

**NEW YORK STATE BAR ASSOCIATION
MINUTES OF HOUSE OF DELEGATES MEETING
BAR CENTER, ALBANY, NEW YORK
NOVEMBER 2, 2019**

Mr. Karson presided over the meeting as Chair of the House.

PRESENT: Arenson; Baum; Behrins; Ben-Asher; Bennett; Berman; Billings; Brown, T.; Buholtz; Burke; Castellano; Chang; Christensen; Christopher; Coffey; Cohen, M.; Cohen, O.; Dean; Disare; Doerr; Effman; Eng; England; Fennell; Fernandez; First; Fishberg; Flood; Fox; Freedman, H.; Friedman; Gayle; Gerstman; Gilmartin; Goldberg; Good; Greenberg; Grimaldi; Grimmick; Gross; Gutekunst; Gutierrez; Hack; Hamid; Hines; Holtzman; Horan; Jackson; Jaglom; James; Kamins; Kapnick; Karson; Kats; Kehoe; Kelly, K.; Kelly, M.; Kenney; Kiernan; Kirby; Koch; Kretser; LaBarbera; Lamberti; Lara-Garduno; Lawrence; Leber; Leo; Leventhal; Levin Wallach; Levin; Levy; Lewis; Lindenauer; Lisi; Madden; Madigan; Maldonado; Mandell; Marinaccio; Markowitz; Marotta; Martin Owens; Matos; May; McCann; McNamara, C.; McNamara, M.; Miller, C.; Miller, M.; Minkoff; Minkowitz; Miranda; Mohun; Muller; Mulry; Murphy; Napoletano; Nowotarski; Nussbaum; O’Connell; Onderdonk; Ostertag; Palermo, C.; Perlman; Peterson; Pitegoff; Pleat; Poster-Zimmerman; Purcell; Quist; Radick; Ranni; Ravin; Richter; Rivera; Robinson; Rosenthal; Rosner; Russell; Santiago; Scheinkman; Schofield; Schraver; Schriever; Scott; Sen; Shafer; Shamoan; Champnoi; Sharkey; Sheldon; Sigmond; Singer; Slavit; Spolzino; Stanclift; Starkman; Sweet; van der Meulen; Warner; Westlake; Whiting; Wimpfheimer; Wolff; Yeung-Ha; Young; Younger.

1. Approval of minutes of June 15, 2019 meeting. The minutes were deemed accepted as previously distributed.
2. Report of Treasurer. Domenick Napoletano, Treasurer, reported that through September 30, 2019, the Association’s total revenue was \$19.2 million, a decrease of approximately \$762,000 from the previous year, and total expenses were \$16.2 million, a decrease of approximately \$49,000 over 2018. The report was received with thanks.
3. Report and recommendations of Finance Committee re proposed 2020 income and expense budget. T. Andrew Brown, chair of the Finance Committee, reviewed the proposed budget for 2020, which projects income of \$23,397,230, expenses of \$23,207,399, and a projected surplus of \$189,831. After discussion, a motion was adopted to approve the proposed 2020 budget.
4. Report and recommendations of the Committee on Bylaws. Robert T. Schofield, IV, chair of the Bylaws Committee, outlined proposed bylaws amendments to implement the recommendation of the Special Committee on the Role of the Paralegal, approved by the House in June, that a membership category be created for paralegals. The House was asked to subscribe to the proposed amendments to allow them to be placed on the agenda of the 2020 Annual Meeting. The proposed amendments received the required subscriptions to permit their consideration at the Annual Meeting.

5. Memorial for Whitney North Seymour, Jr. John R. Dunne offered a memorial for Mr. Seymour, who was NYSBA President 1974-75 and who passed away June 29, 2019. A moment of silence was observed in memory of Mr. Seymour and his contributions to the Association and the profession.
6. Memorial for G. Robert Witmer, Jr. Past President David M. Schraver offered a memorial for Mr. Witmer, who was NYSBA President 1994-95 and who passed away August 18, 2019. A moment of silence was observed in memory of Mr. Witmer and his contributions to the Association and the profession.
7. Report and recommendations of Committee on Standards of Attorney Conduct. Prof. Roy D. Simon, Jr., co-chair of the committee, presented proposed amendments to the Rules of Professional Conduct, with action taken by the House as follows:

Rule 1.10: A motion was adopted to approve the proposed amendment.

Rule 2.4: A motion to table the proposal failed, after which a motion to amend the proposal to include the phrase “where appropriate” failed. A motion was then adopted to approve the proposed amendment.

Rule 4.1: A motion was adopted to approve the proposed amendment.

Rule 5.2: A motion was adopted to approve the proposed amendment.

