RESOLUTION ON JUDICIAL INDEPENDENCE

WHEREAS, The North Carolina Bar Association has advocated the highest of ethical, moral and professional standards for North Carolina lawyers and judges for more than 100 years; and

WHEREAS, The North Carolina Bar Association has consistently maintained throughout this time that the courts of this land and of our State should act without fear, bias or partisanship in the administration of justice according to law, and further, that the essential, underlying principle of such a court system is the independence of its judges; and

WHEREAS, independence of the judiciary, at all levels, is a required cornerstone of democracy, a principle that is supported by the facts that the powers of the judiciary are recognized as independent of those given the executive and legislative branches of government by the United States Constitution and the Constitution of the State of North Carolina, that the First Canon of North Carolina’s Code of Judicial Conduct begins with, and requires meeting the standard that, “An independent and honorable judiciary is indispensable to justice in our society,” and that the judiciary of the highest trial court division is encouraged to be independent of local interests by the requirement of “rotating Superior Court Judges among the various districts of a division . . .” in Article IV, Section 11, of the Constitution of our State; and

WHEREAS, while the courts of this State have an admirable history of impartiality in the administration of justice, bespeaking the judicial independence necessary to a government of law, The North Carolina Bar Association is concerned for the principle of judicial independence in the light of certain recent developments throughout the United States; and

WHEREAS, among these developments are an unprecedented rise in the methods and costs of campaigning for elective judicial office, the increasing, significant funding of judicial campaigns by special interest groups, and the appearance of more aggressive judicial campaigns; and

WHEREAS, concerns arise as to expression of any opinion that judges should follow a defined ideological agenda in carrying out their duties; and

WHEREAS, these considerations urge The North Carolina Bar Association again to publish its support for the principle of judicial independence, and to adopt the following Mission Statement and Strategic Plan to assist in preserving the independence of our courts.

NOW, THEREFORE, BE IT RESOLVED THAT THE BOARD OF GOVERNORS OF THE NORTH CAROLINA BAR ASSOCIATION ADOPTS THE FOLLOWING MISSION STATEMENT REGARDING A JUDICIAL INDEPENDENCE INITIATIVE:

The North Carolina Bar Association, through its Judicial Independence Initiative, shall advocate changes in judicial selection which confirm that the independence of the judiciary is the cornerstone of a democratic society. A selection process based on merit, legal scholarship and ability is the method of choice. We will work to create public awareness of the importance of an impartial and independent judiciary. We will create a process to increase our legislators’ awareness of the importance of an impartial and independent judiciary. We will continue to seek
improvements in the methods of selection of judges and justices. The Association will act for these purposes in conjunction with the Chief Justice, Justices and Judges of General Court of Justice. We will collaborate with other like-minded organizations and organized initiatives in achieving our goals, including the Standing Committee on Judicial Independence of the American Bar Association.

BE IT FURTHER RESOLVED THAT THE BOARD OF GOVERNORS ADOPTS THE FOLLOWING STRATEGIC PLAN REGARDING ITS JUDICIAL INDEPENDENCE INITIATIVE:

An inquiry shall be conducted by The North Carolina Bar Association to evaluate developments which promote judicial independence, and those developments that may adversely affect the independence of our courts, including those described above, and to determine the degree to which the latter developments are a threat to the principle of judicial independence.

Concurrently therewith, The North Carolina Bar Association shall carry out the following programs:

- A program designed for North Carolina legislators and judges that will bring about a greater understanding of the principle of judicial independence;
- A program whereby The North Carolina Bar Association may provide a response to the public in the event there is unfair criticism of judges because of their independence in administering the law without fear, bias, or partisanship;
- A program which recognizes the longstanding support of The North Carolina Bar Association for the selection of judges based upon merit and which:
  - Studies and makes recommendations regarding alternative methods of selecting judges based upon merit;
  - Studies and makes recommendations regarding changing the North Carolina system of judicial selection; and
  - Studies and makes recommendations regarding the following, in recognition of the fact that judges are elected in North Carolina at this time:
    - The public funding of judicial elections;
    - The nonpartisan election of judges; and
    - The lengths of terms of judicial offices.

The North Carolina Bar Association shall undertake such further action as it shall deem proper to support judicial independence.
Adopted by the Bench/Bar Liaison Committee and the Administration of Justice Task Force at a joint meeting on December 6, 2001, and respectfully submitted for action to the North Carolina Bar Association Board of Governors (unanimously approved, 1-17-02). Signed by: H. Parks Helms, general chair, William F. Womble, Jr., chair, Bench/Bar Liaison Committee, and Roy Davis, chair, Administration of Justice Task Force.