



**Michael Miller**

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**President's Report  
to the House of Delegates  
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A little more than halfway through my term as New York State Bar Association president, I want to take this opportunity to applaud the tremendous work being done by lawyers across New York, across the United States and around the world to protect and advance the rule of law.

I write this even as I note events in recent months that jeopardize the fundamental rule of law and the democratic principles that it supports. More than 30 attorneys in the Philippines have been targeted and murdered over the past two years. In Hungary, a new “administrative court system” controlled by the executive branch has been established to handle certain cases, including corruption, election law, and the right to privacy. Europe’s highest court recently ordered the Polish government to reinstate two dozen judges who had been ousted from office for decisions unfavorable to the government. In our own country, U.S. Supreme Court Chief Justice John Roberts issued a forceful defense an independent judiciary, a rare public statement from a sitting member of the court.

At this writing, large parts of the federal government are shut down due to the inability of the President and Congress to come to an agreement on funding. NYSBA expressed its concerns about the impact of the shutdown on the operations of the federal judiciary and called upon Congress and the President to ensure sufficient funding to enable the court system to fulfill its constitutional duties. In a statement that was picked up by the *New York Law Journal* and other media sources and in an on-air interview that was broadcast in eight upstate New York television markets, I noted that operations of the federal courts – and, indeed, justice for all Americans – should not and must not be subject to the vagaries of politics.

**NYSBA Sections, Committees, Task Forces, Working Groups & Advocacy**

As in the past, NYSBA’s sections and committees continue to conduct excellent meetings of substance, superb CLE programs and opportunities for members to improve their professional skills, our profession and our community. Our various entities produce excellent reports on issues of relevance and concern, affording our House of Delegates valuable opportunities to take policy positions and advocate for improvements in the law and support for the rule of law. Today, a number of reports of consequence will be presented for consideration. It is gratifying to note that our Women in Law Section, one of the fastest growing sections in NYSBA’s history, offers enhanced opportunities to explore inequities and advocate for gender equality. And our International Section has done an excellent job at increasing membership.

The task forces appointed in June and those previously appointed have been hard at work and are developing reports that will be presented to you during 2019. Before I highlight for you some of their work, it is important to note that the large number of initiatives we have undertaken pose considerable additional burdens on certain members of NYSBA's dedicated staff. They have been incredibly supportive and have made truly meaningful contributions. I want to express special recognition and appreciation to Kathy Baxter, Ron Kennedy, Kevin Kerwin, Pam McDevitt, Kit McNary, Kathy Suchocki, Dan Weiller and Mark Wilson for their considerable efforts in assisting the various task forces and working groups.

The **Task Force on the Evaluation of Candidates for Election to Judicial Office**, co-chaired by Hon. Susan P. Read and Robert L. Haig, has developed a comprehensive report that it will present to you on an informational basis at this meeting and for debate and vote at the April meeting.

That task force, working through the summer and fall, collected and examined a vast amount of background information, including a review of the work of the New York State Commission to Promote Public Confidence in Judicial Elections [the Feerick Commission], the Independent Judicial Election Qualification Commissions [IJEQCs], and local, affinity and specialty bar associations that evaluate judicial candidates subject to election. The task force also researched judicial screening in other states, and surveyed local, affinity and specialty bar associations asking them to assess their work and positions on judicial screening and their work with the IJEQCs.

The task force solicited views on judicial screening and the efficacy of the current judicial screening regimen from political party leadership in each county, individual members of the IJEQCs and sitting elected judges. Its conclusions and recommendations are driven by the facts ascertained during its extensive investigations of current practices throughout New York State.

The **Task Force on Incarceration Release Planning and Programs**, co-chaired by NYSBA secretary Sherry Levin Wallach and president-elect designee Scott M. Karson, is reviewing issues that incarcerated people face upon release along with ways to enhance their successful reintegration into urban, suburban and rural communities throughout the state. The task force is looking at how to address a range of barriers to re-entry including availability of housing, education and vocational training; restoration of rights; inconsistency in rules; limited availability of substance abuse and mental health treatment programs; and housing options and limited availability of housing. The task force is also examining the impact on our communities and on formerly incarcerated people that results from inadequate release planning.

The task force held an open meeting on November 9 with formerly incarcerated individuals, representatives from several state and local agencies, and not-for-profit organizations, to discuss all aspects of release planning and programs. The information that was obtained from that meeting will be incorporated into the final report. The task force will be presenting an informational report at this meeting, with the final report scheduled for April 2019.

