

**NEW YORK STATE BAR ASSOCIATION  
MINUTES OF HOUSE OF DELEGATES MEETING  
JUNE 22, 2013  
THE OTESAGA, COOPERSTOWN, NEW YORK**

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PRESENT: Abbot; Abella; Abernethy; Ajaiyeoba; Alcott; Arenson; Ayers; Baker; Barnes; Barrett; Baum; Bauman; Beckford; Brown, C.; Brown, J.; Brown, T.A.; Brown, T.; Buholtz; Canary; Castellano; Chambers; Chase; Christian; Coffey; Cohen, D.; Cohen, O.; Collins; Cooper; Cosco; Crummey; Curley; Davis, T.; Dean; DeFelice; DeHaven; DeMartino; Denton; Donaldson; Doyle; England; Eppler; Fallek; Fay; Feinberg; Feinman; Fenchel; Ferris; Finerty; Fisher; Fontaine; Friedman; Gall; Genoa; Gensini; Gerace; Gerstman; Getnick; Giordano; Gold; Goldberg; Goldenberg; Gordon-Oliver; Gorgos; Gross; Gutierrez; Haig; Hamm; Harper; Hetherington; Higgins; Hillman; Hilowitz-DaSilva; Hoskins; Hutter; Jaglom; James; Kamins; Karson; Kelly, M.; Kenney; Kerson; Keschenat; Kiernan; Kirby; Kobak; Kretser; Larose; Lashley; Lau-Kee; Lawrence; Leventhal; Lewis; Lindenauer; Ling-Cohan; Lugo; Madigan; Makofsky; Marinaccio; Martin, E.; McAuliffe; McCafferty; McCarron; McDonald; McEntee; McKeegan; Meacham; Meislahn; Meyers; Miller, M.; Millon; Miranda; Modica; Moretti; Moses; Moy; Mulhall; Myers; Napoletano; Nowotny; O'Donnell; Ostertag; Otis; Pantaleo; Perlman; Pettit; Prager; Preston; Reitzfeld; Richardson; Richman; Riley; Risi; Rivera; Rodriguez; Romero; Rosner; Rothstein; Russ; Sachs; Safer; Sapir; Schofield; Schraver; Shamoan; Sheehan; Siegel; Sigmond; Silver; Silverman; Simmons; Singer; Slavin; Slezak; Smith, S.; Standard; Stanislaus; Stankus; Stenson Desamours; Stern; Sweet; Taylor; Tennant; Terranova; Tollin; Tully; Ugurlayan; Valet; Valk; Vigdor; Walker; Wallach; Weinberger; Welch; Wimpfheimer; Witmer; Woronov.

Mr. Lau-Kee 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. Lau-Kee welcomed the new members of the House.
2. Minutes of April 6, 2013 meeting. The minutes were accepted as previously distributed.
3. Report of the Treasurer. Sharon Stern Gerstman, Treasurer, reported that she would focus her reports at each meeting on a different aspect of the Association's finances and at this meeting she would focus on the Association's expenditures. She reviewed expenditures with respect to Bar Center operations; administration; technology; marketing, membership and member benefits; governance; programming; CLE and publications; and advocacy and improvement of justice. In addition, she provided an update with respect to the 2013 CLE budget. The report was received with thanks.
4. Report and recommendations of Finance Committee. Mark S. Gorgos, a member of the committee, outlined the proposed dues for the new Affiliate category of membership for which the Committee on Membership recommended, and the Finance Committee endorsed, a flat fee of \$185. After discussion, the following motion was adopted:

RESOLVED, that the Association approves the report and recommendations of the Finance Committee to set dues for the Affiliate Member category of membership at \$185 beginning in 2014.

