

**NEW YORK STATE BAR ASSOCIATION
MINUTES OF HOUSE OF DELEGATES MEETING
JUNE 23, 2012
THE OTESAGA, COOPERSTOWN, NEW YORK**

.....

PRESENT: Aaron; Abella; Abernethy; Alcott; Arnold; Ayers; Bailey; Barnes; Barreiro; Baum; Beckford; Berman; Brown, E.; Brown, T. Andrew; Brown, Terryl; Buholtz; Cahill; Chambers; Chase; Christian; Coffey; Cohen, D.; Cohen, O.; DiLorenzo; Donaldson; Doyle; Dunne; Effman; Enea; Eppler; Epps; Fay; Fedorchak; Feinberg; Fernandez; Ferris; Finerty; Fishberg; Fisher; Fontaine; Fox; Franchina; Friedman; Gaffney; Gall; Genoa; Gensini; Gerace; Gerstman; Getnick; Giordano; Glanstein; Gold; Gorgos; Gross; Gutekunst; Gutenberger; Gutheil; Gutierrez; Haig; Hall; Hanna; Harper; Hassett; Hetherington; Higgins; Hillman; Hilowitz-DaSilva; Hoag; Hurteau; Hutter; Jackson; James; Kamins; Karalunas; Karson; Kelly, M.; Kiernan; King, B.; Klein; Kobak; Kornfeld; Kurs; Laluk; Lapp; Lashley; Lau-Kee; Lawrence; Leber; Lee; Leventhal; Lugo; Madigan; Makofsky; Marinaccio; Marino; Martin; Marwell; McAuliffe; McCafferty; McDermott; McDonald; McEntee; McKeegan; McNamara; Millon; Minkoff; Miranda; Moore; Moretti; Mulhall; Myers; Napoletano; Nowotny; Onderdonk; Ostertag; Pellow; Perlman; Pettit; Prager; Preston; Rauer; Reed; Richman; Risi; Rivera; Robb; Robertson; Rodriguez; Romero; Rosiny; Rosner; Rothstein; Ruderman; Russell; Ryan; Sachs; Safer; Schraver; Schultz; Schwartz, S.; Seitz; Shamoon; Shulman; Siegel; Silkenat; Slezak; Smith, A.; Smith, S.; Standard; Stanislaus; Stapleton; Starkman; Stenson Desamours; Stern; Swanson; Sweet; Taylor; Tennant; Terranova; Torrey; Tsan; Tully; Ugurlayan; Walker; Wallach; Warshawsky; Watkins; Westlake; Wimpfheimer; Witmer; Woronov; Yeung-Ha; Young; Younger; and Zuchlewski.

Mr. Schraver 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 Mr. Schraver welcomed the new members of the House.
2. Minutes of March 30, 2012 meeting. The minutes were accepted as previously distributed.
3. Report of the Treasurer. Claire P. Gutekunst, Treasurer, reported that total revenue through May 31, 2012 is \$19.3 million, an increase of \$1.7 million from the previous year, and total expense is \$10.6 million, an increase of \$28,000 as compared to 2011. The operating surplus is \$8.6 million, an increase of \$1.6 million from the previous year. Ms. Gutekunst then provided a review of major income and expense changes. The report was received with thanks.
4. Presentation of Root-Stimson Award. President James presented the Root-Stimson Award, which honors members of the profession for outstanding community service, to Maureen Crush of Newburgh. A partner at deRamon Crush, she was honored in particular for her work with Habitat for Humanity of Greater Newburgh.

5. Report and recommendations of Corporate Counsel Section. David S. Rothenberg, the Section's chair, outlined proposed amendments to Part 522 of the Rules of the Court of Appeals to permit pro bono service by attorneys admitted to work as in-house counsel pursuant to Part 522. A motion to approve the proposal was made, after which a motion to amend to encourage voluntary pro bono service but reiterate the Association's opposition to mandatory pro bono failed on a standing vote of 76-84. The main motion to approve the proposal then was adopted.
6. Presentation of Non-Resident Member Award. President James presented the Non-Resident Member Award, which recognizes the contributions of non-resident members of the Association, posthumously to Rajpattie Persaud-Billette. A solo practitioner in Montreal, Ms. Persaud-Billette was honored in particular for her service as chair of the Committee on Lawyer Referral Service from 2008 until her death in 2011. The award was accepted by her husband, Paul Billette.
7. Reports and recommendations of Committee on Standards of Attorney Conduct. The reports and recommendations were presented by committee member Ronald Minkoff.
 - (a) Amendments to Statement of Client's Rights and Statement of Client's Responsibilities. Mr. Minkoff reviewed proposed amendments to these documents, noting that the changes were intended to update the documents to reference the Rules of Professional Conduct rather than the Code of Professional Responsibility and to account for new technology. He also advised that since the Statement of Client's Rights is contained in the Appellate Division Rules, it will be necessary to submit that document to the court for its consideration. After discussion, a motion was adopted to approve the report and recommendations.
 - (b) Proposed rule re temporary practice in New York. Mr. Minkoff outlined a proposed Part 523 of the Rules of the Court of Appeals to permit lawyers admitted in other jurisdictions to provide temporary legal services in New York under limited circumstances. After discussion, a motion was approved to divide the question, with separate votes on the proposal regarding temporary practice and the proposal regarding practice pending admission. A motion was adopted to approve the recommendation regarding temporary practice. A motion to amend the recommendation regarding practice pending admission to require an applicant to submit a letter of intent to seek admission to the Office of Court Administration was approved, after which a motion was adopted to approve the recommendation as amended.
8. Installation of President. Mr. James was formally installed as President. The oath of office was administered by Hon. Cheryl E. Chambers, Associate Justice of the Appellate Division, Second Department and Mr. James' wife. Mr. James then addressed the House with respect to his planned initiatives for his term as President.
9. Report of Task Force on Non-Lawyer Ownership. Task Force Chair Stephen P. Younger and Vice Chair David A. Lewis reviewed the work of the Task Force to date, including

