

**NEW YORK STATE BAR ASSOCIATION  
MINUTES OF EXECUTIVE COMMITTEE MEETING  
THE OTESAGA, COOPERSTOWN, NEW YORK  
JUNE 19-20, 2014**

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PRESENT: Members Barnes, Barreiro, Brown, Christian, Cohen, Fernandez, Fisher, Gaffney, Galligan, Gerstman, Goldberg, Goldenberg, Gordon-Oliver, Gutierrez, Hetherington, Karson, Kean, LaRose, Lau-Kee, Makofsky, Martin, Marwell, Miranda, Napoletano, Prager, Safer, Schraver, Slezak, and Young.

Guests: Maureen Bezuhly, Donald C. Doerr, Claire P. Gutekunst, Robert M. Harper, Paul Michael Hassett, Darcy M. Katris, Paul E. Kerson, Hon. Rachel Kretser, , Henry E. Kruman, Hon. Doris Ling-Cohan, Hon. George H. Lowe, Thomas J. Maroney, Lesley Friedman Rosenthal, William T. Russell, Jr., Andrew A. Scherer, Hon. Ellen M. Spodek, and Stephen P. Younger.

Mr. Lau-Kee presided over the meeting as President of the Association.

1. Mr. Lau-Kee called the meeting to order, and Hermes Fernandez, Michael W. Galligan, Bryan D. Hetherington, Elena DeFio Kean, Stuart J. LaRose, Ellen G. Makofsky, John S. Marwell, Domenick Napoletano, and Bruce J. Prager were welcomed as new/returning members of the Executive Committee.
2. Introduction of Executive Director. Mr. Schraver introduced David R. Watson, currently Executive Director of the Cleveland Metropolitan Bar Association, who will become Executive Director of the Association on July 21.
3. Approval of minutes of meeting. The minutes of the April 4, 2014 meeting and the June 6, 2014 teleconference meeting were accepted as distributed.
4. Consent Calendar.
  - a. Amendments to stated purpose of Committee to Review Judicial Nominations.
  - b. Confirmation of Audit Committee appointments.

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

5. Report of the Treasurer. Ms. Gerstman, in her capacity as Treasurer, updated the Executive Committee with respect to dues and CLE revenue, and then provided an overview of 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. The report was received with thanks.

6. Report re technology. David L. Adkins, Chief Technology Officer, provided the Executive Committee with a report on the Association's technology initiatives, including the development of the Communities section of the website. The report was received with thanks.
7. Report and recommendations of Committee on Women in the Law. Maureen Bezuhly, co-chair of the committee's Subcommittee on Best Practices, presented the committee's report regarding recommendations to increase women's participation in the Association. After discussion, a motion was adopted to accept the report in principle and to direct the committee to develop specific recommendations for presentation at a future Executive Committee meeting.
8. Report of Lawyer Assistance Committee. The reports were presented by Henry E. Kruman, the committee's chair, and Patricia Spataro, Director of the Lawyer Assistance Program.
  - a. Mr. Kruman and Ms. Spataro presented an informational report reviewing the committee's and the Program's activities during the prior year. The report was received with thanks. The committee then presented an award to David M. Schraver for his support of the Program during his presidency.
  - b. Promotion of lawyer assistance programs at CLE programs. Mr. Kruman presented a proposed resolution requesting CLE program chairs to read a statement at the beginning of programs to promote lawyer assistance programs. After discussion, a motion was adopted to approve the resolution, subject to further modification of the statement's language.
9. Discussion of Executive Committee liaison responsibilities and duties of Vice Presidents. Mr. Lau-Kee led a discussion of liaisons' roles in facilitating communication, providing guidance on policy and procedure, and encouraging sections and committees to undertake projects. He asked liaisons to maintain regular contact with their groups, encourage them to submit reports for consideration by the Executive Committee and/or House of Delegates and comment on reports submitted by other groups, and to be mindful of the need for diversity. He outlined the reimbursement policy for liaisons attending section and committee meetings.

Mr. Lau-Kee also reviewed the responsibilities of Vice Presidents, as set forth in the By-laws, to promote relations with local bars and members in their respective districts. He noted the importance of informing local bar leaders, including those of minority and specialty bars, of Association initiatives and encouraged them to advise the Association of local bar concerns.
10. Reports of Vice Presidents. Reports were received with thanks from Mr. Gutierrez as Eleventh District Vice President and from Mr. Gaffney as Thirteenth District Vice President.

