

**NEW YORK STATE BAR ASSOCIATION  
MINUTES OF HOUSE OF DELEGATES MEETING  
VIRTUAL MEETING  
April 10, 2021**

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Present: Abneri; Adigwe; Agosto; Alcott; Alomar; Alsina; Asher; Bahn; Bascoe; Baum; Behrins; Beltran; Berman; Billings; Bladykas; Boston; Brown; Buholtz; Capone; Chambers; Chandrasekhar; Chang; Christopher; Citarella; Cohen, D.; Cohen, M.; Cohen, O.; Cohn; Coseo; Crawford; Dean; Degnan; Doerr; Doxey; Doyle; Eberle; Effman; Eng; England; Fallek; Fennell; Fernandez; Filabi; Filemyr; Finerty; Fishberg; Fox, G.; Fox, M.; Freedman; French; Friedman; Frumkin; Gayle; Genoa; Gerstman; Getnick; Gilmartin; Gold; Good; Grady; Griesemer; Griffin; Grimaldi; Gross; Gutekunst; Gutierrez; Ha; Hack; Harper; Hartman; Heath; Hill; Hobika; Hoffman; Hoffmann; Jaglom; James; Jimenez; Jochmans; Kamins; Kammjoz; Kapnick; Karson; Katz; Kean; Kelley; Kelly; Kendall; Kenney; Kiernan; Kimura; Kobak; Kretser; Kretzing; LaBarbera; Lara; Lau-Kee; Lawrence; Leber; Leo; Leventhal; Levin; Levin Wallach; Levy; Lewis; Lindenauer; Lorch; Lugo; Madigan; Marinaccio; Markowitz; Maroney; Marotta; Matos; McElwreath; McGinn; McNamara; Meulen; Meyer, H.; Meyer, J.; Miller, M.; Miller, R.; Milone; Minkoff; Miranda; Montagnino; Moreetti; Morressey; Mukerji; Muller; Mulry; Newman; Noble; Nolfo; O'Connell, B.; O'Connell, D.; Oppeneer; Owens; Palermo, A.; Palermo, C.; Pappalardo; Perlman; Pessala; Peter; Petro; Pitegoff; Pleat; Pruzansky; Purcell; Radick; Rangachai; Ravin; Reed; Riano; Richman; Richter; Robinson; Russ; Russell; Safer; Samuels; Santiago; Scheinkman; Schofield; Schraver; Scott; Seiden; Sen; Shafer; Champnoi; Shapiro; Shishov; Shoemaker; Sigmond; Silkenat; Simon; Slavit; Smith; Sonberg; Starkman; Stoeckmann; Strassler Rosenthal; Swanson; Sweet; Tambasco; Tarson; Taylor; Tesser; Triebwasser; Vaughn; Ventura; Vigdor; Wallace; Waterman; Weiss; Welden; Westlake; Wimpfheimer; Wolff; Woodley; Young; Younger.

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

1. Approval of minutes of meeting. The minutes of the January 30, 2021 meeting were approved as distributed.
2. Report of President. Mr. Karson highlighted the items contained in his written report, a copy of which is appended to these minutes.
3. Report of Treasurer. Domenick Napoletano, Treasurer, reported on the association's operations for the first two months of 2021, including dues, CLE, and annual Meeting. The report was received with thanks.
4. Report of Finance Committee. John H. Gross, chair of the Finance Committee, presented an overview of financial projections for the next 10 years, including declining dues revenue and deficit budgets. The report was received with thanks.

5. Election of Nominating Committee and State Bar Delegates to ABA House of Delegates. Sharon stern Gerstman, Chair of the Nominating Committee, presented the report of the Nominating Committee.

a. Election of members of the Nominating Committee. The following were nominated for service on the 2020-2021 Nominating Committee:

District members and alternates of the Nominating Committee: First – Jai Chandrasekhar, Vincent Chang, Adrienne Koch, Stephen Lessard, Susan Lindenauer, Seth Rosner, Jay Safer, Kaylin Whittingham, Stephen P. Younger, 1st alternate Margaret J. Finerty, 2nd alternate Bridgette Ahn, 3rd alternate John Owens, Jr. Second – Andrea E. Bonina and Armena Gayle, with Judith Grimaldi as Alternate; Third - Elena DeFio Kean, David P. Miranda, Alternate Matthew Griesemer; Fourth – Tara Anne Pleat, Peter Coffey, Alternate Michelle Wildgrube; Fifth – Timothy J. Fennell and Michael E. Getnick, with Hon. James P. Murphy as Alternate; Sixth – Aaron Eberle, Kathryn Grant Madigan, Alternate Bruce McKeegan; Seventh – June Castellano, Amy Christensen, Alternate Eileen Buholtz; Eighth – Norman P. Effman and Leah Nowotarski, with Thomas O'Donnell as Alternate; Ninth – James L. Hyer, Jessica Parker, Claire J. Degnan, Alternate John A. Pappalardo; Tenth – to be submitted; Eleventh – Richard Gutierrez, Steven Wimpfheimer, Alternate Chanwoo Lee; Twelfth – Samuel M. Braverman, Renee C. Hill, Alternate Steven E. Millon; Thirteenth – Michael Gaffney, Robert Mulhall, Alternate Jonathan B. Behrins.

