

**NEW YORK STATE BAR ASSOCIATION
MINUTES OF HOUSE OF DELEGATES MEETING
JUNE 25, 2011
THE OTESAGA, COOPERSTOWN, NEW YORK**

PRESENT: Abella; Abernethy; Alcott; Arnold; Ayers; Baker; Barnes; Barreiro; Baum; Bauman; Berke-Weiss; Berkowitz; Berman; Block; Bracken; Brown, E.; Burke, P.; Burns, S.; Buzard; Castellano; Chambers; Chang; Coffey; Cohen, D.; Conley; Convissar; Crespo; DeFio Kean; DeHaven; DiLorenzo; Dollard; Donaldson; Doyaga; Doyle; Edmunds; Effman; Eng; Eppler; Fay; Feinberg; Fennell; Fernandez; Freedman; Hermes; Ferris; Finerty; Fink; Fisher; Foley; Fox; Franchina; Gall; Galligan; Genoa; Gensini; Gerstman; Getnick; Glasheen; Goldenberg; Gordon-Oliver; Gorgos; Grays; Grayson; Grossman; Gutekunst; Gutierrez; Haig; Hanna; Harren; Hassett; Hernandez; Hetherington; Hoag; Hoffman; Hollis; Hollyer; Honig; Hurteau; James, S.; Johnson; Kahn; Karalunas; Kase; Kelly; Kennedy; Kera; Kobak; Kurs; Laluk; Lashley; Lau-Kee; Lesk; Leventhal; Lieberman; Lindenauer; Lugo; Lupkin; Madigan; Lakofsky; Marwell; Masley; Mattei; McAuliffe; McDonald; McKay; McNamara, Michael; Meislahn; Millon; Minkowitz; Miranda; Moretti; Moxley; Moy; Myers; Napoletano; Nelson, J.; Onderdonk; Ostertag; Pachman; Parker; Pellow; Perlman; Pettit; Pogson; Prager; Prowda; Quaranta; Quinlan; Radick; Randazzo; Reed; Rich; Richman; Risi; Roberts-Ryba; Rodriguez; Romero; Rosiny; Rosner; Russ; Russell; Ryan; Sachs; Safer; Sandford; Schraever; Schwartz; Seitz; Shulman; Silkenat; Singer; Slavin; Slezak; Smith; Stanclift; Standard; Stapleton; Starkman; Stern; Strauss, B.; Strauss, F.; Swanson; Taylor; Tennant; Tollin; Torrey; Tsan; Vigdor; Vitacco; Walker; Wallach; Watkins; Weinberger; Witmer; Young; Younger; and Zuchlewski.

Mr. James 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 recited, and Mr. James welcomed the new members of the House.
2. Minutes of April 2, 2011 meeting. The minutes were accepted as previously distributed.
3. Report of the Treasurer. Claire P. Gutekunst, Treasurer, reported that that the Association had received an unqualified opinion from the Association's auditors, UHY, LLP, for the 2010 audited annual report as of December 31, 2010. With respect to the current year through May 31, 2011, she reported that total revenue is \$17.6 million, an increase of \$383,000 from the previous year, and total expense is \$10.6 million, an increase of \$458,000 as compared to 2010. Ms. Gutekunst then provided a review of major expense changes. The report was received with thanks.
4. Presentation of Root-Stimson Award. Paul Michael Hassett, chair of the Root-Stimson subcommittee of the Committee on Annual Award, reported that the Root-Stimson Award honors members of the profession for outstanding community service. President Doyle and Mr. Hassett presented the award to Robert Michael Greene of Buffalo. A partner at Philips Lytle LLP, he was honored in particular for his medical missions to Haiti.

5. President's Membership Challenge. Claire P. Gutekunst, immediate past chair of the Membership Committee, and past President Kathryn Grant Madigan reported the results of the three-year Challenge that had been launched on January 1, 2008. The Association experienced an overall growth of 4.8%. Two sections met their 10% growth goal, 13 sections gained or had stable membership, and two sections lost members. The report was received with thanks.
6. Installation of President. Mr. Doyle was formally installed as President. The oath of office was administered by Maryann Saccomando Freedman, first woman president of the Association and a long-time family friend. Mr. Doyle then addressed the House with respect to his planned initiatives for his term as President, under the theme "Justice for All."
7. Report and recommendations of Task Force on New York Law in International Matters. Joseph T. McLaughlin, co-chair of the Task Force, reviewed the Task Force's recommendations to encourage the use of New York law as an international standard and New York as a forum for dispute resolution. After discussion, a motion was adopted to approve the following resolution:

WHEREAS, review and analysis by the New York State Bar Association Task Force on New York Law in International Matters shows that the use of New York law in international agreements is widespread in the global business community due to its stability, predictability, neutrality, and consistent application by New York courts and arbitrators; and

WHEREAS, a significant number of New York bar association sections and committees with highly knowledgeable and experienced international practitioners are constantly at work examining issues related to New York law and New York as a forum for international dispute resolution and preparing thoughtful memoranda and internal reports on pertinent topics; and

WHEREAS, there should be greater familiarity with the advantages of New York law and New York as a forum for international dispute resolution among lawyers drafting or advising on governing law clauses and dispute resolution provisions in international agreements, particularly given the presence in New York of thousands of experienced international lawyers, arbitrators, and mediators and the overwhelming support by New York state and federal courts for international arbitration at every stage from the enforcement of the arbitration agreement to the recognition of the arbitral award;

Now, therefore, it is

RESOLVED, that the New York State Bar Association hereby accepts the report of the Task Force on New York Law in International Matters and approves in concept the recommendations contained therein; and it is further

RESOLVED, that the Association reaffirms its commitment to encourage and mobilize the intellectual and professional resources of experienced New York attorneys, arbitrators, and judges to assist in the continued development and use of New York law and New York as a forum; and it is further

RESOLVED, that the officers of the Association are hereby empowered and directed to refer the report and recommendations to an implementation group to work with appropriate Association sections and committees and local bar associations to consider the recommendations and develop proposals and programs as they deem appropriate to implement the recommendations contained in the report; and it is further

RESOLVED, that the officers of the Association are empowered to distribute the report to bar associations, law schools, and other entities for their consideration and to take such other and further steps as they may deem warranted to implement this resolution.

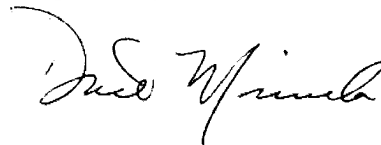
8. Presentation of Attorney Professionalism Award. Immediate Past President Stephen P. Younger, together with President Doyle, presented the Attorney Professionalism Award to James P. Bessette of Malone. A partner at Fischer, Bessette, Muldowney & Hunter, LLP, Mr. Bessette was honored for his extraordinary fairness and ethical conduct that serve as a high professional standard for all New York attorneys.
9. Report of President. Mr. Doyle highlighted the information contained in his printed report, a copy of which is appended to these minutes.
10. Section Diversity Challenge. Glenn-Lau-Kee and Sherry Levin Wallach, co-chairs of the Membership Committee, outlined a one-year challenge to Sections to increase diversity in their membership, spearheaded by the Membership Committee and the Committee on Diversity and Inclusion. The results of the Challenge will be reported at the March 31, 2012 House meeting. The report was received with thanks.
11. Report and recommendations of Finance Committee. The reports were presented by David M. Schraver, chair of the committee.
 - a. Approval of 2012 Membership Dues Increase. Mr. Schraver outlined the proposed dues structure for 2012, which includes modest increases across most dues categories. After discussion, a motion was adopted to approve the 2012 dues structure.
 - b. Dues Waiver Program. Mr. Schraver reported that the Finance Committee recommended that the dues waiver program, initially implemented in 1990, be continued for an additional three years through 2014. After discussion, a motion was adopted to approve continuation of the program.