Rule 5.4: A motion was adopted to approve the proposed amendment.

Rule 5.5: A motion was adopted to approve the proposed amendment.

Rules 7.1-7.5, 1.0: A motion was adopted to approve the proposed amendments.

Presiding Justice Scheinkman abstained from participating in the debate and vote.

8. Report and recommendations of Committee on Diversity and Inclusion. Mirna M. Santiago, chair of the committee, presented the committee’s report calling for bar associations to promote civil discourse and diversity. After discussion, a motion was adopted unanimously to approve the following resolution:

RESOLVED, that the New York State Bar Association affirms the principle of civility as a foundation for democracy and the rule of law and urges lawyers to set a high standard for civil discourse as an example for others in resolving differences constructively and without disparagement of others;

FURTHER RESOLVED, that the New York State Bar Association urges all lawyers, NYSBA member entities and other bar associations to take meaningful steps to enhance the constructive role of lawyers in promoting a more civil and deliberative public discourse;

FURTHER RESOLVED, that the New York State Bar Association urges all government officials and employees, political parties, the media, advocacy organizations, and candidates for political office and their supporters, to strive toward a more civil public discourse in the conduct of political activities and in the administration of the affairs of government;

FURTHER RESOLVED, that the New York State Bar Association supports governmental policies, practices, and procedures that promote civility and civil public discourse consistent with federal and state constitutional requirements;

RESOLVED, that the New York State Bar Association reaffirms its unwavering commitment to diversity, equity and inclusion at all levels of the Association, and its firm belief that diversity and inclusion must be fostered within the legal community and in society at large;

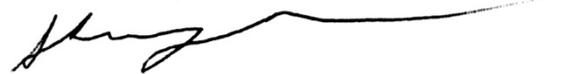
RESOLVED, that the New York State Bar Association strongly condemns the use of divisive and uncivil rhetoric by elected or other public officials that seeks to vilify specific groups or classes of individuals and/or seeks to sow division among the populace on the basis of gender, race, color, ethnic origin, national origin, religion, sexual orientation, age, disability and/or any other classification, by elected and other public officials.

9. Report of President. Mr. Greenberg highlighted the items contained in his written report, a copy of which is appended to these minutes.
10. Report of Nominating Committee. Claire P. Gutekunst, chair of the Nominating Committee, reported that the Committee had nominated the following individuals for election to the indicated offices for the 2020-2021 Association year: President-Elect: T. Andrew Brown, Rochester; Secretary: Sherry Levin Wallach, White Plains; Treasurer: Domenick Napoletano, Brooklyn; Vice Presidents: 1st District – Diana S. Sen, New York City and Carol A. Sigmond, New York City; 2nd District – Aimee L. Richter, Brooklyn; 3rd District – Robert T. Schofield, IV, Albany; 4th District – Marne Onderdonk, Saratoga Springs; 5th District – Jean Marie Westlake, East Syracuse; 6th District – Richard C. Lewis, Binghamton; 7th District – Mark J. Moretti, Rochester; 8th District – Norman P. Effman, Warsaw; 9th District – Adam Seiden, Mount Vernon; 10th District – Donna England, Centereach; 11th District – David L. Cohen, Kew Gardens; 12th District – Michael A. Marinaccio, White Plains; 13th District – Jonathan B. Behrins, Staten Island. The following individuals were nominated to serve as Executive Committee Members-at-Large for a 2-year term beginning June 1, 2020: Mirna M. Santiago (Diversity Seat), Pawling; Mark A. Berman, New York City; Sarah E. Gold, Albany; Ronald C. Minkoff, New York City; and Tucker C. Stanclift, Queensbury. Nominated as Section Member-at-Large was Jean F. Gerbini, Albany. The following individuals were nominated as delegates to the American Bar Association House of Delegates for the 2020-2022 term: T. Andrew Brown, Rochester; Sharon Stern Gerstman, Buffalo; Henry M. Greenberg, Albany; David P. Miranda, Albany; and Kenneth G. Standard, New York City. Nominated as Young Lawyer Delegate to the American Bar Association House of Delegates was Natasha Shishov, New York City. The report was received with thanks.
11. Report and recommendations of Working Group on Attorney Mental Health. Working Group members Simeon Goldman, David R. Marshall, Thomas E. Schimmerling and Lauren E. Sharkey outlined the Working Group’s study of mental health questions in the bar admission questionnaire and its recommendation that such questions be eliminated.

After discussion, a motion was adopted to approve the report and recommendations. Presiding Justice Scheinkman abstained from participating in the debate and vote.