A motion to elect the foregoing was adopted.

b. Election of Delegates to ABA House: A motion was adopted to elect the following for a two-year term commencing in August 2021: Claire P. Gutekunst, Scott M. Karson, Bernice K. Leber, Michael Miller and Sherry Levin Wallach.

6. Report of President. Mr. Karson highlighted the items contained in his written report, a copy of which is appended to these minutes.

7. Presentation of 2020 Root-Stimson Award. Mr. Karson presented the award to Lawrence W. Golden for his work in bring attention to wrongful convictions.

8. Report of Committee on NYSBA Facilities. David P. Miranda, chair of the committee, updated the House regarding lease negotiations with The New York Bar Foundation for the facility at One Elk Street. The report was received with thanks.

9. Report of The New York Bar Foundation. Lesley Rosenthal, President of The Foundation, reported on The Foundation's lease negotiations with the Association and on The Foundation's activities. The report was received with thanks.

10. Report of Task Force on attorney Well-Being. M. Elizabeth Coreno, co-chair of the Task Force, provided an update on the work of the Task Force, including its nine working

groups. It expects to present its report at a meeting later this year. The report was received with thanks.

11. Report of Task Force on Racial Injustice and Police Reform. Task Force co-chairs T. Andrew Brown and Taa R. Grays updated the House on the Task Force's work and its planned recommendations. The report was received with thanks.
12. Report of Task Force Task Force on COVID-19 Immunity and Liability. A. Craig Purcell, co-chair of the Task Force, provided an update on the Task Force's work to date. The report was received with thanks.
13. Report and recommendations of Committee on Standards of Attorney Conduct. Joseph E. Neuhaus, past chair of the committee, reviewed the committee's proposed amendments to the comments to Rule 1.8(e) of the Rules of Professional Conduct. After discussion, a motion was adopted to approve the proposals.
14. Report of Task Force on the NYS Bar Examination. Hon. Alan D. Scheinkman, chair of the Task Force, reported on the remote administration of the bar examination and the Task Force's work in studying the future of the examination. The report was received with thanks.
15. Administrative items. Mr. Brown reported on the following:
  - a. Motions to approve the designation of delegates filed by the county and local bar associations for the 2021-2022 Association year and to approve the filed roster of the members of the House for the 2021-2022 year were requested and approved.
  - b. He noted that this meeting represents his last as Chair of the House and thanked the House for the opportunity to serve. He thanked the departing members of the Executive Committee and the House for their service and thanked the staff for their support. He introduced Ms. Levin Wallach as the next Chair of the House.
16. New Business.
  - a. Uniform Rules for the Supreme Court and the County Court. Mr. Lewis proposed a motion adopting a resolution to request that the Administrative Board of the Courts stay the implementation of the rules for one year in order to provide an opportunity to study their impact. After discussion, the following resolution was adopted:

Be it resolved that based upon the significant concern expressed by the membership of NYSBA, that the President, or his designees immediately reach out to the administrative judges, the OCA, or the Chief Judge as is appropriate, to request an immediate meeting to discuss the staying the rules adopted by the Administrative Order AO/270/2020 dated December 31, 2020 by Chief Administrative Judge Marks for a period of one year so that

all stakeholders can adequately examine and comment on the rules as well as the impact that the rules will have on attorneys and their clients especially the underserved portion of our population and further to examine the cost and impact that these rules will have on access to justice by all segments of our population but especially amongst the underrepresented portions. It is further resolved that a copy of this resolution will be immediately delivered to the administrative board of the courts.

