

**NEW YORK STATE BAR ASSOCIATION
MINUTES OF HOUSE OF DELEGATES MEETING
BAR CENTER, ALBANY, NEW YORK
NOVEMBER 3, 2018**

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

PRESENT: Alomar; Barclay; Battistoni; Baum; Bauman; Belowich; Ben-Asher; Bennett; Billings; Block; Braunstein; Braverman; Breeding; Brown Spitzmueller; Brown, T.A.; Buholtz; Castellano; Chambers; Christian; Coffey; Cohen, O.; Connery; Dean; DeFelice; Di Pietro; Disare; Doerr; Doyle; Eberle; Effman; Eng; England; Entin Maroney; Fallek; Foy; Fernandez; Finerty; Fishberg; Fogel; Foley; Fox; Freedman, H.; Friedman; Galliard; Gerstman; Getnick; Glover; Gold; Grays; Greenberg; Griesemer; Grimaldi; Grimmick; Grogan; Gutekunst; Gutenberger Grossman; Gutierrez; Haig; Heath; Hines; Hoffman; Hyer; Jaglom; James; Kamins; Karson; Kean; Kearns; Kehoe; Kelly; Kendall; Kirby; Kobak; Lamberti; Lau-Kee; Leo; Lessard; Leventhal; Levin Wallach; Levin; Levy; Lindenauer; Lugo; MacLean; Madden; Madigan; Maldonado; Mancuso; Marinaccio; Markowitz; Maroney; Marotta; Martin Owens; Martin; May; McCann; McGinn; McGowan; McNamara, C.; McNamara, M.; Meyer; Miller, C.; Miller, H.; Miller, M.; Miller, R.; Millon; Minkoff; Miranda; Moskowitz; Napoletano; Nardacci; Nowotarski; O’Connell; Onderdonk; Ostertag; Owens; Palermo, A.; Perlman; Pitegoff; Pleat; Poster-Zimmerman; Radick; Richman; Richter; Rodriguez; Rosenthal; Rosner; Rothberg; Saleh; Scheinkman; Schofield; Schrauer; Schwenker; Scott; Sen; Shafer; Shamoan; Sharkey; Shishov; Shoemaker; Sigmund; Silkenat; Silverman; Singer, C.; Singer, D.; Slavitt; Spierer; Stancliff; Standard; Stieglitz; Strong; Strenger; Sweet; Tarver; Teff; Tennant; Tesser; Thevenin; Triebwasser; Trunkes; Weathers; Westlake; Weston; Whiting; Wimpfheimer; Witmer; Wolff; Young; Younger.

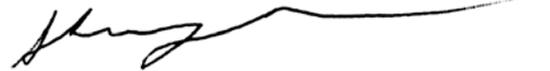
1. Approval of minutes of June 16, 2018 meeting. The minutes were deemed accepted as previously distributed.
2. Report of Treasurer. Scott M. Karson, Treasurer, reported that through September 30, 2018, the Association’s total revenue was \$19.7 million, an increase of approximately \$334,000 from the previous year, and total expenses were \$17 million, a decrease of approximately \$746,000 over 2017. Mr. Karson also provided a report on the status of the long-term reserve investments. The report was received with thanks.
3. Report and recommendations of Finance Committee re proposed 2019 income and expense budget. T. Andrew Brown, chair of the Finance Committee, reviewed the proposed budget for 2019, which projects income of \$23,006,890, expenses of \$23,006,588, and a projected surplus of \$302. After discussion, a motion was adopted to approve the proposed 2019 budget. Mr. Levin abstained.
4. Report and recommendations of the Committee on Bylaws. Robert T. Schofield, IV, chair of the Bylaws Committee, presented the Committee’s proposals to amend the Bylaws to remove the requirement that candidates for member-at-large of the Executive Committee be “members of the House of Delegates or section or committee chairpersons” at the time of selection or within three years preceding selection and replace it with a requirement that candidates be “Active members of the Association.” Subscription forms were provided to the delegates to subscribe to the proposed amendments in order to place the proposed amendments on the agenda for action at the Annual Meeting. The proposed amendment received the required subscriptions to permit its consideration at the Annual Meeting.

