

**NEW YORK STATE BAR ASSOCIATION  
MINUTES OF HOUSE OF DELEGATES MEETING  
JUNE 12, 2021  
REMOTE MEETING**

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PRESENT: Abneri; Adigwe; Alomar; Alsina; Bahn; Barreiro; Bascoe; Battistoni; Baum; Beltran; Ben-Asher; Berlin; Berman; Brown; Bunshaft; Burke; Buzard; Caceres; Carbajal-Evangelista; Chambers; Chandrasekhar; Chang; Choi; Clouthier; Cohen, B.; Cohen, D.; Cohen, O.; Crawford; D'Angelo; Dean; Degnan; Doerr; Doyle; Dubowski; DuVall; Eberle; Effman; Eng; Engel; England; Fallek; Fellows; Fernandez; Filabi; Filemyr; Finerty; First; Fox, G.; Fox, M.; Friedman; Frumkin; Genoa; Gerbini; Gerstman; Getnick; Gilmartin; Gold; Good; Grays; Greenberg; Griesemer; Griffin; Gross; Gutekunst; Haig; Harper; Hartman; Harwick; Heath; Hill; Himes; Hoffman; Holder; Holtzman; Houth; Islam; Jaglom; James; Jamieson; Jimenez; Joseph; Kamins; Kapnick; Karson; Katz; Kean; Kelley; Kelly; Kendall; Kenney; Kiernan; Kimura; Klass; Klugman; Kobak; Kretser; Kretzing; LaBarbera; LaRose; Lau-Kee; Lawrence; Leber; Leventhal; Levin; Levin Wallach; Levy; Lewis; Lindenauer; Lisi; Loyola; Lugo; MacLean; Madigan; Marinaccio; Markowitz; Maroney; Marotta; Martin; Mathews; Matos; Mazur; McElwreath; McGinn; McGrath; McNamara; Meyer, H.; Meyer, J.; Middleton; Miller, C.; Miller, M.; Milone; Minkoff; Miranda; Montagnino; Moretti; Morrissey; Mukerji; Muller; Mulry; Napoletano; Newman; Nielson; Noble; Nolfo; Nowotarski; O'Brien; O'Connor; O'Connell, B.; O'Connell, D.; Owens; Palermo, A.; Palermo, C.; Pappalardo; Parker; Pitegoff; Porzio; Pruzansky; Purcell; Quaye; Quinones; Radick; Ranni; Raskin; Ravin; Reed; Riano; Richman; Richter; Rivera; Rosenthal; Russ; Russell; Ryan; Safer; Samuels; Santiago; Scheinkman; Schofield; Schram; Schrauer; Schwrtz-Wallace; Sciocchetti; Scott; Seiden; Shafiqullah; Sharkey; Silkenat; Silverman; Slavit; Smith; Sonberg; Starkman; Stephenson; Stoeckmann; Strong; Strenger; Swanson; Sweet; Tambasco; Taylor; Triebwasser; van der Meulen; Vaughn; Vigdor; Wan; Ward; Warner; Washington; Watanabe; Waterman; Weis; Weldon; Wesson; Westlake; Wimpfheimer; Wolff; Woodley; Yeung-Ha; Younger; Zweig.

Ms. Levin Wallach presided over the meeting as Chair of the House.

1. Call to order, introduction of new members. The meeting was called to order and the Pledge of Allegiance was recited, and Ms. Levin Wallach welcomed the new members of the House.
2. Minutes of April 10, 2021 meeting. The minutes were accepted as previously distributed.
3. Installation of President. Mr. Brown was formally installed as President. The oath of office was administered by Hon. Janet DiFiore, Chief Judge of the State of New York.
4. Report of President. Mr. Brown addressed the House with respect to his planned initiatives for his term as President. His President's Report is appended to these minutes.
5. Report of the Treasurer. Domenick Napoletano, Treasurer, updated the House with respect to the results of operations for the first four months of 2021. Items covered included dues

revenue of \$8,996,000; CLE net revenue of \$709,300; and Annual Meeting net revenue of \$466,000. The report was received with thanks.