11. Reports of Executive Committee Liaisons. Reports from Ms. Fisher and Ms. Slezak regarding the activities of the sections and committees to which they are assigned as liaisons were received with thanks.
12. Report of Committee on Continuing Legal Education. H. Douglas Guevara, Senior Director of Continuing Legal Education, provided an update on the Association's continuing legal education program, including revenue and expenses, new initiatives, and section outreach. The report was received with thanks.
13. Report and recommendation of Committee on Committees. Donald C. Doerr, chair of the committee, reviewed the committee's report and recommendations with respect to the operation of 20 Association committees. After discussion, a motion to approve the committee's recommendation that the Committee on Attorneys in Public Service become part of the Municipal Law Section failed, following which a motion was adopted to discharge the committee and authorize the President to determine the future of the *Government Law and Policy Journal* and the committee's awards program. A motion was adopted to approve the committee's recommendation that the Steven C. Krane Special Committee on Student Loans for the Public Interest become a subcommittee of the President's Committee on Access to Justice. A motion was adopted to disapprove the committee's recommendation that the Committee on Attorney Professionalism, Committee on Professional Discipline, Committee on Professional Ethics, and Committee on Standards of Attorney Conduct have a single coordinating committee or be encouraged to hold at least one joint meeting annually. Finally, a motion was adopted to approve the remaining recommendations of the committee.
14. Report re strategic planning. Mr. Schraver and Richard J. Martin, Associate Executive Director, reviewed the work that had been done to integrate the staff strategic plan, the member strategic plan, and the technology strategic plan and reviewed the Mission, Vision and Goals Statements that had been prepared by the Strategic Planning Working Group. After discussion, a motion was adopted to approve the Statements.
15. Report of President. Mr. Lau-Kee highlighted the information contained in his printed report, a copy of which is appended to these minutes.
16. Report of Special Committee on Continuing Legal Education. In his capacity as chair of the Special Committee, Mr. Miranda updated the Executive Committee on the committee's work, including internal CLE structure and allocation of income and expenses. The committee plans to present a complete report at the November meeting. The report was received with thanks.
17. Report of Working Group of President's Committee on Access to Justice and Committee on Legal Aid. Hon. George H. Lowe, immediate past co-chair of the President's Committee on Access to Justice, together with current co-chair William T. Russell, Jr., and Andrew A Scherer, a member of the Committee on Legal Aid, reviewed the committees' report analyzing the New York rule requiring attorneys to report voluntary pro bono ser-

vice and contributions to legal services organizations and data from other states with a reporting requirement. The report was received with thanks.

18. Executive Committee resolution re mandatory pro bono report. In his capacity as a member of the subcommittee that prepared the resolution adopted at the January 30, 2014 meeting, Mr. Karson reviewed the Executive Committee's resolution and other materials submitted in connection with consideration of the resolution. Mr. Lau-Kee reported that together with Mr. Miranda, he had met with Chief Administrative Judge A. Gail Prudenti and Helaine M. Barnett, chair of the Chief Judge's Task Force to Expand Civil Legal Services in New York, and believed the meeting was productive. Another meeting has been scheduled for July 16. Consequently, at the June 21 House meeting he will offer a motion to postpone consideration of the resolution to the November 1 House meeting to allow time for further work with OCA.
19. Report re legislative matters. In his capacity as chair of the Committee on Legislative Policy, Mr. Fernandez updated the Executive Committee on the 2014 state legislative session, particularly with respect to the Association's legislative priorities. The report was received with thanks.
20. Discussion re sections and committees with conflicting positions on issues. Mr. Lau-Kee and Richard Rifkin, Special Counsel, led a discussion of problems that arise when two Association entities take conflicting positions on the same piece of legislation, including confusion on the part of legislators who do not understand that under the Association By-laws, sections and committees are entitled to comment on legislation originating outside the Association provided that such comments are not contrary to Association policy. It was agreed that when such conflicts occur, any submission to the Legislature will be accompanied by a cover letter from the President clearly indicating that such comments are being submitted by different Association entities and do not represent the position of the Association. It was also agreed that all such reports should be submitted through the Department of Governmental Relations. Further discussion of this topic will be scheduled for the October 31, 2014 Executive Committee meeting.
21. Reports and recommendations of the Trusts and Estates Law Section. Robert M. Harper and Darcy M. Katris, members of the section's Executive Committee, presented affirmative legislative proposals to amend CPLR 4503(b), extending the statutory exception to the attorney-client privilege to contests concerning revocable trusts, and EPTL sections 7-6.1 and 7-6.20, amending the Uniform Transfers to Minors Act regarding transfers of custodial property held for a minor. After discussion, a motion was adopted to approve the proposals.
22. Report and recommendations of Committee on Annual Award. Paul Michael Hassett, a member of the committee, presented the committee's recommendation with respect to the proposed recipient of the 2015 Association Gold Medal. After discussion, a motion was adopted to approve the recommendation. Mr. Miranda and Judge Gordon-Oliver abstained from participating in the discussion and vote.