5. Presentation of Root-Stimson Award. President Schraver presented the Root-Stimson Award, which honors members of the profession for outstanding community service, to Elizabeth A. Wolford of Rochester. A partner at the Wolford Law Firm, she was honored in particular for her community service.
6. Installation of President. Mr. Schraver was formally installed as President. The oath of office was administered by Past President G. Robert Witmer, Jr., Mr. Schraver's partner at Nixon Peabody LLP. Mr. Schraver then addressed the House with respect to his planned initiatives for his term as President.
7. Report and recommendations of Committee on Diversity and Inclusion. Sharon Stern Gerstman and John Eric Higgins, members of the committee, reviewed the committee's recommendations that the Bylaws provisions for two members-at-large of the Executive Committee and twelve House members to further racial and ethnic diversity be extended for an additional ten years and that the impact of these positions on the demographics of each body be reviewed on an annual basis. After discussion, a motion was adopted to approve the following resolution:

WHEREAS, in 2004 the Association's Bylaws were amended to add two at-large seats to the Executive Committee and twelve members to the House of Delegates to further racial and ethnic diversity in each body; and

WHEREAS, these Bylaws provisions are due to expire on November 6, 2014; and

WHEREAS, the Committee on Diversity and Inclusion has completed a review of these provisions and has recommended that they should be continued for an additional ten-year period;

NOW, THEREFORE, IT IS

RESOLVED, that the Association approves the report and recommendations of the Committee on Diversity and Inclusion to continue these provisions for an additional ten years; and it is further

RESOLVED, that the Committee on Bylaws is hereby directed to review the report and recommendations and prepare appropriate amendments to the Bylaws to implement these recommendations for subscription by the House of Delegates at its November 2013 meeting.

8. Report of President. Mr. Schraver highlighted the information contained in his printed report, a copy of which is appended to these minutes. In addition, he reported that at the

June 21 Executive Committee meeting, the committee had approved proposed Bylaws amendments to provide life membership in the NYSBA House of Delegates for a New York State Bar Association member who is either a current or former president of the American Bar Association. The committee also approved the submission of a letter from the President to the Chief Judge outlining the Association's opposition to the mandatory reporting of pro bono service and contributions on biennial registration forms. Finally, he announced that with the approval of the Executive Committee, the April 2014 Executive Committee and House of Delegates meetings would be held in Rochester.

9. Address by ABA President-Elect James R. Silkenat. Mr. Silkenat outlined the issues and initiatives he plans to pursue as President of the American Bar Association, with an emphasis on finding meaningful employment for lawyers and ensuring access to justice. He noted that many of the initiatives he plans parallel those highlighted by President Schraver. The report was received with thanks.
10. Report of New York State Conference of Bar Leaders. Karla D. Wilsey, chair of the Conference, presented an overview of the Conference's operations and updated the House on the Conference's recent activities. The report was received with thanks.
11. 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.
12. Presentation of Trial Lawyers Section National Trial Advocacy Awards. Thomas P. Valet, past chair of the Trial Lawyers Section, presented awards to teams from Hofstra University School of Law and Fordham University School of Law, and recognized the Hofstra team as overall champion for advancing farthest in the national competition.
13. Report of ABA State Delegate. Mark H. Alcott, ABA State Delegate, updated the House on ABA activity and the upcoming August 2013 House of Delegates meeting. The report was received with thanks.
14. Report of Nominating Committee. Michael E. Getnick, member-at-large of the Nominating Committee, reviewed the open positions for which the committee is seeking nominations and the nomination process. He encouraged interested members to submit applications. The report was received with thanks.
15. Report of The New York Bar Foundation. Cristine Cioffi, President of The Foundation, presented an informational report on recent developments with respect to The Foundation. She introduced Lesley Friedman Rosenthal as the Foundation's Vice President and welcomed the new Foundation Board members. She noted the partnership between the Association and The Foundation with respect to Superstorm Sandy efforts and that the Foundation will partner with the Association in future endeavors. The report was received with thanks.
16. Administrative items. Mr. Lau-Kee 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 Steven C. Krane Special Committee on Student Loan Assistance for the Public Interest for an additional year.
  - b. Discharge of special committees. The Special Committee on Discovery and Case Management in Federal Litigation and the Special Committee on Voter Participation have been discharged with the concurrence of their respective chairs. Where appropriate, the work will be continued by existing committees and sections.
  - c. He encouraged members to review the written report submitted by Executive Director Patricia K. Bucklin, who was unable to attend the meeting due to her daughter's high school graduation.
  - d. He reported that David P. Miranda and Tracee E. Davis would serve as captains for the afternoon softball game and encouraged members to play.
17. Date and place of next meeting. Mr. Lau-Kee announced that the next meeting of the House of Delegates would take place on Saturday, November 2, 2013 at the Bar Center in Albany.
18. Adjournment. There being no further business to come before the House of Delegates, the meeting was adjourned.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "David P. Miranda".