6. Report and recommendation of Lease Negotiation Committee and Finance Committee. David P. Miranda, chair of the Lease Negotiation Committee, and Sandra Rivera, chair of the Finance Committee, reported on the negotiations between the Association and The New York Bar Foundation with respect to a potential transfer of One Elk Street from The Foundation to the Association. They reported that a Memorandum of Understanding (MOU) between the parties had been executed, by which ownership of One Elk will be transferred from the Foundation to the Association; the Association would provide office space for Foundation staff and in-kind services to the Foundation; the Association would bear responsibility for renovation and maintenance costs of One Elk; and the Association and Foundation would work closely in joint fundraising in order to meet common goals. The MOU is contingent upon approval of the Association's House, the Foundation's Board, and the New York State Attorney General. After discussion, a motion to adopt the following resolution was approved:

Whereas, the New York State Bar Association and The New York Bar Foundation are parties to a lease, as tenant and landlord respectively, for property at One Elk Street, Albany, New York, that ends on December 31, 2021; and

Whereas, the Association and Foundation have concluded negotiations regarding future use of One Elk Street; and

Whereas, the Association President signed a Memorandum of Understanding with the Foundation on May 20, 2021 calling for the transfer of One Elk Street from the Foundation to the Association subject to, inter alia, the approval of the Association's House of Delegates;

Now, therefore, it is

Resolved, that the House of Delegates hereby approves the May 20, 2021 Memorandum of Understanding, subject to the terms and conditions set forth therein and the provisions of this Resolution:

Further resolved, that the Association President is authorized to conduct necessary due diligence, including but not limited to obtaining the written opinions of counsel regarding any tax implications, fundraising matters, and approval of the Attorney General concerning the proposed transaction;

Further resolved, that the Association President is authorized to enter into a final agreement regarding the property transfer as outlined in the Memorandum of Understanding.

7. Report and recommendations of Task Force on Racial Injustice and Police Reform. T. Andrew Brown and Taa R. Grays, co-chairs of the Task Force, outlined the Task Force's

recommendations with respect to 21<sup>st</sup> century policing; improving policing at key stages; and additional accountability within the criminal justice system. After discussion, a motion was adopted to approve the report and recommendations.

8. Report and recommendations of Task Force on Free Expression in the Digital Age. Cynthia S. Arato and David E. McCraw, co-chairs of the Task Force, reviewed the Task Force's recommendations on (a) amendment of the Freedom of Information Law (FOIL); (b) the advancement of government transparency outside of FOIL; (c) the growth of nonprofit journalism; and (d) the expansion of legal services for news organizations. After discussion, a motion was made to approve the report and recommendations, following which a motion to amend to eliminate from the report Recommendations III.C.1-4 concerning FOIL and Recommendations IV.B.1-3 concerning the Open Meetings Law was approved. Seven members abstained from voting on the motion to amend. The motion as amended was then approved.
9. Report and recommendations of Task Force on the New York Bar Examination. Hon. Alan D. Scheinkman, chair of the Task Force, outlined the Task Force's report on the remote administration of the exam and the long-term future of the New York bar examination, together with its recommendation that New York replace the Uniform Bar Examination with its own examination. After discussion, a motion was adopted to approve the report and recommendations.
10. Report and recommendations of Committee on Standards of Attorney Conduct. On behalf of the Committee on Standards of Professional Conduct, Debra Raskin and Prof. Ellen Yaroshefsky reviewed proposed amendments to Rule 8.4 of the Rules of Professional Conduct with respect to discrimination in the practice of law to prohibit improper behavior in the practice of law; expand the protected classes to conform to New York anti-discrimination law; define and prohibit "harassment"; and eliminate the requirement to exhaust administrative remedies. After discussion, a motion was made to approve the report and recommendations, after which a motion to eliminate "severe and pervasive" from the definition of harassment failed. The motion was then approved.
11. Report and recommendations of Task Force on Nursing Homes and Long-Term Care. Hermes Fernandez and Sandra Rivera, co-chairs of the Task Force, reviewed the Task Force's report on the effect of the pandemic on the long-term care sector and its recommendations for protecting public health; preparing for emergencies; providing clear guidance; preventing the spread of communicable diseases; collecting and disseminating information; and allocating resources. After discussion, a motion was adopted to approve the report and recommendations.
12. Report of Task Force on the Uniform Rules. Richard C. Lewis, chair of the Task Force, together with members Sharon Stern Gerstman and Matthew J. Kelly, provided an informational report on the Task Force's work to date, including four hearings it had held on the impact of the rules. The report was received with thanks.