its review of the Work of the ABA Commission on Ethics 20/20 and the results of a survey of the membership with respect to nonlawyer ownership, and reported that the Task Force had concluded that there should be no changes in the rules relating to nonlawyer ownership at this time. The Task Force will present its report to the House of Delegates at the November 3, 2012 meeting. The report was received with thanks.

10. Report and recommendations of Special Committee on Discovery and Case Management in Federal Litigation. Samuel F. Abernethy Chair of the Special Committee, outlined the committee's recommendations with respect to reducing delays and the expense of litigation in federal courts. After discussion, a motion was adopted to approve the report and recommendations.
11. Report of President. Mr. James highlighted the information contained in his printed report, a copy of which is appended to these minutes.
12. Report and recommendations of Special Committee on Immigration Representation. Committee Co-Chairs Jojo Annobil and Joanne Macri outlined the committee's recommendations with respect to standards and quality of immigration representation and meeting the unmet representation needs of the upstate immigrant population. After discussion, the following resolution was adopted:

WHEREAS, research indisputably demonstrates that there is an urgent need for quality and affordable representation in immigration removal proceedings;

WHEREAS, respondents in immigration proceedings face mandatory detention, deportation and, often times, permanent expulsion from the United States with no constitutional right to government-appointed legal representation;

WHEREAS, the stakes in removal proceedings are high and success in avoiding the dire consequences of removal depends upon whether an individual has competent counsel and adequate legal representation;

WHEREAS, there is a dearth of adequate legal representation in U.S. immigration matters available to respond to the dramatic and rapid escalation in immigration enforcement and an exponential increase in the detention, removal and expulsion of immigrants from the United States resulting in the separation from United States citizen and lawful permanent resident family members, loss of income and, in some cases, possible persecution in the receiving country;

WHEREAS, the Executive Office for Immigration Review's Recognized Organizations and Accredited Representatives program, in its current state, cannot begin to adequately address the urgent need for increased representation until it can build a cadre of adequately trained and supervised accredited representatives available to assist in meeting the legal needs of indigent immigrants;

WHEREAS, the New York State Bar Association Special Committee on Immigration Representation was appointed to study these issues and has prepared a comprehensive report containing proposed standards for representation and other recommendations to address access to justice for immigrants in removal proceedings concerns;

Now, therefore, it is,

RESOLVED, that the New York State Bar Association hereby accepts the report of the Special Committee on Immigration Representation, approves the proposed Standards for Quality of Representation of Clients in Immigration Cases contained therein, and approves in concept the Special Committee's other recommendations; and it is further

RESOLVED, that the Association reaffirms its commitment to enhancing the quality and availability of legal representation; 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, legal services providers and other entities for their consideration and to take such other and further steps as they may deem warranted to implement this resolution.

13. Report of the Secretary. David P. Miranda, Secretary, 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 Task Force on Family Courts. Task Force Co-Chairs Hon. Mary Rita Connerton and Susan B. Lindenauer reported on the committee's work to date in examining the challenges faced by Family Courts and developing recommendations that would better enable the courts to meet the demands placed upon them. They noted that the Task Force plans to issue its final report for consideration by the House at its November 3, 2012 meeting. The report was received with thanks.
15. Report of ABA State Delegate. Mark H. Alcott, ABA State Delegate, updated the House on ABA activity and the upcoming August 2012 House of Delegates meeting. The report was received with thanks.
16. Report of The New York Bar Foundation. Christine Cioffi, President of The Foundation, presented an informational report on recent developments with respect to The

Foundation, highlighting a new campaign to educate and increase awareness of The Foundation's work. The report was received with thanks.

17. Administrative items. Mr. Schraver 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. Student Loan Assistance for the Public Interest
2. Discovery and Case Management in Federal Litigation

b. Discharge of task forces and special committees. The Special Committee to Review the Code of Judicial Conduct, the Special Committee on Strategic Planning, and the Task Force on Family-Friendly Issues have been discharged with the concurrence of their respective chairs. Where appropriate, the work will be continued by existing committees and sections.

c. Ratification of Appointment of Audit Committee Member. President James has appointed Taa R. Grays as a member of the Audit Committee. A motion was adopted to ratify the appointment.

18. Date and place of next meeting. Mr. Schraver announced that the next meeting of the House of Delegates would take place on Saturday, November 3, 2012 at the Bar Center in Albany.

19. Adjournment. There being no further business to come before the House of Delegates, the meeting was adjourned.

Respectfully Submitted,



David P. Miranda
Secretary