

**NEW YORK STATE BAR ASSOCIATION
MINUTES OF HOUSE OF DELEGATES MEETING
APRIL 5, 2008
BAR CENTER, ALBANY, NEW YORK**

PRESENT: Aaron; Alcott; Alden; Ayers; Badner; Badway; Barson; Bienstock; Branda; Breen; Brown, G.; Brown, P.; Buholtz; Burke, J.; Burke, P.; Burns; Buzard; Campanaro; Casserly; Chambers; Chase; Cheng; Chin; Christian; Cloonan; Coffey; Cohen, C.; Collazo; Costello; Crespo; Cullum; Cummings; Davis; Dietz; Dohn; Dolin; Donoghue; Doyle, C.; Doyle, V.; Draper; Duffy; Edmunds; Eppler; Farley; Fernandez; Ferradino; Fink; Fisher; Gerstman; Gesinsky; Gingold; Giorgio; Gold; Goldblum; Golinski; Grays; Gredd; Greeley; Greenberg; Greenthal; Gross; Gutekunst; Haig; Hayes; Higgins, J.; Higgins, P.; James; Kamins; Kobak; Krane; Kranis; Kretser; Lagonia; Lally; Lamantia; Larose; Lawrence; Leber; Leo; Levin; Levy; Lieberman; Lindenauer; Lonuzzi; Madigan; Manias; Marris; Martin; Marwell; May; McCarthy; Jeremiah; Meyer; Millett; Millon; Minkowitz; Miranda; Mitchell; Moore; Moreland; Morgan; Morril; Moy; Murray; Nashak; Nathanson; Netter; O'Donnell; Onderdonk; O'Neill; Ostertag; Paul; Peterson; Potter; Powers; Purcell; Reed; Reynolds; Richardson; Rider; Rifkin; Rodriguez; Romero; Rosenthal; Rosner; Rothstein; Russell; Salkin; Samber; Sandner; Schofield; Schrauer; Schultz; Schneider; Selinger; Sherman; Sigmond; Smith, T.; Smolowitz; Spelfogel; Standard; Stanislaus-Fung; Sterrett; Subjack; Tennant; Terranova; Tesser; Tharp; Thompson; Tyler; Vigdor; Wachtler; Wallach; Weinberger; Welby; Wilson; Wimpfheimer; Witmer; Yavinsky; Young; Younger.

Ms. Leber presided over the meeting as Chair of the House.

1. Approval of minutes of February 1, 2008, meeting. A motion was unanimously adopted accepting the minutes as previously distributed.
2. Report of the Treasurer. Mr. Ayers, Treasurer, reviewed the end-of-year 2007 operating budget, reporting that total revenue was \$23.6 million, an increase of \$91,000 over 2006, and total expense was \$22.8 million, an increase of \$1 million from 2006. The operating surplus was \$765,000, a decrease of \$912,000 over 2006. For the first two months of 2008, he reported that total revenue was \$13.1 million, an increase of \$958,000 over 2007, and total expense was \$4.3 million, a decrease of \$322,000 over 2007. He also provided a six-year comparison of CLE revenue and expense, a report on pension and post retirement expense, and the long-term reserve fund. The report was received with thanks.
3. Election of the Nominating Committee and NYSBA Delegates to the ABA House of Delegates. Kenneth G. Standard, 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 2008-2009 Nominating Committee:

Members-At-Large: A. Vincent Buzard as Chair and Mark H. Alcott and Kenneth G. Standard as members. A motion was adopted by unanimous voice vote to elect the members-at-large.

District members and alternates of the Nominating Committee: First – Manuel Campos-Galvan, Catherine A. Christian, Louis Crespo, Joel B. Harris, James B. Kobak, Jr., Ann B. Lesk, Ellen Lieberman, James R. Silkenat, and Lisa M. Stenson, with Jay Safer, First Alternate, Marilyn J. Flood, Second Alternate, and Janiece Brown Spitzmueller, Third Alternate; Second – Rose Ann C. Branda and Diana J. Szochet, with John A. Lonuzzi as Alternate; Third – Hon. Rachel Kretser and Lorraine Power Tharp, with Hon. Gerard E. Maney as Alternate; Fourth – Cristine Cioffi and Peter V. Coffey, with James E. Cullum as Alternate; Fifth – Thomas E. Myers and Karen Stanislaus-Fung, with Ellen Stempler Weinstein as Alternate; Sixth – James C. Gacioch and Mark S. Gorgos, with Shirley K. Egan as Alternate; Seventh – June M. Castellano and G. Robert Witmer, Jr., with Michael T. Harren as Alternate; Eighth – David L. Edmunds, Jr. and Maryann Saccomando Freedman, with Sharon Stern Gerstman as Alternate; Ninth – Frank M. Headley, Jr., Catherine M. Miklitsch and Conal E. Murray, with Joel H. Sachs as Alternate; Tenth – Emily F. Franchina, Scott M. Karson, A. Craig Purcell and Jon N. Santemma, with Barry M. Smolowitz, First Alternate and Peter H. Levy, Second Alternate; Eleventh – Catherine Lomuscio and Steven Wimpfheimer, with Arthur N. Terranova as Alternate; Twelfth – Steven C. Krane and Maxwell S. Pfeifer, with Steven E. Millon as Alternate.

