

**NEW YORK STATE BAR ASSOCIATION
MINUTES OF HOUSE OF DELEGATES MEETING
HYATT REGENCY ROCHESTER, ROCHESTER
APRIL 5, 2014**

.....

PRESENT: Abella; Alcott; Arenson; Ayers; Baker; Barnes; Baum; Bloom; Brown, J.; Brown, T.A.; Buholtz; Castellano; Cecero; Cohen, D.; Cohen, O.; Collins; Coseo; Srummy; Curley; Dean; DeFelice; Denton; Edmunds; Eppler; Fay; Feinberg; Finerty; Fisher; Fox; Franchina; Freedman, M.; Friedman; Gaffney; Galligan; Gerber; Gerstman; Getnick; Giordano; Gold; Goldberg; Goldenberg; Gorgos; Grossman; Gutierrez; Habberfield; Haig; Hamm; Hanson; Hetherington; Higgins; Honig; Jaglom; James; Karson; Kearns; Kerson; Kiernan; Larose; Lau-Kee; Lawrence; Lessard; Levin; Levy; Lewis; Lindenauer; Madigan; Marangos; Martin, E.; McCafferty; McDonald; McKeegan; McNamara, Michael; Miller, M.; Millon; Miranda; Modica; Moretti; Moy; Mulhall; Myers; Napolitano; Nathanson; Nowotny; O'Donnell; Ogden; Ostertag; Otis; Pellow; Perez; Perlman; Prager; Ranni; Rivera; Rodriguez; Romero; Rothenberg; Russ; Ryan; Saleeby; Samuels; Schofield; Schraver; Sen; Sheehan; Silverman; Slezak; Smith, S.; Standard; Stanislaus; Stankus; Sweet; Tennant; Ugurlayan; Vigdor; Virkler; Walker; Warshawsky; Welch; Westlake; Witmer; Woronov; Yeung-Ha; Young; Younger; and Zuckerman.

Mr. Lau-Kee presided over the meeting as Chair of the House.

1. The meeting was called to order and the Pledge of Allegiance recited. Barbara Blaisdell, in character as Susan B. Anthony, welcomed the delegates to Rochester.
2. Approval of minutes of January 31, 2014 meeting. The minutes were accepted as previously distributed.
3. Report of Treasurer. Sharon Stern Gerstman, Treasurer, provided a financial report focusing on the Association Sections' income and expenses. Ms. Gerstman also reviewed selected revenue and expense items. The report was received with thanks.
4. Election of the Nominating Committee and NYSBA Delegates to the ABA House of Delegates. Stephen P. Younger, chair of the Nominating Committee, presented the report of the Nominating Committee.
 - a. Election of members of the Nominating Committee. The following were nominated for service on the 2014-2015 Nominating Committee:

Members-At-Large: Vincent E. Doyle III as Chair and Stephen P. Younger and Michael E. Getnick as members. A motion was adopted to elect the members-at-large. Mr. Younger abstained from voting.

District members and alternates of the Nominating Committee: First –Mark H. Alcott, Fernando A. Bohorquez, Jr., Pui Chi Cheng, Taa R. Grays, Susan B. Lindenauer, Barbara Carol Moses, Carol Ann Sigmond, Hon. Michael R. Sonberg