- b. Certification of Supreme Court Justices. Mr. Behrins proposed resolutions regarding the certification of Supreme Court Justices. After discussion, the following resolutions were adopted:

Moved that: A Committee be formed promptly to:

1. Report to the Executive Committee and the House of Delegates at the June 2021 meetings in order to consider whether to file an amicus brief in the New York Court of Appeals in the *Gesmer* litigation challenging the denial of certification for forty-six otherwise eligible senior New York Supreme Court Justices (three Justices were granted certification) – such a brief would provide the opportunity to put before the Court the New York State Bar Association’s policy on judicial retirement as it relates to the issues in dispute in that *Gesmer* litigation;

And,

2. Consider whether to support legislation introduced in the Senate and the Assembly to eliminate the discretionary denial of re-certification of New York Supreme Court Justices and advise the New York State Bar Association in this regard in the next 30 days so it will be in time to be heard during the current 2021 legislative session.

17. Date and place of next meeting. Mr. Brown announced that the next meeting of the House of Delegates would take place on Saturday, June 12, 2021. He also announced that the Fall 2021 meeting would be held as an in-person meeting at The Otesaga in Cooperstown.
18. Adjournment. There being no further business to come before the House of Delegates, the meeting was adjourned.

Respectfully submitted,



Sherry Levin Wallach  
Secretary



**SCOTT M. KARSON**

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**Report of President Scott M. Karson to the  
NYSBA House of Delegates  
April 10, 2021**

My fellow delegates, friends, and colleagues, when I assumed the presidency of the New York State Bar Association last June, we were roughly three months into the coronavirus pandemic that has fundamentally changed the way our Association, our profession – and the world at large – operates.

At that time, I had no way of knowing how long this disruption would last. In fact, by June the pandemic had already lasted longer than I had imagined it would. I have a vivid memory of that day in March 2020 when my law office down on Long Island closed pursuant to the Governor’s executive order, and I naively told my colleagues at the firm that we’d be back in the office within a week! I never considered the possibility that one year later, I would hold the distinction of being the Association’s first all-virtual president in its 144-year history.

What I did know was that everything I thought my leadership of the Association would entail in the months leading up to my presidency would be drastically different. But while uncertainty has plagued us all throughout the pandemic, one thing remained certain – NYSBA’s resiliency and preparedness for what lay ahead.

My term started in unprecedented fashion when I was afforded the unique and unforgettable privilege of being installed as president of the Association via Zoom by New York's distinguished Chief Judge Janet DiFiore. That honor was repeated several weeks later when I was virtually installed once again, this time by Senior Associate Judge Jenny Rivera during the June 2020 meeting of our House of Delegates.

Zoom meetings became the norm at NYSBA. While you have heard me lament on prior occasions that nothing replaces the collegiality and camaraderie of an in-person NYSBA event, the Association has experienced record setting attendance during the pandemic for its virtual House of Delegates meetings and perhaps, even more notably, for our two-week all virtual Annual Meeting in late January 2021. I am very pleased to report that the Annual Meeting was a tremendous success with over 4,500 attendees, including many first-time attendees. The Presidential Summit, which featured Dean Erwin Chemerinsky of UC Berkeley School of Law and Dr. Irwin Redlener of Columbia University – known affectionately as the “E(I)rwins” – was a thoughtful discussion on the legal and constitutional issues surrounding the COVID-19 crisis. Even the virtual piano bar was an entertaining – and amusing – event that helped bring our members closer together.

Also, NYSBA continuing legal education programs have not failed to attract members to engaging and informative webinars, many of them helping lawyers stay updated on COVID-19 and its impact on their practices. The Trial Academy, led by Secretary Sherry Levin Wallach, was a virtual success, as was the virtual International Estate Planning Institute. Our sections and committees continue their diligent work with our CLE Department to prepare and produce timely

programs. Indeed, on a lighter note, the “The Ten Zoom Lessons Learned from ‘I Am Not A Cat’” webinar had over 500 registrants!

It is incredibly positive to see how engaged our membership remains despite the isolation that easily can be felt during these uncertain times. Your support helped me persevere during a period where not only the presidency of NYSBA – but life in general – was anything but normal.

It has also been wonderful to see such a positive reaction to the Association’s message in the public sphere. I have attempted to maintain the Association’s focus on its bedrock principle, adherence to the rule of law, particularly in my statements to the media, which have covered a broad range of subjects including criticism of unlawful conduct on the part of governments, assailing recurring incidents of gun violence, criticizing unwarranted attacks on the members of our profession for simply doing their jobs, and weighing in on the horrific January 6, 2021 Capitol riots.

NYSBA’s message with regard to the pandemic also generated attention from mainstream and legal media alike, especially after the great work of NYSBA’s Health Law Section, which recommended that New York consider mandating a COVID-19 vaccine once a scientific consensus emerged that it was safe, effective and necessary. NYSBA’s recommendations struck a balance between government’s responsibility to protect the majority of New Yorkers while safeguarding personal freedoms prescribed by the Constitution. A story on the recommendation in the New York Law Journal was the publication’s best-read story for months, demonstrating how influential NYSBA has become.

