

**NEW YORK STATE BAR ASSOCIATION  
MINUTES OF HOUSE OF DELEGATES MEETING  
HILTON NEW YORK, NEW YORK CITY  
JANUARY 27, 2012**

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**PRESENT:** Abella; Abernethy; Arnold; Asarch; Ayers; Baker; Barnes; Baum; Berman; Blessing; Block; Bonina; Bordman; Bouveng; Bracken; Braunsdorf; Brown, E.; Buholtz; Burke, P.; Burns, H.; Burns, S.; Castellano; Chambers; Chang; Cheng; Coffey; Cohn, M.; Cohen, O.; Cohn; Collins; Conley; Convissar; Crespo; Cvek; DeFelice; DeFio Kean; DeHaven; Di Pietro; DiLorenzo; Dollard; Doyaga; Doyle; Edmunds; Effman; Eng; Eppler; Fay; Feinberg; Fennell; Fernandez, Hermes; Ferris; Finerty; Fink; Fish; Fisher; Flood; Fontaine; Fox; Franchina; Gaffney; Galligan; Genoa; Gerstman; Getnick; Goldberg; Goldenberg; Gorgos; Grays; Grayson; Green; Gruer; Gutekunst; Gutenberger; Gutheil; Haig; Hall; Hanna; Harren; Hawkins; Hernandez; Hetherington; Hoag; Hollyer; Honig; Hurteau; Jackson; James, D.; James, S.; John; Kahn; Karabatos; Karalunas; Karson; Kelly, M.; Kennedy; Kera; Kiernan; King, B.; Kobak; Kurs; Lais; Laluk; Lanouette; Lau-Kee; Leber; Leventhal; Levin; Levy; Lindenauer; Lugo; Lupkin; Madigan; Makofsky; Maltz; Marino; Marwell; Masley; Mattei; Mayer; McDonald; McEntee; McKay; McNamara; Meislahn; Miklitsch; Millett; Millon; Minkoff; Minkowitz; Miranda; Moore; Moretti; Moses; Moxley; Moy; Murray; Myers; Nathanson, E.; Nathanson, M.; Nelson, L.; Nizin; Opatowsky; Ostertag; Park; Parker; Pellow; Perlman; Pettit; Pogson; Prager; Preston; Privitera; Prowda; Pruzansky; Quaranta; Radick; Randazzo; Rauer; Reed; Richardson; Richman; Risi; Robertson; Rodriguez; Romero; Rosiny; Rosner; Ruderman; Russell; Ryan; Sachs; Safer; Schindel; Schoenfeld; Schofield; Schraver; Schwartz; Seddio; Sen; Seymour, S.; Shulman; Silkenat; Singer; Slavin; Slezak; Smith; Sonberg; Spiro; Stanclift; Standard; Stapleton; Starkman; Sunshine; Swanson; Sweet; Syracuse, V.; Taylor; Tennant; Tollin; Torrey; Tsan; Vitacco; Walker; Wallach; Walsh, S.; Watkins; Witmer; Wolk; Young; Younger; Zuchlewski; and Zuckerman.

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

1. Approval of minutes of November 5, 2011 meeting. A motion was adopted accepting the minutes as previously distributed.
2. Report of the Treasurer. The Treasurer's report for the preceding fiscal year, which had been presented by Treasurer Claire P. Gutekunst to members of the Association at the Annual Meeting, was received with thanks.
3. Report of the President. Mr. Doyle provided a printed report, a copy of which is appended to these minutes, and highlighted several of the initiatives set forth in the report.
4. Report of the Nominating Committee and election of officers and members-at-large of the Executive Committee. Bernice K. Leber, chair of the Nominating Committee, reported that the Committee had nominated the following individuals for election to the indicated offices for the 2012-2013 Association year: President-Elect: David M. Schraver, Rochester; Secretary: David P. Miranda, Albany; Treasurer: Claire P.

