necessity, has established a disciplined and healthy business-like aspect to the relationship between the FBBC and FBA that should be continued.
 - The rent will assist the growing of the portfolio discussed above.
 - When the FBBC reaches the point where the total portfolio exceeds \$6 million (\$6,000,000), the excess must be distributed to the FBA and/or the Foundation as described above, so there will not be a situation in which the FBBC is charging the FBA rent without an economic need. In pursuing this practice, the business relationship discussed above continues to be encouraged.
 - For the present and into the near future, the current rent of \$60,000 should continue, which coincidentally is nearly sufficient to cover all current condominium fees. It may be adjusted from time to time as circumstances may warrant.
- The FBBC should not presently initiate a rental charge to the Foundation, given its minimal space requirements in the headquarters facility.
- These investment and related recommendations should be reflected in and adopted by the FBBC Board of Directors by Resolution, so that any future Board may fully understand the current Board's decision, motivation, and rationale if and when a future Board considers adjusting any policy reflected in the resolution; and so that future FBA and Foundation Boards may be clear in the concept that this approach is deemed to be critical to the future interest of all three organizations.

Resulting Resolution of the FBBC Board of Directors

On September 9, 2011, having received and considered the report of the Special Committee, as well as the historical context described above, the Board of Directors of the FBBC unanimously adopted the resolution that is attached to this Report to the National Council. That resolution fully adopted the recommendations of the Special Committee, and it has not been amended since that date. The monies invested by the FBBC from the sales of earlier properties is there for the sound discretionary use by the FBBC to maintain the headquarters of the FBA and the Foundation, and the Board of the FBBC is singularly focused on fulfilling that fiduciary responsibility that is so critical to the future success of the FBA and the Foundation.



Federal Bar Building Corporation

BOARD OF DIRECTORS

Policy Resolution Regarding FBBC Investments and Reserves

Approved on September 9, 2011

WHEREAS, the Board of Directors of the Federal Bar Building Corporation (FBBC), on March 26, 2010, unanimously passed a resolution reflecting that the then-approximately \$4 Million (\$4,000,000) investment portfolio of the FBBC - together with growth, dividends, interest and other income - shall be maintained by the FBBC as an operational reserve, to be used for the sole purposes of paying usual operation expenses, capital improvements and replacements, and expenses for necessary repairs at the condominium office of the Federal Bar Association (FBA) and the Foundation of the Federal Bar (Foundation) at 1220 N. Fillmore Street, Arlington, VA;

WHEREAS, by report of February 25, 2011, a special committee of the FBBC Board submitted a draft report including certain recommendations regarding the appropriate value of the FBBC investment portfolio that should be achieved and maintained in order to generate sufficient income to fully cover operating expenses and real estate taxes, as well as to constitute a sufficient reserve for such non-exclusive purposes as scheduled or predictable capital improvements and replacements, unforeseen expenses such as unscheduled repairs, and possible economic downturns that may result in a reduction of the corpus of the portfolio to the point where the portfolio it is not sufficient to produce adequate income to cover operational expenses;

WHEREAS the full FBBC Board has offered comments and suggestions in response to the draft report and recommendations, which the special committee of the Board has considered and incorporated in the final report and recommendations, as appropriate, as approved in principle on March 15, 2011, and with final text approved on September 9, 2011;

WHEREAS, this report reflects that the recommendations of the special committee are based in part on the historical experiences of the FBBC and its financial and investment policies while owning properties serving as headquarters facilities for the FBA and the Foundation at 1815 and 1819 H Street, NW, Washington, DC, at 2215 M Street, NW, Washington, DC, and at 1220 N. Fillmore Street, Suite 444, Arlington, VA;

WHEREAS, it is the principal purpose of the FBBC to own and maintain real estate to serve as the headquarters of the FBA and the Foundation;

WHEREAS, the condominium office space at 1220 N. Fillmore Street, Arlington, VA, is owned and maintained by the FBBC for this purpose and is the principal physical asset of the FBA and the Foundation; and

WHEREAS, in this context, the Board of Directors of the FBBC considers that the FBBC's primary responsibility and trust, now and in the future, must be to maintain the financial integrity of its investments so as to protect the future financial well-being of the FBA and the Foundation and

that all other policies and decisions made by the FBBC must be in the context of that primary mission;

IT IS, THEREFORE, RESOLVED: That, on an assumption of maintaining an investment portfolio that will produce annual income of 5-6%, the FBBC shall achieve and maintain a total portfolio balance of approximately \$6 Million (\$6,000,000);

IT IS, THEREFORE, FURTHER RESOLVED: That, of this portfolio balance, approximately \$4 Million (\$4,000,000) (“operational reserve”) will be sufficient to produce income adequate to cover all operational expenses, real estate taxes, and relatively minor repairs, without need to invade the corpus of the operational reserve for these purposes, and that all reasonable efforts shall be made to avoid any invasion of this operational reserve;

IT IS, THEREFORE, FURTHER RESOLVED: That the remainder of the portfolio balance - \$2 Million (\$2,000,000) (“capital improvement reserve”) - on average will be a sufficient reserve for such non-exclusive purposes as periodic scheduled or predictable capital improvements and replacements, unforeseen expenses such as unscheduled repairs, and economic downturns that may result in a reduction of the \$4 Million (\$4,000,000) operational reserve to the point where it is insufficient to produce adequate income to cover operational expenses;

IT IS, THEREFORE, FURTHER RESOLVED: That any activity that causes the total portfolio balance (“total reserve”), which is the combined balance of the operational reserve and the capital improvement reserve, to fall below \$6 Million (\$6,000,000) shall trigger a focused determination by the FBBC to take all reasonable steps to fully restore the total reserve balance, such as postponing some or all planned discretionary expenditures, adjusting the investment strategy, and/or increasing tenant rent;

IT IS, THEREFORE, FURTHER RESOLVED: That, until such time as the total reserve balance is restored to \$6 Million (\$6,000,000), all decisions and actions by the FBBC must be reasonably consistent with the primary objective of restoring the total reserve balance;

IT IS, THEREFORE, FURTHER RESOLVED: That, the FBBC shall continue the sound business practice of charging the FBA rent for its use of the condominium office space owned by the FBBC, but that the Foundation shall not be charged rent for its use of such space at this time.

AND IT IS FINALLY RESOLVED: That it shall be the general policy of the FBBC that, at the end of any given fiscal year of the FBBC (October 1 through September 30), any balance in the total reserve that exceeds \$6 Million (\$6,000,000) shall be distributed to the FBA and the Foundation as provided in the tax code and IRS regulations for a Section 501(c)(2) corporation.

Federal Bar Building Corporation
Statement of Financial Position
As of December 31, 2018

	December 31, 2018	December 31, 2017
Assets		
Current Assets		
Cash & Cash Equivalents	\$ 5,529	\$ 1,018
Prepaid Expenses	0	1,927
Total Current Assets	5,529	2,945
Property & Equipment		
Fixed Assets	4,735,346	4,735,674
Accumulated Depreciation	(1,241,191)	(1,118,264)
Total Property & Equipment	3,494,155	3,617,410
Other Assets		
Investments	5,380,776	5,771,492
Total Other Assets	5,380,776	5,771,492
Total Assets	\$ 8,880,460	\$ 9,391,847
Liabilities & Net Assets		
Liabilities		
Current Liabilities		
Accounts Payable	\$ 0	\$ 9,009
Accrued Expenses	319	0
Due to/Due from Affiliates	3,470	0
Total Current Liabilities	3,789	9,009
Total Liabilities	3,789	9,009
Net Assets		
Unrestricted Net Assets		
Net Assets, Beginning of Period	9,306,416	9,300,900
Change in Net Assets	(429,745)	81,938
Total Unrestricted Net Assets	8,876,671	9,382,838
Total Net Assets	8,876,671	9,382,838
Total Liabilities & Net Assets	\$ 8,880,460	\$ 9,391,847

These financial statements were prepared by Tate & Tryon, CPAs. The statements were not subject to an audit, or other assurance services. Management has elected to omit the statement of cash flows and substantially all required disclosures.