and Lewis F. Tesser, with Vincent Ted Chang, First Alternate, Karen Fisher Gutheil, Second Alternate, and Michael J. McNamara, Third Alternate; Second – Andrew M. Fallek and Hon. Cheryl E. Chambers, with Barton L. Slavin as Alternate; Third – Harry P. Meislahn and Lillian M. Moy, with Sarah E. Gold as Alternate; Fourth – Seth Rosner and Peter V. Coffey, with Marne L. Onderdonk as Alternate; Fifth – Karen Stanislaus and Gioia Gensini, with Mary C. John as Alternate; Sixth – Christopher Denton and Kathryn Grant Madigan, with Richard Lewis as Alternate; Seventh – LaMarr Jackson and A. Vincent Buzard, with David H. Tennant as Alternate; Eighth – Norman P. Effman and Kathleen Marie Sweet, with David L. Edmunds, Jr., as Alternate; Ninth – John S. Marwell, Joel H. Sachs, and Mark T. Starkman, with Dawn Kirby as Alternate; Tenth – Steven G. Leventhal, A. Thomas Levin, John P. Bracken, and A. Craig Purcell, with Arthur E. Shulman, First Alternate, and Peter H. Levy, Second Alternate; Eleventh – Chanwoo Lee and Steven Wimpfheimer, with Arthur N. Terranova as Alternate; Twelfth – Carlos M. Calderon and Richard Weinberger, with Maxwell S. Pfeifer as Alternate; Thirteenth – Robert A. Mulhall and Orin J. Cohen with Jonathan B. Behrins as Alternate.

A motion to elect the foregoing was adopted.

- b. Election of Delegates to ABA House: A motion was adopted to elect the following for a two-year term commencing in August 2014: A. Vincent Buzard, Michael E. Getnick, Kathryn Grant Madigan, David M. Schraver, and David P. Miranda.
 - c. Election of Young Lawyer Delegate to ABA House: A motion was adopted to elect Alena Shautsova for a two-year term commencing in August 2014.
5. Report of the President. Mr. Schraver highlighted several items in his written report, a copy of which is attached to these minutes. He observed that this meeting is his last as President and he thanked the officers, Executive Committee members and the staff for their support during his term.
 6. Task Force on Gun Violence. David H. Tennant and Earamichia Brown, the Task Force's co-chairs, presented an informational report on the Task Force's work to date. The Task Force's report will include an analysis of the law relating to the Second Amendment; gaps in available data with respect to gun violence research; and legislative recommendations, with a focus on straw purchases of firearms. The report will be considered by the House at its November 2014 meeting. The report was received with thanks.
 7. Report and recommendations of Committee on Federal Legislative Priorities. John M. Nonna, chair of the committee, reviewed the committee's recommendations with respect to support for amendment of the Voting Rights Act to address issues raised by the Supreme Court in striking down portions of the Act in 2013. After discussion, a motion to amend the report was adopted to delete the word "ideal" appearing on page 10, after which a motion was adopted to approve the report and recommendations.

8. Scheduling resolution to govern consideration of mandatory pro bono reporting. David P. Miranda, who as President-Elect will chair the June 2014 House meeting, presented a proposed resolution to govern the House's debate on the Executive Committee's mandatory pro bono reporting resolution at its June 21, 2014 meeting. The following motions to amend the resolution failed: (a) to allow a speaker to cede his/her speaking time to another speaker; (b) to limit a response of the Executive Committee member presenting the resolution to two minutes; (c) to provide equal presentation time to an opponent of the resolution; (d) to change "shall be submitted" to "are urged to submit" in paragraph 2; and (e) to delete the word "any" and change "shall" to "should" in paragraph 2 (standing vote of 23-77). The following motions to amend were approved: (a) to add "as well as online and in State Bar News" to paragraph 1 and (b) to change "shall" to "should" in paragraph 2. As amended, the following resolution was adopted:

RESOLVED, that the House of Delegates hereby adopts the following procedures to govern consideration at the June 21, 2014 meeting of the House of the Executive Committee Resolution on Mandatory Pro Bono Reporting:

1. The resolution will be circulated with other materials for the meeting to members of the House, sections and committees, county and local bar associations, and other interested parties, as well as on-line and in the *State Bar News*.
 2. **Comments on or amendments to resolution:** Any comments on the resolution, or any proposed amendments to the resolution, should be submitted in writing to the Secretary of the Association at the Bar Center by June 9, 2014. All comments and proposed amendments complying with this procedure shall be distributed to the members of the House in advance of the June 21, 2014 meeting.
 3. **Speaking on the resolution:** Those members of the House intending to speak on the resolution are requested to provide notice to the Secretary and whether they intend to speak for, or against, the resolution by June 9, 2014. This notice is a courtesy for scheduling purposes and will not prevent the chair from recognizing speakers on the issue who fail to provide such notice.
 4. **Consideration of the resolution at the June 21, 2014 meeting and any subsequent meetings:** The resolution will be scheduled for formal debate and vote at the June 21, 2014 meeting and considered in the following manner:
 - a. A representative of the Executive Committee shall be given an opportunity to present the resolution.
 - b. All those wishing to speak with regard to the resolution may do so only once for no more than three minutes.
 - c. The Executive Committee representative may respond to questions and comments as appropriate.
 - d. Procedural motions shall be considered out of order until debate on substantive issues is concluded.
9. Report of the Secretary. Association Secretary David P. Miranda highlighted information contained in his printed report, a copy of which is appended to these minutes. The report was received with thanks.

10. Report of Committee on Legal Education and Admission to the Bar. Committee co-chairs Eileen D. Millett and Ian Seth Weinstein presented an informational report recommending the adoption of rules to permit early administration of the bar examination. The report will be presented for debate and vote at the June 2014 House meeting. The report was received with thanks.
11. Report of ABA State Delegate. Mark H. Alcott, ABA State Delegate, updated the House with respect to the work of the American Bar Association, including the upcoming ABA Day in Washington and the activities of ABA President James R. Silkenat. The report was received with thanks.
12. Report of Chief Technology Officer. The oral presentation was deferred to another meeting; however, a recorded presentation will be available on the Association website.
13. Report of The New York Bar Foundation. Cristine Cioffi, President of The New York Bar Foundation, highlighted the work of Lifespan of Greater Rochester, an organization that assists people with future planning services such as care for a disabled child, and presented a grant to representatives of the organization. The report was received with thanks.
14. Administrative items. Mr. Lau-Kee reported on the following:
 - a. Motions to approve the designation of delegates filed by the county and local bar associations for the 2014-2015 Association year and to approve the filed roster of the members of the House for the 2014-2015 year were requested and approved.
 - b. 12th District Vice President. Richard S. Weisman, who had been elected as 12th District Vice President for the term beginning June 1, 2014, had passed away suddenly and Carlos M. Calderon was selected by the district members of the House to fill the vacancy. A motion was adopted to confirm the designation.
 - c. Executive Committee member-at-large. T. Andrew Brown, a current member-at-large, had been elected as 7th District Vice President for the term beginning June 1, 2014. Pursuant to the Bylaws, the Executive Committee appointed John S. Marwell to fill the vacancy. A motion was adopted to confirm Mr. Marwell's appointment.
 - d. He announced that immediately following the meeting, the Committee on Leadership Development would host a meeting for members interested in exploring leadership opportunities in the Association.
 - e. He observed that this meeting represents the last House meeting of the Association year and noted that a number of House members were completing their terms, expressing appreciation for their service. He also expressed appreciation to Mr. Schraver for his leadership as President of the Association. He noted that this meeting represents his last as Chair of the House and thanked the

House for the opportunity to serve. Finally, he introduced Mr. Miranda as the next Chair of the House and presented him with the House's gavel.

15. Date and place of next meeting. Mr. Lau-Kee announced that the next meeting of the House of Delegates would take place on Saturday, June 21, 2014 at The Otesaga in Cooperstown.
16. 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 that reads "David P. Miranda". The signature is written in black ink and is positioned above the printed name and title.

David P. Miranda
Secretary

DAVID M. SCHRAVER

President, New York State Bar Association

Nixon Peabody LLP
1300 Clinton Square
Rochester, NY 14604
585/263-1341
FAX 585/263-1600
dschraver@nixonpeabody.com

April 2, 2014

**President's Report to the
House of Delegates**

Lobbying Efforts in Support of the Association's Legislative Priorities

Court funding has remained our primary focus since we first announced our 2014 Legislative Priorities earlier this year and I am pleased to report that our advocacy activities are well underway. In February I submitted testimony on the proposed state budget, and in early March, President-Elect Glenn Lau-Kee and I had a series of meetings with state policy makers to reinforce the Association's position on a number of issues considered by the Legislature in the context of the debate over the budget. Future legislative efforts on our other priorities will take place after the budget has been completed. Below is a summary of positions that we highlighted for the Legislature.

