

**NEW YORK STATE BAR ASSOCIATION
MINUTES OF EXECUTIVE COMMITTEE MEETING
BAR CENTER, ALBANY, NEW YORK
NOVEMBER 1, 2013**

Present: Members Abernethy, Ayers, Barnes, Brown, Castellano, Christian, Cohen, Fisher, Gerstman, Goldberg, Goldenberg, Gorgos, Gutierrez, James, Karson, Lau-Kee, Martin, Miranda, Moy, Myers, Romero, Schraver, Slezak, Wallach, and Young.

Guests: Eileen E. Buholtz, Hermes Fernandez, John H. Gross, John Eric Higgins, Hon. Barry Kamins, Robert P. Knapp III, Henry E. Kruman, Bernice K. Leber, John S. Marwell, Joseph E. Neuhaus (by telephone), John P. Nonna (by telephone), Sandra Rivera, Hon. Carol Robles-Roman, Deborah A. Scalise, and Stephen P. Younger.

Mr. Schraver presided over the meeting as President of the Association.

1. Approval of minutes of meetings. The minutes of the June 20-21, 2013 meeting and the August 5 and September 25, 2013 telephone conferences were approved as distributed.
2. Consent calendar:
 - a) Amendments to Bylaws of Young Lawyers Section
 - b) Request of International Section to make contribution to the New York International Arbitration Center

The consent calendar, consisting of the items listed above, was approved by voice vote.

3. Report of Treasurer. In her capacity as Treasurer, Ms. Gerstman provided a financial report focusing on the Association's income, including that derived from membership dues, investment income, royalties, and the Annual Meeting. In addition, she provided an update with respect to 2013 CLE income and expense. The report was received with thanks.
4. Report and recommendations of Committee on Standards of Attorney Conduct. Joseph E. Neuhaus, chair of the committee, reviewed proposed amendments to the Comments of Rules 3.8 and 6.1 of the New York Rules of Professional Conduct, noting that the amendments are intended to conform the Comments to amendments to the Rules adopted by the Appellate Division earlier in 2013. After discussion, a motion was adopted to endorse the report and recommendations for favorable action by the House.
5. Report of President. Mr. Schraver highlighted the information contained in his printed report, a copy of which is appended to these minutes.
6. Report of Committee on Membership. Ms. Wallach, in her capacity as chair of the Membership Committee, reported on recent membership developments, including

membership statistics, the mentoring program, section roundtable discussions, the January 27, 2014 Diversity Reception, and the online Communities available to members. The report was received with thanks.

7. Report of Secretary/Committee on Resolutions. Mr. Miranda, in his capacity as Secretary of the Association, reported on recent developments related to implementing the recommendations of the Committee on Civil Rights with respect to solitary confinement, including the development of legislative proposals. The report was received with thanks.
8. Reports of Executive Committee liaisons. Written and/or oral presentations were made by Messrs. Abernethy, Cohen, Gorgos and Miranda with respect to the sections and committees for which they serve as Executive Committee liaisons. The reports were received with thanks.
9. Reports of Vice Presidents. Ms. Slezak provided a report on local bar activities in the 4th Judicial District. The report was received with thanks.
10. Report and recommendations of Committee on Bylaws. Eileen E. Buholtz, chair of the Bylaws Committee, presented the Committee's proposals to amend the Bylaws (a) to provide a seat in the House of Delegates for a NYSBA member who is or has served as President of the American Bar Association and (b) to extend the diversity seats in the House and on the Executive Committee for an additional ten years.
 - a) After discussion, a motion was adopted to recommend subscription to the amendments providing a seat in the House of Delegates for a NYSBA member who is serving or has served as President of the ABA.
 - b) After discussion, a motion was adopted to recommend subscription to the amendments extending the diversity seats in the House and on the Executive Committee for an additional ten years.
11. Reports and recommendations of Committee on Civil Practice Law and Rules. Robert P. Knapp, III, the committee's chair, outlined proposed amendments to CPLR 4547 (conforming the rule to Rule 408 of the Federal Rules of Evidence) and CPLR 1412 (burden of proof with respect to comparative negligence). After discussion, a motion was adopted to defer consideration of the proposed amendment to CPLR 4547 to the January 2014 meeting. A motion was adopted to approve the proposed amendment to CPLR 1412.
12. Report re legislative matters. Hermes Fernandez, chair of the Committee on Legislative Policy, updated the Executive Committee on legislative activity, particularly with respect to the bill amending the Not-For-Profit Corporation Law. The report was received with thanks.

13. Report and recommendations of Steering Committee on Legislative Priorities.
 - a) Committee on Legislative Policy. Hermes Fernandez, chair of the Committee on Legislative Policy, reported on the committee's recommendations of the following items for inclusion on the list of the Association's state legislative priorities: Integrity of New York's justice system (including adequate funding for the courts, adequate civil legal services funding, support for Family Court and Veterans' Treatment Courts, and wrongful convictions legislation), sealing records of conviction of certain crimes, amendment of the Franchise Act, support for democratic ideals (including civic education and voter participation), and support for the legal profession.

After discussion, a motion was adopted to approve these items as the Association's 2014 state legislative priorities.
 - b) Committee on Federal Legislative Priorities. John P. Nonna, chair of the Committee on Federal Legislative Priorities, presented the committee's recommendations of the following items for inclusion on the list of the Association's 2014 federal legislative priorities: integrity of the justice system (including funding of federal courts and civil legal services), repeal of the Defense of Marriage Act, support for increased voter participation, support for legislation to address immigration representation, administration of justice (including support for the Rules Enabling Act rule-making process and maintaining Rule 11 of the Federal Rules of Civil Procedure), and support for the legal profession.