David P. Miranda  
Secretary



# NEW YORK STATE BAR ASSOCIATION

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June 17, 2013

**To: Members of the House of Delegates**

Consistent with the approach taken for prior House meetings, I am providing you with this written President's Report to read at your convenience and to distribute to others as you deem appropriate. This will allow me to note key items during my remarks at the meeting while freeing as much time as possible for us to address the substantive reports on our agenda.

I hope that you find the following topics to be of interest. They are representative of the many critical issues with which the Association is involved. If you have any questions or would like more information, please do not hesitate to contact me.

Sincerely,

David M. Schraver

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## **I. Presidential Initiatives**

### **A. Special Committee on Voter Participation**

Since receiving House approval in January, the Special Committee on Voter Participation, created by Immediate Past President Seymour W. James, Jr., has been working to advance the recommendations included in its report. Committee co-chairs John Dunne and Dan Kolb have met with Governor Andrew Cuomo's Special Counsel and numerous critical players in the New York State Assembly and Senate as they address: (1) modernization of the voter registration system; (2) pre-registration of 16- and 17-year-olds; (3) Election Day and same day registration; (4) early in-person voting; (5) improved ballot design; (6) no-excuse absentee ballots; (7) the recruitment and training of poll workers; and (8) the provision of more severe and comprehensive penalties for deceptive practices. The Committee's recommendations have been well-received and its members will continue their lobbying efforts. We are pleased that a bill has passed the Assembly that would amend the Election Law to provide for the pre-registration of 16- and 17-year olds, and we continue to promote its advancement in the Senate. We thank the committee members for their ongoing service.

### **B. Special Committee on Human Trafficking**

The Special Committee on Human Trafficking also continues its demanding task of analyzing state and federal human trafficking issues. Under the leadership of co-chairs Bernice Leber and Sandra Rivera, the committee plans to recommend initiatives that would protect victims, prosecute traffickers, and coordinate efforts to fight trafficking. The committee has divided into three subcommittees on sex trafficking, labor trafficking, and child trafficking. It is currently completing its report, which examines the following topics: (1) education; (2) training; (3) provision of legal services; (4) coordination of resources for victims; and (5) the effective prosecution of traffickers in New York State. We thank the committee members for their service, and we look forward to receiving their recommendations.

### **C. Special Committee on Re-Entry**

The work of the Special Committee on Re-Entry is well underway. The committee is specifically focusing on measures that can be taken during incarceration, as well as the re-entry process, to help bridge the gap between incarceration and participation in free society. The committee aims to recommend initiatives that will facilitate formerly incarcerated individuals' reintegration into their communities and ultimately curb recidivism. With this goal in mind, the committee plans to address: the adverse impacts of re-entering society with the stigma of a criminal record; the unique issues associated with actual release versus conditional release; and the obligations of the correctional system at each stage of the process. The committee has divided into subcommittees that will examine these larger issues and their influence on: (1) job training and employment; (2) benefits and family rights; (3) education; (4) housing; (5) medical access and mental health; and (6) young people in juvenile detention settings. The committee is also revisiting the 2006 Report and Recommendations of the Special Committee on Collateral Consequences of Criminal Proceedings. The committee intends to examine the initiatives recommended in the report and to assess the legislative, judicial, and other changes that have arisen in the past seven years. Thank you to the committee members – including co-chairs Sheila Gaddis and Ron Tabak and Vice co-chair Richard Raysman – for their continuing efforts.

#### **D. Task Force on Gun Violence**

Earlier this year, the Executive Committee authorized the creation of a Task Force on Gun Violence. Following this decision, then-President Seymour W. James, Jr. and I selected members from diverse backgrounds and geographic regions of the state to deal with this controversial and complex topic under co-chairs Earamichia Brown and Dave Tennant. The task force held an organizational meeting on May 30 to begin its work. We look forward to receiving the findings of the task force as it undertakes a well-informed and well-reasoned examination of this contentious topic.