Federal Bar Building Corporation
Statement of Activities
For the Three Months Ended December 31, 2018

	Month Ending 12/31/2018	Year To Date 12/31/2018	Year Ending 09/30/2019		
	Actual		Budget	Variance	% of Budget
Support and Revenue					
Rental Income	37,506	112,519	450,075	337,556	25.00 %
Interest & Dividend Income	41,267	62,545	150,000	87,455	41.70 %
Miscellaneous Income	232	232	0	(232)	0.00 %
Total Support and Revenue	79,005	175,296	600,075	424,779	29.21 %
Expenses					
Administrative Fees	2,334	7,000	28,000	21,000	25.00 %
Condo Fees	5,045	15,135	60,540	45,405	25.00 %
Depreciation	9,867	29,603	118,500	88,897	24.98 %
Real Estate Tax / Personal Property Tax	0	36,695	49,000	12,304	74.89 %
Repairs & Maintenance	0	0	5,000	5,000	0.00 %
Insurance	0	0	2,520	2,520	0.00 %
Investment Fees	2,313	6,992	30,000	23,009	23.30 %
Board Meetings	0	0	1,000	1,000	0.00 %
Postage	0	12	25	13	50.44 %
Telephone	0	15	75	60	19.55 %
Professional Fees	4,250	4,250	12,000	7,750	35.42 %
Legal Fees	142	423	0	(424)	0.00 %
Travel	551	0	3,840	3,841	0.00 %
In-Kind Contribution Expense	32,506	97,519	390,075	292,556	25.00 %
Total Expenses	57,008	197,644	700,575	502,931	28.21 %
Total Change in Net Assets Before Other Income (Expense)	21,997	(22,348)	(100,500)	(78,152)	22.24 %
Other Income (Expense)					
Realized Gains (Losses) on Sales of Investments	0	0	25,500	25,500	0.00 %
Unrealized Gains (Losses) on Investments	(208,885)	(407,398)	75,000	482,398	(543.20) %
Total Other Income (Expense)	(208,885)	(407,398)	100,500	507,898	(405.37) %
Total Change in Net Assets	\$ (186,888)	\$ (429,745)	\$ 0	\$ 429,746	0.00 %

These financial statements were prepared by Tate & Tryon, CPAs. The statements were not subject to an audit, or other assurance services. Management has elected to omit the statement of cash flows and substantially all required disclosures.

TAB B

Report from the President



Federal Bar Association

MARCH 2019 PRESIDENT'S REPORT

My presidential term has been off to a wonderful, and busy, start. My first trip in my role as FBA President was to Paris, France at the end of October 2018 for the Second Annual Paris Fashion Law Conference. We had the honor of partnering once again with the French-American Bar Association, and this year's conference was held at The Sorbonne. We are thankful to The Sorbonne for being such a wonderful host for the conference. Thank you to Second Circuit Vice President Olivera Medenica for her innovation and for all of her hard work in putting together this successful program for our organization that attracts attendees from around the world.

On November 2, 2018, I had the privilege of making the opening remarks at the CLE program on Veterans and Military Law in San Juan, Puerto Rico. It was such an honor to be included, and I was touched by the warmth and hospitality of the attendees. Thank you to FBA Past Presidents Judge Gustavo Gelpi and Robert DeSousa for the invitation.

On November 8, 2018, I had the honor of representing the FBA at Supreme Court Justice Brett Kavanaugh's investiture ceremony at the U.S. Supreme Court.

On December 7, 2018, I spoke at the annual Federal Litigation Conference in Honolulu, Hawaii. The conference was interesting, informative, and very well-run. I am grateful to the Hawaii Chapter for including me, for being such a wonderful host, and for gifting me with my first lei made of fragrant flowers. In particular, thank you to Christian Adams, Claire Wong Black, and Emily Marr for the invitation and for the hospitality while I was in town.

On December 11, 2018, I had the honor of being recognized by the Southern District New York Chapter, along with former Chief Judge Loretta Preska, to celebrate 100 years of women at Fordham Law School. It is a special, meaningful honor that I will always treasure and for which I am deeply grateful (along with all of the hard work and planning for the Annual Meeting and Convention that took place in New York in September 2018).

The next day, on December 12, 2018, I was proud to host the Southern District of New York Chapter's meeting at my firm, Bryan Cave Leighton Paisner LLP. Thank you to Wylie Stecklow and the Southern District of New York Chapter for this great honor and for the invitation to attend the Chapter's meeting.

Later that day, I flew to Tampa, Florida to attend the Tampa Bay Chapter's portrait unveiling ceremony of Judge Elizabeth A. Kovachevich in honor of her career achievements. Thank you to Jacqueline Simms-Petridis for the invitation and for her hard work in planning the event.

On January 10, 2019, I had the privilege of joining our Executive Director and other FBA leaders in New Orleans, Louisiana for Fifth Circuit Vice President Barry Ashe's investiture as a District Judge. That was such a proud day for our organization, and I was honored to attend on behalf of the FBA.

On January 31, 2019, we held a national board meeting in Las Vegas, Nevada, and then the officers and board members attended the Second Annual Rising Professionals Symposium on February 1-2, 2019. This conference is very interesting and well-run, and I encourage chapters to sponsor a young lawyer to attend next year.

On February 7 and 8, 2019, I had the pleasure of returning to New York City to speak at the Art Law Conference and the Fashion Law Conference, which were both graciously hosted by the National Arts Club, which is a beautiful venue. Thank you to Ray Dowd and to Olivera Medenica for making these annual conferences such a success. If you have not attended these conferences, I strongly encourage you to do so, because the topics are unique and interesting.

I also had the pleasure of visiting the San Antonio Chapter on February 12-13, 2019. I spoke at the San Antonio Chapter's luncheon along with Judge Royce Lamberth. Thank you to San Antonio Chapter President Paul Barkhurst and the San Antonio Chapter for such a warm welcome and for my first Fiesta pin, which I will treasure.

On February 28-March 1, 2019, I look forward to attending the Qui Tam Conference in Washington, D.C. I will also represent the FBA at the American Civil Trial Bar Roundtable meeting, along with President-Elect Christian Adams, in Washington, D.C. on March 8-9, 2019. In celebration of International Women's Day, I am proud to be participating in a program on March 11, 2019, at Fordham Law School in New York City along with Judge Mimi Tsankov to discuss various issues impacting women in the law, women in the judiciary, women's issues in immigration asylum proceedings, gender-based violence, and access to justice issues. Thank you to the Federal Judiciary Division for its support of this important program. I continue to receive invitations from Chapters and will do my best to accept each one. I look forward to seeing everyone at our Mid-Year Meeting (Leadership Summit) in Arlington, Virginia in March.