12. Report and recommendations of Task Force on the Parole System. Task Force co-chairs William T. Russell, Jr. and Seymour W. James, Jr. reviewed the Task Force's initial report containing recommendations with respect to technical parole violations, earned good time credits, and increasing the number of parole commissioners. After discussion, a motion was adopted unanimously to approve the report and recommendations.
13. Report of The New York Bar Foundation. Lesley Rosenthal, President of The Foundation, updated the House on The Foundation's fundraising efforts in support of its philanthropic programs. The report was received with thanks.
14. Report of Special Committee on Strategic Communications. David P. Miranda, chair of the committee, reviewed the committee's initiatives with respect to public relations, media and marketing, communications, and products, programming and publications. The report was received with thanks.
15. Report of Commercial and Federal Litigation Section. Mark A. Berman, past chair of the section, reviewed the section's Social Media Ethics Guidelines and led the House in participating in an interactive presentation of ethical issues implicated by social media. The report was received with thanks.
16. Administrative items.
 - a. The Committee on Leadership Development would hold an open meeting following the House meeting to discuss leadership opportunities within the Association.
 - b. On behalf of the sales committee, John H. Gross reported on sales and sponsorships for the upcoming Gala on January 30, 2020 and encouraged members to attend the Gala.
17. Date and place of next meeting. Mr. Karson announced that the next meeting of the House of Delegates would take place on Friday, January 31, 2020 at the New York Hilton Midtown, New York City.
87. Adjournment. There being no further business to come before the House of Delegates, the meeting was adjourned.

Respectfully submitted,



Sherry Levin Wallach
Secretary



Henry M. Greenberg

President

Greenberg Traurig, LLP

54 State Street

Albany, New York 12207

greenbergh@gtlaw.com

518-689-1492

October 29, 2019

**President's Report
to the House of Delegates
November 2, 2019**

Constant change is the new normal. This is true for society as a whole, and also for lawyers. Change is the law of life, and now it is the life of law practice. Our profession has experienced more change over the past 20 years than it did over the last 200.

I went to law school in the Dark Ages – the 1980s, before Al Gore invented the internet. We knew nothing of cell phones or email or social networking. We did legal research using books, not computers.

We wrote legal briefs and memos on typewriters.

When I graduated from law school, the newest and most mind-blowing new technology was the fax machine.

Today, the world creates as much information every 48 hours as it did from the dawn of civilization to the dawn of the Millennium. And, owing to the sustainability revolution, the two fastest-growing occupations in the United States are solar installer and wind turbine service technician.

In 2005 – a lifetime ago it seems – author and *New York Times* columnist Thomas Friedman published *The World Is Flat*, referring to the revolutionary changes in commerce brought about by new technologies.

That technological revolution did not just affect commerce.

The same seismic changes in communication that made this “flattening” possible have permeated every aspect of our lives.

Time has accelerated. Social media is ubiquitous and demands instant response. Work hours are 24/7, 365 days of the year, and businesses are always on call. There are no breaks, there are no pauses. The world never rests.

As Friedman predicted, the world is now flat. So, too, the practice of law.

Because the law is a mirror of society, changes in society impact the law. The technological changes that revolutionized the way the world communicates have had an enormous impact on the practice of law.

Clients expect immediate responses to their questions. They demand cost-effective and efficient service. Before they speak with us, they have armed themselves with information about their matter and the relevant law – information they could not access in the pre-Google days.

To meet their legal needs, we must meet our clients where they are – not where we once were or where we wish them to be. The only way we can do that is by embracing the technological revolution and letting it work for us. We either adapt to change or we become irrelevant. And make no mistake, change *is* the new normal.

For millennial lawyers, harnessing and leveraging change – especially technological change – is second nature. But today, all lawyers need these skills. This is not optional. It is our professional obligation as lawyers. And it is a business obligation to our practices.

Not only must lawyers and law firms change, so too must the organizations that represent them. Bar associations must reimagine how they deliver services to meet members – and potential members – where they live. When our members look for the tools, resources and CLEs they need, they turn to the cloud. We need to be there as well.

That is why the New York State Bar Association is making deep investments in technology. We are building a virtual bar center to welcome members wherever they reside, however they work, in whatever field they practice. This is imperative. The strength and relevancy of NYSBA depends on our accessibility and the ease with which members can get what they require.

New York is the economic and legal capital of the world. New York law, and New York lawyers and judges, are globally recognized as the gold standard in the profession. Likewise, the New York State Bar Association is a global force. We are widely regarded as the world leader among bar associations; our reputation is unmatched.

Some 330,000 attorneys are licensed to practice in New York. More than 140,000 – over 40 percent – live or practice outside of the state, and more than 26,000 live outside the U.S.