#### **E. Task Force on Criminal Discovery**

Immediate Past President James continues to be actively involved with the work of the task force that he created last year. The group, comprised of members who work as defense lawyers, prosecutors, and in the judiciary, has worked strenuously under the direction of co-chairs Mark Dwyer and Peter Harvey to address a number of concerns raised by prosecutors. We anticipate that work will continue during the summer and autumn and that a report will be developed for consideration next year.

#### **F. Committee on Legal Education and Admission to the Bar**

Since January, I have been working with Committee co-chairs Eileen Millett and Eileen Kaufman to broaden the mission and increase the membership of the Committee as we focus this year on challenges facing legal education. These issues will be addressed in the September issue for the New York State Bar Journal and at the Presidential Summit at the Annual Meeting in January.

### **II. Legislative Activities**

Since the meeting of the House of Delegates in April, Immediate-Past President Seymour James and I, along with President-Elect Glenn Lau-Kee and several other members, have been actively engaged in promoting the Association's legislative agenda at both the state and federal level. Following enactment of the New York State Budget in March, the Association's non-budget legislative issues became the focus of attention. Messrs. James and Lau-Kee joined me for meetings in Albany on April 30 and June 4 to promote the Association's 2013 proposals to address issues including wrongful convictions, increasing the age of criminal responsibility, sealing records of criminal conviction, and revision of the state's Not-for-profit Corporation Law.

#### **A. Sealing Criminal Records**

The NYSBA proposal is based on the Criminal Justice Section's report on sealing that was approved by the House of Delegates in 2012. Senator Lee Zeldin introduced S5385, the "Second Chance for Ex-Offenders Act," to allow for the sealing of certain low-level offenses and violations under specific circumstances. We support this legislation as an important first step toward public policy that would effectively assist reentry to mainstream society for those who have lived law-abiding lives after conviction. If subsequent to sealing of records, a person were found guilty of an additional offense, the records would "spring-back" to view. Therefore, an individual who had sealed records would effectively be on life-time probation, an extremely strong incentive to make the most of a second chance.



### **B. Revising and Improving the Not-for-profit Corporation Law**

The non-profit sector in New York State is enormous and wide-ranging, consisting of foundations and charities, health care organizations, service agencies, clubs and neighborhood groups, cultural institutions, religious organizations, research and educational centers, chambers of commerce, economic development corporations, and more. The impact of the sector is vital to the people and economy of the State of New York. This proposal is intended to adopt policies and practices commonly used throughout the United States, and to eliminate New York's outdated, idiosyncratic provisions of law. Under the direction of Senator Michael Ranzenhofer, the State Senate Committee on Corporations conducted hearings on the topic in New York City, Albany and Rochester. With the assistance of Business Law Section members Fred Attea, Michael de Freitas and Michael Cooney, the Association presented testimony at the hearings and has been actively involved in negotiations to develop legislation during the final weeks of the legislative session. I want to thank those members for the countless hours of work that they have contributed to this effort. As this report went to print, and the legislative session drew to a close, negotiations continued over the provisions of bills sponsored by Senator Ranzenhofer and Assembly Corporations Committee Chair James Brennan.

### **C. Wrongful Convictions**

Activity also continued in the final days of the legislative session to reach agreement on this important legislative priority. Governor Cuomo stated in his State-of-the-State address that this would be one of his priorities during the 2013 legislative session. The State Bar is a member of Chief Judge Lippman's Justice Task Force and has collaborated with the Innocence Project in its efforts to reach agreement with the State District Attorneys Association on issues relating to reform of eyewitness line-up procedures and the recording of custodial interrogations. Nevertheless, I cannot report at this time that an agreement is close.

### **D. Raising the Age of Criminal Responsibility**

Concerns over the cost that would be required by local governments to implement changes in this area have resulted in opposition by some groups, including the New York State Association of Counties. After those concerns and issues are addressed, we anticipate that this very important issue will move farther during next year's session.