The **Task Force on Wrongful Convictions**, co-chaired by Hon. Barry Kamins and Hon. Robert S. Smith, has been hard at work, building upon NYSBA's ground-breaking 2009 report. The task force is in the process of updating the previous report with focus on four primary areas: conviction review units, forensic science issues, actual innocence claims and monitoring implementation of new procedures. The task force will be making an informational report at this

meeting and expects to submit a report and recommendations for consideration at the April meeting.

The **Task Force on Mass Shootings and Assault Weapons**, co-chaired by Margaret J. Finerty and past President David M. Schraver, is considering the connection between mental health and mass shootings, the relationship between domestic violence and mass shootings, and whether assault weapons belong in civilian hands, issues which are constantly in the news. It has met a number of times, one of which included an extraordinary presentation by NYPD senior weapons experts.

The **Task Force on the Role of Paralegals**, co-chaired by Vincent Ted Chang, past President Maryann Saccomando Freedman and Margaret L. Phillips, is updating the 1997 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 modern 21st century law office. The task force also is considering whether NYSBA should enroll paralegals as members or ancillary members.

The **Working Group on Puerto Rico**, co-chaired by Richard M. Gutierrez, Drew Jaglom, Hilary F. Jochmans and Maria Matos, continues to identify steps that can be taken to assist the people of Puerto Rico in their continued recovery efforts. In addition, with the 116th Congress taking office this month, we will continue our efforts to secure an exemption from the Jones Act for Puerto Rico.

You may recall that last month, the New York Court of Appeals upheld Civil Rights Law §50-a, which bars the disclosure of police officer personnel records except under limited circumstances. Last spring, after our Committee on Media Law and Committee on Civil Rights presented a report to the Executive Committee on this statute, we established a **Working Group on Civil Rights Law §50-a** co-chaired by Catherine A. Christian and Norman P. Effman to examine whether the statute should be repealed or amended. The working group is expected to issue a report shortly.

Our **Working Group on Judiciary Law §470**, chaired by past President David M. Schraver, has worked diligently in collaboration with our CPLR Committee. Judiciary Law §470 requires generally that in order to appear as an attorney of record in New York courts, an attorney must have a physical office in New York. This requirement dates back to an 1862 predecessor law. For decades, critics have argued that this requirement is an anachronistic vestige of the past. This topic has frequently been raised by our non-resident members when I have attended meetings and receptions outside New York. The Working Group will be presenting a report and recommendations at this meeting.

The **Task Force on School to Prison Pipeline**, chaired by Sheila A. Gaddis and John H. Gross, was established last year by past president Sharon Stern Gerstman. The task force has submitted a thoughtful report to the House with substantive recommendations. It will be making an informational presentation at this meeting and will seek adoption of its report and recommendations in April.

### **Communications & Membership**

I have often said that “all roads lead to membership.” In partnership with staff, association leaders have worked hard to enhance the membership experience through programs and media coverage emphasizing NYSBA’s relevance in today’s world. Thanks to the commitment of the

Rapid Response Advisory Group established in June and chaired by past President David P. Miranda, NYSBA has been able to speak out more quickly and effectively in forceful support of the rule of law. And thanks to the leadership of NYSBA's Senior Director of Communications Dan Weiller, our media presence has been heightened significantly.

Director of Attorney Retention and Engagement Victoria Shaw developed a comprehensive strategic and tactical plan which is reaping promising results. Some months ago, we established a weekly year-over-year membership report looking back five years. This gives us an opportunity to compare revenue collected, total members, total paid members, retention rates, differences from prior years, trends and other relevant information.

Utilizing this information and creative billing changes, I am very pleased to report that our retention rate of 64.0% is the highest it has been since before 2013. Paid count and revenue collected are the highest they have been at this point in the renewal cycle since 2015. Additionally, we reached our goal of 70,000 total members a few weeks ago. As of December 31, our total membership stood at 70,307 members.

We contemplate embarking upon a strategic membership recruitment campaign to begin February 1, with two separate campaigns in 2019. The first will occur from February through April and the second from September through November. The goal of these campaigns will be to recruit new members. Our invoice cycle runs through February, at which point we will do one round of telemarketing outreach and will encourage our insurance partners at USI to reach out to members ahead of drops. In order for members to continue to qualify for reduced group rates, they must continue to be NYSBA members. After drops, we will reach out to USI to have them do a second outreach to dropped members.

