



TO: Environmental Committee

FROM: Linda Shaw

DATE: June 17-18, 2016

RE: **NEW YORK STATE BAR ASSOCIATION HOUSE  
OF DELEGATES MINUTES**

## MEMO

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### **Section Delegates Caucus FRIDAY June 17, 2016**

The first order of business at the Caucus Meeting was to revise the name of this pre-meeting Friday night Section Delegates Caucus event in order to “broaden the base” of members participating. There was debate about inviting the section leaders but the problem with the fact that Cooperstown’s town is far away and coming for only a Friday night meeting and then not inviting the leaders to the delegates meeting the next day would not be fair. No real conclusion was reached but Section leaders will be invited to this meeting if they want to come and there was a debate on the new name for the meeting. The following names were discussed and this winner was Sections Caucus.

**Sections Caucus - 17 WINNER**  
**Section Delegates and Leaders Caucus 3**  
**Sections Assembly - 7**  
**Sections Forum and Caucus - 3**  
**Sections Leaders Caucus - 8**  
**Sections Forum - 5**

**Michael Miller – President Elect.** Mr. Miller provided a speech to explain why he wants to be the President Elect. He has been a delegate since 1992. This is his 19<sup>th</sup> visit to Cooperstown. He was the President of NYC County Lawyers association. He was a Bar President of the 10,000 attorney Trust and Estates section. He had to get the group through 9/11 because their building was destroyed. It was difficult to get people to come back downtown. He had to bring the Bar back and was successful. He shared some of his thoughts on how he would govern. He thought each section should decide how to use their own surpluses, which was consistent with our own views. He was in favor of representation of the section leaders on the nominating committee. He is in favor of maximum diversity. He would like to promote the good work that attorneys do every day.

**Section Leadership Conference** - Need volunteers from this caucus to help organize the conference or to get someone in the section to volunteer. The purpose of the conference is to educate section leaders on best practices to run the sections.

**Spending Caps for the Sections for over 100 miles travel**– Each year each section presents a budget and gets a specific amount of money but there is a cap of \$600 to pay for anyone to attend a meeting. The RE committee has encouraged upstate executive committee members to attend downstate meetings. They indicated that \$600 is not enough to attend. The Finance committee may be open to increase the cap to \$750 for special circumstances for sections that have surpluses. David Tenet from Rochester said that with planning overnight stays should be avoided. Therefore, we need to develop a policy to get members to meetings to do the work recognizing our individual sections fiduciary responsibilities. There are three guidelines: adequate surplus; meetings held to encourage round trip travel; reason fees are requested. Comments included lack of clarity on the policy. The purpose is allegedly for executive committee meetings.

**President Claire Gutekunst Came into Discuss the New Staff to Serve Sections and Our Membership Challenge** - The new 5 staff will try to help all the sections do destination meetings. 12 sections do not have “away” meetings. Pat Stockley is the leader of the new staff. We have a membership challenge and we need to work on this challenge for the next 2 years. But she will be leaving it up to each section how to provide membership value to attract new members. There will also be a diversity focus.

**Committee Reports** – Tomorrow morning we will vote on these reports

1. Best Practices – working on email policy
2. Finance – working on surpluses issue.
3. CLE – Tracking revenue on the CLE “store”. IP due diligence recording is the big winner at \$2K+. Environmental Law Section’s webinar was discussed but how much we made was not discussed
4. Membership – Hold until tomorrow

**President Elect Sharon Gerstman Showed Up at the End** - She promoted the Caucus to help organize the Section Leadership Conference.

**Section Caucus Morning Meeting  
SATURDAY, JUNE 18, 2016 – 7:30-9:00**

The Membership Committee Chair started the morning to explain that each Section will have to prepare a Membership Challenge Plan to increase members 2% in 2017 and 3% in 2018 because the Bar has lost 4.8% of its membership over the last few years.

The next big issue is that they are going to permit 4 delegates per section to participate so that there is always representation. Therefore, we will have to internally discuss if we want to add delegates or stick with two delegates. We voted on these amendment to the bylaws.

