

NEW YORK STATE BAR ASSOCIATION  
MINUTES OF HOUSE OF DELEGATES MEETING  
BAR CENTER, ALBANY, NEW YORK  
NOVEMBER 2, 1996

---

PRESENT: Members: Adelman; Argetsinger; Ayers; Baldwin; Bass; Baum; Berlin; Bermingham; Bernis; Besunder; Bohner; Bracken; Branca; Buzard; Cardozo; Civilette; Clune; Coffey; Connery; Cooke; DaSilva; Denton; Dollard; Doran; Dunn; Dwyer; Edmead; England; Eppler; Epstein; Farrell; Felder; Field; Finerty; Fink; Fisher; FitzGerald; Franchina; Friedman; Gacioch; Gardella; Gauthier; Gerstman; Getnick; Gingold; P.J. Goldstein; P.S. Goldstein; Gregory; Gutleber; Haig; Hall; Harris; Hartman; Hassett; Hayes; Headley; Heming; Herold; Hesterberg; Hodges; Horowitz; Jacobowitz; Jones; Juliano; Kahler; Kahn; Kamins; Kelly; M. Kennedy; T.R. Kennedy; Kenney; M. Kessler; S. Kessler; Kougasian; Krane; Landy; Lascurettes; Lazar; Lefkowitz; Levin; C. Levy; P. Levy; Lieberman; Lilly; Logan; J. Longo; M. Longo; Lucchesi; Madigan; Maldonado; Malito; Mandell; Maney; Manley; Marangos; Marsh; Marten; McClusky; McGlinn; Meng; Millon; Moore; Murray; Naviasky; Netter; Nussbaum; O'Keefe; O'Leary; Okin; Oliver; Omansky; Osber; Ostertag; Palmer; Patterson; Paul; Peckham; Penzel; Peradotto; Periconi; Pfalzgraf; Pfeifer; Porter; Pruzansky; Reede; Reich; Reimer; Reizes; Remo; Rice; Richardson; Rider; Roper; Rosenbloom; Rosenfeld; Ross; Rothstein; I. Rubin; Santola; Sharkey; Sienko; Souther; Spellman; Standard; Stave; Stokes; Taylor; Tharp; Thomashower; Thompson; Tippins; Tishler; Tomaselli; Tsimbinos; D. Tyler; Vig; Vigdor; Vinal; Weaver; Whalen; Williams; Wolinsky; Wollman; Zalayet.

1. Approval of minutes of June 28-29, 1996 meeting. The minutes were deemed accepted as distributed previously.

2. Report of Treasurer. Mr. Rice summarized the Treasurer's report covering the period January 1 to September 30, 1996, copies of which had been circulated to the members of the House. He reviewed the major elements of the income and expense budgets, and noted that based on current estimates, the Finance Committee anticipated a year-end surplus in the range of \$300,000. He indicated that the cost reductions achieved through the cooperative efforts of the sections, committees, officers and staff, when combined with the recent budget surpluses, should enable the Association to avoid a dues increase in 1998 and possibly in 1999. Mr. Rice stated that this would permit the normal three year dues cycle to be extended for a fourth, and possibly a fifth year. Mr. Rice stated that the Association remained in sound financial condition at the close of three-quarters of the fiscal year. The report was received with thanks.

3. Report and recommendations of Finance Committee re proposed 1997 income and expense budget. On behalf of the Finance Committee, Mr. Rice summarized the major components of the Association's proposed income and expense budget for

1997. A motion was then adopted unanimously approving the budget as submitted by the Finance Committee.

4. Report of the Task Force on Family Law. Timothy M. Tippins, Chair of the Task Force on Family Law, reviewed the methodology employed by the task force in evaluating a broad spectrum of substantive and procedural issues affecting family law, including the holding of public hearings to gather views from across the state. He then outlined the recommendations developed by the task force to address substantive domestic relations issues, including divorce grounds, equitable distribution, child support, spousal support, child custody, domestic violence and abuse. Mr. Tippins then summarized the task force's proposals to resolve systemic and procedural problems in the areas of judicial case management of domestic relations cases, pretrial disclosure, calendar practice, judicial economy, expert witnesses, judicial effectiveness, alternative dispute resolution, the role of law guardians, and access to counsel. The report was received with thanks.