23. Report and recommendations of Committee on Membership. Thomas J. Maroney, vice chair of the committee, together with committee member Claire P. Gutekunst, provided an update on the committee's activities and outlined the committee's belief that all CLE activities sponsored by Association entities should have member/non-member pricing. They then presented a proposal for group membership for law school faculty as a pilot project, to be monitored over a four-year span. After discussion, a motion was adopted to approve the proposal.
24. Report and recommendations of Queens County Bar Association. Paul E. Kerson, Vice President of the Queens County Bar Association, outlined that Association's proposal to expand County Law 18-B to include civil cases dealing with foreclosure, garnishment, eviction, and family law. After discussion, the report was accepted on an informational basis and consideration was deferred to the November 1, 2014 House meeting in order to allow time for consultation with other groups.
25. Report and recommendations of Audit Committee. In his capacity as chair of the Audit Committee, Mr. Karson, together with Audit Committee member Lesley Friedman Rosenthal, presented proposed amendments to the Association's Code of Conduct, Business Conduct Standards, and Audit Committee charge, noting that the changes are intended to bring the Association into compliance with the Nonprofit Revitalization Act of 2013. After discussion, separate motions were adopted to endorse each set of amendments for favorable action by the House. Mr. Karson abstained from voting on the proposals.
26. Report of Judicial Section. Hon. Rachel Kretser, immediate past chair of the section, presented an informational report on diversity in New York's judiciary, noting the disparity between upstate and downstate judicial districts, and outlined recommendations to address judicial diversity. The report will be presented to the House for action at the November 1, 2014 meeting. The report was received with thanks.
27. Report and recommendations of Nominating Committee. Stephen P. Younger, immediate past chair of the Nominating Committee, reviewed the committee's recommendations for amendments to the committee's Model Rules, which govern the committee's operations. After discussion, a motion was adopted to endorse the amendments for favorable action by the House.
28. Adjournment. There being no further business, the meeting of the Executive Committee was adjourned.

Respectfully submitted,



Ellen G. Makofsky  
Secretary



**GLENN LAU-KEE**

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

### Continuity and Change

There can be no question that the legal profession is undergoing significant change. We have moved away from traditional practices to accommodate changes in technology, globalization, and client expectation and demand. Throughout the profession our demographic underpinnings are evolving as well. From legal education to the complex job market, change is on the horizon. It is amid these changes that we, as attorneys, must continue to embrace the basic values and obligations of our profession. These foundations provide the continuity that will help guide change in other aspects of our profession; it is upon these same foundations that we must build anew. But these ideals alone will not suffice. We must play a dynamic role that enables us to nurture young lawyers as they gain the skills they need to succeed in their careers, and also supports seasoned attorneys as they continue to develop their skills and expand their professional networks.

In order to succeed in our charge we will need to promote continuity by harnessing the remarkable reservoir of experience and wisdom that our members have developed over the years and make it accessible not only to our less experienced members, but also to those that will come after us. Stewardship of the legal profession is one of the State Bar Associations greatest legacies and in order to meet our duty and obligation we must not only adapt to this changing environment but capitalize upon our greatest resource – the collective knowledge of our members.

In pursuing this approach, we will build upon the work of Immediate Past President Dave Schraver, whose ongoing efforts to understand the new challenges confronting legal education and our profession have opened an innovative channel of communication between law schools and practicing attorneys. Recognizing that no group is affected more than the next generation of attorneys, Dave launched an ambitious examination of legal education in 2013, acknowledging that the process would not be completed during his tenure.

He began by turning to the Committee on Legal Education and Admission to the Bar, adding to its existing membership and giving it a broader mandate. To further engage our membership in the debate, the entire September issue of the Bar Journal was devoted to articles by national experts on legal education. Dave also worked with the staff of State Bar News on a series of articles throughout the year.

At the 2014 Annual Meeting in January, the Presidential Summit focused on two topics: “Educating Tomorrow’s Lawyers: Can Lawyers, Employers, Regulators and Educators Come Together to Address Our Challenges”; and “Supporting Today’s Lawyers: The Rapidly Changing Legal Profession.” The summit was followed by focus groups in Albany, Buffalo, New York City and Long Island, at which educators, practicing attorneys, judges and law students examined related issues.