As the 2013 regular legislative session, scheduled to conclude on June 20, winds down, I want to thank the many members and staff people who have contributed countless hours to ensure that the Legislature considers our views on the dozens and hundreds of bills that are flowing through the system in the final days.

## **III. Section, Committee, Membership, and Departmental Initiatives**

### **A. Section Leaders Conference**

We hosted a successful Section Leaders Conference in May in New York City. More than 70 section representatives attended, and the presence of NYSBA officers, event speakers, and staff brought the total to more than 90. Attendees' written evaluations of the program were very positive. The conference featured a variety of programs, including "How to be Successful in Your Term as a Section Officer." Other programs covered the following topics: (1) budgeting and finance; (2) continuing legal education and section meeting planning; (3) media relations; (4) electronic and print communications; (5) membership development and diversity; and (6)

lobbying, legislation, and governmental relations. During lunch, Immediate Past President Seymour W. James, Jr., recognized this year's section diversity award winners. Attendees also participated in roundtable discussions about best practices and completed surveys summarizing their recommendations. I was pleased to share the survey results with attendees at the end of the day. Thank you to all who participated in this valuable conference!

#### **B. New York State Conference of Bar Leaders**

We coordinate the New York State Conference of Bar Leaders ("NYSCBL") to serve local, county, ethnic, minority, special purpose, specialty, and women's bar associations in New York State. NYSCBL recently hosted a workshop for bar association representatives in New York City, which I attended. The program attracted nearly 20 bar leaders from throughout the state. The workshop was entitled "Partners for Diversity: Improving Participation and Retention in Bar Associations." Speakers from the following national associations attended the workshop and shared their insights for keeping members active and engaged: (1) National Association of Women Lawyers; (2) Hispanic National Bar Association; (3) National Bar Association; (4) National Asian Pacific American Bar Association; and (5) National LGBT Bar Association. The workshop also included a continuing legal education ethics program entitled "Diversity Issues in the Workplace – A Management Perspective" presented by John Higgins. We appreciate the efforts of all of those who were involved with this excellent program.

#### **C. Superstorm Sandy Relief Efforts**

In cooperation with NYSBA, The New York Bar Foundation recently distributed \$52,000 to 13 legal service organizations that serve Superstorm Sandy victims. Immediate Past President Seymour W. James, Jr. and Foundation President Cristine Cioffi traveled to five of the organizations to personally present the checks. These grants are the latest in NYSBA's efforts to provide Superstorm Sandy relief. For example, our Lawyer Referral and Information Service ("LRIS") staffed an official state hotline for the Federal Emergency Management Agency, with the goals of directing resources to those in need and gathering relevant data. Through the hotline, LRIS facilitated the efforts of 100 volunteer attorneys who provided free legal consultations over a six-month period. In total, staff members fielded more than 3,000 calls through the hotline, on topics ranging from insurance to landlord/tenant issues. Thank you to all who donated funding and time to help the victims of this disaster.

#### **D. Pro Bono Programs**

Our Pro Bono Department continually works to assist the legal community in providing legal services to people in need by coordinating events, training programs and other initiatives across New York state. For example, the director of Pro Bono Affairs and I are serving on the Monroe County Task Force to Expand the Scope of the Attorney Emeritus Program. Under the oversight of the Feerick Center, we are exploring ways to incentivize participation in the voluntary program in order to encourage attorneys who are winding down their careers to become involved with pro bono.

Charity Corps, a joint effort between NYSBA and the New York State Attorney General's Office to provide pro bono legal assistance to nonprofit organizations, is another fine example of our pro bono efforts. We recently collaborated with Skadden Arps Slate Meagher & Flom LLP and Nixon Peabody to hold the inaugural Charity Corps celebration for charities and volunteers participating in the program. Receptions were simultaneously hosted in New York City, Albany, and Rochester, connected by video link. The event afforded attendees an opportunity to network

and engage in informal discussions about issues affecting nonprofit organizations with lawyers knowledgeable in the field.