Proposed Judiciary Budget

The Judiciary's 2014-15 budget proposal sought cash funding of \$1.81 billion to support court operations. The State Bar strongly supported the Judiciary's budget request, in large part, because it would end the 4:30 pm closing time for courtrooms, enhance courtroom security, partially restore the functioning of the offices of the clerks, and, in general, rebuild necessary components of the court system's workforce. Of particular concern to the State Bar has been budget cuts that have resulted in the Judiciary's inability to keep courtrooms open beyond 4:30 pm.

Two years ago the Association's Executive Committee issued a comprehensive report about the impact of the 2011-12 budget cuts on the court system. The report includes a statewide analysis, as well as findings about each of the thirteen judicial districts. Finding numerous examples of the negative impact on the court system, the Executive Committee's report stated that the "dispensation of justice -- like the construction of a courthouse -- is hardly free. There are substantial costs to operating the judicial system -- from running courtrooms to preserving precedents. These costs are borne by the public, which wants in return a sense of confidence in our court system. However, adequate funding is necessary to ensure that 'essential' sense of confidence." Because the court system has struggled in recent years with flat budgets and increased expenses, we believe that many of the problems identified by our report continue to exist, and that they cannot be resolved without increased funding.

Increasing the Number of Family Court Judgeships

The Judiciary's budget proposal included funding for the creation of 20 new Family Court judgeships. I want to thank our Task Force on Family Court, co-chaired by Susan Lindenauer and Hon. Rita Connerton, for elevating the profile of this important issue and helping to get the item in the Judiciary's proposal. In February I wrote to the Legislature, urging that the number of Family Court judges be increased as proposed in the Judiciary's proposed budget for 2014-15.

The Judiciary budget submission notes that over the past 30 years, while filings have increased by 90 percent, the number of Family Court judgeships has been increased by only 8.8 percent. None have been created in New York City since 1990, and only one was created anywhere in the State in the last decade.

Lengthy delays in hearing and disposing of cases, multiple adjournments, and the unfortunate inability to hear cases to conclusion on consecutive days are systemic problems that are the consequence of too few judges. Without an increase in the number of Family Court judges, the system-wide challenges of the Court will not be fully or successfully addressed. A system which is understaffed and unable to function effectively sends the message that problems of child welfare and family violence are unimportant and unworthy of serious government attention.

As the state budget deadline approached, I continued to urge lawmakers to consider how the lives of thousands of children are affected by a shortage of Family Court judges, who hear cases about child abuse, adoption, foster care, paternity, financial support and custody.

In addition, I highlighted several other important NYSBA positions, summarized below:

For the past four years the State Bar has applauded the Legislature's approval of the Judiciary's \$15-million allocation for the IOLA Fund, to help offset declining IOLA revenue due to low interest rates and the decline in the number of real estate transactions. We again applaud the Judiciary for including this item in its current proposal and we thank the Legislature for its recognition of the importance of this funding;

In an era when some members of Congress continue to call for the elimination of the Legal Services Corporation, the need for responsible action in New York State is all the more critical. The New York State Bar Association continued to strongly support the Judiciary's \$55 million request for civil legal services;

Given the important function of the Office on Indigent Legal Services – to provide support and relief to localities in fulfilling the mandate of the U.S. and New York constitutions – we urged the Legislature to appropriate an additional \$4 million to expand the operation of the Office and maximize the funds appropriated from the Indigent Legal Services Fund (ILSF) to county governments;

We reiterated our view that the Prisoners Legal Services program helps to provide equal access to our system of justice for those who are incarcerated and would otherwise be deprived of such access. The program reflects one of the State Bar's highest priorities -- the concept that the impoverished or unpopular individual should be able to invoke the power of the world's most advanced legal system to protect his or her rights. Therefore, appropriate funding should be available for this important budget item; and,

We supported the \$8.5 million in the budget to cover the cost to complete the multi-year increase of judicial salaries.

