

**NEW YORK STATE BAR ASSOCIATION
MINUTES OF HOUSE OF DELEGATES MEETING
JUNE 17, 2017
THE OTESAGA, COOPERSTOWN, NEW YORK**

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PRESENT: Abbott; Alcott; Alomar; Barreiro; Behrins; Berman; Billings; Block; Bowler; Braunstein; Brown, E.; Buholtz; Burke, J.; Burns, S.; Carola; Castellano; Chambers; Christensen; Christopher; Clouthier; Coffey; Cohen, D.; Cohen, O.; Coseo; Davis; DiFalco; Disare; Doyle; Effman; Everett; Fay; Fennell; Fernandez; Finerty; Fishberg; Fogel; Foley; Fox; Freedman; Gallagher; Galligan; Gensini; Gerbini; Gerstman; Getnick; Gingold; Gold; Goldfarb; Grimaldi; Gutekunst; Gutierrez; Hack; Heath; Hetherington; Higgins; Himes; Hollyer; Hurteau; Hyer; James; Jochmans; Kamins; Karson; Kearns; Kiesel; King, B.; Kirby; Kobak; Krausz; Lamberti; LaRose; Lau-Kee; Levy; Madigan; Mancuso; Margolin; Mariano; Marinaccio; Martin; May; McCann; McGinn; McNamara, C.; McNamara, M.; Meisenheimer; Miller, C.; Miller, M.; Miller, R.; Millett; Millon; Minkoff; Minkowitz; Miranda; Moretti; Mosher; Murphy; Napoletano; Nowotarski; Onderdonk; Ostertag; Owens; Perlman; Pitegoff; Poster-Zimmerman; Prager; Preston; Richardson; Richman; Richter; Rivera; Rodriguez; Rosiny; Rosner; Ryba; Santiago; Schofield; Schrauer; Schub; Shafer; Shamoan; Champnoi; Shautsova; Sigmond; Singer; Sonberg; Stabinski; Steinhardt; Stieglitz; Strenger; Sullivan; Sweet; Tarver; Tennant; Tesser; Thaler-Parker; Tully; Vitacco; Walach; Walsh; Weathers; Weiss; Weston; Whittingham; Wildgrube; Williams; Witmer; Young; Younger; Zuchlewski.

Mr. Miller presided over the meeting as Chair of the House.

1. Call to order, introduction of new members. The meeting was called to order and the Pledge of Allegiance was recited, and Mr. Miller welcomed the new members of the House.
2. Minutes of April 1, 2017 meeting. The minutes were accepted as previously distributed.
3. Report of the Treasurer. Scott M. Karson, Treasurer, updated the House with respect to the results of operations for the first four months of 2016. The report was received with thanks.
4. Memorial for Hon. Sheila Abdus-Salaam. Hon. Eugene M. Fahey, Associate Judge of the New York State Court of Appeals, presented a memorial in honor of Hon. Sheila Abdus-Salaam, Associate Judge of the Court of Appeals, who passed away in April 2017. A moment of silence was observed out of respect for Judge Abdus-Salaam's memory and her contributions to the legal profession.
5. Presentation of Root-Stimson Award. President Gerstman presented the Root-Stimson Award, which honors members of the profession for outstanding community service, to Lesley Freedman Rosenthal of New York City. Executive vice president and general counsel of Lincoln Center, she was honored in particular for her service on several boards and her promotion of the role of in-house counsel at nonprofit organizations.

6. Remarks by ABA President Linda A. Klein. Linda A. Klein, President of the American Bar Association, addressed the House, focusing on collaboration between the ABA and NYSBA, including ABA Day in Washington and Freelegalanswers.com. She also provided an update on ABA activities. The report was received with thanks.
7. Installation of President. Ms. Gerstman was formally installed as President. The oath of office was administered by Hon. Eugene M. Foley, Associate Judge of the New York State Court of Appeals. Ms. Gerstman then addressed the House with respect to her planned initiatives for her term as President.
8. Report of President. Ms. Gerstman highlighted the information contained in her printed report, a copy of which is appended to these minutes.
9. Report and recommendations of Committee on the New York State Constitution. Henry M. Greenberg, chair of the committee, reviewed the committee's report on whether to support the holding of a constitutional convention, noting the arguments both for and against a convention and outlining the committee's reasoning for support. After discussion, a motion was adopted to approve the report and recommendations by a standing vote of 111-28. Mr. Everett abstained from participating in the discussion and vote.
10. Report and recommendations of Environmental and Energy Law Section. Kevin M. Bernstein, chair of the section, outlined the section's report with recommendations as to steps New York State might take to address climate change. After discussion, a motion was adopted to approve the report and recommendations.
11. Memorial for Gregory T. Miller. Past President Vincent E. Doyle III presented a memorial in honor of Gregory T. Miller, President of the Erie County Bar Association and a member of the House, who passed away on April 28, 2017. A moment of silence was observed out of respect for Mr. Miller's memory and his contributions to the legal profession.
12. Report of The New York Bar Foundation. John H. Gross, President of The Foundation, presented an informational report on recent developments with respect to The Foundation, including new and departing Board members; an update on the Catalyst Public Service Program; and fundraising. The report was received with thanks.
13. Administrative items. Mr. Miller reported on the following:
 - a. New Audit Committee members. At its June 15-16, 2017 meeting, the Executive Committee had confirmed the appointment of Lillian M. Moy and Elizabeth Jean Champnoi as new members of the Audit Committee. Pursuant to the Bylaws, the House is required to ratify the selection of these members. A motion was adopted to ratify the members' selection.