We also welcome opportunities to reach beyond New York State to collaborate, learn and benefit from the experiences of our colleagues in other parts of the country. As such, it was our pleasure to host Chief Justice Wallace Jefferson of the Texas Supreme Court to discuss the Association's efforts to raise awareness about the need for pro bono, pro bono recognition programs, the 50-hour rule, and the new biennial pro bono reporting requirement for licensed attorneys. I am proud to report that the Chief Justice was impressed with the State Bar's pro bono initiatives.

#### **E. Technology**

Our Management Information Services ("MIS") Department continues to make major improvements in NYSBA's technology, consistent with our strategic plan. Approximately 12% of the action steps in our strategic plan are related to a new website content management system ("CMS"), which we expect to roll out in September. Thanks to the new CMS, the newly redesigned NYSBA website will feature "responsive design" that automatically recognizes the device being used to access the site and provides an optimized view for that phone, tablet or web browser. The website will also feature a new shopping cart function, which will make it easier for members and the public to purchase NYSBA products. To prepare for the CMS roll-out, staff members have received training, and they are moving content from our current website to the new system. Staff members also recently moved our data center from NYSBA headquarters to another building downtown, both in preparation for the CMS roll-out and to support power back-up and regulatory compliance. In addition, NYSBA's e-mail system was recently moved from NYSBA headquarters to a cloud service provider to enhance availability, aid in disaster recovery and power failures, and better support remote and mobile access. Finally, staff members are preparing to convert NYSBA listserves to a new system of "private online professional communities," which we expect to launch in the Fall. This new system will feature a member directory, document libraries, and collaboration tools for our members. We are grateful for the efforts of the Electronic Communications Committee, the MIS Department and other staff members on these important initiatives!

#### **F. Lawyer Assistance Program Spring Retreat**

Our Lawyer Assistance Program ("LAP") assists in the prevention, early identification, and intervention of mental health and behavioral problems that can affect professional conduct and quality of life. LAP has helped many lawyers, judges, and law students throughout the state; and I attended LAP's spring retreat in Silver Bay (Lake George). This annual event, now in its 23<sup>rd</sup> year, attracted record-breaking attendance with more than 100 participants. It featured a presentation by a filmmaker who produced a documentary about Bill Wilson, a co-founder of Alcoholics Anonymous. The retreat offered several 12-step meetings, including one for people who have family members that are dealing with addiction. Attendees were able to participate in meditation and yoga classes as well. It was a great honor to be so warmly welcomed into the very inspiring LAP community. Thank you to LAP and our Lawyer Assistance Committee for co-sponsoring this special event.

#### **G. Young Lawyers Section Supreme Court Admissions Program**

On June 9-10, I joined the Young Lawyers Section in Washington, D.C. for their Supreme Court Admissions Program. On Monday morning, June 10, I successfully moved the admission to the bar of the Supreme Court of the United States of 44 applicants of all ages, following which Justice Ruth Bader Ginsburg joined our group for a few remarks and a group photo.

#### **IV. American Bar Association**

The ABA Days are a nationwide lobbying effort where State Bar Associations from all of the states gather in Washington D.C. under the auspices of the American Bar Association to lobby on specific issues identified as priorities for this Congressional session. I am pleased to report that this April I led the largest NYSBA delegation in the Association's history to meet with Congressional members from New York. Our team included approximately a dozen State Bar members, and included ABA President-Elect James Silkenat. Because we had the benefit of such a large delegation of State Bar representatives, we were able to divide into three teams, which enabled us to meet with nearly every New York Member of Congress or staff.

We advocated for funding for the Legal Services Corporation and the federal courts, both of which faced serious cuts due to sequestration. We also advocated for granting counsel to certain vulnerable individuals who faced immigration hearings, urging the retention of a provision to this effect which is currently included in the Senate immigration bill and was included in the bill that emerged from the Senate Judiciary Committee. As more of our members participate in this event, our voice becomes stronger on issues of importance to the Association.

We have held regular conference calls with ABA President-elect James Silkenat and look forward to working closely with Jim after he takes office as President in August.