The year culminated in a Convocation on Legal Education on May 22 that attracted panelists from across the country. It was co-sponsored by the New York State Bar Association and the New York State Judicial Institute on Professionalism in the Law and held on the campus of the Pace University Law School in White Plains. When Dave became president in June 2013, he asked the Committee on Legal Education and Admission to the Bar to examine the future of legal education. At the time, he said its work would not be completed during his one-year term. The Convocation, which examined “The Coming Changes to Legal Education: Ensuring Professional Values” offered thoughtful – and sometimes contradictory – approaches for our committee to consider as it continues its work in the coming year. The proceedings will be published in a future journal of the Judicial Institute.

I am pleased to report that recognition for Dave’s dedication and hard work extend well beyond the walls of our Association. At the May 15 Albany Law School graduation ceremony, Dean Penny Andrews presented Dave Schraver with the well-deserved Dean’s Medal for Exemplary Service to the Legal Profession. Dave explained to the graduates that in law school they had laid the foundation for a legal career. “As you build on that foundation, I hope you will keep in mind certain core values of the legal profession.”

I thank Dave for devoting his energies to such a critical concern to our profession: preparing future generations of attorneys. He has challenged us to continue this work. And I do so enthusiastically.

### **State Legislative Priorities**

Our State priorities for 2014 include ensuring adequate funding for the courts and civil legal services; creating more Family Court judgeships; expanding the number of veterans treatment courts; reducing wrongful convictions; restricting the use of solitary confinement; sealing certain criminal convictions; increasing voter participation; providing more civics education for New York school children; and revising the New York Franchise Act.

### **Lobby Day**

On May 13, Dave Schraver, President-Elect David Miranda, and I met with key policymakers in Albany to deliver NYSBA’s legislative message and promote our specific “post-budget” priorities. Our efforts focused upon the following priorities:

### **New Family Court judgeships**

The Creation of new Family Court judgeships has been among the State Bar’s highest priorities since 2013, when funding for 20 judgeships was proposed for inclusion in the Judiciary Budget. The proposal received strong support from the Legislature and was approved when the final Budget passed in late March. With the budget process complete, our advocacy efforts immediately turned to legislation necessary to authorize the creation of these judgeships; it was Dave Schraver who served as a sustaining force throughout these efforts.

Dave began by writing to each member of the Legislature urging passage of legislation to authorize the judgeships earlier this year and continued his efforts later in May by writing a letter to Assembly Speaker Sheldon Silver and Senate Co-Leaders Dean Skelos and Jeffrey Klein, requesting that the Legislature promptly authorize 20 new Family Court judgeships to give potential judicial candidates adequate time to gather designating petitions. It was Dave who emphasized that although Family Court judges are appointed by the mayor of New York City, they are elected by voters in other counties, and that candidates seeking to run in the November election are required to circulate and file designating petitions between May 29 and July 10. Dave’s May 27 letter to the legislative leaders urged prompt action, noting that “[i]n order to have those offices filled by January 2015, candidates must file their petitions by July 10. Therefore, with each passing day, there is less time for qualified candidates to obtain a position on the ballot.”

On June 2, the Assembly passed a bill authorizing nine judges in New York City, and one each in the counties of Albany, Broome, Chautauqua, Erie, Monroe, Nassau, Oneida, Oswego, Schenectady, Suffolk and Westchester. On the same day, the Senate introduced a similar bill. Notably, both bills must be identical in order to pass and be signed into law by the Governor. Leading into the last week of the legislative Session, I made a public plea for action: “With only four days remaining in the 2014 regular legislative session, it is critical that an agreement be quickly reached on legislation authorizing judges and ensuring that the widely recognized need for additional Family Court judgeships is met.” We remain hopeful that the Assembly and the Senate will act decisively, and in concert, to authorize these vital new judgeships.

#### Sealing some records of criminal conviction

New York law provides for the sealing of records of a limited number of crimes. There are many misdemeanor and non-violent crimes to which the sealing provisions do not apply. The Association supports legislation that would allow a person who has been convicted of certain offenses to apply to the court to have their record sealed. This will help facilitate reentry to society for people who have fulfilled the terms of a criminal court’s sentence and allow them to become productive members of the community.

#### Veteran Treatment Courts

Veterans Treatment Courts (VTCs) recognize the unique needs of our veterans by helping those who have been charged with certain crimes get on the correct path and be productive members of society, while ensuring public safety and trust in the criminal justice system. These courts have been created in a limited number of areas in New York State, including the City of Buffalo, which has been recognized as the first such court in the country.

VTCs utilize a model similar to that of the drug and mental health courts, providing a court-based system of assessment, treatment, review hearings, and graduated sanctions. They provide veterans with the opportunity to receive the benefit of Veterans Administration programs and local social services, an opportunity for employment, and – when appropriate -- rehabilitation rather than incarceration.

Legislation, S.7814, to enhance the expansion of VTCs throughout the state was introduced near the end of the legislative session.