- b. Following the meeting, the Committee on Leadership Development will host a luncheon for members interested in learning of leadership opportunities.
- 14. New Business. Mr. Richman offered a motion to request that the Environmental and Energy Law Section consider preparing a report on the impact of Federal actions with respect to climate change. After discussion, the motion was approved.
- 15. Date and place of next meeting. Mr. Miller announced that the next meeting of the House of Delegates would take place on Saturday, November 4, 2017 at the Bar Center in Albany.
- 16. Adjournment. There being no further business to come before the House of Delegates, the meeting was adjourned.

Respectfully Submitted,



Sherry Levin Wallach
Secretary

Sharon Stern Gerstman
President, New York State Bar Association

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**REPORT OF THE PRESIDENT
TO THE HOUSE OF DELEGATES
June 17, 2017**

PRESIDENT'S INITIATIVES

One of my major initiatives during the coming year is to focus on ways to reduce the inmate population in state and federal prisons. One way to do so is to reduce the number of children entering prisons. In many instances, “zero tolerance” policies in schools means that children are expelled or suspended; we know that a lack of education increases the odds of criminal conduct. To that end, I have appointed a Task Force on School to Prison Pipeline, chaired by John Gross and Sheila Gaddis, to formulate best practices and policies for use by schools to assist in reducing juvenile crime. For a full roster of the Task Force and its mission statement, visit <http://www.nysba.org/CustomTemplates/SecondaryStandard.aspx?id=73622>.

LEGISLATIVE INITIATIVES

Federal Legislative Priorities

The State Bar’s highest federal legislative priority is to provide adequate funding for the Legal Services Corporation (LSC). In the face of proposed “defunding” according to the budget submitted to Congress by the Administration’s Office of Management and Budget, NYSBA has vigorously advocated on this critically important issue.

During ABA Day, April 25-27, NYSBA lobbied the New York State Congressional Delegation, calling for a budget of no less than \$385 million for LSC. The lobbying trip in April was the second time this year that NYSBA leaders carried this message to the Delegation -- that elimination of LSC funding would devastate the ability of many New Yorkers to obtain essential legal services in such life-altering cases as evictions from housing and obtaining protection from domestic violence.

State Legislative Priorities

A. Executive Budget adopted in April

State Bar Leaders, then-President Claire P. Gutekunst, then-President-Elect Sharon Stern Gerstman, and then-President-Elect-Designee Michael Miller led the Association’s successful efforts regarding several of our 2017 state legislative priorities. The final state budget included provisions to enhance indigent criminal defense services, address wrongful convictions, raise the age of criminal responsibility, and allow sealing of records relating to certain criminal convictions.

Further, it was particularly important that the Legislature adopted public policy to extend to all counties, terms of the settlement in *Hurrell-Harring v. State of New York*, thereby improving indigent criminal

defense services -- **without** increasing the Biennial Attorney Registration Fee to provide funds for that program.

NYSBA strongly objected to that proposed fee increase immediately after it appeared in the proposed Executive Budget on January 17, because providing indigent criminal defense is a constitutional mandate. Extending the terms of *Hurrell-Harring* throughout the state is a state obligation and a societal responsibility that should be paid for by the state's General Fund, not by a surcharge on lawyers.

B. NYSBA's Legislation to Reform the Power of Attorney (POA)

In order to address the current problems with the POA form, NYSBA's legislation would:

- Simplify the current power of attorney form;
- Prevent third parties from improperly refusing to accept a valid power of attorney;
- Provide protection for third parties who follow the process for accepting a power of attorney; and,
- Authorize language in the power of attorney form that substantially conforms with the statutory language, in order to prevent the harsh consequence of the form being invalidated because of harmless error in the form.

As of the date of this report, both the Senate and Assembly judiciary committees reported bills based on the Association's proposal. The Association will continue to seek passage of this important legislation before conclusion of the regular legislative session, scheduled for June 21. For more information about power of attorney, go to <http://www.nysba.org/AssemblyPowerofAttorneyBill>.

OTHER ACTIVITIES

On June 12, the Young Lawyers Section hosted its annual Supreme Court admissions ceremony in Washington, D.C. I was honored to sponsor the admission of 40 young lawyers to the bar of the United States Supreme Court. Photos of the event are available at <https://www.facebook.com/NYSBAYLS/>.

On June 13, the Association sent to the Governor its ratings of the seven candidates recommended by the State Commission on Judicial Nomination to fill the vacancy created by the untimely passing of Hon. Sheila Abdus-Salaam. The letter sent to the Governor is available at <http://www.nysba.org/June2017COARatings/>.

The next meeting of the House of Delegates will take place on Saturday, November 4 at the Bar Center in Albany. I look forward to seeing you there.

A handwritten signature in black ink, appearing to be 'Sheila Abdus-Salaam', written in a cursive style.