5. Report and recommendations of the Committee on Civil Rights. Gail Wright-Sirmans, Chair of the Committee on Civil Rights, summarized an anti-discrimination resolution proposed by the committee after consultation with the Executive Committee based on a report adopted by the American Bar Association in 1995. She outlined the genesis for the committee's proposal, including U.S. Supreme Court decisions and actions taken in various areas to address discrimination. After discussion and amendment, the following resolution was adopted on motion of the House:

**RESOLVED**, that the New York State Bar Association hereby reaffirms its opposition to unlawful discrimination based on race, sex, national origin, religion, disability, age, sexual orientation or marital status in employment, education, housing, contracting and licensing, and encourages lawful efforts including voluntary efforts to eliminate such discrimination.

6. Report of President. Ms. Richardson reported the following matters:

a) In recent weeks she had attended numerous section meetings and had been impressed with the breadth of programming and member involvement which she had found.

b) The Young Lawyers Section was seeking additional volunteers to serve as mentors for newer attorneys. She encouraged the members of the House to participate in this program as a service to the Association and the profession.

c) Expressed appreciation to the members of the Executive Committee for their service in a liaison capacity to sections and committees as a means for improving coordination and communication within the Association.

d) Announced that the Nominating Committee had selected James C. Moore of Rochester as President-Elect designate.

e) The Fifth Circuit Court of Appeals in September had ruled that the Texas IOLTA program was unconstitutional. She indicated that the Texas program was

petitioning for a rehearing of the matter and, if that failed, would seek review by the U.S. Supreme Court. Ms. Richardson indicated that the Association, with Executive Committee approval, had participated in an amicus curiae brief in support of the Texas program in the Fifth Circuit and would consider undertaking a similar effort in the Supreme Court.

f) To coordinate and enhance the Association's marketing efforts in a variety of areas including membership, CLE, law office economics and the Internet, the Finance Committee had authorized the creation of a marketing director position on the Association staff.

g) As of October 1, 1996, the Association had replaced its former New York City public relations consultant with the firm of LobsenzStevens. She indicated that the retention of a new consultant was intended to assist the Association in developing an enhanced media presence and a wider public exposure for its positions and activities.

h) Later in the month the Committee on Judicial Selection would be interviewing and evaluating the candidates to fill the vacancy on the Court of Appeals being created by the retirement of Hon. Richard D. Simons. She also noted that the Oneida County Bar Association would be honoring Judge Simons for his distinguished service.

i) In September she had met with Chief Judge Kaye and senior OCA officials to discuss matters of mutual interest including the 1997-98 judiciary budget, the NYSBA's disaster relief efforts in cooperation with the Association of the Bar of the City of New York in the wake of the TWA Flight 800 tragedy, OCA's plans for implementing the recommendations of the Task Force on the Profession, the status of various study groups appointed by the Chief Judge, and the activities of the NYSBA's Law, Youth and Citizenship Program in educating students regarding the law and the legal system.

j) After reviewing the report of the Committee on the Profession and the Courts, the Administrative Board of the Courts had approved a series of initiatives to implement its recommendations in the areas of professionalism, client satisfaction, attorney discipline and court management. She indicated that specific recommendations would be formulated by two task forces dealing with professional conduct and client satisfaction, and that the NYSBA had made four appointments to each group to ensure that the Association would have an active voice in the process.

k) During the ABA meeting in Orlando in August, the NYSBA had received the ABA's 1996 Harrison Tweed Award for its commitment to pro bono and its efforts to continue the availability of legal services for the poor. She acknowledged the role of the President's Committee on Access to Justice and the Department of Pro Bono Affairs in achieving this award.

l) Following the crash of TWA Flight 800, she had issued a public statement cautioning lawyers concerning the ethical prohibitions against the improper solicitation of crash victims' families. She also outlined the cooperative efforts undertaken with the

Association of the Bar of the City of New York in forming a team of attorneys to provide victims' families with pro bono assistance regarding their basic rights.