#### Reform of Solitary Confinement

A growing body of research is illuminating the serious detrimental effects of solitary confinement. Out of respect for the dignity of the individual, and concern for the consequences when individuals are released from prison, the Association supports efforts to greatly lessen the use of solitary confinement within the parameters of maintaining a safe prison system. On May 5, then-President Schraver added the Association’s voice to the call for reform by many advocacy groups saying, “New York’s correctional system makes too much use of solitary confinement. Prolonged solitary confinement is inhumane and not worthy of our justice system.”

The State of New York is currently engaged in efforts to settle litigation aimed at reforming the use of solitary confinement in the correctional system. The Association will continue to monitor these efforts and remain involved in this important issue.

#### Franchise Act

The Association supports amending the franchise law to conform to the Federal Trade Commission’s (FTC) franchise rules. The FTC rules have preempted much of current New York law, and this proposal would conform New York law to the FTC rules. Perhaps more importantly, the proposal would amend provisions of current New York laws that are not preempted but that discourage franchisors from locating their headquarter operations in New York, thus driving jobs and economic benefit to other states. This



spring, members of the Business Law Section met with representatives of the Attorney General's Office and key legislators to discuss this proposal. As a result of their efforts, legislation was introduced in the Assembly. Efforts to promote the bill, including continued meetings with the Office of the Attorney General and Legislature, will continue after the legislative session.

The Association's advocacy efforts involve not only the dedication and hard work of our Government Relations Department, but also our members. I would like to personally thank Rick Collins of the Criminal Justice Section and Michael Lancer, Co-Chair of the Committee on Veterans, who joined the lobby-day efforts to help promote the Association's priority proposals, respectively, on 1) Sealing Records of Criminal Conviction, and 2) Veterans Treatment Courts.

### **Other NYSBA Affirmative Legislative Proposals**

In addition to the Association's 2014 state legislative priorities, NYSBA's legislative program also includes other affirmative legislative proposals (ALP), many of which are geared to particular areas of practice. I would like to congratulate the Trusts & Estates Law Section and the Committee on CPLR for efforts resulting in passage of three such ALPs this session by the New York State Legislature. In addition to these successes, our ongoing efforts include:

#### **Interest on Delayed Legacies**

This ALP would amend the Estates, Powers and Trusts Law (EPTL) to change the interest rate paid on legacies that are improperly delayed from the statutory rate of six percent to an interest rate based on the Federal Funds Rate. These changes to the EPTL would require compensation to the beneficiary for the delay in payment of their legacy based on the current value of money, rather than based on a fixed rate.

#### **Technical Amendments to the Surrogate's Court Procedure Act**

This bill would amend the Surrogate's Court Procedure Act by correcting an inaccurate reference to repealed sections of the Estates, Power and Trusts Law.

#### **Amendment to CPLR 3216(b)(3)**

This proposal by the Committee on CPLR was in response to widespread complaints from practitioners concerning provisions that cover dismissal for "want of prosecution." The proposal was included in legislation introduced at the request of OCA and requires that a judge dismissing a plaintiff's case detail the specific conduct constituting plaintiff's neglect to prosecute. The new provision is intended to ensure that a CPLR 3216 dismissal falls on a deserving plaintiff and does not disadvantage a compliant plaintiff by forcing him/her to forego necessary disclosure.

### **ABA Day**

Soon after completion of activity during the state budget process, the Association's leadership turned its attention to issues under consideration by Congress. Advocating for adequate funding of the Legal Services Corporation (LSC) was again this year a core issue of ABA-Day lobbying in Washington. Led by New York lawyer and American Bar Association President James Silkenat on April 8-10, our team joined the ABA in supporting the request for the LSC's budget in the amount of \$430 million. With the federal budget process ongoing, and the new fiscal year beginning on October 1, Dave Schraever wrote to members of the New York Congressional Delegation, urging support for LSC and also urging opposition to proposals that would reduce or eliminate the LSC budget.

Also as part of ABA Day, the NYSBA team had the opportunity to focus on another core issue that would have a direct impact on the legal profession – legislation that would fundamentally change how many law firms report and pay taxes. We encouraged New York's members of Congress to oppose a tax proposal that would impose the accrual method of accounting on many law firms and other types of personal service businesses. The proposal is in Section 3301 of the draft "Tax Reform Act of 2014," which was

recently released by House Ways and Means Committee Chair Dave Camp (R-MI). A similar draft bill was introduced in the Senate. One of the Association's core missions is to represent the interests of the legal profession. Consequently, we will oppose proposals such as this that would burden the profession.