12. Report and recommendations of Special Committee on Discovery and Case Management in Federal Litigation. Samuel F. Abernethy, chair of the special committee, together with committee member Gregory K. Arenson, reviewed the committee's report and recommendations regarding preservation and spoliation of electronically stored information. They noted that this topic is one of a number of topics planned for inclusion in the committee's full report on discovery and case management, anticipated to be completed in the fall; however, the Civil Rules Advisory Committee of the Standing Committee on Rules of Practice and Procedure of the Judicial Conference of the United States plans to conduct a "mini-conference" on discovery and spoliation in September 2011, after which it will consider proposed rules at its November 2011 meeting. Consequently, the committee has prepared this interim report to address these specific issues. The report was received with thanks.
13. Report of the Secretary. David P. Miranda, Secretary, reported that a newly-constituted Committee on Resolutions would oversee the implementation of and follow-up on reports and resolutions adopted by the Executive Committee and/or House of Delegates. He also highlighted the information contained in his printed report, a copy of which is appended to these minutes. The report was received with thanks.
14. Report of the Executive Director. Patricia K. Bucklin, Executive Director, updated the House with respect to staff and internal operations, including the development of a Department of Section Services; an Executive Services office; a call center; and technology initiatives. The report was received with thanks.
15. Report and recommendations of Committee on Standards of Attorney Conduct. David M. Schraver, a member of the committee, reviewed the committee's recommendations to add 12 new comments and seven amended comments to the Rules of Professional Conduct. After discussion, a motion was adopted to approve the new and amended comments.
16. Report of Task Force on Family-Friendly Issues. Sheryl L. Randazzo and Tucker C. Stanclift, co-chairs of the Task Force, reported on initiatives being reviewed by the Task Force to encourage family participation in Bar activities, including the development of a "best practices" guide for sections and activities scheduled for families during meetings. The report was received with thanks.
17. Report of ABA State Delegate. Mark H. Alcott, ABA State Delegate, updated the House on ABA activity and reviewed the agenda for the upcoming August 2011 House of Delegates meeting. The report was received with thanks.
18. Report of Committee on Law, Youth and Citizenship. Oliver C. Young, past chair of the committee, encouraged House members to serve as volunteers in the schools to foster civics education. He invited members to send a text message to the committee staff to volunteer, and members would be provided with materials for their use. The report was received with thanks.

19. Report of The New York Bar Foundation. Emily F. Franchina, a member of The Foundation's Board of Trustees, presented an informational report on recent developments with respect to The Foundation, highlighting fellowships offered by The Foundation. The report was received with thanks.
20. Administrative items. Mr. James reported on the following:
- a. Reappointment of special committees. Special committees are appointed initially for a fixed period of time not to exceed three years and, when that time has elapsed, House approval is required to extend the term of such committees. A motion was adopted to extend the terms of the following special committees for an additional year:
 - 1. Review the Code of Judicial Conduct
 - 2. Student Loan Assistance for the Public Interest
 - b. Appointment of standing committees. Two committees had been recommended to change status from special to standing committees: the Special Committee on Committees and the Special Committee on LGBT People and the Law. Motions were adopted to approve the elevation of these committees to standing committees.
 - c. Creation of new committee. At the request of the Lawyer Assistance Committee, the creation of a new Judges Assistance Committee as a standing committee had been recommended by the Executive Committee. A motion was adopted to approve the creation of the new committee.
 - d. Discharge of task forces and special committees. The Task Forces on Lawyer Advertising, Global Warming, Privacy, Government Ethics and Future of the Legal Profession, as well as the Special Committee on Rules for Consideration of Reports, have been discharged with the concurrence of their respective chairs. Where appropriate, the work will be continued by existing committees and sections.
 - e. Standing Committee Name Change. A recommendation has been made to change the name of the Committee on Court Structure and Judicial Selection to Committee on Court Structure and Operations to reflect the committee's added focus on the impact of budget cuts on court functions. A motion was adopted to approve the name change.
 - f. Ratification of Appointment of Audit Committee Members. President Doyle has reappointed David M. Hayes as chair and has appointed C. Bruce Lawrence as a member of the Audit Committee. A motion was adopted to ratify these appointments.

- g. Immediately following the meeting, an orientation would be held for new members of the House, and all new members were encouraged to attend.
21. New Business.
- a. Resolution re same-sex marriage. Upon the recommendation of the Committee on Legislative Policy, a motion was adopted to approve the following resolution:
- WHEREAS the Association, through a resolution adopted by the House of Delegates, has called upon the State Legislature to permit couples of the same sex to marry, and
- WHEREAS the Legislature has now passed such legislation and the Governor has signed the legislation into law, and
- WHEREAS New York has now become only the second state in the Union, without judicial mandate, to permit such marriages through the action of its elected Legislature and Governor, now, therefore,
- BE IT RESOLVED that the New York State Bar Association hereby commends the Governor and the Legislature on this historic event that further extends our great national promise of liberty and justice for all.
22. Date and place of next meeting. Mr. James announced that the next meeting of the House of Delegates would take place on Saturday, November 5, 2011 at the Bar Center in Albany.
23. Adjournment. There being no further business to come before the House of Delegates, the meeting was adjourned.

Respectfully Submitted,



David P. Miranda
Secretary