

PRESIDENT'S MESSAGE

SEYMOUR W. JAMES, JR.

Thank You for Making a Difference

When I took office in June 2012, several former presidents told me the year would pass by in a flash, but it's still hard to believe my term is almost over. Serving as your president has been a remarkable experience and undoubtedly one of the highlights of my professional career. It has been a year filled with activity, and I thoroughly enjoyed every minute of it. In this final President's Message, with my term drawing to a close, I would like to review some of the key accomplishments of the past year and thank the many Bar Association leaders, staff and volunteers who have made all of this possible. Our theme this year was "Making a Difference," and I am pleased to share some of the ways our Association is making a difference, thanks to the efforts of our dedicated members.

Special Committee on Voter Participation

New York State suffers from one of the lowest voter participation rates in the nation, ranking 47th in average voter turnout in the last three federal elections. New York's voter registration also consistently lags behind the national average. Less than 64% of eligible citizens were registered to vote in 2010, and only 35.5% of the voting-eligible population cast votes for the highest office in the general election that year.

At the start of my term as president, I designated voter participation as a top policy priority. We created the Special Committee on Voter Participation, led by former U.S. Assistant Attorney General and New York State Senator John R. Dunne (Whiteman Osterman & Hanna) and Daniel F. Kolb (Davis Polk and Wardwell), to consider possible

reforms that would remove obstacles to registration and voting, while maintaining the integrity of the process. After careful study by its bipartisan team of experts, the special committee recommended a slate of reforms designed to improve voter participation in the state. The committee's recommendations included modernizing the voter registration process, changing voting practices to make voting easier and more convenient, and increasing penalties for deceptive election practices that suppress votes. I am pleased that the committee's recommendations were adopted by the House of Delegates in January 2013. We have begun advocating for these reforms before the state Legislature, and we are hopeful that many of the committee's recommendations will be enacted into law.

Special Committee on Human Trafficking

In many nations worldwide, human trafficking has become a form of modern slavery. The victims of this crime, many of them women and children, are often exposed to physical and emotional abuse at the hands of traffickers. Victims may be especially vulnerable to intimidation because of their immigration status or fear of retaliation. As a result, victims may be reluctant to report their plight to law enforcement agencies, making it difficult to define the magnitude of the problem.

Shortly after I became president, we formed a Special Committee on Human Trafficking, chaired by Past President Bernice Leber (Arent Fox) and Sandra Rivera (Manatt, Phelps & Phillips). The committee is currently finalizing its recommendations, which will address state and federal laws related to sex



trafficking, labor trafficking and child trafficking. The committee made an informational presentation before the House of Delegates in April 2013 and will submit its final report at our June meeting. Human trafficking has also been a major priority for the American Bar Association this year and I look forward to opportunities for the State Bar and the ABA to collaborate in this important area.

Task Force on Criminal Discovery

Another top priority this year has been our Task Force on Criminal Discovery Reform, which is studying the widely varied discovery policies in place around the state. In most counties, defendants routinely receive limited information from prosecutors about their cases before trial, and important information is too often revealed so late in the proceedings that defense attorneys may be unable to properly investigate the evidence, fairly weigh plea offers or mount a legitimate defense. The committee has looked at the current discovery laws, standards adopted by other states, and "open-file" discovery practices (like those used in certain counties in New York

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State and elsewhere), which provide for the sharing of all or most of the information in prosecutors' case files well in advance of trial.

The task force is finalizing its recommendations for reforms that would facilitate the early exchange of critical information by prosecutors and defense attorneys, prior to trial. These proposed changes to New York's Criminal Procedure Law would remove some of the barriers that make it difficult for defense counsel to quickly and accurately assess a case and provide appropriate advice and representation. The task force is co-chaired by Court of Claims Judge Mark R. Dwyer and Peter Harvey (Patterson Belknap Webb & Tyler) and it is expected to issue its report and recommendations for consideration by the State Bar's House of Delegates at an upcoming meeting.

Special Committee on Prisoner Reentry

Each year, tens of thousands of individuals are released from New York's correctional facilities, and too many of them face major challenges that can make it difficult to successfully reintegrate into our communities. These challenges can lead to unemployment, homelessness, untreated substance abuse and health problems, family disruptions and recidivism. We have established a Special Committee on Prisoner Reentry to address these concerns and develop recommendations to stem discrimination against former prisoners and improve educational, housing and employment opportunities. These reforms could have a significant impact on achieving successful reentry and preventing re-offense. The work of the Special Committee, ably chaired by Ron Tabak (Skadden, Arps, Slate, Meagher & Flom) and Sheila Gaddis (Hiscock & Barclay), is still under way, and we look forward to receiving its recommendations.

Diversity

Achieving diversity and inclusion is an ongoing and multi-faceted goal for the State Bar and our profession. In our

increasingly diverse society, a representative legal profession is necessary to maintain the legitimacy of our legal system and respect for the rule of law. A diverse legal profession allows us to better represent our clients and helps to ensure the fair administration of justice.

Having embraced diversity as an official Association policy, we believe that it is our responsibility as the largest voluntary state bar association to set an example and to play a leading role in supporting diversity in the law. Last August, we submitted an amicus curiae brief in the case of *Fisher v. University of Texas*, which highlighted the importance of racial and ethnic diversity in the legal profession and the need to maintain an adequate flow of diverse students in the undergraduate pipeline. We are also continuously working to improve the diversity of our own membership.

