

**NEW YORK STATE BAR ASSOCIATION
MINUTES OF HOUSE OF DELEGATES MEETING
BAR CENTER, ALBANY
APRIL 2, 2016**

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PRESENT: Alden; Alomar; Arenson; Baker; Barcham; Barreiro; Behe; Block; Bonina; Braverman; Brown, E.; Bruno; Buholtz; Burns, S.; Calcagni; Calderón; Chakansky; Chambers; Chandrasekhar; Chang; Christopher; Clarke; Coffey; Cohen; Connery; Coseo; Crummey; Doyle; Effman; England; Fernandez; First; Fisher; Fox, G.; Fox, M.; Freedman, H.; Freedman, M.; Friedman; Gaffney; Gallagher; Galligan; Gensini; Gerbini; Gerstman; Goldberg; Goldenberg; Goldfarb; Grays; Greenberg; Gross; Grossman; Gutekunst; Gutierrez; Hage; Hall; Halpern; Hanson; Hersh; Hetherington; Higgins; Himes; Hoffman; Hollyer; Hyer; Jaglom; James; Jankiewicz; Jochmans; Kamins; Karson; Kase; Keiser; Kenney; Koch; LaRose; Lau-Kee; Lawton-Thames; Lessard; Lewis; Ling-Cohan; Makofsky; Mancuso; Mandell; Marangos, D.; Marangos, J.; Marinaccio; Maroney; Martin, D.; Martin, E.; McCafferty; McCarron; McGinn; Miller, M.; Millon; Minkowitz; Miranda; Morrissey; Moskowitz; Mulhall; Napoletano; Nathanson; Nowotarski; Nowotny; O'Donnell, J.; O'Donnell, T.; Ogden; Onderdonk; Ostertag; Owens; Poster-Zimmerman; Prager; Quist; Raskin; Richter; Rivera; Robertson; Rodner; Rodriguez; Rothenberg; Rothstein; Rowe; Ryba; Safer; Salkin; Samuels; Sciocchetti; Sen; Shafer; Shamon; Sharkey; Sheehan; Silkenat; Silverman; Spirer; Spiro; Spitler; Standard; Stanislaus; Starkman; Stenson Desamours; Stong; Strenger; Sullivan; Sunshine; Tarver; Terranova; Thaler; Tully; Vigdor; Vorkas; Walsh; Weathers; Weinberger; Weis; Welch; Westlake; Whittingham; Wicks; Wildgrube; Williams; Winograd; Witmer; Younger; Zuchlewski.

Ms. Gutekunst presided over the meeting as Chair of the House.

1. The meeting was called to order and the Pledge of Allegiance recited.
2. Approval of minutes of January 29, 2016 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 membership dues and CLE revenue. The report was received with thanks.
4. Election of the Nominating Committee and NYSBA Delegates to the ABA House of Delegates. Seymour W. James, Jr., 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 2016-2017 Nominating Committee:

District members and alternates of the Nominating Committee: First –Mark H. Alcott, Fernando A. Bohorquez, Jr., Lisa Stenson Desamours, Karen Fisher Gutheil, Robert L. Haig, Stephen C. Lessard, Michael J. McNamara, Carol Ann

Sigmond, and Hon. Michael R. Sonberg, with Megan P. Davis, First Alternate, Adrienne Beth Koch, Second Alternate, and Alan Rothstein, Third Alternate; Second – Andrew M. Fallek and Hon. Cheryl E. Chambers, with Barton L. Slavin as Alternate; Third – David W. Myers and Hermes Fernandez, with Sarah E. Gold as Alternate; Fourth – Michelle H. Wildgrube and Peter V. Coffey, with Jeremiah Wood as Alternate; Fifth – Karen Stanislaus and Gioia Gensini, with Mary C. John as Alternate; Sixth – Mark S. Gorgos and Kathryn Grant Madigan, with Bruce G. McKeegan as Alternate; Seventh – LaMarr Jackson and Keith McCafferty, with June M. Castellano as Alternate; Eighth – Vincent E. Doyle III and Kathleen Marie Sweet, with Robert N. Convissar as Alternate; Ninth – Jessica D. Thaler, Mark T. Starkman, and Dawn Kirby, with Hon. Arlene Gordon-Oliver as Alternate; Tenth – Steven G. Leventhal, A. Thomas Levin, A. Craig Purcell and Richard A. Weinblatt, with Rosemary Tully, First Alternate, and Marian C. Rice, Second Alternate; Eleventh – Violet E. Samuels and Steven Wimpfheimer, with Arthur N. Terranova as Alternate; Twelfth – Carlos M. Calderón and Michael A. Marinaccio, with Richard Weinberger as Alternate; Thirteenth – Jonathan B. Behrins and Michael J. Gaffney, with Robert Mulhall 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 2016: Sharon Stern Gerstman, Michael E. Getnick, Kathryn Grant Madigan, David P. Miranda, and Kenneth G. Standard.
 - c. Election of Young Lawyer Delegate to ABA House: A motion was adopted to elect Alena Shautsova as Young lawyer Delegate for a two-year term commencing in August 2016.
5. Report of Committee on Membership. Sherry Levin Wallach, chair of the committee, updated the House on the committee's work, including membership renewal efforts and targeted membership marketing. The report was received with thanks.
 6. Report of the President. Mr. Miranda highlighted the items contained 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 members for the opportunity to serve. The House gave Mr. Miranda a standing ovation.
 7. Report and recommendations of Committee on the New York State Constitution. Henry M. Greenberg, chair of the committee, outlined the committee's report on Home Rule in the state Constitution and the committee's recommendation that Home Rule be studied and debated in connection with the decision whether a constitutional convention should be convened. After discussion, a motion was adopted to approve the report and recommendations.
 8. Report of Commercial and Federal Litigation Section. Mark Arthur Berman, chair-elect of the section, reviewed the section's report on the use of social media by jurors and