Also, our dedicated Membership Committee, co-chaired by Thomas Maroney and Mitchell Katz, has been hard at work. Amongst other efforts, it has held a number of receptions and gatherings of young and diverse attorneys in New York City and Albany, affording those members with greater opportunities to connect with colleagues and to develop a greater sense of membership value. Other events are contemplated around the state.

NYSBA is actively examining our global membership and our potential global market and developing a growth strategy for 2019 with support from our International Section. Our international membership has grown considerably over the past decade and we believe we have enormous opportunity for expansion with a thoughtful and strategic plan. Our sales representative, MCI, examined NYSBA's international membership in Canada, the United Kingdom, Germany, France, China, Japan and Hong Kong – the countries with the highest NYSBA membership. They also surveyed New York-registered attorneys who were not NYSBA members in those countries. It is gratifying to report that our brand is remarkably strong in those important markets. We have begun outreach to our members and non-members alike and the results seem promising.

### **Budget, Finance and Technology**

Detailed information on finances will be provided in the Treasurer's Report, but I want to highlight the fact that the 2018 budget year ended on very positive notes: we stabilized dues revenue, substantially increased non-dues revenue and reduced expenses. As a result, I am pleased to report that NYSBA ended the year with a surplus rather than a deficit, as we had at the close of 2017. Over the past two years, the Finance Committee, chaired by T. Andrew Brown, devoted a great deal of time scrutinizing every aspect of NYSBA's budget and assisted

leadership and senior management in making difficult and complex decisions about staffing and other resources.

We have been keenly focused on increasing non-dues revenue and NYSBA staff has employed creative ways to develop new and enhance existing streams of non-dues revenue. In 2017, we had only five non-revenue streams for advertising. Last year, we added 12 new advertising streams, bringing the total to 17, and we have already brought that number to 20 this year.

Our sales representative MCI has far exceeded goals in advertising space sales in the NYSBA Journal and other publications, as well as sponsorships and exhibit space at the Annual Meeting and other events. Last year, we had 20 vendors at the Annual Meeting. Thanks to the hard work of MCI, we added an additional 30 vendors and for the first time ever, space for the Annual Meeting was entirely sold out. MCI has asked us to arrange for even more exhibition space to be available to sell next year.

By more effective placement on our website and sending a weekly email, our job board revenue doubled in 2018 to approximately \$100,000. Additionally, we are in the final stages of negotiating an agreement with Kaplan Test Prep which will provide NYSBA student members with a significant discount, and a royalty payment to NYSBA.

The primary drivers of the budget surplus were stable dues revenue, substantial increases in non-dues revenue, targeted reductions in the costs associated with previously budgeted large expense items, and open staff positions in our IT department. These open positions relate in turn to our work to update our 20-year-old association management system, as well as our outdated website and other IT functions. We are currently working with a technology consulting company to help us evaluate IT needs throughout NYSBA and determine the appropriate resources, staffing and skill-sets required to master and manage the most advanced new systems.

Adaptable and dependable IT systems and state-of-the-art websites are more important than ever for professional organizations such as NYSBA. The changes that we contemplate in IT will ensure that our data is accurate and readily available and can be used to make smart and strategic decisions that help us retain and recruit members. We hope to roll out a new website in 2019 that will allow us to present trusted NYSBA content most effectively and streamline web commerce, membership and program registration functions. Together, these projects will provide a much-improved IT experience for members, potential members and the public – and for NYSBA leadership and staff.

### **NYSBA CLE**

It is exciting to report that beginning this month, all NYSBA CLE programs in New York City are based at Convene, located at 810 Seventh Avenue at 53rd Street. The sleek Convene space includes state-of-the-art classroom spaces as well as comfortable lounge areas featuring complimentary beverages and snacks. Over the past year, we explored many options to create a home base for our New York City CLE programs. We believe that our partnership with Convene offers the most convenient and practical setting for our program participants. No CLE provider in New York City offers a comparable environment.

Building upon the large inventory of New York-specific content, Senior Director of Continuing Legal Education & Law Practice Management Katherine Suchocki and or CLE Committee, ably chaired by James Barnes, have done a spectacular job of coordinating and marketing our offerings. Their efforts helped NYSBA sell more than one million dollars of online programming

in 2018, a goal never before achieved. Also, thanks to their initiative, we will very shortly be moving our online programming to a new state-of-the-art platform that will give our customers a significantly enhanced CLE experience.