While these attorneys are not physically inside the state, they have a professional tie to New York; they need New York law and New York connections. And NYSBA is expanding globally to meet their needs - virtually.

We have launched a quarterly e-newsletter – *NYSBA Global* – with articles of interest to international attorneys. We are offering more CLE programs in areas of international law and practice. We are building relationships with international bar associations, law firms, and law schools. In November, I will travel to Tokyo to represent NYSBA at the International Section Global Conference.

And these are just but a few of the steps being taken as part of our global membership initiative.

But our efforts aren't just on the global scale. New York lawyers — from Montauk to Niagara Falls — need NYSBA as well, especially those who practice in rural communities.

Forty-four of New York's 62 counties are rural. While attorneys clustered in cities have ready access to technology and professional resources, rural lawyers often face a different experience. Our virtual bar center will make it easier for rural attorneys to get the CLE, tools, resources, connections and communities they need.

Our new Task Force on Rural Justice — chaired by Justice Stan L. Pritzker and Taier Perlman — is looking at the issues particular to rural lawyers, including the expansion of broadband access. In the year 2019, broadband access should be a civil right. It is indispensable to closing the justice gap in rural areas.

The legal profession is more diverse than ever before and reflects the great diversity of our Empire State. We continue to work to ensure that our Association reflects the diversity of our profession and our society within its membership, leadership, and programming.

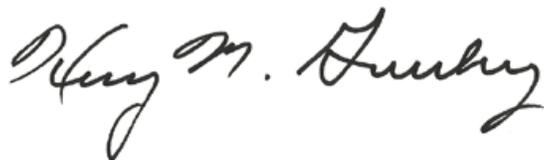
The Committee on Diversity and Inclusion has drafted a Diversity Plan for the Association. The Plan contains a set of goals and recommendations to promote and advance the participation of diverse attorneys in both the Association and the legal profession. I encourage you all to review the Plan before its presentation at the January 2020 meeting of the House of Delegates.

Many exciting changes are underway for our Association. Technology is helping NYSBA adapt for the future – and technology will ensure that we continue to be the trusted resource for the legal profession of New York State.

Technology makes it possible for us to serve lawyers everywhere. Technology is not a panacea, and it will not meet every challenge facing the legal profession. It is, however, a facilitator of the changes we must make and a tool we must learn to leverage if we wish to remain relevant in the digital age.

We must embrace change, and we must embrace technology.

It can help our practices, foster communication and expand access to justice. It can empower us to do the public good. And, it can help us be better lawyers.

A handwritten signature in black ink, reading "Gregory M. Durkin". The signature is written in a cursive style with a large, prominent "G" and "D".

SPEECHES, REMARKS & OTHER PRESENTATIONS:

Address on the life and legacy of Judith S. Kaye at the 9th Annual Diamond & Hearts Event for New York's Children, sponsored by CASA: Court Appointed Special Advocates for Children, in Albany, New York (October 29, 2019).

Remarks on the legal profession's obligation to lead, delivered for broadcast on WAMC's Midday Magazine, Albany, New York (October 2, 2019).

Remarks welcoming attendees of 2019 Statewide Stakeholders Meeting: Working Together to Expand Effective Assistance for All Low-Income New Yorkers, convened by the New York State Permanent Commission on Access to Justice, Albany, New York (October 28, 2019).

Remarks at Local and State Government Law Section 2019 Fall Meeting, at The Embassy Suites, Saratoga Springs, New York (October 25, 2019).

Remarks at the 144th Annual Dinner of the Onondaga County Bar Association, Marriott Syracuse Downtown, Syracuse, New York (October 23, 2019).

Remarks welcoming attendees of the New York Fair Trial Free Press Conference 2019, sponsored by the New York Fair Trial Free Press Conference, First Amendment Watch at NYU's Carter School Journalism Institute, New York State-Federal Judicial Council, S.I. Newhouse School of Public Communications and the New York State Bar Association's Committee on Media Law and Committee on Continuing Legal Education, at the Daniel Patrick Moynihan United States Courthouse, in New York City (October 21, 2019).

Remarks honoring John Dunne at the 2019 Haywood Burns Award Ceremony and Symposium, sponsored by the New York State Bar Association's Committee on Civil Rights, at CUNY Law School, in Long Island City, New York (October 16, 2019).

Remarks introducing Cass R. Sunstein, Robert Walmsley University Professor at Harvard, at a continuing legal education program entitled "Impeachment: A Guide to the Legal Process and Its History," at Fordham Law School in New York City (October 15, 2019).

