

**NEW YORK STATE BAR ASSOCIATION
MINUTES OF HOUSE OF DELEGATES MEETING
BAR CENTER, ALBANY, NEW YORK
NOVEMBER 5, 2016**

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

PRESENT: Abbott; Alomar; Alsina; Alvarez; Baker; Barreiro; Bauman; Behe; Berman; Block; Bonina; Braunstein; Brown Spitzmueller; Brown, E.; Brown, T.; Burke, J.; Burns, S.; Calareso; Calcagni; Chambers; Chandrasekhar; Cheng; Christensen; Christian; Christopher; Cilenti; Clouthier; Coffey; Cohen, O.; Connery; Cooper; Davis; DeFelice; Denton; Disare; Doyle; Effman; England; Fay; Fennell; Ferguson; Finerty; First; Fisher; Fox; Gaal; Gaddis; Gallagher; Galligan; Gensini; Gerbini; Gerstman; Getnick; Goldberg; Goldenberg; Goldfarb; Gordon Oliver; Grays; Greenberg; Grossman; Gutekunst; Haig; Halpern; Heath; Hersh; Hetherington; Hillman; Himes; Hines; Hoffman; Hollyer; Hurteau; Hyer; James; Jochmans; Karson; Kean; Kelly; Kenneally; Kenney; Kiernan, P.; Kiesel; Koch; Krausz; LaRose; Lau-Kee; Lazarin; Leber; Lee; Levin; Levy; Lewis; Lindenauer; Madden; Makofsky; Mancuso; Mandell, Andrew; Marangos, D.; Maroney; Martin; McCann; McGinn; McKeegan; McNamara; Miller, C.; Miller, G.; Miller, H.; Miller, M.; Millon; Minkowitz; Miranda; Moretti; Moses; Moskowitz; Murphy; Napoletano; Nowotarski; O'Donnell, T.; Onderdonk; Ostertag; Owens; Poster-Zimmerman; Prager; Richman; Richter; Rivera; Rodriguez; Rosiny; Rosner; Russell; Ryba; Samuels; Scheinberg; Schofield; Schrauer; Schwenker; Sciocchetti; Shafer; Shamoon; Sharkey; Sheehan; Sigmond; Silkenat; Singer; Sonberg; Spierer; Spiro; Spitler; Standard; Starkman; Steinhardt; Strenger; Sulimani; Tarver; Tennant; Thaler-Parker; Tully; Ventura; Vitacco; Wallach; Walsh; Weathers; Weinberger; Weis; Welch; Westlake; Weston; Whiting; Whittingham; Wicks; Wildgrube; Williams; Younger.

1. Approval of minutes of June 18, 2016 meeting. The minutes were deemed accepted as previously distributed.
2. Report of Treasurer. Scott M. Karson, Treasurer, reported that through September 30, 2016, the Association's total revenue was \$20.7 million, an increase of approximately \$250,000 over the previous year, and total expenses were \$17 million, a decrease of approximately \$330,000 over 2015. Mr. Karson also provided a report on the status of the long-term reserve investments. The report was received with thanks.
3. Report and recommendations of Finance Committee re proposed 2016 income and expense budget. T. Andrew Brown, chair of the Finance Committee, reviewed the proposed budget for 2017, which projects income of \$24,348,950, expenses of \$24,313,075, and a projected surplus of \$35,875. A motion was adopted to approve the proposed 2017 budget.
4. Report of President. Ms. Gutekunst highlighted the information contained in her printed report, a copy of which is appended to these minutes. In addition, she reported that Executive Director David R. Watson would leave the Association at the end of the year to take the position of Executive Director of the Institute for Continuing Legal Education at the University of Michigan, and she asked Mr. Watson to address the House. The House expressed its appreciation for Mr. Watson's service.

5. Report of Nominating Committee. David M. Schraver, chair of the Nominating Committee, reported that the Committee had nominated the following individuals for election to the indicated offices for the 2017-2018 Association year: President Elect: Michael Miller, New York City; Secretary: Sherry Levin Wallach, Mount Kisco; Treasurer: Scott M. Karson, Melville; Vice Presidents: 1st District – Taa R. Grays, New York; 2nd District – Domenick Napoletano, Brooklyn; 3rd District – Henry M. Greenberg, Albany; 4th District – Matthew R. Coseo, Ballston Spa; 5th District – Stuart J. LaRose, Syracuse; 6th District – Alyssa M. Barreiro, Ithaca; 7th District – David H. Tennant, Rochester; 8th District – Norman P. Effman, Warsaw; 9th District – Michael L. Fox, Newburgh; 10th District – Peter H. Levy, Jericho; 11th District – Karina E. Alomar, Ridgewood; 12th District – Steven E. Millon, New York; 13th District – Jonathan B. Behrins, Staten Island. The following individuals were nominated to serve as Executive Committee Members-at-Large for a 2-year term beginning June 1, 2017: Margaret J. Finerty, New York City; William T. Russell, Jr., New York City; and Richard M. Gutierrez, Forest Hills (Diversity Seat). Nominated as Section Member-at-Large was Andre R. Jaglom, New York City. Nominated as Young Lawyer Member-at-Large was Sarah E. Gold, Albany. The following individuals were nominated as delegates to the American Bar Association House of Delegates for the 2017-2019 term: Claire P. Gutekunst, Yonkers; Seymour W. James, Jr., New York City; Glenn Lau-Kee, New York City; Michael Miller, New York City; and Stephen P. Younger, New York City. The report was received with thanks.
6. Report and recommendations of Committee on the New York State Constitution. Henry M. Greenberg, chair of the committee, presented the committee's report on issues a constitutional convention might address with respect to Article XIV of the State Constitution, the conservation article. After discussion, a motion was adopted to approve the report and recommendations.
7. Membership Challenge update. Thomas J. Maroney, chair of the Membership Committee, together with committee member Michelle Wildgrube, outlined the goals for the challenge (a 2% membership increase in 2017 and a 3% increase in 2018) and the committee's plans to achieve these goals. The report was received with thanks.
8. Report and recommendations of President's Committee on Access to Justice. William T. Russell, Jr., co-chair of the President's Committee on Access to Justice, together with committee member Michael Miller, reviewed the committee's report recommending Association support for the concept and utilization of limited scope representation for low and moderate income persons. After discussion, a motion was adopted to endorse the following resolution for favorable action by the House:

WHEREAS, the New York State Bar Association has long supported and encouraged access to justice for all, including for low and moderate income persons who are not able to pay for conventional legal services; and

WHEREAS, as the late New York State Chief Judge Judith S. Kaye noted in 1999: “Access to the legal system is an inherent right of citizenship, yet far too many New Yorkers are currently denied this right because they lack economic resources;” and

WHEREAS, over the past several years, the organized bar, academic institutions and courts have been experimenting with models of legal practice that permit attorneys to provide limited scope representation to clients who want or need to limit their expenses, and may be able to effectively handle the other aspects of their cases on their own; and

WHEREAS, although criminal defendants who cannot afford an attorney have a constitutional right to counsel, there is no such right in most civil matters; and

WHEREAS, it is estimated that 1.8 million New Yorkers, including mostly low income persons, appear unrepresented by counsel in family court, housing court, consumer debt matters, foreclosures and other civil matters in New York State Courts;

WHEREAS, a growing number of New Yorkers are falling into the category of the “working poor” or “modest means” and are living from pay check to pay check and cannot afford traditional legal assistance, and

WHEREAS, this lack of counsel can often mean an outcome that is less favorable for the litigants than it might be were there affordable counsel available and can result in greater strains on both our judicial system and social welfare programs; and

WHEREAS, in recent years, the New York State Court system has been confronted with significant budgetary challenges and an influx of self-represented individuals into the judicial system; and

WHEREAS, the President’s Committee on Access to Justice of the New York State Bar Association has submitted a report calling upon the Association to support the concept and encourage the utilization of limited scope representation for low and moderate income persons in civil matters,

NOW THEREFORE, IT IS

RESOLVED, that the New York State Bar Association adopts the report of the President’s Committee on Access to Justice and supports the concept and encourages the utilization of limited scope representation for low and moderate income persons in civil matters; and it is further

RESOLVED, that the officers of the association are authorized to take such actions as may be necessary to further explore, and where appropriate, implement and expand programs of limited scope representation for low and moderate income persons in civil matters.

9. Point/Counterpoint. Ms. Gerstman reported that she had asked members Kevin W. Goering and Lillian M. Moy to debate the topic of speech restrictions on college campuses. The presentation was received with thanks.
10. Report and recommendations of Committee on Continuing Legal Education. Committee chair Ellen G. Makofsky, together with committee member Mirna M. Santiago, outlined the committee's report recommending that the rules governing mandatory continuing legal education be amended to provide for one credit hour of diversity CLE credit as part of the 32 credit hours required for new attorneys and as part of the 24 credit hours required of experienced attorneys. After discussion, a motion was adopted to approve the following resolution to govern consideration and debate at the January 27, 2017 House meeting for favorable action by the House:

RESOLVED, that the House of Delegates hereby adopts the following procedures to govern consideration at the January 27, 2017 meeting of the House, and any subsequent meetings as may be necessary, of the report and recommendations of the Committee on Continuing Legal Education:

1. The report and recommendations of the Committee was circulated to members of the House, sections and committees, county and local bar associations, via the Reports Community on October 20, 2016.
2. **Comments on report and recommendations:** Any comments on or amendments to the Committee's report or particular recommendations contained therein must be submitted in writing to the Secretary of the Association at the Bar Center by January 13, 2017; otherwise they shall not be considered. All comments complying with this procedure shall be distributed to the members of the House in advance of the January 27, 2017 meeting.
3. **Consideration of the report and recommendations at the January 27, 2017 meeting and any subsequent meetings:** The report and recommendations will be scheduled for formal debate and vote at the January 27, 2017 meeting and considered in the following manner:
 - a. The Committee shall be given an opportunity to present its report and recommendations.
 - b. All those wishing to speak with regard to the report and recommendations may do so only once for no more than three minutes.
 - c. The Committee may respond to questions and comments as appropriate.
 - d. Procedural motions shall be considered out of order until debate on substantive issues is concluded.
 - e. A vote on the report and recommendations shall be taken at the conclusion of the debate.

11. Report of The New York Bar Foundation. John H. Gross, President of The New York Bar Foundation, presented a report on some of The Foundation's initiatives, including the establishment of a disaster relief fund for people impacted by flooding in Louisiana; a Cause Award received from New York Nonprofit Media; the Amazon Smile fundraiser; a law firm challenge; a veterans program; and an awards booklet for distribution at the 2017 Annual Meeting. The report was received with thanks.
12. Administrative items. Ms. Gerstman reported on the following items:
 - a. She announced that the House of Delegates Dinner will take place on Thursday, January 26, 2017 at the Metropolitan Club, 1 East 60th Street, New York City.
 - b. She announced that the Committee on Leadership Development would host a luncheon immediately following the meeting to discuss leadership opportunities.
13. Date and place of next meeting. Ms. Gerstman announced that the next meeting of the House of Delegates would take place on Friday, January 27, 2017 at the New York Hilton Midtown, New York City.
14. Adjournment. There being no further business to come before the House of Delegates, the meeting was adjourned.

Respectfully submitted,



Ellen G. Makofsky
Secretary