

**State Bar of Michigan
Representative Assembly
April 25, 2020**

SUMMARY OF PROCEEDINGS

The following is a summary of proceedings of the State Bar Representative Assembly session held Saturday, April 25, 2020, via Zoom Meetings.

1. Call to order by Chairman Aaron V. Burrell.
2. Clerk Nicholas Ohanesian declared a quorum (50+ members) was present.
3. Upon a motion made and seconded, the proposed calendar was adopted as amended.
4. As provided in Rule 4.8, the Summary of Proceedings of the September 29, 2019 meeting was deemed approved.
5. Mark W. Jane, Chair of the Nominating and Awards Committee, addressed the Assembly on filling vacancies for the current meeting. Upon a motion made and seconded, Joshua I. Arnkoff (6th Circuit), Melissa Graves (6th Circuit), Charles W. Wojno (6th Circuit), Peter M. Grace (6th Circuit), Sean Siebigteroth (7th Circuit), Sandra Carlson (7th), Agnieska Jury (13th Circuit), William D. Renner (15th Circuit), Angela Medley (16th Circuit), Philip Storm (17th Circuit), Jonathan J. Paasch (17th Circuit), Amber L. Davis-Johnson (18th Circuit), Marla Linderman (22nd Circuit), Toi E. Dennis (22nd Circuit), Patrice Lewis (37th Circuit), Maria L. Hoebeke (40th Circuit), Christopher Komara (42nd Circuit), David Bittner (44th Circuit), Tracie L. Dinehart (51st Circuit), and Adam Strong (56th Circuit) were appointed to fill immediate vacancies within their respective Circuits.
6. Mark W. Jane, Chair of the Nominating & Awards Committee, addressed the Assembly concerning the 2020 Award Nominations. Upon a motion made and seconded, the Assembly unanimously approved the 2020 Award Recipients. The Unsung Hero Award will be presented to Clark Andrews. The Michael Franck Award will be presented to Retired Judge William Buhl.
7. Chairman Aaron V. Burrell addressed the Assembly.
8. Sean Myers, Member of the Representative Assembly, and Bernard A. Jocuns addressed the Assembly for consideration of a proposed amendment to Rule 6.110(C) of the Michigan Court Rules to mirror MCL 766.12 and set forth the protections for criminal defendants. After a discussion and vote, the Representative Assembly supported the proposed amendment:

Conduct of Examination. A verbatim record must be made of the preliminary examination. ~~Each party may subpoena witnesses. The Court shall allow the prosecutor and the defendant to subpoena and call witnesses,~~ offer proofs, and examine and cross-examine

witnesses at the preliminary examination. The court must conduct the examination in accordance with the Michigan Rules of Evidence.

9. Alena M. Clark, representing the Women Lawyers Association of Michigan, addressed the Assembly for consideration of a proposed amendment to the Michigan Code of Judicial Conduct 2(F). After a discussion and vote, the Representative Assembly supported the proposed amendment with the additional comments provided in additional materials:

A judge should not allow activity as a member of an organization to cast doubt on the judge's ability to perform the function of the office in a manner consistent with the Michigan Code of Judicial Conduct, the laws of this state, and the Michigan and United States Constitutions. ~~A judge should be particularly cautious with regard to membership activities that discriminate, or appear to discriminate, on the basis of race, gender, or other protected personal characteristic.~~ **A judge shall not hold membership in any organization that practices invidious discrimination on the basis of religion, race, national origin, ethnicity, sex, gender identity, or sexual orientation.** Nothing in this paragraph should be interpreted to diminish a judge's right to the free exercise of religion.

COMMENTS:

[1] A judge's public manifestation of approval of invidious discrimination on any basis gives rise to the appearance of impropriety and diminishes public confidence in the integrity and impartiality of the judiciary. A judge's membership in an organization that practices invidious discrimination creates the perception that the judge's impartiality is impaired.

[2] An organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation persons who would otherwise be eligible for admission. Whether an organization practices invidious discrimination is a complex question to which judges should be attentive. The answer cannot be determined from a mere examination of an organization's current membership rolls, but rather, depends upon how the organization selects members, as well as other relevant factors, such as whether the organization is dedicated to the preservation of religious, ethnic, or cultural values of legitimate common interest to its members, or whether it is an intimate, purely private organization whose membership limitations could not constitutionally be prohibited.

[3] When a judge learns that an organization to which the judge belongs engages in invidious discrimination, the judge must resign immediately from the organization.

[4] A judge's membership in a religious organization as a lawful exercise of the freedom of religion is not a violation of this Rule.

[5] This Rule does not apply to national or state military service.

10. Adjournment