### **Annual Meeting**

This Annual Meeting week has been a whirlwind of meetings, programs, receptions and dinners. I am gratified to have seen so many of you participating in these events and connecting with other members of our profession in this setting. Our staff, led ably by Executive Director Pamela McDevitt, did an exceptional job of coordinating and planning and I am most grateful for their hard work and dedication. Special recognition goes to Director of Section and Meeting Services Patricia B. Stockli and Kimberly A. McHargue, executive assistant to the executive director, who worked tirelessly to make the Annual Meeting a success.

While programs, meetings and networking may be the focus of Annual Meeting for our members, selling exhibitor space at the event is an increasingly important non-dues revenue opportunity for NYSBA. I hope you had a chance to visit the new exhibitor space in Rhineland North this year. As I mentioned above, thanks to the hard work of MCI, space for the Annual Meeting was entirely sold out for the first time ever.

I am pleased to report that planning for the 2020 annual meeting is already underway with a view towards spending resources efficiently and in a manner that creates opportunities for as many members as possible to participate. To that end, plans are in the works for a single gala-style dinner open to all members, in lieu of the Thursday evening House Dinner and Saturday evening President's Dinner. President-Elect Hank Greenberg is working on the event with John Gross, the immediate past president of the New York Bar Foundation and chair of the dinner planning committee, as well as past Presidents Stephen P. Younger, Vincent E. Doyle III and others.

### **Representing NYSBA**

Since my last report, I have been pleased to represent NYSBA at many events honoring lawyers who have made special contributions to our profession. Among the events I attended were:

- The New York County Lawyers Association Edward Weinfeld Award Luncheon, at which chief judge of the Federal District Court for the Eastern District of New York Dora Irizarry was honored;
- The Haywood Burns Award ceremony at CUNY School of Law in Long Island City, at which our Committee on Civil Rights presented the 2018 Haywood Burns Memorial Award to Esmeralda Simmons, executive director of the Center for Law and Social Justice at Medgar Evers College, in recognition of her work in advocacy, community education, coalition-building and public policy campaigns on behalf of underserved communities;
- The Bar Association of Erie County Reception in Buffalo honoring retired Court of Appeals Judge Eugene Pigott;
- The Scales of Justice Academy Scholarship Reception at Fordham University School of Law, at which NYSBA's Family Law Section was honored for its substantial support over the years;
- The Foundation for the Judicial Friends, Inc. annual Rivers, Toney, Watson Dinner;
- The joint dinner meeting of the Nassau and Suffolk County Bar Associations Executive Committees at the Nassau County Bar Association in Garden City;

- A luncheon at Patterson Belknap with NYSBA Vice President Taa Grays, arranged by past President Stephen Younger, with approximately 50 Patterson associates in connection with our large firm membership initiative;
- Our Bridging the Gap CLE program at our new New York City CLE home location in midtown Manhattan;
- The Albany County Bar Holiday Party;
- The joint holiday party of the New Rochelle, Port Chester, Rye, Harrison, Larchmont and Mamaroneck Bar Associations at the John Jay Mansion in Rye; and
- The NYSBA staff holiday pizza party at the Bar Center in Albany.

With the determined support and assistance of Ronald Minkoff, I participated in multiple conference calls with various ABA committees and entities concerning NYSBA's resolution seeking adoption of best practices for online legal document providers. In the spirit of cooperation, we adopted many proposed revisions and are hopeful that our resolution will be adopted by the ABA House at the end of January, resulting in Best Practice Guidelines for online legal document providers which will afford consumers certain protections and reliability.

I was pleased to attend a number of meetings of NYSBA committees, section executive committees, working groups and task forces and participated in many of their conference calls. It is always inspiring and gratifying to witness so many colleagues working to improve our profession, make the law more effective, support the rule of law, enhance access to justice and make our world a little bit better. Additionally, I had the extraordinary opportunity to meet with various congressional leaders and their staff members on January 2nd and 3rd in Washington, D.C. at swearing-in and reception ceremonies for the new Congress.

Last month, I was very honored to receive the New York County Lawyers Association's prestigious Boris Kostelanetz President's Medal at their Annual Dinner. Participation in local bar associations is extremely valuable both personally and professionally, and I am humbled to receive such recognition for contributions to the legal profession.

In closing, I would be remiss if I failed to acknowledge the extraordinary support and counsel I receive from President-Elect Hank Greenberg. His advice is always thoughtful and sound, his support unwavering, his friendship unshakeable.

The next meeting of the House of Delegates will occur on Saturday, April 13, 2019 at the Bar Center in Albany. I look forward to seeing you there.

Respectfully submitted,

A handwritten signature in black ink that reads "Michael Miller". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.