In response to the pandemic, I appointed three new task forces. The first task force I'm sure you are all familiar with by now – the Task Force on Attorney Well-Being – whose work became even more important after the pandemic hit given the impact it has had on our mental and physical health. But what you might not know is that an in-depth survey conducted by the task force will provide the most comprehensive data on lawyer well-being ever gathered in New York. I'm looking forward to the task force presenting its report to the House of Delegates this year.

Another task force is investigating why a disproportionate number of residents died from COVID-19 in nursing homes and long-term care facilities across the state. The task force will recommend regulatory and statutory changes to prevent such loss of life from ever happening again. And a third task force is examining issues of tort and contractual liability, as well as immunity from such liability and related business concerns.

Unrelated to COVID-19 but also vitally important is the work of our Task Force on Racial Injustice and Police Reform. Created in the aftermath of the horrific killing of George Floyd while in police custody, this task force remains hard at work to understand the issues that contribute to police misconduct and to provide recommendations to policymakers, law enforcement and the judiciary to end harmful policing practices that disproportionately impact persons of color. The trial of former Minneapolis Police Officer Derek Chauvin, which began at the end of March and is continuing as we gather here, reminds us of the significance of the task force's work.

I am extremely proud of the hard work of all these task forces and am looking forward to the coming weeks and months when they release their comprehensive reports and recommendations.

Another major accomplishment that occurred during my tenure was passage of the law NYSBA advanced to simplify the power of attorney form in New York. When the law was signed in December, it represented the collective work of many years of NYSBA leadership and advocacy, including that of many of my predecessors, and I am proud that it became law during my watch.

On March 11, Congress advanced NYSBA's federal legislative priority, stemming from the report of the Task Force on Mass Shootings and Assault Weapons that the House adopted last November, calling for background checks for the purchases of firearms. These two bills now move to the Senate, where Majority Leader Chuck Schumer has vowed to bring them to the Floor for a vote – President Biden remains personally committed to addressing gun violence.

President Biden's infrastructure plan, which calls for investing dollars to build high-speed broadband infrastructure to reach 100 percent coverage in the United States, would likewise advance priorities of the Association as vested in the House's adoption last April of the report of the Task Force on Rural Justice and in the adoption last June of a resolution calling for expanded broadband across New York State.

I am immensely proud of our member's commitment to diversity and inclusion. The Committee on Diversity and Inclusions' 28-day racial equity challenge during February – Black History Month – had over 400 participants. I am likewise proud to report that as of this writing all

Sections of the Association have submitted or are finalizing the submission of their own Diversity Plans, as required by the Diversity Plan adopted by this very House in January 2020. NYSBA also made history at our November House of Delegates meeting when the LGBTQ Section was launched. The group was converted from a committee to a section, which gives all NYSBA members the opportunity to participate in the section's work and allocates additional resources to expand its initiatives. Established in 2008, the Committee on LGBTQ People and the Law has served as a critical voice for members of the LGBTQ community and its allies. It was the work of that committee, as a matter of fact, that led me on behalf of NYSBA to sign and file an amicus brief in the United States Supreme Court in *Fulton v. City of Philadelphia* arguing that a religious organization with a government contract to provide foster care services cannot discriminate against same sex couples who wish to become foster parents. This case has been argued before the Supreme Court and we await a decision.

When I began my term as president, I encouraged all my colleagues – from seasoned lawyers and leaders of the bar to newly admitted lawyers – to take on pro bono work in the coming year, particularly during this time when there are so many people truly in need of help. You stepped up and answered the call. And I'm proud to report that I kept myself true to my word and my campaign pledge, and I am now handling a pro bono appeal in the Appellate Division, Fourth Department through the NYSBA Pro Bono Appeals Program.

In fact, during Chief Judge DiFiore's "State of Our Judiciary" address, she said New Yorkers "owe a debt of gratitude" for the generous pro bono service provided by thousands of lawyers and law firms. She then highlighted the work of NYSBA's COVID-19 Pro Bono Recovery Task Force. The task force – implemented by Immediate Past President Hank Greenberg last year

when the pandemic began and continued during my term – has recruited over 1,000 pro bono lawyers to assist New Yorkers with various pandemic-related legal problems, including Unemployment Insurance Appeals and matters in the Surrogate’s courts to provide free legal assistance in probate matters to individuals and families who lost loved ones to COVID-19.