5. Memorial for Henry T. King. Past President Henry G. Miller offered a memorial for Mr. King, who was NYSBA President 1988-89 and who passed away June 18, 2018. A moment of silence was observed in memory of Mr. King and his contributions to the Association and the profession.
6. Report and recommendations of Committee on Mandated Representation. Linda Gehron, a member of the Committee on Mandated Representation, presented the committee's report recommending an amendment to the Standards for Mandated Representation to provide for the pre-petition representation of parents in child welfare cases modifying the current provision mandating representations at the "early stages" of a Family Court proceeding. After discussion, a motion was adopted to approve the report and recommendations.
7. Report of Committee on Standards of Attorney Conduct. David M. Schraver, a member of the Committee on Standards of Attorney Conduct, reviewed proposed amendments to the Rules of Professional Conduct relating to conflicts of interest and tribunals. The proposals will be presented to the House for debate and vote at the January 2019 meeting. The report was received with thanks.
8. Report of President. Mr. Miller reflected on recent events and the role that attorneys can play when confronted with troubling situations and to deliver a message of civility. He referred members to his written report, a copy of which is appended to these minutes, for details regarding recent Association activity.
9. Report of Nominating Committee. David P. Miranda, chair of the Nominating Committee, reported that the Committee had nominated the following individuals for election to the indicated offices for the 2019-2020 Association year: President-Elect: Scott M. Karson, Melville; Secretary: Sherry Levin Wallach, White Plains; Treasurer: Domenick Napoletano, Brooklyn; Vice Presidents: 1st District – Diana S. Sen, New York City and Carol A. Sigmond, New York City; 2nd District – Aimee L. Richter, Brooklyn; 3rd District – Robert T. Schofield, IV, Albany; 4th District – Marne Onderdonk, Saratoga Springs; 5th District – Jean Marie Westlake, East Syracuse; 6th District – Richard C. Lewis, Binghamton; 7th District – David H. Tennant, Rochester; 8th District – Norman P. Effman, Warsaw; 9th District – Mark T. Starkman, New Windsor; 10th District – Donna England, Centereach; 11th District – Karina E. Alomar, Ridgewood; 12th District – Michael AS. Marinaccio, White Plains; 13th District – Jonathan B. Behrins, Staten Island. The following individuals were nominated to serve as Executive Committee Members-at-Large for a 2-year term beginning June 1, 2019: Richard M. Gutierrez (Diversity Seat), Forest Hills; Margaret J. Finerty, New York City and William T. Russell, Jr., New York City Nominated as Section Member-at-Large was Andre R. Jaglom, New York City. Nominated as Young Lawyer Member-at-Large was John P. Christopher, Glen Head. The following individuals were nominated as delegates to the American Bar Association House of Delegates for the 2019-2021 term: Claire P. Gutekunst, Yonkers; Seymour W. James, Jr., New York City; Scott M. Karson, Melville; Bernice K. Leber, New York City; and Michael Miller, New York City. The report was received with thanks.
10. Address by Hon. Rolando T. Acosta – Presiding Justice, Appellate Division, First Department. Presiding Justice Acosta reviewed initiatives being undertaken in the First Department with respect to technology, case management, and the implementation of statewide appellate practice rules. The Chair received the report with thanks.
11. Report of Task Force on Wrongful Convictions. Hon. Barry Kamins, co-chair of the Task Force, reviewed the Task Force's work to date in updating the report approved by the House in 2009 and new developments to reduce wrongful convictions. He reported that the Task Force plans to

present its report with recommendations on an informational basis at the January 2019 meeting with debate and vote to follow in April 2019. The report was received with thanks.

12. Report and recommendations of Local and State Government Law Section. Richard K. Zuckerman, chair of the section, outlined the section's proposed Model Pro Bono Policy for Attorney Employees of Local Governments and Local Government Agencies. After discussion, a motion was adopted to approve the policy.
13. Report of The New York Bar Foundation. Lesley Rosenthal, President of The Foundation, outlined methods by which members could donate to The Foundation's fundraising efforts in support of its philanthropic programs. The report was received with thanks.
14. Administrative items. Mr. Greenberg reported that the House of Delegates Dinner will take place on Thursday, January 25, 2018 at the Metropolitan Club, 1 East 60th Street, New York City.
15. New Business. Mr. Greenberg observed that Paul Michael Hassett, who served as Association President 2000-01, had passed away on October 26 and that a full memorial in his memory would be presented at the January 2019 meeting.
16. Date and place of next meeting. Mr. Miller announced that the next meeting of the House of Delegates would take place on Friday, January 18, 2019 at the New York Hilton Midtown, New York City.
17. Adjournment. There being no further business to come before the House of Delegates, the meeting was adjourned in memory of Mr. Hassett.

Respectfully submitted,



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**President's Report
to the House of Delegates
November 3, 2018**

As I travel throughout the state, as well as other states and countries, I continue to be gratified by the important work being done by lawyers for the good of our profession and our society. In these pages, I want to highlight some of the contributions made by our members over the past few months.

The commonwealth of Puerto Rico continues to struggle in its efforts to recover from the devastation brought upon it by Hurricane Maria in 2017. In August, together with New York City Bar Association President Roger Juan Maldonado, I made a presentation to the American Bar Association House of Delegates recommending a permanent exemption from the Jones Act, which causes Puerto Rico to pay higher shipping costs from the U.S. mainland for food, fuel and other basic goods. Our presentation was based on the report approved by our House of Delegates this past June. I am gratified to advise that the ABA House unanimously approved the resolution we offered. Since the ABA House acted, we have begun working with members of Congress to secure this needed exemption. In addition, our Working Group on Puerto Rico, co-chaired by Richard Gutierrez, Drew Jaglom, Hilary Jochmans and Maria Matos, is identifying other measures that might assist the people of Puerto Rico.