13. Report of The New York Bar Foundation. Carla M. Palumbo, President of The Foundation, presented an informational report on The Foundation's fundraising and grantmaking activities. The report was received with thanks.
14. Administrative items. Ms. Levin Wallach reported on the following:
  - a. New Finance Committee members. At its June 11, 2021 meeting, the Executive Committee had confirmed the appointment of Drew Jaglom and Michael McNamara. Pursuant to the Bylaws, the House is required to ratify the selection of these members. A motion was adopted to ratify the members' selection.
15. New Business.
  - a. Certification of judges. House member Steven Richman made a motion that the Association urge the Governor to sign legislation to eliminate the discretionary denial of re-certification of New York Supreme Court Justices. The motion was ruled out of order by the Chair; an appeal from the Chair's ruling failed.
16. Date and place of next meeting. Ms. Levin Wallach announced that the next meeting of the House of Delegates would take place on Saturday, October 30, 2021 at the Otesaga in Cooperstown.
17. Adjournment. There being no further business to come before the House of Delegates, the meeting was adjourned.

Respectfully Submitted,



Taa R. Grays  
Secretary



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**President's Report  
to the House of Delegates  
June 12, 2021**

My fellow delegates, friends, and colleagues, it is my pleasure and humble privilege to begin my term of service as the one-hundredth and twenty-fourth President of the New York State Bar Association.

To returning delegates, greetings. Although separated virtually, I know that we stand together in our continued service on behalf of the Association and our profession. To new delegates, welcome. I trust that you will enjoy your terms of service with the House of Delegates – the governing body of the Association – and thank you for your willingness to help lead the Bar into the future.

I wish to also acknowledge the many new committee and section chairs who are beginning their terms of service, and to congratulate my fellow officers – President-Elect Sherry Levin Wallach, Secretary Taa Grays and Treasurer Domenick Napoletano. I look forward to working with you all. I especially thank my predecessor, Immediate Past President Scott M. Karson, for his leadership and stewardship of our Association during a year of change and crisis perhaps unparalleled in our long and storied history. And I recognize you, our members and delegates, for your perseverance over the last year.

Let us turn now and look back on the last fifteen months – fifteen months in which the practice of law, and indeed our daily lives, have changed perhaps more so than in the last fifteen years. The past year has taxed us – our nation, our state, our profession, and our society – in ways no one could have predicted or desired. We've more closely examined our personal lives and relationships, searching for meaning and what really matters. Coming out of the pandemic, we now face a time of further reflection, a time of reckoning, a time for renewal and a time to re-imagine our highest ideals.

Physically, socially, emotionally, and, for many, financially, we have been stretched thin and we are tired. We witnessed levels of unemployment, isolation, and indeed forced societal change perhaps unseen before in our lifetimes – perhaps even in recent human history. We witnessed our democracy stretched to a near breaking point. We witnessed social upheaval, discrimination, and injustice, ugly reminders of a stain that still blights America and blocks many from the true promise of the American Dream. That is the backdrop that will shape my presidency.

As eager as we may be to put this trying time behind us, it is imperative that we do not close our eyes to the revelations and lessons it brought – no matter how difficult they may be. We find ourselves on the cusp of a great opportunity to take what we have learned and change things for the better. Let’s not fail to take advantage. The twin crises of the coronavirus pandemic and social justice as it relates to law enforcement combined to expose long-standing inequities and it is far past time to address them. I will dedicate the time of my presidency to careful attention and action on these issues.

These changes will not come easily. In many cases, entire systems – policing, healthcare, education, and even our courts – require significant reimagining and retooling. But we must rise to the challenge. As lawyers, we are uniquely positioned to assist in this endeavor.

The restrictions imposed as a result of the COVID-19 crisis exacerbated the already considerable difficulties faced by some of the most vulnerable members of our society – including access to justice, the very foundation of our democracy. Shuttered courts and virtual proceedings presented additional barriers to those who do not have easy access to the internet, cannot afford legal representation or for whom English is not their first language.

But there are also advantages to expanding virtual proceedings for court employees and attorneys alike. Now that there is light at the end of the pandemic tunnel and we see the reopening of our courts and offices, it is time for us to take stock of the changes that occurred over the past year and determine what worked, and what did not; what we keep and what we go back to.

Both the Association and the profession must reflect and reimagine how to safeguard and strengthen our futures. And where necessary, we cannot fear reinvention. We must embrace the opportunity for change.

One of my top priorities during my year as president will be to establish a task force on the post-pandemic future of the legal profession, whose members will be charged with determining how we collectively should move forward to maximize the opportunities and overcome the hurdles presented by our new way of life. This task force will have a broad mandate, and its mission shall include study of various existential issues such as the remote practice of law, the increased use of technology by clients and practitioners, the efficacy of virtual courts and tribunals, changes in client interaction and expectations, law practice management, access to justice, the delivery of legal services, and the education, training, and mentorship of newer attorneys. I am pleased that my colleague John H. Gross has agreed to chair this task force, the work of which is of utmost importance to the strength and future of our Association and to support our members.