Other Legislative Activity

I also want to commend the activities of several NYSBA groups that have recently been active in the legislative sphere.

The Association's Real Property Law Section (RPLS) was actively involved in the state's budget process with regard to pending bills concerning the licensing of title insurance agents. In January,

Governor Cuomo included in his proposed executive budget legislation that would require licensing of agents.

The RPLS has long supported the licensing of title insurance agents. However, historically, the title insurance industry has at its roots the practice of law. Attorneys in New York have been issuing written certifications of title for over 200 years. State law was amended in 1909 to permit non-lawyers to do such work. The law currently exempts certain activities by title insurance corporations from the unlawful practice of law provisions of the Penal Law.

During this budget season the RPLS was engaged in discussions with the New York State Land Title Association with the goal of developing legislative language to clarify the long-standing practice of lawyers acting as title insurance agents in matters where they are also rendering legal services and advice to their clients. The RPLS opposed any proposal that would not include clarifying language. Late in the budget process, an agreement was reached.

Fundamentally, lawyers can perform title insurance functions consistent with the ethical considerations applicable to the profession. There is significant public interest in affirming lawyers' ability to perform these functions. In fact, they best serve their clients when they perform them.

Activity of the Elder Law Section

For many years, the executive budget proposed eliminating spousal refusal for Medicaid recipients living in the community unless the refusing spouse lives separate and apart. The Elder Law Section has opposed these proposals each year primarily because they would force people into institutional (nursing home) care. Although this year the executive proposal recognized the Elder Law Section's concerns and attempted to minimize the incentive to institutionalize individuals who would be better served receiving home based or community care, the Section continued to raise concerns. As a result, the Legislature eliminated this proposal from their budget bills.

Activity of the Trusts & Estates Law Section

Trusts and Estates Law Section has long been advocating for a change in the law to address concerns related the payment of interest on delayed legacies. In the late fall of 2013, section representatives again met with policy makers in the legislature to persuade decision-makers to in both houses to pass their bill. I am pleased to announce that as of March 20, the proposal has been passed by both houses of the legislature. I congratulate the Section for a job well done and wish them success in their continued work to advocate that Governor Cuomo sign the bill into law.

Legal Education and the Future of the Profession

We have reached a defining moment in the legal profession. The profession is facing a departure from traditional legal practices in favor of technological advancements, globalization, and related changes in client expectations. Law students are grappling with this same shift in the profession and, while the cost of attending law school continues to escalate, graduates are finding themselves competing for a diminishing number of legal positions. Reform is vital to both of these issues and, in order to succeed in effecting real change, we must address them in concert and with a sustained effort.

As you know, I have made the challenges facing legal education and the future of the profession a major focus of my term. Following the Annual Meeting's Presidential Summit on legal education and the future of the profession, in February, I participated in the National Conference of Bar Presidents' Midyear plenary, which addressed the issue of legal education reform. There I emphasized the importance of the issue and the work of our Committee on Legal Education and Admission to the Bar.

On May 22nd, the Judicial Institute on Professionalism in the Law and NYSBA's Committee on Legal Education and Admission to the Bar will present a joint convocation on "The Coming Changes to Legal Education: Ensuring Professional Values." The convocation, which will be held at the New York State Judicial Institute at Pace University School of Law in White Plains, will build upon focus groups of legal education experts and practicing attorneys with a shared goal of defining issues and developing solutions. We hope that the Association's leadership in addressing the challenges and evolving landscape of the legal profession will allow us to better understand the role that the NYSBA can play to effect real change - both in legal practice and legal education.