7. Report and recommendations of Special Committee to Review the Code of Professional Responsibility. Steven C. Krane, Chair of the Special Committee to Review the Code of Professional Responsibility, continuing the process begun at the June meeting, summarized amendments proposed to the Disciplinary Rules and Ethical Considerations contained in Canons 3, 4 and 5 of the Code of Professional Responsibility. He also reviewed the process utilized by the committee in considering amendments by interested parties.

Pursuant to the scheduling resolution adopted at the April 13, 1996 meeting of the House of Delegates, and after discussion, proposed amendments were adopted\* to the following provisions of the Code of Professional Responsibility: DR 3-102, EC 3-8, DR 5-101(A), EC 5-3, DR 5-102, EC 5-9, EC 5-10, DR 5-104, EC 5-4, EC 5-15, DR 5-105, EC 5-16, DR 5-106, DR 5-107, DR 5-108, DR 5-109, DR 5-111 [related amendments to DR 1-102 were deferred until the January meeting consistent with the scheduling resolution] EC 5-11, EC 5-18, EC 5-19 and EC 5-24.

At the conclusion of the discussion of the amendments proposed to Canons 3, 4 and 5, Mr. Pruzansky advised the members that, pursuant to the scheduling resolution, consideration of proposed amendments to Canons 6, 7, 8 and 9 would be taken up at the January 24, 1997 meeting of the House, with comments to be submitted no later than January 3, 1997.

8. Report of Chair. Mr. Pruzansky noted, as he had done in June, that to allow as much time as possible at meetings for the discussion of substantive items, he had circulated his report as Chair in a written format in advance of the meeting. A copy of that report is attached to these minutes. Consistent with the items set forth in that report, the following actions were taken by the House:

a) A motion was adopted authorizing the Committee on Mental and Physical Disability to change its name to the Committee on Issues Affecting People with Disabilities to reflect more accurately the nature of its current activities.

b) A motion was adopted to change the status of the Committee on Alternative Dispute Resolution from special to standing committee status due to the ongoing role of ADR in the justice system.

c) A motion was adopted unanimously approving the following resolution endorsing the candidacy of James R. Silkenat for the office of Secretary of the American Bar Association:

**WHEREAS**, James R. Silkenat has performed outstanding service for the U.S. legal profession in his efforts on behalf of the organized Bar, both nationally and in the State of New York;

---

\* Such adoption to be contingent on their approval by the Appellate Division of State Supreme Court in the four judicial departments.

**WHEREAS**, James R. Silkenat has served with distinction on the Nominating Committee of the American Bar Association and in the ABA House of Delegates;

**WHEREAS**, James R. Silkenat has served with distinction on the Executive Committee of the ABA Board of Governors (as Chair of the Board's Program and Planning Committee), as Chair of the ABA Standing Committee on Membership, as Chair of an ABA Section and as Chair of the ABA Section Officers Conference; and

**WHEREAS**, James R. Silkenat has the outstanding personal and professional qualities to serve the members of the American Bar Association and the U.S. legal profession as Secretary of the ABA.

**NOW, THEREFORE, BE IT RESOLVED** that the New York State Bar Association, on behalf of its 57,000 members, strongly supports the candidacy of James R. Silkenat as Secretary of the ABA and urges the Nominating Committee of the ABA to recommend his nomination to the ABA House of Delegates.

d) Members were encouraged to become mentors for the Young Lawyers Section mentoring program for new lawyers.