Gutekunst, New York City; and Vice Presidents: First District – Catherine A. Christian and Jay G. Safer, New York City; Second – Manuel A. Romero, Brooklyn; Third – Lillian M. Moy, Albany; Fourth – Rebecca A. Slezak, Amsterdam; Fifth – Thomas E. Myers, Syracuse; Sixth – Mark S. Gorgos, Binghamton; Seventh – June M. Castellano, Rochester; Eighth – Sharon Stern Gerstman, Buffalo; Ninth – Arlene Antoinette Gordon Oliver, Mount Kisco; Tenth – Emily F. Franchina, Garden City; Eleventh – Richard M. Gutierrez, Forest Hills; Twelfth – Steven E. Millon, the Bronx; Thirteenth – Michael J. Gaffney, Staten Island. Nominated as members-at-large of the Executive Committee were Samuel F. Abernethy, New York City; Hon. Margaret J. Finerty, New York City; Sherry Levin Wallach, Mount Kisco; and Edwina Frances Martin, New York City.

There being no further nominations, a motion was made and carried unanimously to elect the above-named individuals as officers and members-at-large of the Executive Committee.

5. Address by Hon. Jonathan Lippman, Chief Judge of the State of New York. Chief Judge Lippman addressed the House of Delegates with respect to the status of Unified Court System initiatives. He provided an update on the Judiciary budget; funding for civil legal services; indigent defense; judicial salaries; juvenile justice; and wrongful convictions. The report was received with the thanks of the House.
6. Presentation of resolution to Hon. Ann T. Pfau. Mr. Doyle presented a resolution of the Executive Committee to Judge Pfau in recognition of her service as Chief Administrative Judge from 2007 to 2011.
7. Memorial to Hon. Anthony V. Cardona. Former President Michael E. Getnick presented a memorial to Hon. Anthony V. Cardona, Presiding Justice of the Appellate Division, Third Department, who passed away in December 2011. A moment of silence was observed out of respect for Justice Cardona's memory and his contributions to the Judiciary and the legal profession.
8. Report of Committee to Ensure Quality of Mandated Representation. Norman P. Effman, the committee's chair, presented an informational report on the committee's recommendations with respect to methods of sharing resources between providers of mandated representation, legal impediments to sharing resources, model agreements and programs, and efforts to promote the sharing of resources. The committee will present a report for action at the March 2012 Executive Committee and House meetings. The report was received with thanks.
9. Presentation of the Ruth G. Schapiro Memorial Award. Mr. Doyle presented the annual Ruth G. Schapiro Award to Kim K. Azzarelli, president of the Women in the World Foundation. Paula Donnolo, Ms. Azzarelli's mother, accepted the award on her behalf.
10. Report and recommendations of Committee on Standards of Attorney Conduct. Joseph E. Neuhaus, chair of the committee, presented the reports.
  - a. Proposed amendments to Rules of Professional Conduct. Mr. Neuhaus outlined proposed amendments to Rule 4.2 and Rule 1.2 of the Rules of Professional

Conduct. After discussion, a motion to amend Rule 4.2(a) to specify its application to lawyers acting in a pro se capacity failed on voice vote, after which a motion was adopted to approve the proposed amendments for submission to the Appellate Division.

- b. Update on ABA Ethics 20/20. Mr. Neuhaus updated the House with respect to the work of the ABA Commission on Ethics 20/20, which is reviewing the Rules of Professional Conduct in the context of advances in technology and global legal practice and which has issued a number of white papers and discussion drafts. He reported that the Committee on Standards of Attorney Conduct has submitted comments to the commission with respect to these reports. The report was received with thanks.
11. Report and recommendations of Criminal Justice Section. Marvin E. Schechter, chair of the section, together with Richard D. Collins, co-chair of the section's Committee on Sealing/Expungement, reviewed the section's report recommending that New York adopt a sealing statute. After discussion, a motion was adopted to approve the following resolution:

WHEREAS, in 2006 the House of Delegates approved the report and recommendations of the Special Committee on Collateral Consequences of Criminal Proceedings; and