Maia Z. Vattus



Federal Bar Association

ACTIONS OF THE BOARD OF DIRECTORS FY2019

September 13, 2018 Meeting

- Adopted a resolution that authorizes and empowers the Executive Director, President, and Treasurer to execute agreements, give direction, and receive information to/from SunTrust Bank regarding the investment and custody accounts of the Federal Bar Association
- Adopted a resolution that authorizes and empowers the Executive Director, President, and Treasurer to act, give instructions, access information, use Bank's services, perform transactions, enter into agreements, and delegate authority on behalf the operational account of the Federal Bar Association at SunTrust Bank
- Approved FY2019 committee appointments

November 7, 2018 Meeting

- Approved allocation of funds from the Furniture and Fixtures Reserves for the purchase of office chairs in FY18 and renamed the reserves to Capital Expenditures Reserve
- Approved allocation of funds from the Chapter Assistance reserves for the FY18 Chapter Activity Fund expenses and approved to continue this allocation in future fiscal years until all assets have been released
- Approved allocation of the Future Activity Reserves for Centennial Celebration expenses in FY18 and FY19
- Approved setting the value of the Operational Reserves closer to the value of short-term investments based on the Investment and Reserves Policy
- Approved the following recommendations from the Nominations and Elections Task Force
 - Include statement that the Bylaws outline the committee's composition in all Nominations and Elections (N&E) announcements/materials
 - Amend Application for Office to include question: What is one significant issue facing the FBA and, as a leader, how would you address the issue?"
 - Include language on application "The FBA welcomes and encourages diverse individuals to apply for leadership positions."
 - Schedule two meetings for the committee to vet candidates
 - Implement Issue 8 recommendations by amending current N&E policies and using new website technology
- Approved the following recommendation from the Appellate Courts Task Force
 - Outreach to Circuit Court Judges
- Approved the following recommendation from the Access to Justice Task Force

- Expand task force to include Section and Division leaders
- Expand task force to include ad hoc advisers
- Compile resources for new website
- Refer to GRC if Access to Justice should be a topic for Capitol Hill Day advocacy
- Voted to approve distribution of the sample pro se handbook
- Approved the following recommendations from the Diversity and Inclusion Task Force
 - Continue development and improvement of work with guidance from Judiciary Advisory Panel and Corporate Advisory Panel
 - Develop communications plan for specific items that we can implement now
 - Compile/expand Diversity and Inclusion web page for new site
 - Promote FBA awards among diverse communities
 - Develop a History Project
 - Ensure diversity of presenters at all programs
 - Diversity and Inclusion mentorship programs; support through LSD and YLD
 - Data regarding diversity
 - Personal commitment to active inclusion
 - Implicit bias and diversity training as part of Leadership Training
 - Recruit diverse attorneys for leadership roles

December 14, 2018 Meeting

- Approved the 2018-2019 base salary in the amount set forth in Stacy King's employment agreement paragraph 4.3.2 and to award Executive Director Stacy King the full amount of the "potential bonus" as allowed by her employment contract in the current year, as set forth in paragraph 4.3.1
- Approved the Securities Law Section's request to donate \$25,000 of section funds to the SEC Historical Society

January 22, 2019 (Via Email)

- Approved the Statement on the Partial Government Shutdown and Its Impact on the Federal Courts

January 31, 2019 Meeting

- Approved the 2019 Budget Reforecast
- Approved revisions to Policy 2-3: Reimbursements (increased maximum number of per diem for circuit vice presidents)
- Approved Centennial Celebration Budget
- Approved revised Judiciary Division Bylaws
- Approved the circulation of draft Policy 1-15: Advocacy of Public Policy Positions by FBA Entities to Chapter, Section, and Division leaders for a two-week comment period
- Approved proposed amendments to Bylaws to establish guidelines for proposals for amendments to the Constitution and Bylaws
- Approved supporting the American Civil Trial Bar Roundtable Resolution in Support of Administrative Law Judge Independence

TAB C

Report from the Treasurer

Federal Bar Association
Statement of Financial Position
As of September 30, 2018

	September 30, 2018	September 30, 2017
Assets		
Current Assets		
Cash and cash equivalents	\$ 616,933	\$ 921,731
Long-term Investments	2,054,579	1,954,735
Short-term Investments	551,004	536,487
Accounts Receivable	130,558	70,089
Inventory	15,621	14,632
Prepaid expenses	131,362	80,127
Total Current Assets	3,500,057	3,577,801
Other Assets		
Furniture and fixtures	198,607	186,202
Computer equipment and software	593,292	570,369
Total Property and Equipment before Acc Depr	791,899	756,571
Accumulated Depreciation	(694,166)	(638,227)
Net Property and Equipment	97,733	118,344
Total Assets	\$ 3,597,790	\$ 3,696,145
Liabilities & Net Assets		
Liabilities		
Current Liabilities		
Accounts Payable	\$ 610,262	\$ 458,205
Accrued annual leave	28,154	35,384
Equipment Lease Liability	31,476	47,716
Due to/Due from Affiliates	12,836	23,713
Deferred Revenue	101,935	97,943
Deferred Convention	12,710	9,187
Other	58,096	43,031
Total Current Liabilities	855,469	715,179
Total Liabilities	855,469	715,179
Net Assets, End of Period		
Without Donor Restriction		
Unrestricted Net Assets	1,641,445	1,624,645
Board Designated		
Chapter Assistance	25,455	36,204
Sections & Divisions	662,711	886,651
BOD Desig Operational Reserve	350,000	350,000
Capital Expenditures Reserve	51,060	63,466
Future Activity Reserve	11,650	20,000
Total Board Designated	1,100,876	1,356,321
Total Without Donor Restriction	2,742,321	2,980,966
Total Net Assets, End of Period	2,742,321	2,980,966
Total Liabilities & Net Assets	\$ 3,597,790	\$ 3,696,145

These financial statements were prepared by Tate & Tryon, CPAs. The statements were not subject to an audit, or other assurance services. Management has elected to omit the statement of cash flows and substantially all required disclosures.

Federal Bar Association
Statement of Activities
For the Twelve Months Ending September 30, 2018

	Year To Date 09/30/2018	Prior Year To Date 09/30/2017	Year Ending 09/30/2018 Budget	% of Budget
Support and Revenue				
National Dues	\$ 1,784,657	\$ 2,125,637	\$ 2,189,500	82 %
Sustaining Dues	607,829	758,044	774,000	79 %
Section/Division Dues	183,970	212,854	210,000	88 %
Conferences	1,114,913	1,066,681	1,074,500	104 %
Co-sponsored Conferences	50,000	50,000	50,000	100 %
Section/Division Activities	87,426	108,927	90,000	97 %
Administrative and other revenues (Schedule I)	413,561	406,881	370,800	112 %
In-Kind Contribution Revenue	390,075	390,075	390,075	100 %
Total Support and Revenue	<u>4,632,431</u>	<u>5,119,099</u>	<u>5,148,875</u>	<u>90 %</u>
Expenses				
(8) Activity Expenses (Schedule II)	2,740,696	2,714,321	2,820,300	97 %
(9) General and overhead expenses (Schedule III)	2,199,358	2,183,487	2,390,575	92 %
Total Expenses	<u>4,940,054</u>	<u>4,897,808</u>	<u>5,210,875</u>	<u>95 %</u>
Change in Net Assets before Other Income (Expenses)	<u>(307,623)</u>	<u>221,291</u>	<u>(62,000)</u>	<u>496 %</u>
Other Income (Expense)				
Unrealized Gain/(Loss) on Investments	(1,767)	90,541		
Realized Gain/ (Loss) on Investments	70,746	21,726		
Total Other Income (Expense)	<u>68,979</u>	<u>112,267</u>		
Total Change in Net Assets	<u>(238,644)</u>	<u>333,558</u>		
Net Assets, Beginning of Period	<u>2,980,966</u>	<u>2,647,408</u>		
Net Assets, End of Period	<u>\$ 2,742,322</u>	<u>\$ 2,980,966</u>		

These financial statements were prepared by Tate & Tryon, CPAs. The statements were not subject to an audit, or other assurance services. Management has elected to omit the statement of cash flows and substantially all required disclosures.