A motion to elect the foregoing was adopted by unanimous voice vote.

- b. Election of Delegates to ABA House: A motion to elect the following for a two-year term commencing in August 2008 was adopted by unanimous voice vote: A. Vincent Buzard, Steven C. Krane, A. Thomas Levin, Kathryn Grant Madigan, and Michael E. Getnick. A separate motion was adopted by unanimous voice vote to elect Michael L. Fox as the Young Lawyer Delegate to the ABA House for a similar two-year term.
4. Presentation of Trial Lawyers Section National Trial Advocacy Awards. Together with Evan Goldberg, Chair of the Trial Lawyers Section, and Prof. Joanne Van Dyke from Syracuse University College of Law, Ms. Madigan presented the Trial Lawyers Cup and Scholarship to Syracuse University College of Law as winner of the National Trial Competition for Region II. Plaques were awarded to team members Jennifer Brooks, Joseph Nosse, Olatokunbo Oliniyan and Rafiel Deon Warfield, with Ms. Oliniyan also being recognized as overall best advocate.
5. Report of the President. Ms. Madigan provided a written report on recent initiatives, a copy of which is appended to these minutes, and in oral remarks summarized the significant items set forth in the written statement. She observed that this is her last meeting as President, and thanked the members of the House and her firm for their support and participation.

6. Report and recommendations of Special Committee on Balanced Lives in the Law. M. Catherine Richardson, chair of the Special Committee, accompanied by committee member Joey Silberfein, presented the committee's recommendations to assist lawyers in balancing their personal and professional lives, including initiatives that should be undertaken by law schools, bar associations, and law firms. After discussion, the following resolution was adopted:

WHEREAS, the Special Committee on Balanced Lives in the Law was appointed to study the work lives and expectations of members of the legal profession and challenges confronted in striving for a balance of personal and professional responsibilities; and

WHEREAS, the Special Committee has issued a report, containing a number of recommendations for action by law schools, bar associations and law firms to assist lawyers in balancing their personal and professional lives;

NOW, THEREFORE, IT IS

RESOLVED, that the New York State Bar Association hereby endorses the report and recommendations of the Special Committee on Balanced Lives in the Law; and it is further

RESOLVED, that the officers of the Association are hereby empowered to take such steps as they may deem warranted to implement this resolution.

7. Report of Committee on Membership. Committee chair Claire P. Gutekunst reported that the Association reached an all-time high membership of 78,000 before members with unpaid dues for 2008 were dropped from the membership rolls. She noted the need to retain newer members, as 38% of members in the lowest dues categories were dropped, and outlined several initiatives being taken to encourage retention. Ms. Gutekunst also announced the names of those House members who had met the President's Membership Challenge to date by recruiting a new member and encouraged other House members to do likewise; she noted that new members recruited by House members as part of the Challenge would be offered membership at half the regular dues for 2008. The report was received with thanks.
8. Report and recommendations of Committee on Alternative Dispute Resolution. James C. Moore, the committee's chair, accompanied by committee members Simeon Baum, John Honig and Leona Beane, presented the committee's request to create a Dispute Resolution Section within the Association. They noted that the main forms of alternative dispute resolution – mediation and arbitration – have become major elements of dispute resolution and the creation of a section would provide opportunities for training and skills development, as well as an opportunity for membership growth. After discussion, the following resolution was adopted, with the understanding that the proposed Section

Bylaws would be reviewed and amended to conform to the member requirements contained in the Association's Bylaws:

RESOLVED, that there is hereby established an Dispute Resolution Section within the New York State Bar Association; and it is further

RESOLVED, that the proposed bylaws of the Dispute Resolution Section are hereby approved; and it is further

RESOLVED, that an appropriate budget be approved by the Finance Committee and that the necessary funds be allocated from the general funds of this Association to carry out the foregoing; and it is further

RESOLVED, that a Steering Committee on the Dispute Resolution Section, to be appointed by the President, shall take all steps necessary to implement the establishment of the Section effective June 1, 2008; and it is further

RESOLVED, that the Committee on Alternative Dispute Resolution shall be sunsetted as an Association Committee and its work pursued as part of the Section, effective June 1, 2008.