WHEREAS, the Special Committee found that a criminal conviction can have a serious effect on the ability of a person to obtain employment, and many New York occupational licenses and certifications are not available to a person with a criminal conviction, and accordingly recommended, *inter alia*, that New York should create a new sealing provision to seal, upon application, certain felony and misdemeanor convictions after a certain period; and

WHEREAS, the Criminal Justice Section has completed a review of proposed sealing statutes in New York, the sealing provisions in effect in New Jersey, and has identified a variety of factors upon which a sealing law should be based; and

WHEREAS, the Section has proposed the addition of a new Section 160.65 to the Criminal Procedure Law and the amendment of Section 296 of the Executive Law to provide a vehicle to seal a record of conviction or adjudication;

Now, therefore, it is

RESOLVED, that the New York State Bar Association hereby approves the report of the Criminal Justice Section; and it is further

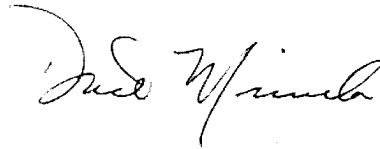
RESOLVED, that the New York State Bar Association supports the amendment of the Criminal Procedure Law, the Executive Law, and any other necessary state statutes to provide a vehicle to seal a record of conviction or adjudication upon application; and it is further

RESOLVED, that the officers of the Association are empowered to draft and/or support specific legislation to accomplish the purposes set out herein, and to take such other and further steps as they may deem warranted to implement this resolution.

12. Report of ABA State Delegate. On behalf of ABA State Delegate Mark H. Alcott, Mr. Doyle updated the House on ABA activity and reviewed the agenda for the upcoming February 2012 House of Delegates meeting. In addition, he noted that James R. Silkenat will be nominated as ABA President-Elect and that Lillian M. Moy is a candidate for a seat on the ABA Board of Directors. The report was received with thanks.
13. Report of Committee on Diversity and Inclusion. Kenneth G. Standard and Betty Lugo, the committee's co-chairs, reviewed the committee's 2011 Diversity Report Card survey. They noted the importance of obtaining this information in order to make the Association more inclusive. They also reported that the committee is reviewing the development of a list of diverse CLE presenters and joint ventures with minority bar associations. The report was received with thanks.
14. Report of Committee on Membership. Glenn Lau-Kee and Sherry Levin Wallach, the committee's co-chairs, provided an update on the committee's activities and the President's Diversity Challenge. The report was received with thanks.
15. Report of Secretary. David P. Miranda, Secretary, reported on the work of the Special Committee on Strategic Planning and the development of an "action plan" to implement the committee's recommendations. In addition, he updated the House on the development of a social media policy to ensure consistency in the use of the Association's "brand." Both topics will be presented in greater detail at the March 2012 meeting. The report was received with thanks.
16. Report of Executive Director. Patricia K. Bucklin, Executive Director, updated the House with respect to staff and internal operations, including increased centralization; the installation of a new telephone system; meetings with section chairs; and technology initiatives. The report was received with thanks.
17. Administrative items. Mr. James reported on the following:
  - a. NYSBA delegates to ABA House of Delegates. At the March 31, 2012 meeting, the House would be requested to elect six of the Association's 11 delegates to the American Bar Association House of Delegates. The Nominating Committee had nominated the following individuals: A. Vincent Buzard, Rochester; Vincent E. Doyle III, Buffalo; Michael L. Fox, Walden (Young Lawyer Delegate); Michael E. Getnick, Utica; Kathryn Grant Madigan, Binghamton; and David M. Schraver, Rochester.
  - b. Discharge of Task Force on New York Law in International Matters. The Task Forces on New York Law in International Matters been discharged with the concurrence of its chairs, with its work to be continued by existing committees and sections. Mr. James also observed the passing of co-chair Joseph T. McLaughlin, and expressed sympathy to his family.

18. Date and place of next meeting. Mr. James announced that the next meeting of the House of Delegates would take place on Saturday, March 31, 2012 at the Buffalo Hyatt in Buffalo.
19. Adjournment. There being no further business to come before the House of Delegates, the meeting was adjourned.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "David P. Miranda".

David P. Miranda  
Secretary