attorneys and the need to provide explicit instructions so that social media is not misused during trials. The report was received with thanks.

9. Report of The New York Bar Foundation. John H. Gross, President of The New York Bar Foundation, updated the House on The Foundation's work, focusing on support for veterans; human trafficking; immigration; domestic violence; and re-entry. The report was received with thanks.
10. Report of NYSBA/TNYBF Joint Pro Bono Task Force. Marion Hancock Fish and Hon. Barry Kamins, co-chairs of the task force, presented an informational report on the task force's work to date, focusing on existing services and programs under development, lawyer recruitment, financial resources, and structure. The report was received with thanks.
11. Report of Executive Director. David R. Watson, Executive Director, updated the House on staff activities to address challenges faced by the Association, including membership initiatives, LawHUBSM, and communities on the Website. The report was received with thanks.
12. Administrative items. Ms. Gutekunst reported on the following:
 - a. Motions to approve the designation of delegates filed by the county and local bar associations for the 2016-2017 Association year and to approve the filed roster of the members of the House for the 2016-2017 year were requested and approved.
 - b. She 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.
 - c. She 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. She encouraged these members to consider applying to join an Association committee.
 - d. She noted that registration materials for the June 2016 meeting in Cooperstown had been distributed to those in attendance and encouraged members to register promptly for the meeting.
 - e. She noted that this meeting represents her last as Chair of the House and thanked the House for the opportunity to serve. She introduced Ms. Gerstman as the next Chair of the House and presented her with the House's gavel.
13. New Business.
 - a. Mr. Jaglom observed that Lauren Rachlin, founding chair of the International Section, passed away in March. A moment of silence was observed in his memory.

- b. Ms. Gutekunst encouraged sections, committees and local bar associations to bring reports to the House for consideration.
- 14. Date and place of next meeting. Ms. Gutekunst announced that the next meeting of the House of Delegates would take place on Saturday, June 18, 2016 at The Otesaga in Cooperstown.
- 15. Adjournment. There being no further business to come before the House of Delegates, the meeting was adjourned.

Respectfully Submitted,



Ellen G. Makofsky
Secretary



DAVID P. MIRANDA

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April 1, 2016

**April 2016
President's Report to the
House of Delegates**

1. PRESIDENT'S INITIATIVES

Third-Party Legal Services

At its February 2016 Midyear Meeting, the American Bar Association House of Delegates debated a resolution proposed by its Commission on the Future of Legal Services to adopt "Model Regulatory Objectives for the Provision of Legal Services." Our Association opposed the resolution, based in part on our longstanding opposition to nonlawyer ownership of law firms. In our judgment, the resolution does not properly address the need to provide legal services in adherence with the core values of our profession. While the resolution was adopted, it was amended prior to its adoption to reaffirm the ABA's opposition to nonlawyer ownership of law firms and its dedication to the core values of our profession.

We recognize the need to find new ways to address the unmet legal needs of the public. To that end, we will host a symposium on May 3, 2016 at the Bar Center in Albany with three panels, focusing on closing the justice gap for the poor, including the use of nonlawyer housing advocates; concerns about the rise of nonlawyer entrepreneurs providing legal services; and bar association lawyer referral services now and in the future. The panels will include leaders of the organized bar from around the country, and will be free to our members. CLE credit will be offered and the program also will be broadcast via webcast.

LawHUBSM

You may recall that at the January meeting, we unveiled LawHUBSM, a new platform that allows members to streamline our legal content, research, and practice management tools onto members smartphones, tablets, and computers. Since its announcement and launch at annual meeting the LawHUBSM has reached 1,000 users with more and more members utilizing the platform every day. We have responded to member feedback and added Microsoft Outlook 365 integration, developed new methods of notification and streamlined countless processes to bring user experience to a new level of efficiency and ease. Moreover, we have made significant strides in the development of resources focused on law practice management and the incorporation of our ethics opinions and Case Prep Plus – all stemming from the feedback we received from you, our members and leaders. Moving forward you can expect the LawHUBSM to continue to evolve as we strive to make this asset our most valuable member benefit.