In 2011, Past President Vincent E. Doyle issued the President's Section Diversity Challenge, and we were thrilled to receive a prestigious ABA Partnership Award in recognition of our efforts. We continued the Section Diversity Challenge with this year's theme, "Reaching for the Next Level." I challenged each Section to strive for diverse representation in section activities, committee participation, CLE presentations and to increase their efforts to collaborate with minority bars to create meaningful, lasting opportunities for participation by diverse members.

The Sections met the challenge by designating diversity seats on section executive committees; creating scholarships to section events and meetings; developing a resource guide emphasizing training and mentoring resources, outreach and publication strategies, and best practices; instituting targeted outreach to diversity committees and organizations at law schools; participating in NYSBA law school events; and establishing "Under 10" groups, allowing new attorneys to serve as a resource for professional development. Focus on issues affecting female lawyers also increased, with efforts to draw attention to different career options

including government, academia and in-house opportunities. Sections also demonstrated a strong commitment to reflecting diversity in their CLE panels and section publications.

As the Diversity Challenge drew to a close, NYSBA Sections joined together to roll out a new, pilot Association-wide Mentoring Program, designed to build relationships between experienced attorneys and diverse attorneys who are interested in becoming future section leaders. Among the many goals of this new mentoring program is the development of a diverse network of colleagues, allowing young attorneys to build perspective and become adept at meeting the demands of the legal profession in the 21st century. We are thankful to retired Court of Appeals Judge Carmen Beauchamp Ciparick and President-Elect Designee Glenn Lau-Kee for co-chairing this initiative, and I am confident that it will be of tremendous benefit to our members.

State Legislative Priorities

We continue to advance our legislative priorities. These include reinforcing the integrity of New York's justice system; supporting appropriate judicial compensation; advocating for adequate financial support for civil legal services and indigent criminal defense, and measures to increase the age of criminal responsibility to 18; supporting the sealing of records pertaining to certain criminal offenses; and supporting modernization of the laws governing non-profits in New York State. We actively supported the Judiciary Budget request, which proposed \$40 million for civil legal services, \$15 million to assist the Interest on Lawyer Account Fund, and more than \$8 million for the continued implementation of long-overdue judicial pay raises. We were pleased that the budget was passed without any reductions.

We will continue to support a package of bills intended to prevent wrongful convictions, with a particular focus on mandatory video recording of custodial interrogations. We were pleased that Governor Cuomo

discussed that provision, as well as another proposal we support, reforming identification procedures, during his State of the State address. In addition, the New York City Police Department announced that it will begin recording all post-arrest interrogations in sex-crime and murder cases. We are hopeful that this development will pave the way for legislation mandating recording of interrogations during the 2013 legislative session.

Sequestration and Federal Court Funding

At the federal level, we have been very vocal about the potential negative impact of sequestration on the federal courts and the Legal Services Corporation (LSC). We have called on Congress to fund these institutions at levels that are adequate to permit them to function effectively. We have been collaborating with local bar presidents, NYSBA leaders and New York's business community to carry our message regarding the impact of sequestration to many audiences. We have issued joint letters and press statements and brought leaders together for lobbying visits in Washington, D.C.

On January 1, Congress enacted the American Taxpayer Relief Act of 2012, which delayed sequestration until March 1. Facing this calendar, we proposed a resolution at the ABA meeting in February calling on officials to protect the federal courts and LSC. We were pleased that the resolution passed. Unfortunately, sequestration was implemented on March 1 and the debate continues in Congress. We will continue our advocacy on behalf of our courts and civil legal services providers to enable our citizens to have access to justice.

Superstorm Sandy Relief Efforts

When Superstorm Sandy struck in late October and devastated communities in downstate New York, the State Bar's Lawyer Referral and Information Services Department responded within days by implementing an emergency hotline and recruiting volunteer attorneys to field calls from distressed

residents. We quickly organized a CLE training at the Bar Center which was simultaneously webcast to more than 2,000 viewers. That program provided an overview of the legal issues that arise due to natural disasters, identified relevant state and federal relief programs and discussed best practices in client counseling in disaster relief situations. In addition, we co-sponsored other legal training programs to provide lawyers with the information they needed to assist the storm's survivors. We have also been working closely with local bar associations and legal service providers in the affected areas and holding regular conference calls to ascertain the types of assistance needed, share information on legal issues that arose, help publicize legal clinics and recruit attorney volunteers.

In conjunction with the New York Bar Foundation, we have established a fund to support local bar associations and legal services providers that have been assisting people affected by the storm. We have raised more than \$60,000 for that fund and have begun the grant application process.

Conclusion

Our accomplishments this year were the result of the hard work of our officers, executive committee, committee and section chairs, members and

staff, and I cannot thank them enough for their dedication and support of the Association. I have been fortunate to work with an excellent team of officers: Treasurer Claire Gutekunst, Secretary David Miranda and President-Elect David Schraver. Dave has been a tremendous partner and his leadership will take our Association to even greater heights in the coming year. In addition, our superb Executive Director Patricia Bucklin and the State Bar staff do an outstanding job of managing operations and helping us to implement the policies of our Association. Of course, all of our work is made possible by the thousands of dedicated attorney volunteers who take the time to share their expertise for the good of the profession and the public. I must give special thanks to my wife, Justice Cheryl Chambers, whose support for me has been unwavering, and thank my colleagues at The Legal Aid Society who regularly filled in for me when I was working on Bar Association matters.

It has been an honor and a privilege to be your president during such a productive and exciting year and I thank each and every member for the opportunity to have served. I look forward to continuing to work with you in the years to come as a member of the House of Delegates. ■

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