Against the backdrop of this unprecedented pandemic year, NYSBA faces some critical milestones in 2021. Chief among them is the fact that our lease at One Elk will expire on December 31st. The Association continues to have conversations with The New York Bar Foundation, which, as you know, owns One Elk, to explore all options. To date, the only formal proposal received from The Foundation was contained in a letter addressed to me from Foundation Vice-President Carla Palumbo dated March 11, 2021, wherein The Foundation proposed a three-year extension of the current lease at an annual rental of \$302,000 per annum (representing a rent freeze of the current base rent now in effect) and containing an expression of willingness on the part of The Foundation to come to terms regarding a greater contribution to the Association concerning The Foundation’s administrative expenses. The other terms of the current lease, including the Association’s responsibility for repairs and maintenance of the premise, would remain in full force and effect. Thus, The Foundation’s proposal amounted to a continuation of the status quo for three additional years. This proposal is contrary to the urgency to act now faced by the Association.

We are all deeply and emotionally connected to our current space and have made many positive memories there. However, the expiration of the lease presents an opportunity to reassess the Bar Center’s space needs within the context of changes wrought by the pandemic – both physical and

fiscal. There is also a financial reality to consider: One Elk requires millions of dollars in renovations and repairs in order to make it safe and accessible to our members, staff and visitors.

As I have mentioned, NYSBA was able to quickly shift to an almost entirely virtual operation not long after the pandemic caused widespread shutdowns last year. Our staff didn't miss a beat and continued to provide services and meet member needs while working remotely. We also had success with our online CLE programs, member engagement and our digital communications.

The current rent paid by the Association on One Elk is \$302,229 a year. In addition, the Association is responsible for maintaining insurance for physical loss, property damage and personal injury; all maintenance expenses – both exterior and interior; all taxes; and all utilities. In 2020 alone, these costs added up to more than \$1.1 million. Over the past decade, NYSBA has paid more than \$10 million in rent and lease-related costs for One Elk.

With the necessary repairs and renovations One Elk requires, which are not something we can overlook or forgo, this figure will be much higher over the next 10 years. Projections show that the Association would incur total annual costs of \$1.87 million for the coming decade. That is a total of over \$18 million dollars.

We must face facts. The Association has seen its revenue decline for several years now and has only been able to remain within its budget by making significant cuts on the expense side of its ledger – both in staff and programs. In 2017, the Association had 125 full-time employees. We currently have 89. Programs hit due to the fiscal crisis include two in which I have been involved and which are near and dear to me, Law, Youth and Citizenship and the Trial Academy. Over the

last 5 years, while we have made difficult cuts to staff, programming, and services for our members, the costs of renting and maintaining One Elk and funding business operations have increased.

How we choose to invest our members' dollars over the next several years as the post-pandemic economic recovery continues is critical. We have a responsibility to not only safeguard their investment in the Association, but also preserve NYSBA's ability to serve its members and the public well into the future. As we know all too well now, the future is both unpredictable and fraught with potential challenges. It is imperative that we make smart decisions that put our Association on sound fiscal footing.

As you may know, I have designated a lease negotiation team for the Association, chaired by former NYSBA President David Miranda and also including Sandra Rivera and Michael McNamara. The lease negotiation team chair, David Miranda, will update you all on the conversations the Association has had with the Foundation and its responses to date. The negotiation team has spent months working tirelessly on this issue, and I want to extend my deepest and most profound gratitude to them for their efforts.

On a personal note, I have been privileged to serve alongside a group of incredibly talented and hard-working officers, including President Elect T. Andrew Brown, Secretary Sherry Levin Wallach, who will become president-elect in June, Treasurer Domenick Napoletano and Immediate Past President Hank Greenberg. Each and every one of them has my respect and gratitude, and I am confident that their continuing leadership will serve our Association and its members well.

I also want to express my gratitude to the Association's dedicated staff, led by Executive Director Pamela McDevitt, for the support and assistance they have provided to me and their unwavering service to NYSBA during these unprecedented times.

I also thank and congratulate you, the members of the House of Delegates, for your service on this body – the heart and soul of our Association. I look forward to continuing to serve with you as a member of the House in the years to come.

My fellow members, as this is my final report to the House as your President, I can report to you without hesitation that my presidency has been one of the most rewarding experiences of my life – virtual though it was. Together, we have demonstrated once again how vital the work is that the Association does to support our profession and its most sacred ideals, the rule of law and democracy itself. I am looking forward to celebrating and continuing that work by your side once again when the pandemic subsides.

Thank you.