Federal Bar Association
SCHEDULE OF ADMINISTRATIVE AND OTHER REVENUES
 Schedule I
 For the Twelve Months Ended September 30, 2018

	Year To Date 09/30/2018 <u>Actual</u>	Prior Year To Date 09/30/2017 <u>Actual</u>	Year Ending 09/30/2018 <u>Budget</u>	<u>% of Budget</u>
Administrative and other revenues (Schedule I)				
Administrative Fees (FBBC)	\$ 21,000	\$ 0	\$ 21,000	100 %
Administrative Fees (FFBA)	29,300	28,500	29,300	100 %
Administrative Fees (Sections & Divisions)	85,912	85,936	86,000	100 %
Interest/Investment Income	55,608	48,196	0	0 %
FBA Need an Attorney	12,820	17,075	18,000	71 %
The Federal Lawyer & Publications	23,075	19,932	20,000	115 %
Royalty Income	2,457	6,764	5,500	45 %
Job Board	4,995	5,110	4,500	111 %
Webinars	164,975	177,427	175,000	94 %
List Sales	1,662	1,214	1,500	111 %
Miscellaneous Income	11,757	16,727	10,000	118 %
Total Administrative and other revenues	\$ 413,561	\$ 406,881	\$ 370,800	112 %

These financial statements were prepared by Tate & Tryon, CPAs. The statements were not subject to an audit, or other assurance services. Management has elected to omit the statement of cash flows and substantially all required disclosures.

Federal Bar Association
SCHEDULE OF ACTIVITY EXPENSES
 Schedule II
 For the Twelve Months Ended September 30, 2018

	Year To Date 09/30/2018	Prior Year To Date 09/30/2017	Year Ending 09/30/2018	Budget	% of Budget
(8) Activity Expenses (Schedule II)					
Administrative Expenses					
President & BOD	\$ 179,211	\$ 156,111	\$ 180,000		100 %
National Council	7,219	10,671	8,000		90 %
Circuit Vice Presidents	24,321	28,708	45,500		53 %
NC Appointees	9,387	6,470	8,000		117 %
Past Presidents	7,687	9,187	9,000		85 %
Gov. Committees & Board	1,939	1,098	1,000		194 %
National Elections	4,284	13,240	12,000		36 %
Government Relations	100,786	76,028	106,000		95 %
Chapter Delegate	24,271	37,824	42,500		57 %
Chapter Leadership Training	75,390	81,897	91,000		83 %
Chapter Activity Fund	10,750	11,550	20,000		54 %
Chapter Rebates	458,299	518,135	533,500		86 %
Chapter Services	14,870	8,359	15,000		99 %
Membership Services	87,402	96,860	85,000		103 %
Membership Programs	7,914	16,941	24,000		33 %
The Federal Lawyer & Publications	259,369	289,784	292,000		89 %
FBA Conferences	1,072,948	890,854	934,800		115 %
Membership Marketing	10,241	17,692	18,000		57 %
Meetings Marketing	8,480	14,685	15,000		57 %
Webinar CLE Fees	11,805	14,735	15,000		79 %
Subtotal Administrative Expenses	<u>2,376,573</u>	<u>2,300,829</u>	<u>2,455,300</u>		<u>97 %</u>
Section & Division					
Section and Divisions	315,754	355,104	300,000		105 %
FBA Funded Divisions	45,337	52,446	55,000		82 %
Section Council	3,032	4,340	5,000		61 %
Section Activity Fund	0	1,602	5,000		0 %
Total Section & Division	<u>364,123</u>	<u>413,492</u>	<u>365,000</u>		<u>100 %</u>
(8) Activity Expenses (Schedule II)	<u><u>\$ 2,740,696</u></u>	<u><u>\$ 2,714,321</u></u>	<u><u>\$ 2,820,300</u></u>		<u><u>97 %</u></u>

These financial statements were prepared by Tate & Tryon, CPAs. The statements were not subject to an audit, or other assurance services. Management has elected to omit the statement of cash flows and substantially all required disclosures.

Federal Bar Association
SCHEDULE OF ADMINISTRATIVE EXPENSES
Schedule III
For the Twelve Months Ended September 30, 2018

	Year To Date 09/30/2018	Prior Year To Date 09/30/2017	Year Ending 09/30/2018 Budget	% of Budget
(9) General and overhead expenses (Schedule III)				
Salaries	\$ 959,162	\$ 954,953	\$ 1,040,000	92 %
Payroll taxes	78,942	80,390	86,000	92 %
Employee Insurance	81,539	91,581	95,000	86 %
Employee Retirement	33,956	40,695	42,000	81 %
Employee Training	9,089	6,115	10,000	91 %
Dues and subscriptions	3,712	5,004	5,000	74 %
Rent	450,075	450,075	450,075	100 %
Insurance	14,454	18,440	16,500	88 %
Leased Equipment	17,643	19,544	22,000	80 %
Repairs and maintenance	738	877	1,000	74 %
Computer/Internet Services	130,857	138,575	192,000	68 %
Depreciation-Furniture & Fixtures	3,314	5,981	3,500	95 %
Depreciation-Computer Equipment	52,624	56,155	50,500	104 %
Personal property taxes	4,694	4,396	4,500	104 %
Professional fees	17,771	16,169	16,500	108 %
Other Office Expense	50,896	57,765	60,000	85 %
Management Travel	4,432	3,607	6,500	68 %
Telephone	24,357	24,916	25,000	97 %
Supplies	9,929	19,605	6,000	165 %
Postage	1,509	0	3,500	43 %
Outsourced Services	242,805	176,781	240,000	101 %
Miscellaneous Expense	6,860	11,864	15,000	46 %
(9) General and overhead expenses (Schedule III)	<u>\$ 2,199,358</u>	<u>\$ 2,183,488</u>	<u>\$ 2,390,575</u>	<u>92 %</u>

These financial statements were prepared by Tate & Tryon, CPAs. The statements were not subject to an audit, or other assurance services. Management has elected to omit the statement of cash flows and substantially all required disclosures.