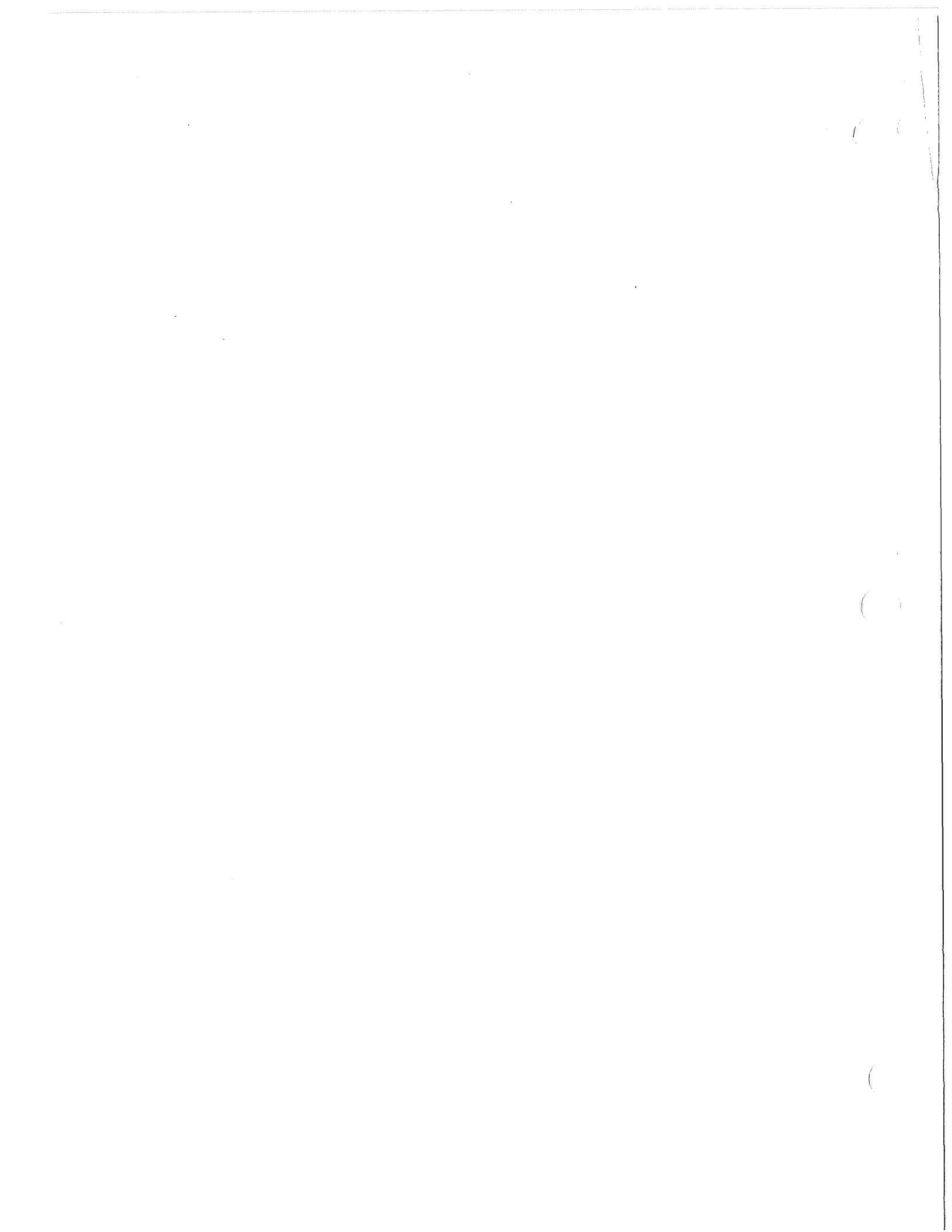
9. Memorial to John A.R. Walsh. Mr. Pruzansky announced that in October, John A.R. Walsh, a long-serving member of the House, had passed away. He indicated that a memorial to Mr. Walsh would be presented at the next meeting. A moment of silence was observed out of respect for Mr. Walsh's memory and his contributions to the Association, and the meeting was adjourned in honor of his memory.

10. Date and place of next meeting. Mr. Pruzansky announced that the next meeting of the House of Delegates would be held on Friday, January 24, 1997 at the Marriott Marquis in New York City.

Respectfully submitted,

A handwritten signature in black ink that reads "Kathryn Grant Madigan". The signature is written in a cursive, flowing style.

