

# ABA Midyear Meeting In the Land of the Mouse

By Scott M. Karson

American Bar Association members from throughout the United States gathered at Walt Disney World in Orlando, Florida from Feb. 3 – 9, 2010, for the 2010 ABA Midyear Meeting. I had the privilege of attending the meeting as the Suffolk County Bar Association's delegate to the ABA House of Delegates.

The 555 member House of Delegates, which is the policy-making body of the ABA, met for two days during the Midyear Meeting. During its meeting, the House, led by its Chair, William C. Hubbard of South Carolina, considered, debated and voted on a number of significant resolutions. Among them:

The House approved a resolution which dramatically revamped the ABA's dues structure beginning in the 2010-2011 fiscal year. On the basis of an exhaustive dues

pricing study which involved some 9,000 lawyers, the House approved a new dues schedule which will reduce dues by up to 50 percent for solo practitioners and 25 percent for those already receiving discounts; *i.e.*, government lawyers, lawyers employed by not-for-profit legal services programs, and judges. ABA President Carolyn Lamm lauded the action of the House, noting that the changes will attract solo practitioners and boost the ABA's membership rolls.

One of the more controversial matters to come before the House was a resolution sponsored by the New York State Bar Association which, as originally proposed, called upon the ABA to examine efforts by *U.S. News and World Report*, working with Best Lawyers, to publish national, state and local rankings of law firms. The



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original resolution, which was conceived by former NYSBA President A. Vincent Buzard of Rochester, called upon the ABA to examine the methodology used to develop the rankings in order to determine their accuracy and validity, as well as the ethical implications of having law firms turn over information to the ranking organizations. However,

with surprisingly strenuous objection to the original resolution coming from members of the ABA hierarchy, including President Lamm, the House passed a more innocuous resolution which simply calls upon the ABA to examine any efforts to rank law firms and law schools.

In the criminal justice arena, the House passed a number of resolutions addressing juvenile justice; *e.g.*, calling upon federal, state and local governments to limit the collateral consequences of juvenile arrests, adjudications and convictions; and supporting the development of simplified *Miranda* warning language for use with juvenile arrestees.

Other criminal justice proposals approved by the House included a resolution urging the adoption of a procedure whereby a criminal trial court shall conduct, at a reasonable time prior to trial involving felony or serious misdemeanor charges, a conference to ensure the parties' compliance with their respective disclosure obligations; a resolution urging bar associations and law schools to develop initiatives to assist criminal defendants and prisoners in avoiding undue consequences of arrest and conviction on their custodial and parental rights; a resolution urging Congress to eliminate restrictions prohibiting recipients

of Legal Services Corporation funding from providing legal assistance to prisoners on family law issues; a resolution urging adequate funding and support for the forensic science community to enable it to provide accurate, timely, reliable, and scientifically valid evidence to the nation's criminal justice system; and a resolution adopting the black letter of the *ABA Criminal Justice Standards on the Treatment of Prisoners*, dated February 2010, to supplant the *ABA Criminal Justice Standards on the Legal Status of Prisoners*.

Three resolutions sponsored by the National Conference of Commissioners on Uniform State Law were passed by the House: the Uniform Real Property on Death Act, the Uniform Collateral Consequences of Conviction Act, and the Uniform Statutory Trust Entity Act. Each was found to be "an appropriate Act for those states desiring to adopt the specific substantive law suggested therein."

With respect to immigration, the House passed a resolution urging the Department of Homeland Security to implement certain policies and procedures within the immigration removal adjudication system and to amend the Immigration and Nationality Act regarding the removal of non-citizens convicted of certain crimes. Also, the House adopted a resolution aimed at improving immigration courts and the immigration judiciary by increasing the number of immigration judges and the resources available to them, and a further resolution improving the Board of Immigration Appeals. The House also called for the restoration of federal judicial review of immigration decisions, and for the creation of an Article I court with both

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trial and appellate divisions to adjudicate immigration cases.

The House approved a resolution urging Congress to reauthorize and fund the Violence Against Women Act and other legislation promoting access to justice and safety for victims of domestic violence and related crimes.

In addition to debating and voting on the various resolutions which came before the House, the members heard from a number of notable dignitaries, including United States Senator Bill Nelson of Florida, a former astronaut and the only lawyer to have flown to space. Senator Nelson addressed the need for a fair and impartial judiciary and the need for his colleagues in the Senate to exercise comity and civility – not savagery – in the judicial screening process. He called upon lawyers, who are advocates and facilitators to promote the public interest, and to influence politicians to do likewise.

The House was also treated to a discussion on the selection and confirmation process for Supreme Court justices, featuring Chris Eisgruber, the Provost of Princeton University, and author/journalist Dahlia Lithwick. The speakers agreed that there has been an increase in controversy and contentiousness involving the selection of justices, because: (1) the Supreme Court has become more prominent in American political life; (2) Presidents are giving more attention to the ideology of nominees; (3) the character of confirmation hearings have changed because, for example, the nominees must now appear before the Senate Judiciary Committee, which was not always the case; and (4) there has been an increase in political polarization throughout government. As a result, we are seeing an increase in personal and virulent attacks on nominees, and even public disparagement of people on the so-called “short list” before a nominee is even announced! Both speakers called for the players to exercise moderation and

civility in the nomination process.

Christine Durham, the Chief Justice of the Supreme Court of Utah and President of the National Conference of State Chief Justices, delivered a rather dire report on the state of the state courts. Chief Justice Durham observed that although state courts decide more than 95 percent of all cases in the United States, they are plagued with problems – particularly related to inadequate funding – which threaten their continued existence. Chief Justice Durham reported that, for example, 20 state court systems have imposed hiring freezes, four states have actually closed down courts (creating intolerable delays) and 13 states have increased court fees (raising concerns about access to justice).

Finally, the House received the report of the Nominating Committee: President Elect, William T. Robinson III of Kentucky; Chair of the House of Delegates, Linda A. Klein of Georgia; Secretary, Hon. Carol Lee DeVille of Minnesota; and Treasurer, Lucien T. Pera of Tennessee.

The House will reconvene in August 2010 at the ABA Annual Meeting in San Francisco, California.

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