Pro Bono

I am proud to report that the Association's commitment to access to justice continues to be bolstered by the dedication and support of our members. Our Empire State Counsel[®] Program, launched in 2006 by then-president Mark H. Alcott, recognizes NYSBA members who have performed 50 hours or more of free legal services to low-income individuals, vulnerable persons, and the non-profit organizations that serve them. In 2013, ten new law firms participated for the first time in the Empire State Counsel[®] Program and 1,367 Association members enrolled in the program, contributing 229,276 hours of free legal assistance to serve the legal needs of vulnerable people. Over the past seven years, close to 10,000 NYSBA members, located in virtually every state in the United States, as well as in Europe, Indonesia, Africa, Canada and India, have collectively donated more than 1.5 million hours of free legal services in the areas of mortgage foreclosure, landlord-tenant issues, bankruptcy, immigration, asylum, domestic violence, child custody, and vital government benefits. We thank our members not only for their outstanding pro bono service, but also their significant financial contributions to this important cause.

Mandatory Pro Bono Reporting

The Association has long promoted pro bono civil legal services for the poor through our Department of Pro Bono Affairs, the President's Committee on Access to Justice, the Legal Aid Committee, the Empire State Counsel program, our biennial Partnership Conference for legal services providers from across the state, our various pro bono awards, grants through The New York Bar Foundation, and many other programs and activities. It is beyond cavil that access to justice has long been a foundation of the New York State Bar Association's mission.

For over ten years the majority of our members have strongly opposed any requirement that forces lawyers to report their voluntary pro bono service. Our opposition to mandatory pro bono reporting is founded upon principles that include respect for the privacy of individuals as to how they spend their charitable time and invest their charitable contributions; the coercive effect of requiring the reporting of this information and the potential consequences of failing to report in terms of professional discipline or loss of one's license to practice law; and the effect such a requirement has on the lawyer's sense of nobility in doing the public good by providing pro bono legal services.

Since the House of Delegates last met, our efforts to address this issue have been ongoing. I have spoken directly with numerous bar association leaders and have inquired as to how the Association might coordinate with their own efforts to challenge the rule. We have also created a web resource in order to provide members with a means to directly communicate their concerns about the rule with Judge Lippman, the presiding justices and the administrative board (www.nysba.org/probonoreporting). Finally, we have begun discussions to retain outside counsel. At the same time we will seek opportunities to discuss this issue with the chief judge, in an effort to resolve these issues in a way that addresses the concerns of our members.

Civics Education

Earlier this year, the House of Delegates approved the report of the Committee on Law, Youth and Citizenship, which called upon NYSBA to formally adopt a policy on civics education to address a decade of dramatic decline in civic education and knowledge on a state and national level. The report encourages members of the legal profession and policymakers at all levels to personally and actively engage in civics education in their communities; work to further Americans' understanding of the fundamental principles in our constitutional democracy; and support the inclusion of civics education in the core K-12 curriculum nationwide. These sentiments were echoed by former Chief Judge Judith S. Kaye when she spoke on the topic of civics education at our Annual Meeting. Since the adoption of its report, the committee has resolved to meet with Education Commissioner John King to determine how to implement their recommendations.

I am particularly pleased to report that on March 27th, the committee was recognized by the New York State Council for the Social Studies and the New York State Social Studies Supervisors Association during their Partners in Excellence Conference. The inaugural award was given in recognition of the substantive differences LYC has made in improving civics education in New York State through its diligent service to teachers and students. I was personally honored to have been invited to make remarks on behalf of the Association, wherein I emphasized the importance of promoting civics education and NYSBA's dedication to the issue as a priority in 2014.

Nonprofit Revitalization Act

In December 2013, the Governor signed the Nonprofit Revitalization Act into law. This was a proposal which our Association strongly supported and actively helped to develop. The Act takes effect on July 1, 2014, and eliminates redundancies and improves state regulatory practices. As a result, all nonprofit organizations must examine their governance structure to determine whether changes are required to comply with the law. We have begun this process, examining our Bylaws and other governing documents to determine what changes are required.