**House of Delegates Meeting**  
**SATURDAY, JUNE 18, 2016 – 9:00-12:00**

1. Call to order, Pledge of Allegiance and introduction of new members – Ms. Sharon Stern Gerstman 9:00 a.m.
2. Approval of minutes of April 2, 2016 meeting 9:05 a.m. – Minutes were approved.
3. Report of Treasurer – Mr. Scott M. Karson 9:10 a.m. – Revenues were down \$322,000 but expenses were also reduced over \$600,000 so the organization is still in the black. The overall budget is in this \$16 million range. While CLE revenue slightly rose, membership dropped and represents most of the \$322,000 revenue loss. There are 46,417 paying due members of which 12,743 are from out of state but 13,000 additional members do not pay because they are government or student members. Our total 2016 numbers of approximately 59,000 is far lower than the end of 2015 when the organization had 74,000 members. We are top heavy with older members and need to attract younger members since the vast majority of the members have been members for over 7 years.
4. Memorial to Robert MacCrate – Ms. Maryann Saccomando Freedman 9:20 a.m. He worked on committees to n to investigate Vietnam incidents that were considered controversial. He was a President of both the State and American Bars in the 1970s and recently died at 94. He considered one of his most important achievements was to attract woman to the Bar. His estate owns “our home” at One Elk Street in Albany. His wife of 70 years – Connie, died only a few short weeks before he died in April.
5. Presentation of Root/Stimson Award – Ms. Claire P. Gutekunst 9:30 a.m. - Richard J. Davis is the winner of the award. He has been the Chari of the Legal Aid Society since 2010. He has been a member of the NYC Campaign Finance Board since 2009. For 47 years his career has focused on serving the public and also volunteering on a number of boards. He was given two standing ovations.
6. Installation of Claire P. Gutekunst as President – Oath to be administered by Hon. Cheryl E. Chambers 9:40 a.m. Her name is pronounced GUT EH KINS. Hon. Chambers is filling in for Judith Kaye who was Claire’s mentor. Claire has lived upstate, in the city and on Long Island and will try to bridge the upstate and downstate gap. Her experiencing organizing hundreds of attorneys on the outstanding asbestos cases should help her run this organization. Her focus will be new membership and diversity. Then we gave Claire a long standing ovation.
7. Report of President – Ms. Claire P. Gutekunst 9:50 a.m. – Claire said we are a community of members with a shared commitment to preserve the independence of our judiciary and to do the public good. Her theme is “join together for good”. We need to create a culture that encourages the value of membership. There are

more than 200 Bars in this State and she will reach out to these Bars. The new President mentioned the new State access to justice law to help pay for legal services for the indigent. Finally, she discussed the Bar's statement against Donald Trump's comments about Judge Gonzalo's ethnicity as the basis for the decision he made against Mr. Trump. The press release is attached.

8. Report and recommendations of President's Committee on Access to Justice – Mr. C. Kenneth Perri 10:05 a.m. – The Local and State Government Attorney's Section has criticized the policies in the report because some were illegal and could actually force them to commit misdemeanors because some agency attorneys are not allowed to engage in the "outside practice of law". Part time government attorneys are allowed to practice outside the agency in their spare time and attorneys who work for government but who are not employed in a legal position are also able to do pro bono work. Therefore, these amendments have been made.
9. Informational report from President's Committee on Access to Justice – Mr. Michael Miller 10:30 a.m. A more detailed explanation of the government attorney pro bono sections was provided. An agency can elect to opt out of this policy completely. Attorneys are also not allowed to use any of the resources of the agency during their pro bono activities. The new concept of limited scope representation in pro bono matters was also discussed by Mr. Miller (who is the next President elect). According to Ethics Code 1.2(c), a lawyer may ethically limit the scope of their representation provide the client gives informed consent. Based on this ethics rule, the committee will continue to explore this issue in relation to pro bono work because last year 1.8 million New Yorkers were forced to represent themselves and pro se representation slows down the already slow judicial system.
10. Presentation of National Trial Advocacy Awards 11 a.m. The sealing of criminal records was also discussed during this presentation. The media law section raised serious concerns about the 1<sup>st</sup> Amendment in relation to this issue. This topic will be further discussed.
11. Report of The New York Bar Foundation – Mr. John H. Gross -11:20 As always requests for donations are appreciated. \$588K was given out last year for indigent legal services.
12. Report of Committee for Bar Leaders of New York State – Ms. Deborah Martin Owens 11:30 a.m.
13. Report of ABA State Delegate – Mr. Mark H. Alcott 11:40 a.m.
14. Date and place of next meeting Saturday, November 5, 2016 Bar Center, Albany, New York