#### **V. Honors, Awards, and Appointments**

##### **A. President's Pro Bono Service Awards**

May 1st marked the 23rd celebration of the President's Pro Bono Service Awards, which recognize extraordinary pro bono contributions made by members of the legal profession. A total of 20 awards were presented to attorneys and organizations representing a broad cross-section of our profession including solo practitioners, a government employee, a law student, a young lawyer, a senior attorney, a corporate in-house counsel, large, mid-sized, and small law firms, and a government office. The recipients provided an inspiring and impressive variety of legal services to people in need. These volunteers are exemplary role models we can all strive to emulate as we incorporate pro bono into our own practices.

Last week, NYSBA also recognized recipients of the Outstanding Achievements in Promoting Standards of Excellence in Mandated Representation and the Denison Ray Criminal Defender Awards. These awards recognize attorneys who provide zealous, skilled, and vigorous advocacy to indigent clients. Congratulations to all of the very deserving recipients.

#### **VI. Noteworthy Events**

##### **A. Local Bar Association Events**

Immediate Past President Seymour W. James, Jr., President-Elect Glenn Lau-Kee, and I were pleased to participate in many local bar association events during the busy spring season of

installations, galas, and annual meetings. For example, Seymour and I hosted the second in a series of meetings with minority bar association leaders in New York City on April 10. On May 9, I delivered a keynote address at the Westchester County Bar Association's 116th Annual Banquet and Officer Installation. Later in May, I spoke at the Warren County Bar Association's Annual Meeting in Bolton Landing. On June 12, I attended the Bar Association of Erie County's Annual Dinner. The next day, I spoke at the Monroe County Bar Association Annual Installation of Officers. On June 17, I spoke at a reception in Rochester for Court of Appeals Judges Jenny Rivera and Sheila Abdus-Salaam sponsored by the Erie, Monroe and Onondaga County Bar Associations. Many thanks to these bar associations for including us in their terrific events.

**B. Albany Meeting in November**

Our next House of Delegates and Executive Committee meetings will be on November 1 and 2 at the State Bar Center in Albany. I look forward to seeing you there!



DAVID P. MIRANDA

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June 17, 2013

## REPORT OF THE SECRETARY

To: Members of the House of Delegates

### **I. Resolutions Committee**

The Resolutions Committee is responsible for monitoring and determining the implementation of recommendations contained in reports adopted by the Executive Committee and/or House of Delegates. The Secretary, as chair, updates the House on the status of these initiatives.

The committee recently contacted NYSBA committees and sections for action regarding recommendations contained in reports issued by the following: (1) Committee on Civil Rights (solitary confinement); (2) Special Committee on Voter Participation; and (3) Task Force on Family Court. The committee will collect responses and present a report to the Executive Committee at its November meeting on the status of the implementation efforts.

In addition, the committee reached out to committees and sections in March and April for assistance with implementation of the following reports: (1) Special Committee on Immigration Representation; and (2) Special Committee on Veterans. The committee collected responses and submitted them to the Executive Committee for review at this June meeting.

The committee also prepared an implementation plan for a report issued by the Special Committee on Discovery and Case Management in Federal Litigation. This plan was submitted to the Executive Committee for review at this June meeting.

### **II. Status of Initiatives Approved by Executive Committee and/or House of Delegates**

#### **A. Shareholders' Remote Attendance and Voting**

The Business Law Section proposed legislation that would permit corporations to hold electronic shareholder meetings. The Executive Committee approved the proposal in January 2012. NYSBA's Department of Governmental Relations thereafter submitted the proposal to interested legislators and discussed it with key legislative staff members. Legislation to facilitate shareholders' remote attendance and voting in corporate meetings has been passed by the New York State Assembly. It recently was introduced in the New York State Senate.

B. Gender Expression Non-Discrimination Act

The Special Committee on LGBT People and the Law issued a report and recommendations for counteracting discrimination that is faced by transgender and gender-variant individuals. The Executive Committee approved the report and recommendations in June 2010. NYSBA is on record in support of the Gender Expression Non-Discrimination Act (“GENDA”). The legislation will provide important protections with respect to employment, housing, and personal safety. The bill has been passed by the New York State Assembly, and it is awaiting action in the New York State Senate.

C. Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act

The Elder Law Section advocated for the adoption of the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (“UAGPPJA”). The Executive Committee approved the section’s proposal in May 2012. The key concept of the UAGPPJA is that the “home state” of a person should have jurisdiction over that person for guardianship purposes, regardless of where the person is physically located. Section representatives have met with legislators to urge passage of the bill. It has been passed by both houses of the New York State Legislature and is awaiting consideration by Governor Andrew Cuomo.

D. Interest on Legacies

The Trusts and Estates Law Section issued a report and recommendations for an amendment to the New York Estates, Powers and Trusts Law regarding the payment of interest on legacies. The Executive Committee approved the report and recommendations in October 2008. A bill was created that would change the applicable interest rate that is payable on a delayed payment of a legacy. Currently, the applicable interest rate is a statutorily fixed rate of 6%. The bill would change the rate to a flexible interest rate which is tied to the federal funds rate and better reflects the time value of money. The legislation has been passed by the New York State Assembly, and it has advanced significantly towards passage in the New York State Senate.

E. Technical Amendments Relating to the Marriage Equality Act

The Trusts and Estates Law Section developed a bill relating to the Marriage Equality Act. The Marriage Equality Act, which was enacted as Chapter 95 of 2011, provides that marriages of same-sex and different-sex couples are to be treated equally in all respects under the law. The current bill makes changes to the following laws that reflect the provisions of the Marriage Equality Act: (1) New York Estates, Powers and Trusts Law; and (2) New York Surrogate's Court Procedure Act. The bill has been passed by the New York State Assembly, and it is under consideration in the New York State Senate.

F. In-House Counsel Pro Bono Service

The Corporate Counsel Section proposed an amendment to Part 522 of the Rules of the Court of Appeals. The amendment would permit licensed in-house counsel to provide pro bono services, in addition to providing legal services for their employers. The Executive Committee and the House of Delegates approved the proposed amendment in June 2012. In July 2012, NYSBA recommended the amendment to the Administrative Board of the Courts. In March 2013, the Administrative Board

declined to publish the proposal for comment. Last month, Chief Judge Jonathan Lippman announced the creation of an Advisory Group on In-House Counsel Pro Bono Service. The advisory group, which is being chaired by Associate Judge Victoria Graffeo, has been charged with making recommendations on how to effectively use in-house counsel on pro bono projects.

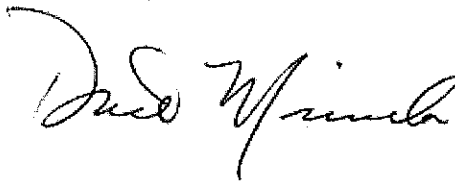
G. Statement of Client's Rights/Responsibilities

The Committee on Standards of Attorney Conduct recommended amendments to the Statement of Client's Rights, and it prepared recommendations regarding the Statement of Client's Responsibilities. The Executive Committee and House of Delegates approved the committee's related report and recommendations in June 2012. In July 2012, NYSBA recommended to the Administrative Board of the Courts certain amendments to the Statement of Client's Rights. In February 2013, we were advised that the Administrative Board of the Courts had approved these amendments. In April 2013, the Appellate Division of State Supreme Court approved the proposal and amended the Statement of Client's Rights as we recommended. The Statement of Client's Rights is required to be displayed in law offices, and lawyers now need to post a new statement. The new statement is available at [www.nysba.org](http://www.nysba.org) in the "News, Notes, and Notices" section. Similar amendments were made to the Statement of Client's Responsibilities. The Statement of Client's Responsibilities is not contained in a court rule; it has been adopted solely by NYSBA.

H. Redaction in Court Filings

At an Executive Committee meeting in April 2013, the Committee on Courts of Appellate Jurisdiction submitted proposed comments on a court rule addressing the redaction of confidential information from court filings. The committee recommended that one uniform rule be adopted by all courts. The Executive Committee appointed a working group to determine whether a specific redaction rule should be recommended. Ultimately, the Executive Committee concluded that uniform redaction rules should be supported, but that such rules should take into account the potential need for special rules to govern certain types of proceedings. The comments of the Committee on Courts of Appellate Jurisdiction, together with comments prepared by the Elder Law Section, were submitted to the Office of Court Administration in May 2013.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "David P. Miranda".

David P. Miranda