The committees that were appointed in June to pursue the initiatives I outlined at our last meeting are well into developing reports that will be presented to you during the coming year. At this meeting Hon. Barry Kamins will present an informational report on the Task Force on Wrongful Convictions, which plans to present a report for action in April 2019. The Task Force is co-chaired by Judge Kamins and Hon. Robert S. Smith, retired judge of the Court of Appeals.

The Task Force on the Evaluation of Candidates for Election to Judicial Office, co-chaired by Hon. Susan Read and Robert Haig, has met with Chief Administrative Judge Lawrence Marks and people from around New York as to how current evaluations are conducted. It also has surveyed bar associations for feedback on current reviews. The Task Force plans to present an informational report to the House in January 2019.

The Task Force on Incarceration Release Planning and Programs is holding an open meeting in Albany next week to consider all relevant issues including options for those released into urban and rural settings; possible inconsistency in rules; limited availability of substance abuse and

mental health treatment programs; housing options and limited availability of housing; and the impact on recidivism and public safety that results from inadequate release planning. The Task Force, co-chaired by Sherry Levin Wallach and Scott Karson, plans to present an informational report in January.

In September, the Task Force on Mass Shootings and Assault Weapons had a presentation by members of the New York Police Department on assault weapons and 3-D printed weapons. The Task Force is co-chaired by Margaret Finerty and David Schraver.

The Task Force on the Role of Paralegals, co-chaired by Vincent Chang, Maryann Saccomando Freedman and Margaret Phillips, is updating the 1997 report on paralegal guidelines adopted by the House of Delegates and is also exploring relevant issues to make recommendations for best practices for the use of paralegals in the context of the modern 21st century law office. The task force will also explore the question of whether NYSBA should enroll paralegals as members or ancillary members.

During the summer more than 300 immigrants were relocated from the southern border of our country to the Albany County Correctional Facility. Many arrived in Albany having no idea where they were. Over 400 volunteer lawyer and interpreters, including many NYSBA members, volunteered their time at the facility to determine whether these immigrants were seeking asylum and to help prepare them for credible fear interviews. In August, NYSBA hosted a luncheon to recognize these volunteers for their significant contributions to helping insure access to justice.

I am very pleased to report that the Governor has signed into law legislation proposed by our Association and the New York City Bar Association to extend attorney-client privilege to communications between lawyer referral services and persons contacting those services to find an attorney or be directed to an appropriate resource. Those contacting lawyer referral services do so under the assumption that the information communicated to the services is confidential; this legislation makes clear that such communications are privileged on the same basis as those between attorney and client.

One of the most important functions of our bar association is the improvement of the judicial system for those in need of legal services but who cannot afford to retain a lawyer. In September I served on a panel with the Chief Judge and the Appellate Division Presiding Justices to hear from statewide witnesses on the significant benefits to low-income people of accessible, publicly funded civil legal services. A few days later, I testified at a hearing of the NYS Commission on Parental Legal Representation on assurance of quality representation for persons entitled to assigned counsel in Family Court matters.

Several weeks ago NYSBA sponsored the bi-annual Partnership Conference, with the theme "Uniting for Justice." Over 550 people attended the conference, which included 45 different programs with CLE credit. The Denison Ray Civil Awards and Phil Dailey Award dinner was attended by approximately 380 people. The two guest speakers for the awards dinner were Court of Appeals Associate Judge Jenny Rivera and Assembly Member Harvey Epstein.

A privilege of serving as your President is being able to meet so many of our members and be in contact with other bar associations both within and outside New York State. In July, in connection with our Torts, Insurance and Compensation Law Section's summer meeting in Ireland, we held a member reception in Dublin at The Bar of Ireland, preceded by a meeting with

Ireland's Chief Justice the Hon. Mr. Frank Clarke. Another member reception, held in London, took place at the Outer Temple. I was gratified to meet many members who practice outside the United States. In addition to those meetings, I attended the Family Law Section meeting in Manchester, Vermont, the Trusts and Estates Law Section meeting in Bolton Landing, and the International Section meeting in Montreal; welcomed students at the University of Buffalo School of Law; and attended the Federal Bar Association's annual meeting and convention and the celebration of the 80th Anniversary of the Appellate Division, Second Department.

Our 2019 Annual Meeting will take place January 14-19 at the New York Hilton Midtown in New York City. My Presidential Summit, which will be held on Wednesday, January 16, will address three important, timely topics: "Listening to #MeToo – Why Laws to Prevent Sexual Harassment Have Been Ineffective, and What Attorneys Can Do"; "Wrongful Convictions and the Role of Prosecutors"; and "Enlisting the Public in the Fight Against Fraud: How Whistleblower Laws Work, How They Have Evolved and the Courage it Takes to Be a Whistleblower." I look forward to seeing you at the Summit and at many of the other programs and activities that will be taking place during Annual Meeting.

A handwritten signature in black ink that reads "Michael Miller". The signature is written in a cursive style with a prominent underline for the first name.