9. Report and recommendations of Committee on Diversity and Leadership Development. Co-chairs Kenneth G. Standard and Lorraine Power Tharp, together with vice chair A. Thomas Levin, reviewed the status of diversity within the Association's section leadership based upon the results of a survey completed in 2007, noting that while measurable progress has been made since the last survey in 2005, additional improvement was needed. The committee made the following recommendations to enhance diversity: to use the survey results in connection with the 2008 Section Leaders' Conference (a recommendation approved by the Executive Committee at its January 31, 2008 meeting); to publish the report on the Association's Website and report the results in *State Bar News*; to develop a strategic plan in collaboration with the Department of Bar Services to give the sections support needed to collaborate with minority bar associations and enhance membership; and to ask the Association President to convene a conference of section diversity leaders in order to foster collaboration among sections to enhance diversity. After discussion, the following resolution was adopted by unanimous voice vote:

WHEREAS, the Committee on Diversity and Leadership Development is charged with conducting biennial surveys evaluating the level of diversity in Association Section leadership, membership and activities and compiling reports to inform the Association of ongoing progress as to Section diversity and initiatives to enhance diversity; and

WHEREAS, the Committee conducted its second biennial survey in fall 2007 and has released its report containing the methodology of the 2007 survey and a comparison to the survey conducted in 2005 and an explanation of progress made; and

WHEREAS, the Committee has recommended (a) that the report be published on the Association Website and the results published in *State Bar News*; (b) that a strategic plan be developed in collaboration with the Department of Bar Services to provide Section leaders with the support needed to collaborate with minority bar associations in an effort to attract new section members; and (c) that the Association President convene a joint conference of all Section diversity committees and/or leaders in order to foster collaboration to enhance Section diversity, resulting in the development of a "best practices" manual;

NOW, THEREFORE, IT IS

RESOLVED, that the New York State Bar Association hereby endorses the report and recommendations of the Committee on Diversity and Leadership Development; and it is further

RESOLVED, that the officers of the Association are hereby empowered to take such steps as they may deem warranted to implement this resolution.

10. Report of Committee on Civil Rights. Joni Haviva Kletter, a member of the Committee on Civil Rights, accompanied by Patrick Campbell, outlined the report being prepared by the committee with respect to habeas corpus and military commissions as related to persons being held in detention in Guantánamo. The report will conclude that the Military Commissions Act of 2006 unconstitutionally suspends habeas corpus; the current comprehensive system of review is not an adequate and effective habeas substitute; the right of habeas corpus should extend to all territories within the de facto sovereign control of the United States; and Congress should create a new military commission consistent with due process and the Uniform Code of Military Justice. The committee plans to present its final report to the Executive Committee and the House of Delegates at its June 2008 meeting. The report was received with thanks.
11. Report of The New York Bar Foundation. John R. Horan, President of The New York Bar Foundation, reported on recent grants made by The Foundation to various organizations as well as on gifts to The Foundation that had been made by Association Sections. He reminded the members that memorial gifts to The Foundation are welcome. The report was received with thanks.
12. Administrative Items. Ms. Leber reported on the following:
 - a. Motions to approve the designation of delegates filed by the county and local bar associations for the 2008-2009 Association year and to approve the filed roster of the members of the House for the 2008-2009 year were requested and approved.
 - b. Stephen D. Smyk, a delegate to the House from Broome County, passed away on February 22, 2008. A moment of silence was observed in Mr. Smyk's memory.

- c. She observed that this meeting represents the last House meeting of the Association year and noted that a number of House members were completing their terms, expressing appreciation for their service. She also expressed appreciation to Ms. Madigan for her leadership as President of the Association, noting that she and incoming President-Elect Michael E. Getnick will continue her initiatives. She introduced Keith J. Soressi as the Association's new Associate Executive Director effective June 1, 2008 and thanked John A. Williamson, Jr., who will retire from the position on May 31, 2008, for his 32 years of service to the Association. Finally, she noted that this meeting represents her last as Chair of the House and thanked the House for the opportunity to serve.
 - d. She reported that the June House of Delegates meeting will be broadcast on the Web, and also noted that a softball game for members has been scheduled for 2:00 p.m. on the afternoon of Saturday, June 21.
13. Date and place of next meeting. Ms. Leber announced that the next meeting of the House of Delegates would take place on Saturday, June 21, 2008 at The Otesaga in Cooperstown.
14. Adjournment. There being no further business to come before the House of Delegates, the meeting was adjourned.

Respectfully Submitted,



Michael E. Getnick
Secretary