2. LEGISLATIVE ACTIVITIES

State Advocacy

On February 24 and 25, Claire Gutekunst and I led a series of meetings with key state legislators, staff, and the governor's office on issues that are among the Association's 2016 budget priorities. We

expressed concern that the proposed Judiciary Budget appropriate adequate funding for the operation of the court system and for civil legal services to address the continuing high level of unmet need of legal representation in civil matters for New Yorkers. Additionally, consistent with our testimony before the quadrennial Commission on Judicial Pay Raises, we urged state leaders to fund the judicial pay raises, and to do so in such a way as not to negatively impact civil legal services and court operations.

Further, we urged both houses of the Legislature to promote increased funding for indigent criminal defense programs. In 2014, the State of New York settled the lawsuit *Hurrell-Harring v. State*, requiring that the state provide funding to meet the constitutional obligation for services to indigent criminal defendants in Suffolk, Ontario, Onondaga, Schuyler and Washington counties. Throughout the budget process, we strongly urged that increased funding for programs should be provided by the state, along with appropriate oversight, beyond the five counties covered by the settlement.

We also lobbied in support of funding for a preparatory commission in advance of the November 2017 vote by the electorate as to whether there should be a constitutional convention.

We also supported proposals in the Governor's proposed budget to enhance voter participation and to establish a paid family leave program in New York State.

Our message during the lobbying meetings was well received by policy makers; however, as of the time that this report went to print budget negotiations between the Governor and the Legislature were ongoing.

Last spring, about one month before the close of the 2015 legislative session, our Association, led by then-President Glenn Lau-Kee, came to agreement with the District Attorneys Association and the Innocence Project on a major wrongful convictions bill. This bill addressed both the recording of custodial interrogations and the procedure for conducting lineups. While the Senate passed the bill, the Assembly did not bring it to a vote.

On March 7 of this year, I, along with Claire and Glenn, met with our two partners on the bill, with a representative of the criminal defense bar joining in. We began to prepare our legislative strategy for the 2016 session. This bill is a priority for our Association, and we are currently working on some possible amendments that might enhance its chances of being passed by both houses. We will continue working with interested parties in an effort to gain its passage before the Legislature concludes its session in June.

Federal Advocacy

We continue to monitor activity on -- budget and non-budget -- issues that we addressed during meetings with the New York Congressional Delegation during our trip to Capitol Hill in January. Congress continues to work through the appropriations process, and we anticipate again highlighting funding for the Legal Services Corporation, criminal justice and gun violence during our participation in ABA Day (April 19 – 21).

3. ACTIVITIES AND EVENTS

Court of Appeals

In February, I had the opportunity to meet with Hon. Janet DiFiore, now Chief Judge of the State of New York. We discussed a number of items of mutual interest to our Association and the court system, including the Judiciary budget; funding for civil legal services; and the court excellence initiative she announced in February, which is a comprehensive evaluation of court processes and procedures. The Chief Judge is very interested in hearing from members of the public, lawyers, judges, litigants and court employees with their thoughts, comments and suggestions. The court system has set up a link on its website (www.nycourts.gov) through which you may submit comments.

Also in February, past president Vincent E. Doyle III testified at the Senate Judiciary Committee confirmation hearing of Michael J. Garcia in relation to his appointment as Associate Judge of the Court of Appeals. He was confirmed by the full Senate later that day, and we are pleased to have the court return to its full complement of seven judges.

Law Schools and Bar Associations

I also attended the annual Albany County Bar Association Court of Appeals Dinner, the Upstate Minority Bar Association reception, the Brooklyn Law Barristers Ball, hosted students from Syracuse Law School at the Bar Center, and met with leadership of Albany Law School.

Young Lawyers Section Trial Academy

Each year the Young Lawyers Section sponsors a trial Academy, a five-day trial techniques program to enhance new lawyers' courtroom skills. It is an excellent opportunity for young lawyers, covering topics such as jury selection; opening statements; evidence, foundations and objections; direct and cross examinations; motions; and closing arguments. The Trial Academy is taking place this week, and I was honored to be able to attend a portion of the program and see firsthand what a valuable experience it is for young and new lawyers.

NYSBA/TNYBF Joint Pro Bono Task Force

You may recall that in October 2015 John H. Gross, President of The New York Bar Foundation, and I appointed a joint Task Force to identify unmet and underserved pro bono legal services needs and recommend actions to address these needs, working in collaboration with legal services providers. The Task Force has formed four subcommittees: (a) existing services and programs under development; (b) lawyer recruitment; (c) financial resources; and (d) structure. At this meeting you will hear an interim report from the Task Force's co-chairs, Hon. Barry Kamins and Marion Hancock Fish, about the work of the Task Force to date.

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