

**NEW YORK STATE BAR ASSOCIATION
MINUTES OF EXECUTIVE COMMITTEE
CONFERENCE CALL MEETING
JULY 24, 2012**

Members Participating: Abernethy, Doyle, Finerty, Franchina, Gaffney, Gerstman, Gordon-Oliver, Gutierrez, James, Lau-Kee, Miranda, Myers, Safer, Schraver, Slezak, Wallach, and Young.

Guests: Sarah Jo Hamilton, G. Brian Morgan, A. Craig Purcell, and A. Joseph Scott, III.

Mr. James presided as President of the Association.

1. Report and recommendations of Committee on Professional Discipline. Committee Chair Sarah Jo Hamilton outlined the committee's request that the Association participate as *amicus curiae* in *Matter of Bennietts*, a disciplinary proceeding in which a motion for leave to appeal to the Court of Appeals has been made. The issue to be addressed is the standard for application of collateral estoppel in disciplinary proceedings. After discussion, a motion was adopted to decline to participate as *amicus*, but to encourage the committee to prepare a report on the application of collateral estoppel.
2. Proposed amendments to stated purpose of Committee to Review Judicial Nominations. Mr. James reviewed the proposed revisions to the committee's stated purpose. After discussion, a motion was adopted to approve the amended stated purpose.
3. Reports and recommendations of Committee on Tort System and Municipal Law Section. A. Craig Purcell, co-chair of the Committee on Tort System, reviewed the committee's memorandum in support of legislation that would establish a uniform process for the filing of notices of claim against a state or municipal entity, public authority or public benefit corporation. G. Brian Morgan and A. Joseph Scott, III, co-chairs of the Municipal Law Section's Legislation Committee, reviewed the Section's memorandum in opposition to the legislation. After discussion, a motion was adopted to approve the report and recommendations of the Committee on Tort System.
4. Report of Executive Subcommittee on CLE. Mr. Myers reviewed changes made to the draft set of guidelines for section and committee CLE programming following the June 21-22, 2012 Executive Committee meeting. A motion was adopted to accept the report of the subcommittee, amend the guidelines to reflect a November 15 cutoff date for stand-alone CLE programming, and share the draft guidelines with the sections for review and comment.
5. Consideration of co-sponsorship of ABA resolutions. Mr. James outlined the resolutions.

Report 10A (Illinois State Bar Association): This resolution would reaffirm the ABA policy regarding non-lawyer ownership. A motion was adopted to decline co-sponsorship of the resolution.

Report 101 (ABA Section of Litigation): This resolution would adopt "Guidelines for Retention of Experts by Lawyers." A motion was adopted to ask the Section of Litigation to make several amendments to the guidelines at the recommendation of the

Commercial and Federal Litigation Section and, if the changes are made, to empower the President to authorize co-sponsorship.

Report 107C (ABA Criminal Justice Section): This resolution would urge defender organizations and criminal defense lawyers to collaborate with others to address clients' inter-related criminal, civil, and non-legal problems. A motion was adopted to co-sponsor the resolution.

Report 112B (ABA Commission on Youth at Risk): This resolution would urge increased awareness of Fetal Alcohol Spectrum Disorder and urge the passage of laws and policies to better assist individuals with the disorder. A motion was adopted to decline co-sponsorship but to discuss the resolution with the New York delegation.

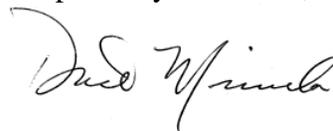
Report 113 (Section of International Law): This resolution would urge the Department of Homeland Security to create a Haitian Family Reunification Parole Program. A motion was adopted to decline co-sponsorship but to discuss the resolution with the New York delegation.

National Conference of Bankruptcy Judges (unnumbered): This resolution would support the authority of bankruptcy judges to hear, determine, and enter final orders and judgments in all core proceedings. A motion was adopted to decline co-sponsorship and to forward the report to the Business Law Section.

6. Proposed *amicus curiae* brief in *Fisher v. University of Texas*. Mr. Schraver reviewed a request from the Boston Bar Association to consider joining that association's *amicus* brief in this case pending before the U.S. Supreme Court. He noted that rather than join the Boston Bar Association's brief, it had been suggested that NYSBA might consider filing its own *amicus* brief to highlight the importance of diversity in the legal profession and the initiatives NYSBA has undertaken to encourage diversity. After discussion, a motion was adopted to approve *amicus* participation. Messrs. Myers, Schraver and Young and Ms. Gerstman will serve as a subcommittee to review the brief, being prepared by Nixon Peabody, LLP.

There being no further business to come before the Executive Committee, the meeting was adjourned.

Respectfully submitted,



David P. Miranda
Secretary