In addition, NYSBA joined the ABA in support for the Voting Rights Amendment Act of 2014, which is a legislative response to the U. S. Supreme Court's decision in *Shelby County v. Holder*, regarding protection under the Voting Rights Act of 1965 against racial voting discrimination. The Bill would provide for a new approach to determining which jurisdictions are "covered" for purposes of Section 5 preclearance. NYSBA also has urged that Congress conduct public hearings on this topic.

### **Pro Bono**

I am proud to report that the Association's commitment to access to justice continues to thrive. 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. Our members have donated generously both in terms of time and resources to provide free legal services to low-income individuals, vulnerable persons, and the non-profit organizations that serve them. We have assisted in areas such as mortgage foreclosure, landlord-tenant issues, bankruptcy, immigration, asylum, domestic violence, child custody, and vital government benefits. We would like to thank our members not only for their outstanding pro bono service but also their unwavering dedication to this important cause. Some of the Association's many Pro Bono recruitment and public awareness events are highlighted herein:

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

Co-sponsored by the President's Committee on Access to Justice and the Committee on Legal Aid, the President's Pro Bono Service Awards recognize the extraordinary pro bono contributions made by individual attorneys and law firms from around the State. The awards also celebrate the outstanding pro bono service provided by a law student and a law school group. They are among the most prestigious and coveted of the Association's annual awards.

On April 30<sup>th</sup>, the Association celebrated the 24<sup>th</sup> Anniversary of the awards program at the State Bar Center. The depth, breadth and scope of the 2014 honorees' contributions were truly remarkable. Award recipients engaged in a diverse range of pro bono initiatives which included representing immigrants in asylum proceedings; survivors of domestic violence in divorce; custody and visitation matters; and providing legal advice and counsel to nonprofit organizations that work to empower the poor to earn a sustainable living wage.

Of the 19 honorees recognized, many were solo practitioners, who despite the heavy demands of building or sustaining a law practice, took the time to incorporate pro bono into their solo practices. Several of the honorees embarked upon pro bono after retiring from distinguished legal careers in corporate practice. These attorneys were inspired to learn completely new practice areas so that they could better serve the essential legal needs of the poor in their communities. Among the law student volunteers honored, many were active duty service members who rallied their fellow students to take up the cause of veterans' rights.

#### **3<sup>rd</sup> Annual Task Force on Access to Justice**

On Monday May 12<sup>th</sup>, Dave Schraver and I attended the 3<sup>rd</sup> Annual Law School Conference on law student pro bono at the CUNY School of Law. Convened by the Chief Judge's Task Force to Expand Access to Civil Legal Services in New York, these annual conferences are dedicated to increasing law student involvement in expanding access to justice for low-income and vulnerable populations.

The conference, entitled "The Role of New York's Law Schools in Helping Meet the Essential Legal Needs of Low-Income New Yorkers" was divided into four concurrent workshops which explored: (1) preparing students for access to justice activities in clinical courses; (2) identifying best practices for

supervising law student pro bono work; (3) developing a blueprint for an access to justice curriculum and testing access to justice on the bar examination; and (4) the role of law schools in working with non-lawyers to help narrow the justice gap.

During the afternoon, Chief Administrative Judge A. Gail Prudenti and Court of Appeals Senior Associate Judge Victoria A. Graffeo gave a presentation on the Pro Bono Scholars Program. The Pro Bono Scholars Program, the first of its kind in the country, allows students in their final year of law school to spend their last semester of study performing pro bono services for the poor through an approved, supervised externship program, law school clinic, legal services provider, law firm or corporation. Students will learn practical legal experience and skills while helping the poor gain meaningful access to the justice system. In addition, pro bono scholars will be eligible to take the New York bar examination in February, before they graduate from law school.

#### Legal Services Outreach in the Park

The Capital District Pro Bono Coordinators Group is dedicated to informing the public about free legal services available within the Capital District. Coalition members include Capital District legal services providers, representatives from the Third Judicial District Administrative Office, Albany Law School and the Association's Department of Pro Bono Affairs. Over the past several years, the group has hosted informational events at area shopping malls and the Albany Public Library. Most recently, during the Mothers' Day weekend, the group hosted an informational legal services table at the Albany Tulip Festival on May 10-11<sup>th</sup>. Due to the large crowds attending the Tulip Festival, it proved to be the perfect venue for disseminating information to the public about free legal services for victims of domestic violence, landlord-tenant issues, mortgage foreclosure, consumer credit and other legal issues impacting the necessities of life. The event was so successful that the group intends to make it an annual event.