Federal Bar Association
Statement of Financial Position
As of January 31, 2019

	January 31, 2019	January 31, 2018
Assets		
Current Assets		
Cash and cash equivalents	\$ 423,190	\$ 648,172
Investments	2,555,586	2,602,273
Accounts Receivable	87,156	68,362
Inventory	16,490	14,631
Prepaid expenses	117,958	67,628
Total Current Assets	3,200,380	3,401,066
Other Assets		
Furniture and fixtures	198,608	186,201
Computer equipment and software	659,847	570,562
Total Property and Equipment before Acc Depr	858,455	756,763
Accumulated Depreciation	(710,435)	(657,362)
Net Property and Equipment	148,020	99,401
Total Assets	\$ 3,348,400	\$ 3,500,467
Liabilities & Net Assets		
Liabilities		
Current Liabilities		
Accounts Payable	\$ 235,127	\$ 69,490
Accrued annual leave	35,439	31,548
Equipment Lease Liability	27,557	42,253
Due to/Due from Affiliates	(1,728)	1,976
Deferred Revenue	107,894	106,348
Deferred Convention	12,000	6,588
Other	49,127	48,517
Total Current Liabilities	465,416	306,720
Total Liabilities	465,416	306,720
Net Assets		
Without Donor Restriction		
Unrestricted Net Assets	1,704,780	1,910,356
Board Designated		
Chapter Assistance	25,454	36,205
Sections & Divisions	740,039	813,720
BOD Desig Operational Reserve	350,000	350,000
Capital Expenditures Reserve	51,061	63,466
Future Activity Reserve	11,650	20,000
Total Board Designated	1,178,204	1,283,391
Total Without Donor Restriction	2,882,984	3,193,747
Total Net Assets	2,882,984	3,193,747
Total Liabilities & Net Assets	\$ 3,348,400	\$ 3,500,467

These financial statements were prepared by Tate & Tryon, CPAs. The statements were not subject to an audit, or other assurance services. Management has elected to omit the statement of cash flows and substantially all required disclosures.

**Federal Bar Association
Statement of Activities
For the Four Months Ended January 31, 2019**

	Year To Date 01/31/2019	Prior Year To Date 01/31/2018	Year Ending 09/30/2019 Budget	% of Budget
Support and Revenue				
National Dues	\$ 687,410	\$ 565,908	\$ 2,175,000	32 %
Sustaining Dues	222,162	192,149	705,000	32 %
Section/Division Dues	66,545	57,440	215,000	31 %
Conferences	238,605	210,567	1,300,000	18 %
Co-sponsored Conferences	0	0	50,000	0 %
Section/Division Activities	44,420	36,524	65,000	68 %
Administrative and other revenues (Schedule I)	117,618	154,642	381,288	31 %
In-Kind Contribution Revenue	130,025	130,025	390,075	33 %
Total Support and Revenue	<u>1,506,785</u>	<u>1,347,255</u>	<u>5,281,363</u>	<u>29 %</u>
Expenses				
(8) Activity Expenses (Schedule II)	541,235	502,855	2,895,788	19 %
(9) General and overhead expenses (Schedule III)	747,943	724,277	2,385,575	31 %
Total Expenses	<u>1,289,178</u>	<u>1,227,132</u>	<u>5,281,363</u>	<u>24 %</u>
Change in Net Assets before Other Income (Expenses)	<u>217,607</u>	<u>120,123</u>	<u>0</u>	<u>0 %</u>
Other Income (Expense)				
Unrealized Gain/(Loss) on Investments	(76,945)	90,545		
Realized Gain/ (Loss) on Investments	0	2,114		
Total Other Income (Expense)	<u>(76,945)</u>	<u>92,659</u>		
Total Change in Net Assets	<u>140,662</u>	<u>212,782</u>		
Net Assets, Beginning of Period	<u>2,742,322</u>	<u>2,980,966</u>		
Net Assets, End of Period	<u>\$ 2,882,984</u>	<u>\$ 3,193,747</u>		

These financial statements were prepared by Tate & Tryon, CPAs. The statements were not subject to an audit, or other assurance services. Management has elected to omit the statement of cash flows and substantially all required disclosures.

Federal Bar Association
SCHEDULE OF ADMINISTRATIVE AND OTHER REVENUES
 Schedule I
 For the Four Months Ended January 31, 2019

	Year To Date 01/31/2019 <u>Actual</u>	Prior Year To Date 01/31/2018 <u>Actual</u>	Year Ending 09/30/2019 <u>Budget</u>	<u>% of Budget</u>
Administrative and other revenues (Schedule I)				
Administrative Fees (FBBC)	\$ 9,333	\$ 0	\$ 28,000	33 %
Administrative Fees (FFBA)	18,334	9,767	55,000	33 %
Administrative Fees (Sections & Divisions)	41,894	85,912	83,788	50 %
Interest/Investment Income	30,309	21,761	0	0 %
FBA Need an Attorney	1,775	3,700	15,000	12 %
The Federal Lawyer & Publications	2,972	8,582	15,000	20 %
Royalty Income	122	1,193	3,000	4 %
Job Board	766	947	5,000	15 %
Webinars	8,838	20,480	165,000	5 %
List Sales	378	192	1,500	25 %
Miscellaneous Income	2,897	2,108	10,000	29 %
Total Administrative and other revenues	\$ 117,618	\$ 154,642	\$ 381,288	31 %

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Federal Bar Association
SCHEDULE OF ACTIVITY EXPENSES
 Schedule II
 For the Four Months Ended January 31, 2019

	Year To Date 01/31/2019	Prior Year To Date 01/31/2018	Year Ending 09/30/2019 Budget	% of Budget
(8) Activity Expenses (Schedule II)				
Administrative Expenses				
President & BOD	\$ 20,198	\$ 5,741	\$ 225,000	9 %
National Council	654	0	20,000	3 %
Circuit Vice Presidents	146	1,102	50,000	0 %
NC Appointees	0	0	7,500	0 %
Past Presidents	351	0	8,000	4 %
Gov. Committees & Board	40	283	1,000	4 %
National Elections	0	2,989	12,000	0 %
Government Relations	43,268	34,706	112,500	38 %
Chapter Delegate	0	0	42,888	0 %
Chapter Leadership Training	3,613	0	104,000	3 %
Chapter Activity Fund	3,250	0	20,000	16 %
Chapter Rebates	119,718	118,199	518,400	23 %
Chapter Services	1,145	4,926	12,500	9 %
Membership Services	26,891	20,235	90,000	30 %
Membership Programs	67	6,063	12,500	1 %
The Federal Lawyer & Publications	68,733	48,244	190,000	36 %
FBA Conferences	143,144	75,330	1,082,000	13 %
Membership Marketing	4,412	1,140	12,500	35 %
Meetings Marketing	1,850	3,245	12,500	15 %
Webinar CLE Fees	2,368	3,743	15,000	16 %
Subtotal Administrative Expenses	<u>439,848</u>	<u>325,946</u>	<u>2,548,288</u>	<u>17 %</u>
Section & Division				
Section and Divisions	95,958	175,378	280,000	34 %
FBA Funded Divisions	4,584	1,415	57,500	8 %
Section Council	844	116	5,000	17 %
Section Activity Fund	0	0	5,000	0 %
Total Section & Division	<u>101,386</u>	<u>176,909</u>	<u>347,500</u>	<u>29 %</u>
(8) Activity Expenses (Schedule II)	<u><u>\$ 541,234</u></u>	<u><u>\$ 502,855</u></u>	<u><u>\$ 2,895,788</u></u>	<u><u>19 %</u></u>

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Federal Bar Association
SCHEDULE OF ADMINISTRATIVE EXPENSES
 Schedule III
 For the Four Months Ended January 31, 2019