In addition, I will convene a task force on racism, social equity and the law, with an eye toward building on the work the association has undertaken to address some of the most intransigent regulations, laws, and structures that are collectively holding us back as a society from achieving true equality. We will strive to see every issue we tackle this year through the lens of equity, as we know all too well that racism and injustice pervades almost every aspect of our lives.

And that effort will extend beyond race.

More than 100 years since the ratification of the 19<sup>th</sup> Amendment, we know there is still much to be done to advance gender equity. I will look for opportunities to address the continuing challenges faced by women in the profession. Around the world, the abuse of women arising out of gender discrimination is still rampant. This cannot stand.

We must also address those who suffer stigma and abuse as a result of their sexual or gender orientation. Across the nation, we are seeing an alarming rise in efforts to curb the rights of individuals simply because of the way they choose to express themselves. 2021 was a record-breaking year for anti-transgender legislation, with 33 states introducing a variety of bills targeting the freedom of this vulnerable population. This cannot stand. With its reputation as a progressive leader, New York can and should speak out against these prejudicial efforts and set the standard for true equitable treatment of all individuals under the law.

State level initiatives like those that target transgender Americans are born at the ballot box. The free and unfettered ability to vote is a fundamental right, and it too, is under attack. The past year has brought an alarming rise in efforts to undermine this inalienable right – starting with a pre-presidential push to discredit the outcome of the 2020 election, followed by the unprecedented Jan. 6 attack on our nation’s Capitol by those bent on overturning the very bedrock of our democracy and our nation.

Now we see states across the nation engaged in a wholesale push to restrict voting access. This assault on democracy has been largely targeted against Black and Brown persons – persons who have long fought for the franchise and access to the ballot box. Again, this cannot stand. New York, thankfully, has worked in recent years to improve and broaden access to the ballot box. We should be a beacon of hope and a shining example of how to encourage participation in democracy, not limit it. The association has a role to play here as well, putting the considerable expertise and experience of our members at the disposal of lawmakers who seek to protect and preserve this important tenet of our society. That is why I will establish a task force focused on voting rights and charged with developing recommendations to safeguard this most important tenet of our democracy.

I will also build on the initiatives of my predecessors and continue our important work to recognize the importance of wellbeing for all attorneys and address the mental health issues that haunt our profession. Our profession has long failed to address the plight of mental health and wellbeing and how it affects the livelihood of our profession. Now, as we come out of the pandemic, I sadly believe the need to confront this issue is of more significance now than ever before. I am pleased that the Task Force on Attorney Wellbeing continues its efforts here, and I, like many of you, look forward to receiving their final report at the October meeting of the House of Delegates. I know that their recommendations will impact our profession for the better.

I am aware the agenda I have outlined above is both far-reaching and ambitious. And there will undoubtedly be additional issues that arise over the coming year that we will be compelled to address. But I firmly believe now is the time for us to tackle difficult and intractable issues or risk remaining relevant and responsive to members and prospective members, and to the profession.

Rather than empanel many task forces and special work groups, I will reach out to and engage our sections and committees to do most of the good work needed to move us forward.

Over the course of today, you will hear presentations from several task forces and committees, some of whom have labored long – years, in some cases – in the preparation of their reports. From the future of the New York State bar examination to the future of local journalism, from the sudden tragedy of the COVID-19 pandemic for residents of nursing homes and long-term care, to the ongoing tragedy of racial injustice and police misconduct, these reports are important, and demonstrate some of the best work that our Association can do to shape the development of law and educate and inform the public on the cutting-edge legal and policy issues of the day. I thank the leaders and members of these groups for their efforts and their service to the Association and the profession.

The events of the past year upended and unsettled us, but also accelerated and mandated changes that arguably would have taken much longer to accomplish. Now that we are here, we must take advantage and reinvent ourselves as a profession and certainly as an association. There is no turning back. We must have the courage and willingness to make change and do things differently than they have been done in the past. Those bar associations that have failed to recognize this will only suffer. Our proud bar association must remain at the forefront of recognizing this need for reinvention.

I look forward to working with you all. Indeed, as the COVID-19 pandemic continues to abate, I trust that the opportunity will come soon that we can meet in person, as colleagues, friends, and members of the Bar. In the meantime, do not hesitate to reach out to me – there is much work to be done over the coming year. Let us begin.