After discussion, a motion was adopted to approve these items as the Association's 2014 federal legislative priorities.
14. Report of Committee on Continuing Legal Education. Deborah A. Scalise, chair of the Committee on Continuing Legal Education, together with Senior Director H. Douglas Guevara, provided an update on the Association's continuing legal education program, including revenue and expenses and new policies and initiatives. The report was received with thanks.
15. Report of Executive Subcommittee on CLE. Mr. Myers, in his capacity as chair of the Executive Committee's Subcommittee on CLE, outlined proposed guidelines developed by the subcommittee for management of CLE programming. After discussion, a motion was adopted to approve the guidelines with the understanding that the subcommittee will review issues with respect to pricing and webcasting.
16. Report and recommendations of Lawyer Assistance Committee. Henry E. Kruman, the committee's chair, outlined the committee's request for Association support for inclusion of funding for lawyer assistance programs in the 2014 Judiciary budget. After discussion, a motion was adopted to support the proposal.

17. Report and recommendations of Finance Committee re 2014 proposed income and expense budget. Finance Committee chair John Marwell reviewed the proposed budget for 2014, which projects income of \$25,931,900, expenses of \$25,422,810, and a projected surplus of \$509,090. A motion was adopted to endorse the proposed budget for favorable action by the House of Delegates.
18. Report of Committee on Association Insurance Programs. The report was deferred to a future meeting.
19. Executive Session. In executive session, the committee discussed personnel matters.
20. Report of Committee on Diversity and Inclusion. Committee members Sharon Stern Gerstman and John Eric Higgins reviewed the results of the committee's biennial survey to evaluate the level of diversity in Association and Section leadership, membership and activities as well as the committee's recommendations. The report was received with thanks.
21. Report and recommendations of Special Committee on Human Trafficking. Committee co-chairs Bernice K. Leber and Sandra Rivera, together with committee members John H. Gross, Hon. Barry Kamins, and Hon. Carol Robles-Roman, reviewed the committee's recommendations with respect to labor trafficking, sex trafficking, and child trafficking. The committee agreed to delete its recommendation with respect to orders of protection in Family Court. After discussion, a motion to defer consideration of the report and recommendations to the January 2014 meeting failed, after which a motion was adopted to endorse the following resolution for favorable action by the House:

WHEREAS, human trafficking is identified as a contemporary form of slavery, with thousands of people taken from their families and forced into hard labor or prostitution; and

WHEREAS, human trafficking occurs throughout New York state; and

WHEREAS, the victims of human trafficking are men, women, and children who are U.S. citizens and non-citizens from New York and other states, as well as immigrants from other countries; and

WHEREAS, the Special Committee on Human Trafficking was appointed to consider initiatives relating to education, training, provision of legal services to and coordination of resources for victims, as well as effective prosecution of traffickers; and

WHEREAS, the Special Committee has completed its review of available data, existing laws, protocols, training procedures, court practices, and rules relating to the areas of labor trafficking, sex trafficking, and child trafficking, and has issued a report making recommendations for changes with respect to laws, services and practices in each area; and

WHEREAS, the Special Committee has agreed to withdraw the recommendation with respect to orders of protection in Family Court for victims of human trafficking and sexual exploitation for further consideration;

NOW, THEREFORE, IT IS

RESOLVED, that the New York State Bar Association hereby approves the report and recommendations of the Special Committee on Human Trafficking as amended; and it is further

RESOLVED, that the Special Committee is hereby authorized to make non-substantive editorial changes, in consultation with the Executive Committee, as may be warranted, and it is further

RESOLVED, that the officers of the Association are hereby empowered to take such other and further steps as they may deem warranted to implement this resolution.

22. Report of Nominating Committee. Stephen P. Younger, chair of the Nominating Committee, reported that the Committee had nominated the following individuals for election to the indicated offices for the 2014-2015 Association year: President Elect: David P. Miranda, Albany; Secretary: Ellen G. Makofsky, Garden City; Treasurer: Sharon Stern Gerstman, Buffalo; Vice Presidents: 1st District – Catherine A. Christian, New York and Jay G. Safer, New York; 2nd District – Domenick Napoletano, Brooklyn; 3rd District – Hermes Fernandez, Albany; 4th District – Rebecca A. Slezak, Amsterdam; 5th District – Stuart J. Larose, Syracuse; 6th District – Alyssa M. Barreiro, Binghamton; 7th District – T. Andrew Brown, Rochester; 8th District – Cheryl Smith Fisher, Buffalo; 9th District – Hon. Arlene Gordon-Oliver, White Plains; 10th District – Scott M. Karson, Melville; 11th District – Richard M. Gutierrez, Forest Hills; 12th District – Richard S. Weisman, Mount Vernon; 13th District – Michael J. Gaffney, Staten Island. The following individuals were nominated to serve as Executive Committee Members-at-Large for a 2-year term beginning June 1, 2014: Elena DeFio Kean, Albany; Michael W. Galligan, New York; Bryan Hetherington, Rochester; and Edwina Frances Martin, Staten Island (Diversity Seat). Nominated as Section Representative to the Executive Committee was Bruce J. Prager, New York. The following individuals were nominated as delegates to the American Bar Association House of Delegates for the 2014-2016 term: A. Vincent Buzard, Rochester; Michael E. Getnick, Utica; Kathryn Grant Madigan, Binghamton; David P. Miranda, Albany; and David M. Schraver, Rochester. Nominated for Young Lawyer Delegate to the American Bar Association House of Delegates was Alena Shautsova, Forest Hills.

23. Date and place of next meeting.
Thursday, January 30, 2014
Hilton Midtown New York, New York City

24. Adjournment. There being no further business, the meeting of the Executive Committee was adjourned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David P. Miranda". The signature is written in a cursive style with a large initial "D".

David P. Miranda
Secretary