	Year To Date 01/31/2019	Prior Year To Date 01/31/2018	Year Ending 09/30/2019 Budget	% of Budget
(9) General and overhead expenses (Schedule III)				
Salaries	\$ 352,834	\$ 357,477	\$ 1,060,000	33 %
Payroll taxes	28,174	29,679	85,000	33 %
Employee Insurance	23,899	30,190	95,000	25 %
Employee Retirement	12,740	11,771	36,500	35 %
Employee Training	2,492	4,426	12,750	20 %
Dues and subscriptions	344	209	5,000	7 %
Rent	150,025	140,025	450,075	33 %
Insurance	5,843	5,011	19,000	31 %
Leased Equipment	6,182	4,587	20,000	31 %
Repairs and maintenance	246	246	1,000	25 %
Computer/Internet Services	29,321	23,725	100,000	29 %
Depreciation-Furniture & Fixtures	413	1,994	1,250	33 %
Depreciation-Computer Equipment	15,857	17,141	85,000	19 %
Personal property taxes	1,038	1,579	5,000	21 %
Professional fees	9,900	6,200	18,000	55 %
Other Office Expense	16,727	13,872	60,000	28 %
Management Travel	4,503	3,085	10,000	45 %
Telephone	8,664	6,002	25,000	35 %
Supplies	1,223	3,257	7,500	16 %
Postage	1,827	0	2,500	73 %
Outsourced Services	72,348	60,367	275,000	26 %
Miscellaneous Expense	3,343	3,434	12,000	28 %
(9) General and overhead expenses (Schedule III)	<u>\$ 747,943</u>	<u>\$ 724,277</u>	<u>\$ 2,385,575</u>	<u>31 %</u>

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TAB D

Report from the President of the Foundation



Foundation of the Federal Bar Association

Chartered by Act of Congress, August 24, 1954

Foundation Grants

The Foundation Board of Directors approved the following grants for 2019:

- **Diversity Grant**

South Florida Chapter – Black Precinct Courthouse and Museum Program and Subsidized Dues for Affinity Bar Association Members

The Diversity, Equality, and Inclusion Committee of the South Florida Chapter of the Federal Bar Association received a grant to hold a guided tour and catered reception at the historical Black Precinct Courthouse and Museum in Miami, Florida. The chapter will also work to increase diversity, equality, and inclusiveness amongst its membership by offering introductory/limited-time subsidized FBA membership dues for members of affinity bar associations.

- **Chapter Community Outreach Grant**

Vermont Chapter – Vermont Trial Competition for Underserved High Schools

Rural Vermont high school students typically have little interaction with courts and trial processes. The Vermont Chapter teamed up in 2018 with the chief judge of the U.S. District Court to develop and build a nascent high school mock trial competition. It allows several schools, traditionally “underserved,” to create a trial team and to work on a real-life trial program, and to then compete against other schools in a competition (April 2019).

The next round of applications will be due June 15.

Robert A. McNew Law Student Scholarship

The 2019 Robert A. McNew Law Student Scholarship was awarded to Kiera Murphy, a third-year law student at University of St. Thomas School of Law in Minneapolis, Minn.

Kiera spearheaded the creation of the FBA student chapter at the University of St. Thomas School of Law. While serving as chapter president she has created presentations and experiences to educate fellow classmates on criminal justice issues, including covering culpability in sentencing human trafficking convicts and arranging for a group of first-year law students to observe a federal judge’s reentry court proceedings.

Kiera’s ultimate career goal is to become a federal prosecutor. Kiera served with the U.S. District Court for the District of Minnesota as judicial extern for Senior Judge Paul Magnuson, and most recently she completed a legal externship with the U.S. Attorney’s Office, District of Minnesota. Kiera was a first- and second-year summer associate with Faegre Baker Daniels LLP in Minneapolis and also interned with the legal departments of Target, Inc., and Hormel Foods Corp.

Kiera’s excellent academic record includes three semesters on the Dean’s List and two Dean’s Awards. She is active with the Minnesota Asian Pacific American Bar Association and volunteered to work on a pro bono case with the Tubman Safety Project in Minneapolis.

In her personal essay, Kiera described an assignment that showed her the importance of practicing criminal law. During her externship with Judge Magnuson’s chambers, she reviewed a habeas corpus petition and drafted a judicial order about a case involving a convicted child molester. “On one hand, it was difficult to read about a man who had been convicted of molesting a child. On the other hand, he deserved the same due process as any other person. This assignment motivated me to learn more about criminal law.

“As an extern with the U.S. Attorney’s Office, I have the privilege of working with some of the smartest and most talented lawyers in the Minnesota legal community. This experience further highlights the human impact of criminal law. As a prosecutor, every decision has direct consequences for a human being.”

UPCOMING GRANTS

Kintner Public Service Scholarship

The \$5,000 Public Service Scholarship is awarded to one high school senior each spring. A notice and application was prepared and sent in February to all public sector members and to the general counsels of government agencies. Notices will be included in several FBA e-news editions. At least one of the parents (or guardians) of the student must be a current federal government attorney or federal judge and member in good standing of the FBA. If a non-member joins the FBA prior to the application deadline of April 30, his or her child will be eligible for the scholarship.

Fellows Update

As of February 13, we have 252 Fellows of the Foundation. Invitations have been sent to 26 eligible FBA members who were nominated by members of the Foundation Board of Directors. The 2019 Annual Fellows Dinner is scheduled for Saturday, March 23, at Ruth’s Chris Steak House in Arlington, VA.

Annual Giving Tuesday Campaign

Staff continued the annual Giving Tuesday campaign, which focused on reaching out to chapter and national leaders. An email blast was sent the Tuesday following Thanksgiving.

Hurricane Disaster Fund Update

Bay Area Legal Services of Tampa received \$16,658 to provide disaster relief services to hurricane Irma and Maria victims in the five-county region of Hillsborough, Pasco, Pinellas, Manatee, and Sarasota counties. From Nov. 1, 2017, through Oct. 31, 2018, a total of 93 cases were closed by BALS staff attorneys, and 14 additional clients were advised by pro bono attorneys regarding FEMA rights and appeals, housing and insurance, consumer-related matters, and disaster relief-related matters. As of Jan 4, 2019, BALS had secured a total of \$16,222.60 in FEMA award benefits to its clients and \$13,143.75 in insurance proceeds for disaster victims.

Moot Court Sponsorship

The Foundation continues its sponsorship of the 25th Annual Thurgood Marshall Moot Court Competition for 2019.

Foundation of the Fed Bar Association
Statement of Financial Position
As of December 31, 2018

	December 31, 2018	December 31, 2017
Assets		
Current Assets		
Cash and cash equivalents	\$ 37,927	\$ 63,408
Investments	885,960	973,292
Promises to give	5,180	53,492
Due to/Due from Affiliates	15,794	2,189
Total Current Assets	944,861	1,092,381
Other Assets		
Computer equipment and software	5,700	0
Promises to Give, Long-Term Net	39,082	4,796
Total Other Assets	44,782	4,796
Total Assets	\$ 989,643	\$ 1,097,177
Liabilities & Net Assets		
Liabilities		
Current Liabilities		
Accounts Payable	\$ 1,000	\$ 0
Total Current Liabilities	1,000	0
Total Liabilities	1,000	0
Net Assets, End of Period		
Without Donor Restriction	774,071	875,936
With Donor Restriction	214,572	221,241
Total Net Assets, End of Period	988,643	1,097,177
Total Liabilities & Net Assets	\$ 989,643	\$ 1,097,177

These financial statements were prepared by Tate & Tryon, CPAs. The statements were not subject to an audit, or other assurance services. Management has elected to omit the statement of cash flows and substantially all required disclosures.