Kathryn Grant Madigan  
Secretary



# New York State Bar Association

One Elk Street, Albany, New York 12207 • 518/463-3200



**JOSHUA M. PRUZANSKY**  
President-Elect  
Greshin, Ziegler & Pruzansky  
199 E. Main Street  
PO Box-829  
Smithtown, NY 11787  
516/265-2550  
FAX 516/265-2832

October 29, 1996

To: Members of the House of Delegates

Re: Report of Chair

As initiated at the Cooperstown Meeting, I shall, this year, dispense with the traditional oral report by the Chair of the House, in order to preserve as much time as possible for consideration of agenda topics.

The only "housekeeping" item to report is the change of name of the Committee on Mental and Physical Disability to the Committee on Issues Affecting People with Disabilities. That change of name more accurately reflects, in the opinion of this Committee, its current activities. Your formal approval is requested.

At the last meeting, we also instituted a survey as a means of measuring your level of satisfaction with various aspects of the House meeting process and as a basis for making improvements where requested. The attached summary indicates over-all satisfaction with the structure, process and materials provided. Some comments lamented the absence of the annual softball game, which we anticipate will be restored next summer. I can only hope that recent events in Atlanta and the Bronx provided some consolation.

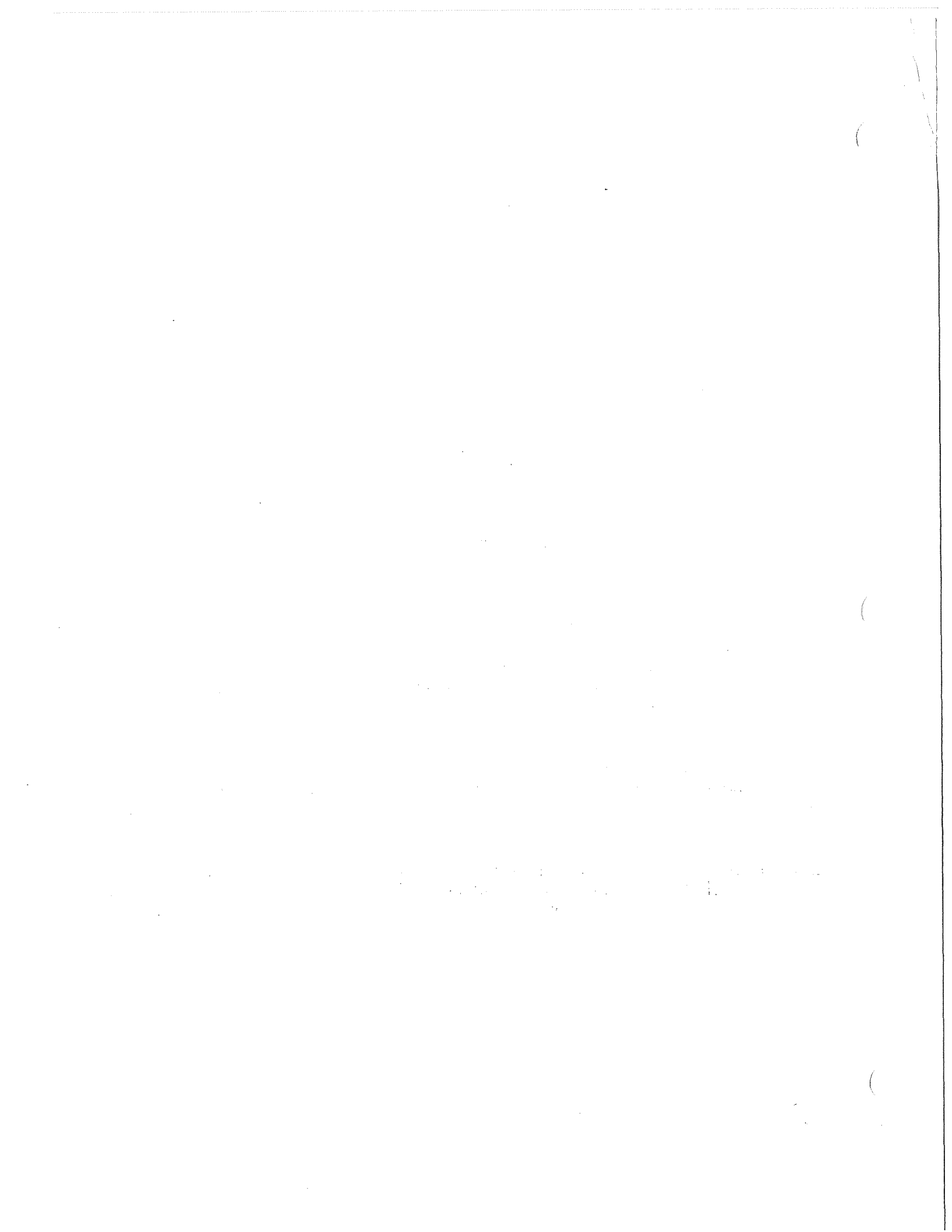
Another survey form will be distributed at the November 2 meeting. Please take a few moments to complete the survey form and return it to a member of the staff. Your input is, as always, highly valued by President Richardson and me.