Chief Judge Lippman's State of the Judiciary Speech

In his State of the Judiciary speech, Chief Judge Lippman announced the Pro Bono Scholars Program, through which law students will have the opportunity to dedicate their final semester of law school to doing pro bono service for the underprivileged. Under the program, students will receive law school credit for their work while remaining under their law school's supervision. We have been invited to participate in the Task Force on the Pro Bono Scholars Program chaired by Chief Administrative Judge A. Gail Prudenti, and I attended the organizational meeting of the Task Force in New York City on March 13th together with co-chairs of our Committee on Legal Education and Admission to the Bar, Eileen Millett and Ian Weinstein, and Susan Lindenauer, chair of our Senior Lawyers Section and retired General Counsel of The Legal Aid Society of New York City.

Chief Judge Lippman also announced a program for trained non-lawyers, called Navigators. The program is a pilot to be established in certain parts of the New York City Civil Court, although it may be expanded to other courts as designated by the Chief Administrative Judge. It will be established initially in the Housing Part in Kings County and for consumer credit matters in the Bronx County Civil Courts. On February 25th, President-elect Glenn Lau-Kee and I met with Roger Maldonado and Fern Schair, co-chairs of the Chief Judge's committee overseeing these pilot programs. The co-chairs agreed to keep us advised about the programs, provide copies of the Navigators' training manuals, share evaluations of the programs, and generally be available to respond to any questions or concerns the Association or our members may have.

Chief Judge Lippman has also recommended significant changes with regard to one of the Association's current legislative priorities - the sealing of criminal convictions in certain instances. The chief Judge will be submitting legislation that addresses, among other things, the expungement of misdemeanor and violent felony convictions for individuals without subsequent arrests for periods of seven and ten years respectively; in the case of violent felonies, individuals must also have no prior convictions. As the Chief Judge advances toward making New York's criminal history record policies fairer and more rational, NYSBA will continue to offer its support and resources as we pursue this important and sensitive issue.

ABA Days / Voting Rights Act

This weekend, the House of Delegates and the Executive Committee will be considering a motion to adopt as a federal legislative priority the bill to amend the Voting Rights Act. If the House approves of the Resolution, we anticipate advocating for the bill when we are in Washington D.C. on April 8 and 9 for ABA Day. ABA Day will include funding for the Legal Services Corporation. The ABA also opposes a proposal to require large law firms to be taxed based on the accrual method rather than the cash method. Our Executive Committee will be considering the topic this week.

Law Day

This year's Law Day theme is "American Democracy and the Rule of Law: Why Every Vote Matters." I will be participating in Law Day celebrations in Buffalo (April 29th), Albany (at the Court of Appeals April 30th) and Rochester (May 1st).

Tragedy in East Harlem

On March 12th, a gas explosion leveled two buildings in East Harlem, killing eight people. At the request of the New York City Office of Emergency Management (OEM), our Committee on Mass Disaster Response was immediately activated. After major disasters occurring within New York State, committee members offer pro bono advice to victims and family members about immediate legal issues, often involving death certificates, wills, medical decision making, housing and child custody. In the case of the Harlem explosion, city officials initially told committee Chair Mark Masini that they believed many victims might be undocumented immigrants, who would need legal assistance. Mark reached out to Joanne Macri and Jojo Annobil, co-chairs of our Committee on Immigration Representation, who were ready to recruit volunteers from the committee to assist. While it turned out there was no immediate need for pro bono immigration attorneys, our immigration committee offered to stand ready, if needed, now and during future emergencies. This is an excellent example of the willingness of our State Bar members to interrupt their lives to offer pro bono legal services in the face of an emergency.

June Meeting of the House of Delegates

Our next Executive Committee and House of Delegates meetings will be held on Thursday June 19th, Friday June 20th, and Saturday June 21st in Cooperstown, New York. I hope you will join us.

Sincerely,



DAVID P. MIRANDA
Secretary
Heslin Rothenberg Farley & Mesiti PC
5 Columbia Circle
Albany, NY 12203
518/452-5600
FAX 518/452-5579
dpm@hrfmlaw.com

March 28, 2014

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 reached out to sections and committees in February for assistance with the implementation of a report issued by the Special Committee on Human Trafficking. The committee is collecting responsive information and plans to provide a report to the Executive Committee in June.