Foundation of the Fed Bar Association
 Statements of Activities and Changes in Net Assets
 For the Three Months Ended December 31, 2018

	FY2019 YTD	FY2018 YTD	FY2019 Budget	Percent of Budget
Grants and Contributions				
Fellows' Contributions	\$ 1,820	\$ 300	\$ 22,500	8 %
Voluntary Contributions	26,901	12,646	75,000	36 %
Other Grants and Contributions	150	3,086	71,000	0 %
Total Grants and Contributions	<u>28,871</u>	<u>16,032</u>	<u>168,500</u>	<u>17 %</u>
Support and Revenue				
Fellows Dinner	0	0	10,750	0 %
Interest Earned	13,250	13,836	26,000	51 %
Miscellaneous Revenue	1,250	0	0	0 %
Total Support and Revenue	<u>43,371</u>	<u>29,868</u>	<u>205,250</u>	<u>21 %</u>
Expenses				
Program				
Grants and Awards	2,698	17,109	170,500	2 %
Fellows Dinner	0	0	10,000	0 %
Travel	0	0	2,500	0 %
Program Expenses	0	0	1,500	0 %
Total Program	<u>2,698</u>	<u>17,109</u>	<u>184,500</u>	<u>1 %</u>
Management and Support				
Administrative Fees	13,750	3,575	55,000	25 %
Insurance	0	0	984	0 %
Board Expense	0	0	4,000	0 %
Office Expense	196	71	1,500	13 %
Postage	372	583	1,500	25 %
Professional Fees	2,749	6,325	7,500	37 %
Miscellaneous Expense	1,277	1,321	7,500	17 %
Total Management and Support	<u>18,344</u>	<u>11,875</u>	<u>77,984</u>	<u>24 %</u>
Total Expenses	<u>21,042</u>	<u>28,984</u>	<u>262,484</u>	<u>8 %</u>
Total Change in Net Assets before Other In- come (Expenses)	<u>22,329</u>	<u>884</u>	<u>(57,234)</u>	<u>(39) %</u>
Other Income (Expense)				
Unrealized Gain/(Loss) on Investments	(111,877)	24,126		
Total Other Income (Expense)	<u>(111,877)</u>	<u>24,126</u>		
Total Change in Net Assets	(89,548)	25,010		
Net Assets, Beginning of Period	1,078,192	1,072,167		
Net Assets, End of Period	<u>\$ 988,643</u>	<u>\$ 1,097,177</u>		

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THE FOUNDATION OF THE FEDERAL BAR ASSOCIATION
Schedule of Fund Activity
For the Three Months Ended December 31, 2018

	Unrestricted		Temporarily Restricted							Total	
	Operating Fund	Foundation Corpus	Fellow LT	Minnesota Donor Advised Fund	Michael Shaw Public Service Award Fund	Boots Fisher Memorial Fund	Judicial Research & Education Fund	Moot Court Competition Fund	John T. Stewart, Jr. Scholarship Fund		Hurricane Disaster Fund
Support and Revenue:											
Grants and Contributions:											
Voluntary Contributions	\$ 26,901	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	26,901
Fellows program	-	1,820	-	-	-	-	-	-	-	-	1,820
Fellows Dinner	-	-	-	-	-	-	-	-	-	-	-
Other Grants and Contributions	-	-	-	-	-	-	-	-	-	150	150
Silent Auction	-	-	-	-	-	-	-	-	-	-	-
Memoriams and Remembrances	-	-	-	-	-	-	-	-	-	-	-
Miscellaneous income	1,250	-	-	-	-	-	-	-	-	-	1,250
Unrealized Gain/(Loss) on Inv.	(111,877)	-	-	-	-	-	-	-	-	-	(111,877)
Realized Gain/ (Loss) on Inv.	-	-	-	-	-	-	-	-	-	-	-
Interest Income	3,645	7,302	-	108	102	292	1,592	160	49	-	13,250
Total Support and Revenue	(80,081)	9,122	-	108	102	292	1,592	160	49	150	(68,506)
Expenses:											
Fellows Dinner Expense	-	-	-	-	-	-	-	-	-	-	-
Travel	-	-	-	-	-	-	-	-	-	-	-
Program Expenses	-	-	-	-	-	-	-	-	-	-	-
Board Meeting Expense	-	-	-	-	-	-	-	-	-	-	-
Grants	-	-	-	-	-	1,000	-	-	-	1,698	2,698
Administrative Costs	13,750	-	-	-	-	-	-	-	-	-	13,750
Insurance	-	-	-	-	-	-	-	-	-	-	-
Postage and Mailing Expense	372	-	-	-	-	-	-	-	-	-	372
Professional Fees	2,749	-	-	-	-	-	-	-	-	-	2,749
Supplies	196	-	-	-	-	-	-	-	-	-	196
Miscellaneous Expense	1,277	-	-	-	-	-	-	-	-	-	1,277
Total Expenses	18,344	-	-	-	-	1,000	-	-	-	1,698	21,042
Change in Net Assets	(98,425)	9,122	-	108	102	(708)	1,592	160	49	(1,548)	(89,548)
Net Assets, Beginning of Year	279,042	594,178	6,631	8,787	8,302	23,795	129,577	12,980	3,961	1,548	1,078,192
Net Assets, End of Period	\$ 180,617	\$ 603,300	\$ 6,631	\$ 8,895	\$ 8,404	\$ 23,087	\$ 131,169	\$ 13,140	\$ 4,010	\$ -	\$ 988,643

TAB E

Report from the Chair of the Government
Relations Committee



Federal Bar Association

February 19, 2019

TO: FBA National Council

FROM: Government Relations Committee
Rachel Rose, Chair; and Bruce Moyer, Counsel

SUBJ: Update on Legislative and Public Policy Developments

Draft Policy 1-15: Advocacy of Public Policy Positions by FBA Entities. The Government Relations Committee (GRC) assisted in the development of this draft policy, which explains the processes established by the FBA Constitution, Bylaws and Board of Directors for the advocacy of public policy positions by FBA entities, including divisions, sections and chapters. More information, including a webinar on the draft policy, is available on the FBA website. Comments on the proposed policy from interested entities may be sent to the GRC through Friday, March 1, 2019.

FBA Capitol Hill Day, March 21, 2018. Registration is now open on the FBA website for Capitol Hill Day on March 21. FBA leaders from across the country will meet with House and Senate offices to discuss FBA legislative issues that impact the administration of justice and the federal courts. FBA participants will discuss: adequate funding for the federal courts, filling judicial vacancies, additional judgeships and the establishment of an Article I immigration Court.

2020 Issues Agenda. The Federal Bar Association annually updates its Issues Agenda and invites members, chapters, sections and divisions to nominate issues for addition to the Agenda. The deadline for Issues Agenda nominations is Friday, March 29, 2019. Further information is available on the FBA website.

FBA Statements on the Rule of Law and Judicial Independence. Over the past two years, the Federal Bar Association has issued three public statements reflecting the organization's respect for the Rule of Law and the independence of the Federal Judiciary. Each FBA statement responded to controversies about the Federal Judiciary that arose during the 2016 presidential campaign or since then. More recently, the Association issued a statement on the impact of the partial government shutdown and its impact on the federal courts and the administration of justice. These statements, drafted by the Government Relations Committee and adopted by the Board of Directors, reflect the core values of the Federal Bar Association and its respect for our courts and constitutional democracy.

The statements are posted on the FBA website and were republished in the December issue of the *Federal Lawyer*. They continue to remain important for their relevancy and responsiveness to ongoing national developments.

FBA Comments on Proposed Changes to the Judicial Code of Conduct and Related Rules. FBA President Maria Vathis, in a November 9, 2018 letter to the Judicial Conference of the United States, provided the Association’s comments on proposed changes to the Code of Conduct for U.S. Judges and the Judicial Conduct and Disability Rules. The GRC assisted in the preparation of the comments. The proposed changes are an outgrowth of the recommendations contained in the June 1, 2018 report of the Federal Judiciary Workplace Conduct Working Group, aimed at the prevention and elimination of inappropriate conduct, including harassment, in the Judicial Branch workplace.