Noteworthy substantive and policy matters will be included in the President's report. There is, accordingly, no reason for me to further impose upon your time.

This constitutes my report as Chair.

Respectfully submitted,

Joshua M. Pruzansky  
Chair of the House





**HOUSE OF DELEGATES**

**QUESTIONNAIRE - JUNE 29, 1996**

**RESPONSES 98 REC'D**

As Chair of the House of Delegates, and on behalf of President Richardson, I would like to extend greetings to the returning members and welcome the newly elected members of the House of Delegates.

Among the goals of the present leadership is the enhancement of communications with members of this House as well as making our meetings as substantive and productive as possible. This can only be accomplished by your commitment to the process. Towards that end, you are invited and encouraged to share your thoughts and suggestions and you will, accordingly, find the address, phone and fax number for Catherine and me at the end of this document. If you so wish, you may use this questionnaire which may, upon completion, be given to any of the Association's staff.

It is our intention to distribute a like questionnaire at each meeting of the House, this year.

1. Were the agenda background materials provided to you:

10 Too Detailed                      4 Insufficiently Detailed                      83 About Right

2. Were the agenda materials supplied to you sufficiently in advance of the meeting to allow adequate time for review:

69 Yes                      27 No

3. As to the following agenda items, was the amount of time allocated to discussion:

a) Report of Special Committee on Lawyer Advertising and Referral Services (agenda item #4):

2 Too Much                      None Too Little                      86 About Right

b) Report of Special Committee to Review the Code of Professional Responsibility (agenda item #3):

7 Too Much                      2 Too Little                      78 About Right

c) Report of Special Committee on Providing Access to Legal Services for Middle Income Consumers (agenda item #10):

9 Too Much                      3 Too Little                      62 About Right

4. Was the position of the Executive Committee on the agenda items of value to your deliberation and ultimate decision:

40 Yes      13 No      39 Somewhat

5. Did this agenda contain sufficient substantive issues to make your attendance worthwhile:

89 Yes      5 No      6 Somewhat

6. What items would you like to see included on the agenda of further meetings?

---

---

7. What was your opinion about the length of the meeting:

17 Too Long                      11 Too Short                      77 About Right

8. Is it your opinion that four (4) House meetings per year are:

7 Too Many                      3 Too Few                      87 About Right

9. Additional Comments:

---

---

Should you wish to communicate with the President or President-Elect regarding this agenda meeting or anything having to do with the House of Delegates or the NYSBA, you can do so at the following addresses:

**M. CATHERINE RICHARDSON**  
President  
Bond Schoeneck & King LLP  
One Lincoln Center  
Syracuse, NY 13202-1355  
Tel: (315)422-0121  
Fax: (315)422-3598

**JOSHUA M. PRUZANSKY**  
President-Elect  
Greshin Ziegler & Pruzansky  
199 East Main Street, P.O. Box 829  
Smithtown, NY 11787-2899  
Tel: (516)265-2550  
Fax: (516)265-2832