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

A. Veterans' Legal Services

In November 2012 the House approved the report and recommendations of the Special Committee on Veterans. One of the recommendations contained in that report was that NYSBA's Committee on Lawyer Referral Service develop a panel of lawyers willing to assist veterans with various legal matters with a free initial telephone consultation and reduced fees. On Veteran's Day in November 2013, the Lawyer Referral and Information Service launched such a program, with plans to run it until Memorial Day 2014. Currently, 250 lawyers statewide have signed up to participate, and more than 90% of callers have been placed with participating lawyers. If attorneys are not available to assist a caller, the LRIS staff will try to refer the caller to other available resources.

B. Judicial Campaign Contributions

22 NYCRR § 151 ("Part 151") was promulgated at the request of Court of Appeals Chief Judge Jonathan Lippman in response to growing concerns over judges receiving campaign contributions from attorneys and litigants who frequently appear before them. These concerns over "pay to play" in the court system sparked debate over the judiciary's impartiality.

The Committee on Court Structure and Operations wrote a report that examined the implementation, enforcement, and effectiveness of Part 151, which address the potential conflict of interest created when a judge is assigned to a case in which the parties, their attorneys, and/or their attorneys' law firms have

contributed to the assigned judge's campaign. The report included the background of Part 151, the regulation's contribution guidelines, and a survey of Office of Court Administration ("OCA") District Executives' experience with Part 151.

In January 2014, the report was approved by the Association's Executive Committee and made available to OCA.

C. Civil Practice Law and Rules

The Association's Committee on Civil Practice Law and Rules has traditionally been active in developing and advocating for amendments to the CPLR that would enhance the practice and procedures relating to civil litigation in state courts. Among the affirmative legislative proposals submitted by the Committee to the Association's Executive Committee are the following:

- Proposal to amend CPLR 3212(a) to require that any shortening of the time to move for summary judgment from the usual 120 days after filing of the note of issue, be effected only "by order specific to the case;"
- Proposal that would add to the end of CPLR 3216(b)(3), governing service of 90-day demands to file a note of issue, "Where the demand is served by the court, the demand shall set forth the specific conduct constituting the neglect, which conduct shall demonstrate a general pattern of delay in proceeding with the litigation;"
- Proposal to overhaul of CPLR 3213, governing motions for summary judgment in lieu of a complaint, which would expand the availability of such motions from judgments and "instruments for the payment of money only," as at present; and,
- Proposal to amend CPLR 3402(a), governing notes of issue, providing that no note of issue may be filed without either: a.) a stipulation of the parties; b.) a court order certifying that discovery is complete or directing the filing of the note of issue with enumerated disclosure outstanding; or c.) a certificate of readiness certifying that all disclosure is complete and that a good-faith effort was made to secure a stipulation from opposing counsel.

The proposals have been submitted to the Legislature, and the Association continues to advocate in support of this important segment of its legislative program.

D. Uniform Notice of Claim

In 2012, the Association's Executive Committee voted to support legislation that would amend the Civil Practice Law and Rules and the General Municipal Law to establish the Uniform Notice of Claim Act (Act). The Act would provide plaintiffs with a uniform, fair and statutorily consistent procedure for serving a notice of claim of intention to commence a proceeding against a governmental or quasi-governmental entity for damages suffered as an aggrieved party, and similarly provide for a statutorily consistent statute of limitations applicable to such actions.

The Association issued a memorandum supporting and seeking enactment of the legislation. The memo stated, in part:

Costly, time-consuming and resource-wasting litigation often ensues over arcane issues of notice of claim service and other procedural quirks, unnecessarily burdening the courts as well as the agencies involved, while at the same time undermining public confidence in the reasonableness and rationality of New York's laws. This bill would provide a uniform, fair and easily accessible method for serving a notice of claim via service on the Secretary of State in addition to those methods of service currently existing, and thus provide uniformity to procedural rules governing actions against governmental and quasi-governmental entities.

The Governor signed the legislation into law as Chapter 500 of the Laws of 2012.

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" and "M".

David P. Miranda