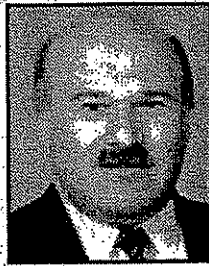


Annual Meeting in San Francisco



Scott M. Karson

Important issues of law and policy discussed

By Scott M. Karson

In August, I had the privilege of attending the 2007 Annual Meeting of the American Bar Association in San Francisco as the delegate from the Suffolk County Bar Association. The annual meeting provided a wide range of opportunities to meet and interact with attorneys from across the nation (and the world) and to attend meetings sponsored by committees, sections, divisions and affiliated organizations, as well as continuing legal education programs, receptions and other social events. Those in attendance also had an opportunity to experience the charm and beauty of the "City by the Bay." For me, that included seafood at Fisherman's Wharf, wine in Napa Valley, a visit to Alcatraz and a stroll across the Golden Gate Bridge.

The annual meeting was highlighted by separate appearances of two Associate Justices of the United States Supreme Court: Stephen Breyer (who spoke eloquently on the subject of judicial independence at the Opening Assembly, which was held at the San Francisco's Louise M. Davies Symphony Hall) and Anthony Kennedy (who received the ABA Medal at the meeting of the ABA House of Delegates, which was held at the Moscone Center).

The 546-member House of Delegates, the ABA's policy-making body, includes delegates elected by ABA members in each state, as well as delegates from every state bar association and larger local bar associations (including the SCBA), and ABA sections and divisions. The House roster includes a total of approximately 40 delegates from the state of New York.

At its two-day meeting, the House, under the leadership of its Chair, Laurel G. Bellows of Illinois, took up a number of significant issues involving the practice of law and the administration of justice. Among them were the following:

In the area of criminal justice, the House approved a resolution calling for the appointment, retention and replacement of United States Attorneys and career government attorneys without regard to improper political considerations.

In the area of domestic violence, the House approved the adoption of the *Standards of Practice for Lawyers Representing Victims of Domestic Violence, Sexual Assault and Stalking in Civil Protection Order Cases*.

In the area of election law, the House approved a resolution calling for federal, state and local governments to facilitate voting by persons with disabilities, including those with cognitive impairments, which increase in frequency with age.

In the area of employment law, the House approved a report calling for Congress to amend Title VII of the Civil Rights Act of 1964 (42 USC § 2000e-5[e]) and federal age and disability employment discrimination laws to effectively overrule Supreme Court precedent and ensure that the statute of limitations for a claim involving discrimination in compensation runs from each payment which is claimed to be unlawfully disparate.

On the issue of homelessness and poverty, the House resolved to urge Congress to amend the McKinney-Vento Homelessness Assistance Act to clarify that it applies to children and youth in foster care.

In the area of individual rights and responsibilities, the House called for the implementation of standards and procedures to ensure that, insofar as possible, federal civil actions are not dismissed solely on the basis of the state secrets privilege.

The House also urged Congress to create an independent, bipartisan commission to investigate and recommend appropriate measures

to rebuild the areas of the Gulf Coast damaged by Hurricanes Katrina and Rita; to provide reasonable hurricane and flood protection for those living in areas subject to such disasters; and to recommend measures to prevent or mitigate problems responding to such disasters in the future.

Addressing international law, the House approved a report of the Association of the Bar of the City of New York calling for Congress to override President Bush's Executive Order of July 20, 2007, regarding the treatment of foreign detainees by the United States under the Geneva Conventions of 1949. As aptly stated by James Silkenat of New York (and candidate for ABA President Elect) in support of the report, we don't oppose torture of foreign detainees because we like them, but because of what it says about us. The House agreed that torture of foreign detainees compromises our national honor and places the welfare of our armed forces at risk.

After one of the more spirited debates of the meeting, the House approved a report of the New York State Bar Association recommending that mandatory age-based law firm retirement policies be discontinued and that law firms evaluate senior partners individually on the basis of the firm's performance criteria. NYSBA Immediate Past President Mark Alcott spoke before the House in favor of the report, while those speaking in opposition opined that the ABA should not interfere with

the way in which partners in law firms agree to structure and manage their firms.

On a related subject, the House approved a report urging bar associations and courts to develop, adopt, promote and implement programs and procedures to enable lawyers to plan for practice contingencies by designating another lawyer to assume the practice or to assist in winding up the practice in the event of death, disability or other inability to continue with the practice of law. The SCBA is addressing this very issue through its Law Practice Continuity Committee.

On the subject of litigation, the House approved adoption of the *Updated Civil Trial Practice Standards*. These revised standards address aspects of trials that are not generally covered in rules of procedure or evidence.

The House also resolved to urge all bar associations and other appropriate regulatory bodies to waive or suspend dues, continuing legal education requirements and other membership obligations for members who are serving in the United States Armed Forces and are performing services in a Combat Zone as designated by Executive Order of the President of the United States. The SCBA has already adopted a policy, which is consistent with this ABA resolution.

In addition to the foregoing business, the House meeting featured the traditional "Passing of the President's Gavel" in which ABA President Karen Mathis of Colorado introduced new ABA President William Neukom of Washington. Also introduced was new President Elect H. Thomas Wells, Jr. of Alabama. Before her departure, President Mathis spoke proudly of the work of the ABA during her administration in fighting human trafficking and sexual enslavement; opposing policies intended to compel waiver of the attorney-client privilege; and opposing limitations on the availability of the writ of habeas corpus.

The ABA's 2008 Midyear Meeting will be held in February 2008 in Los Angeles, California, and the 2008 Annual Meeting will be held in August 2008 in New York City.

Note: The author is a partner at Lamb & Barnosky, LLP in Melville. He concentrates his practice in municipal, commercial, land title and appellate litigation. He is a former president of the SCBA.