#### Representing the Pro Bono Debtor Under the BAPCPA

The Department of Pro Bono Affairs partnered with the Albany County Bar Association, the Legal Aid Society of Northeastern New York and The Legal Project to host a bankruptcy CLE program on May 22<sup>nd</sup>. Speakers included the Honorable Richard E. Littlefield, Jr., Chief Judge of the Bankruptcy Court, Northern District of New York and several prominent bankruptcy practitioners who addressed the unique aspects of representing a pro bono debtor under the Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCPA). 25 attorneys attended the afternoon program and of that number, nine volunteered to accept two pro bono bankruptcy referrals from each of the sponsoring legal services providers.

#### Fourth Judicial District Pro Bono Recruitment Breakfast

On Wednesday, June 5<sup>th</sup> Administrative Judge Vito C. Caruso hosted a pro bono recruitment breakfast for attorneys practicing in the Fourth Judicial District. Representatives from the Department of Pro Bono Affairs, the Legal Aid Society of Northeastern New York, The Legal Project, and Albany Law School gave brief presentations about pro bono opportunities and recognition programs for attorneys who do pro bono. The breakfast was attended by 40 area attorneys. A similar event is being planned for the Fall and will be hosted by the Honorable Thomas Breslin, Administrative Judge for the Third Judicial District.

#### Public Forum on the Mandatory Reporting of Voluntary Pro Bono

On Tuesday evening, May 27<sup>th</sup>, the New York County Lawyers Association hosted a public forum on the new mandatory reporting requirement. The forum consisted of four panel discussions. Panel I addressed the rule changes. Panel II considered the issue of whether the Administrative Board of the Courts had the legal authority to impose mandatory reporting as a condition of license renewal. Panel III tackled the issue of whether mandatory reporting is good policy. Panel IV examined whether the definition of pro bono was too restrictive.

I had the pleasure of serving alongside panelists including Chief Administrative Judge A. Gail Prudenti; OCA Counsel John McConnell; Hon. Fern Fisher; solo practitioners Robert Ostertag and Richard Gutierrez; and Lisa Cleary and Samuel Cohen, representatives from large law firms.

The discussion was frank and candid. Opponents of the rule raised privacy concerns about public disclosure and the coercive effect of mandatory reporting. Supporters of the rule pointed out that it likely will increase pro bono participation, as similar rules have in other states. Some attendees and panelist recommended modifications to the rule such as collecting data by category of pro bono service and judicial district so that pro bono recruitment efforts could be more meaningfully targeted to areas of specific need. Others raised concerns that the definition of pro bono under the rule was too narrow.

Chief Administrative Judge Prudenti and other members of the judiciary made it clear that the rule was a work in progress and expressed the belief that the Chief Judge and the Administrative Board of the Courts would be receptive to suggestions as to how to improve the rule. Critics of the rule agreed that if certain modifications could be made to the rule (i.e., nondisclosure of personal pro bono work and contributions) that it would be acceptable.

#### Reception for Court of Appeals Associate Judges Rivera and Abdus-Salaam

The New York State Bar Association was proud to be a co-sponsor with the Capital District Black and Hispanic Bar Association in hosting a reception for Associate Judges Jenny Rivera and Sheila Abdus-Salaam. President-Elect David Miranda welcomed the over 80 attendees to the Association and thanked them for joining us in recognizing the outstanding accomplishments of the new Court of Appeals Judges. The Association's sponsorship of the event re-affirmed its long-standing commitment to increasing diversity in the profession and on the bench. With the addition of Judges Rivera and Abdus-Salaam, women now constitute the majority of the high-court bench.

#### Indigent Defense Summit

In 2003, the first summit was held on the status of indigent defense in New York. On Friday, June 6<sup>th</sup>, the Committee to Ensure Quality of Mandated Representation convened 50 providers of mandated representation from around the state to review the past, present and future of indigent defense. Representatives from the Committee, the New York State Office of Indigent Legal Services, the New York State Defenders Association, the American Civil Liberties Union and the U.S. Department of Justice participated in the discussions which covered such topics as funding innovative defense projects, developing new models of indigent defense representation, and enforcement of standards for quality representation.

The day-long summit was held at Albany Law School. Law students participated in the summit, taking detailed notes of the various sessions. Under the supervision and guidance of CEQMR member and former NYSBA president, Vincent E. Doyle III the law students will develop a White Paper on the future of indigent defense. Preparation of the White Paper will qualify for pro bono credit under the law student 50 hour rule.