Monitoring of Federal Rules Amendments. The Government Relations Committee continues to monitor and report on the work of the Judicial Conference of the United States’ Standing Committee on Rules of Practice and Procedure. FBA member Ben Robinson serves as the FBA’s observer to the quarterly meetings of the Standing Committee and its committees. With the assistance of the GRC, the FBA Section on Bankruptcy Law filed comments on February 19, 2019 with the Judicial Conference Advisory Committee on Bankruptcy Rules Bankruptcy regarding proposed changes to B a n k r u p t c y Rules 2002(f), 2004(c), and 8012. The comments are posted on the FBA website.

Modernization of the Congressional Charter of the FBA Foundation. We anticipate the reintroduction of legislation to amend the Congressional Charter of the Foundation of the Federal Bar Association. The legislation, supported by Rep. Jamie Raskin (D-MD) and Rep. Steve Chabot (R-OH), will provide amend the Foundation’s Congressional Charter to improve the governance and management structures of the Foundation. In the last Congress, the House passed the “Foundation of the Federal Bar Association Charter Amendments Act of 2017” (HR 4100), but the measure awaited Senate approval as the session ended.

Article I Immigration Court Legislation. The GRC and Immigration Section leaders are continuing efforts on Capitol Hill to bring about the introduction of FBA-drafted model legislation to transfer of responsibilities for the adjudication of immigration claims from the Executive Office of Immigration Review within the Department of Justice to a specialized Article I court, as established by Congress for the adjudication of claims under the Immigration and Naturalization Act. The legislation has received the support of a number of legal and immigration groups. More information about the proposal may be found on the FBA website.

POWER Act. The POWER Act, which became law last year, requires the chief judge in each federal judicial district to annually host a public event promoting pro bono legal services assisting survivors of domestic violence, dating violence, sexual assault and similar matters. Some FBA chapters may be interested in offering support to their judiciary in collaboration with pro bono legal service providers.

TAB F

Report from the Chair of the Constitution,
Bylaws, Rules, and Resolutions
Committee

REPORT OF THE CONSTITUTION, BYLAWS, RULES, AND RESOLUTIONS COMMITTEE

February 13, 2018

Committee Members:

Warren P. Burke, Chair
Anh Le Kremer, General Counsel
Sherri Marie Carr
Geoffrey T. Cheshire
Calvert G. Chipchase
Robert S. Clark
Kristin M. Kimmelman
Patricia T. Paul
Thomas H. Segars
Elizabeth G. Smith
Paul S. Vamvas
Michael S. Vitale

ISSUE:

The Constitution, Bylaws, Rules, and Resolutions Committee (the “Committee”) is reporting to the National Council on a proposal to amend Bylaw 14(A), with a recommendation that the National Council approve the amendments.

EXPLANATION:

Bylaw 14(A) prescribes the process for proposing amendments to the Association’s Constitution or Bylaws. All proposals to amend the Constitution or Bylaws, except for proposals for annual dues changes, must be directed or referred to the Committee for its recommendations. The Committee must “consider all such proposed amendments and [must] report on them to the members of the Board of Directors sufficiently in advance of the meeting of the National Council at which any proposed change is to be considered to allow the Board of Directors to consider and express its approval or disapproval of the proposed change; and to the National Council or membership, as appropriate, on or before the dates on which notice must be provided of the next meeting of the National Council or annual meeting of the membership at which such proposed amendments may be acted upon.” The Committee must include in its report “recommendations as to whether the proposed amendment conflicts with provisions of the Constitution and other Bylaws, and if so, in what form or with what related changes to the Constitution or these Bylaws as may be necessary and appropriate.”

There is consensus among the members of the Committee that the process prescribed by Bylaw 14(A) should be clarified and made more transparent in several respects. At the Committee's request, Committee member Robert Clark submitted a formal proposal to amend Bylaw 14(A) to accomplish this goal. On November 30, 2018, the Committee met by phone to discuss the proposal. Based on the discussion, Mr. Clark agreed to revise the proposal. On December 11, 2018, the Committee by email unanimously agreed to report the revised proposal to the Board of Directors with a recommendation that the Board express approval.

First, the proposed amendment to Bylaw 14(A) would require the Committee to publish on the Association's website reasonable minimum guidelines for the content and manner of submission of all proposals or petitions to amend the Constitution or Bylaws. Such guidelines would ensure that Association members have clear direction on what to include in a proposal or petition and how to make the submission. The Committee has already posted voluntary guidance along these lines on the Committee's webpage. The voluntary guidance states that proposals and petitions should be submitted in writing to the FBA Executive Director for transmittal to the Committee, should include the text of the proposed changes to the Constitution or Bylaws and the text of any provision in the Constitution or Bylaws to be repealed or amended, and should include a summary of the arguments for and against adoption of such proposal or petition.

Further, the proposed amendment to Bylaw 14(A) would authorize the Committee to return a proposal or petition that does not satisfy the posted guidelines to the person submitting it without being considered by the Committee. In such case, the proposed amendment would require the Committee to include a written explanation of why the proposal does not meet the guidelines. The proposed process is intended to supplement the clarification and transparency provided by the guidance by ensuring that the Committee works with submitters (through explanation) to ensure that proposals and petitions clearly present the issues involved and the proposed new policy.

The Committee is not aware of any arguments having been made against this proposal.

On December 11, 2018, the Committee submitted its report and recommendation to the Board of Directors to request the Board's approval of the proposed amendments to the Bylaws. On January 31, 2019, the Board of Directors voted unanimously to recommend the approval of the proposed amendments and did not recommend any revisions.

The Committee respectfully recommends that the National Council approve the following amendments to the Bylaws.

TEXT OF PROPOSED CHANGES (new text in red):

14. Amendments to the Constitution and the Bylaws

A. Proposal and Study of Amendments. All proposals or petitions to amend (including repeal) provisions of the Constitution under Article XIX thereof, or these Bylaws under Bylaw 14C., except for annual dues changes proposed by the Board of Directors, shall be directed or referred to the Constitution, Bylaws, Rules, and Resolutions Committee for its recommendations. All such proposals or petitions shall reach the Committee at least sixty (60) days before the proposed amendments are to be considered for adoption at a National Council meeting or an annual meeting of the membership, as appropriate. **The Constitution, Bylaws, Rules, and Resolutions Committee shall publish on the Association's website reasonable minimum guidelines for the content and manner of submission of such proposals or petitions, and a proposal or petition that does not satisfy such guidelines may be returned to the person submitting it without being considered by the Committee. A returned proposal or petition shall also include a written explanation of why the proposal does not meet such guidelines.** The Constitution, Bylaws, Rules, and Resolutions Committee shall consider ~~all such proposed amendments~~ **all proposed amendments that meet such guidelines** and shall report on them to the members of the Board of Directors sufficiently in advance of the meeting of the National Council at which any proposed change is to be considered to allow the Board of Directors to consider and express its approval or disapproval of the proposed change; and to the National Council or membership, as appropriate, on or before the dates on which notice must be provided of the next meeting of the National Council or annual meeting of the membership at which such proposed amendments may be acted upon. The Committee shall include in its report the recommendation of the Board of Directors and its recommendations as to whether the proposed amendment conflicts with provisions of the Constitution and other Bylaws, and if so, in what form or with what related changes to the Constitution or these Bylaws as may be necessary and appropriate. The provisions of this Bylaw shall not be suspended.