Interviewed, along with Harvard Law School Professor Cass R. Sunstein, by Brian Lehrer for WNYC Radio's The Brian Lehrer Show, a daily call-in program, covering politics and life, locally and globally. The interview was originally broadcast on October 14, 2019. The link to the broadcast is: <https://www.wnyc.org/story/impeachment-legal-guide/>.

Remarks on "Lawyers and Depression," delivered on WAMC's Midday Magazine. The remarks were originally broadcast on October 2, 2019. The link to the broadcast is: <https://www.wnyc.org/story/impeachment-legal-guide/>.

Interviewed by Susan Arbetter for the Capitol Pressroom, a news and analysis program aired daily from the New York State Capitol, on the upcoming New York State Constitutional Convention. The interview was originally broadcast on September 27, 2019. The link to the

broadcast is: <https://www.wcny.org/september-27-2019-reporters-and-nysba-president-hank-greenberg/>.

Remarks at Bridging the GAP CLE Program for newly admitted attorneys, sponsored by the New York State Bar Association, Albany, New York (September 27, 2019).

Remarks at NYSBA 2019 Technology Summit, in New York City (September 19, 2019).

Interviewed by Errol Louis for NY1's *Inside City Hall*, a news program that interviews political newsmakers, pundits and consultants from New York City and beyond, every weeknight at 7 p.m. and 11 p.m. The interview was original broadcast on September 19, 2019. The link to the broadcast is: <https://www.ny1.com/nyc/all-boroughs/inside-city-hall/2019/09/20/navigating-the-immigration-system>.

Interviewed by Alan Chartock for WAMC's *The Capitol Connection*, a news and analysis program aired on radio stations across New York State. The interview was originally broadcast on September 19, 2019. The link to the broadcast is: <https://www.wamc.org/post/capitol-connection-1938-hank-greenberg-president-new-york-state-bar-association>.

Interviewed by Casey Seiler for WMHT's *New York NOW*, an Emmy Award-winning public affairs program shown on PBS stations in New York State. The interview was originally broadcast on August 30, 2019. The link to the broadcast is: https://video.wmht.org/video/new-york-state-bar-association-on-2020-agenda-41v4kk/?fbclid=IwAR1QHHkA797MHFToUX8i3M7imVovY8Em_tZI_FbSVa4QA-OoUXP88mcv0J4.

Remarks at Opening Convocation of the Syracuse University College of Law, in Syracuse, New York (August 15, 2019).

Remarks in support of resolution (10A) creating the *ABA Best Practice Guidelines for Online Legal Document Providers*, proposed by the New York State Bar Association, the New York County Lawyers' Association, and the American Bar Association's (ABA's) Standing Committee on the Delivery of Legal Services, Center for Innovation and International Law Section, before the House of Delegates, at the ABA's Annual Meeting, in San Francisco, California (August 12, 2019).

Remarks at a continuing legal education program entitled, "Diversity, Inclusion and Elimination of Bias," and sponsored by the New York State Bar Association, in Albany, New York (July 26, 2019).

Remarks at Elder Law and Special Needs Section Summer Meeting, at Boston Marriott Long Wharf Hotel, in Boston, Massachusetts (July 18, 2019).

Remarks at Family Law Section Summer Meeting, at The Saratoga Hilton, in Saratoga, New York (July 12, 2019).

Formal remarks at the Admissions Ceremony for the New York State Supreme Court, Appellate Division, Third Judicial Department, at the Governor Nelson A. Rockefeller Empire State Plaza Convention Center, in Albany, New York (June 26, 2019).

Testimony at the New York State Office of Indigent Legal Services' hearing on financial eligibility for assignment of counsel in family matters, in Albany, New York (June 19, 2019).

Address upon being sworn-in as the 122nd President of the New York State Bar Association, in Albany, New York (June 7, 2019).

Remarks at the Presentation of the 2019 Howard A. Levine Award for Excellence in Juvenile Justice and Child Welfare and Education Program, sponsored by the Committee on Children and the Law Committee of the New York State Bar Association, in Albany, New York (June 5, 2019).

Remarks at an event entitled, “The *Braschi* Breakthrough: 30 Years Later, Looking Back on the Relationship Recognition Landmark,” sponsored by The Richard C. Faila LGBTQ Commission of the New York Courts, among other groups, held at the Supreme Court, New York County Ceremonial Courtroom, in New York City (June 3, 2019). The link to a video of these remarks is:
<https://www.youtube.com/watch?v=tF1APx3qoEI&feature=youtu.be&fbclid=IwAR0f190q-siSXhEYKNuIHnVQnXSRDrzHL0D5vvuVvM4hOpHX110VOR1gv4Q> (see 25:37 to 1:01:13).