#### New York Immigration Coalition

The Association is pleased to be a member of the New York Immigration Assistance Coalition (NYIAC), a collaboration of legal and community based organizations that provide legal and related assistance to immigrants throughout New York State. The Coalition was formed last November and has been meeting regularly since that time to address the legal needs of immigrants. The goal of the Coalition is to develop a comprehensive strategic plan for legalization in New York State, if/when Congress passes comprehensive immigration reform (CIR). Representatives from the New York State Office of New Americans (ONA) and the United States Citizenship and Immigration Service (USCIS) participated in the Coalition's inaugural conference which was held on June 9<sup>th</sup> at New York Law School. Among other things, the conference focused on the need to develop best practices for recruiting, training, and preparing large numbers of pro bono volunteers who will be needed in the event of a mass legalization. Attendees

drew on lessons learned from past mass immigration relief efforts and the more recent mobilizations of legal services providers and pro bono attorneys in response to natural disasters such as Superstorm Sandy.

### **LYC's 40<sup>th</sup> Anniversary**

The New York State Bar Association established the Law, Youth and Citizenship (LYC) Program in 1974 to promote citizenship and law-related education in schools throughout New York State, by assisting educators in creating opportunities for students to become effective citizens able to participate fully in our democratic society. Celebrating its fortieth anniversary in 2014, the Committee on Law, Youth and Citizenship continues its mission to bring free and low-cost resources and training in law-related and civic education to the teachers and classrooms of New York State.

The LYC Program and the LYC Committee – with support from the New York Bar Foundation – continue to provide award-winning civic education resources to school districts throughout the state.

The LYC Program was awarded the New York State Council of Social Studies Partners Award in March. Dave Schraver and LYC Committee members attended the ceremony, held at the Albany Institute of History and Art in Albany.

### **Civic Education Advocacy**

In conjunction with NYSBA leaders, the NYSBA LYC Committee continued to advocate for increased funding and support for civics education programs. In January 2014, the LYC Committee submitted a report on Civic Education to the House of Delegates. The report received a unanimous vote.

NYSBA adopted civics education as one of the Association's state legislative priorities for 2014: "Civics Education – Democracy depends upon an educated citizenry. A core mission of the Association is to foster an understanding and respect for democracy and the rule of law. The Association supports the enactment of public policy to require the incorporation of civics education in all grades, and the appropriate funding to implement this policy, to ensure an understanding of our system of government."

The LYC Committee has been working to urge appropriators to provide funding for national programs, while at the same time using support from NYSBA and the Bar Foundation to continue its civic education outreach to the school districts across the state.

### **Law Day**

This year's Law Day theme was "American Democracy and the Rule of Law: Why Every Vote Matters." The event was marked on April 30 at the Court of Appeals chambers with speeches by Chief Judge Lippman, Attorney General Eric Schneiderman, Dave Schraver and others. Dave used the occasion to outline the State Bar Association's commitment to voter protecting voters' rights; he described the recommendations of our Special Committee on Voter Participation, appointed by former President Seymour James. Those recommendations, which the House of Delegates approved last year, were adopted as our legislative priorities for 2014.

The State Bar's commitment to promoting civic understanding and participation is not new. As noted above, our Law, Youth and Citizenship program this year marks its 40th anniversary of enhancing civics education in classrooms across New York.

### **New and Noteworthy**

#### **Schoenefeld v. The State of New York**

As many of you know, on April 8, 2014, the United States Court of Appeals for the Second Circuit certified a question to the New York State Court of Appeals concerning Judiciary Law

§ 470 in the case of Schoenefeld v. The State of New York. Under New York Judiciary Law § 470, an out-of-state attorney who is licensed to practice in New York can do so if they maintain an “office for the transaction of law business” within the State of New York. Section 470 differentiates between in-state and out-of-state residents, ostensibly, because an in-state resident can use his or her home within New York State as the firm’s law office. The certified determinative question of law asks: what are the minimum requirements necessary to satisfy the mandate set forth in § 470?

We will continue to monitor this case as the Court’s decision will undoubtedly impact our non-resident members and, potentially, some aspects of in-state practice.

- Radio Spots

This spring, Dave Schraever narrated radio announcements intended to educate the public on two important topics. One spot explained the importance of having a will, especially for parents of young children. The other emphasized the importance of civics education beyond our schools. The spots were broadcast on upstate commercial radio stations in cooperation with the New York State Broadcasters Association.

- Journey to Havana, Cuba

The Association, in coordination with the International Section, has identified new opportunities for Cuba travel, and is sponsoring People to People trips this December and again in March of 2015. These trips will focus on legal issues as well as general U.S./Cuba relations and also feature tours of historical architecture, musical performances and world renowned cuisine. For more information please email [Cuba@nysba.org](mailto:Cuba@nysba.org).

**Fall meeting of the House of Delegates**

Our next House of Delegates and Executive Committee Meetings will be held on Friday, October 31 and Saturday, November 1 at the State Bar Center in Albany, we hope to see you there.

Sincerely,

