

**NEW YORK STATE BAR ASSOCIATION
MINUTES OF HOUSE OF DELEGATES MEETING
BAR CENTER, ALBANY, NEW YORK
NOVEMBER 4, 2017**

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

PRESENT: Aidala; Alcott; Barclay; Barreiro; Behrins; Bennett; Berman; Billings; Block; Bloom; Bobrow; Bonina; Bowler; Brown Spitzmueller; Brown, T.; Buholtz; Burke, J.; Burns, S.; Buzard; Calderón; Carola; Castellano; Chandrasekhar; Chang, S.; Chang, T.; Christian; Christopher; Clark; Clarke; Clouthier; Coffey; Cohen, D.; Cohen, O.; Davis; Denton; DiFalco; Disare; Doxey; Doyle; Eberle; Effman; Everett; Fallek; Fay; Fennell; Fernandez; Finerty; First; Fishberg; Flanagan; Foley; Fox, G.; Fox, M.; Freedman, H.; Framkin; Gaddis; Gallagher; Galligan; Genoa; Gensini; Gerbini; Gerstman; Getnick; Gingold; Gische; Gold; Goldfaarb; Greenberg; Grimaldi; Gutekunst; Gutenberger Grossman; Gutierrez; Hack; Hacker; Haig; Heath; Hersh; Hetherington; Himes; Hoffman; Jackson; Jaglom; James; Jochmans; Jones; Kamins; Karson; Kase; Kean; Kiernan, J.; Kiesel; Kirby; Kobak; Koch; Krausz; Lanouette; LaRose; Lau-Kee; Lawrence; Leber; Leo; Lessard; Levin Wallach; Levin; Levy; Madden; Madigan; Mancuso; Mandell, Andrew; Mariano; Maroney; Martin Owens; Martin; May; McCann; McGinn; McNamara, C.; McNamara, M.; Meisenheimer; Miller, C.; Miller, M.; Millett; Millon; Minkoff; Minkowitz; Miranda; Mosher; Moskowitz; Murphy; Napoletano; Nowotarski; Ostertag; Owens; Perlman; Pessala; Pitegoff; Poster-Zimmerman; Prager; Richardson; Richman; Richter; Rivera; Rodriguez; Rosiny; Rosner; Samuels; Schofield; Schraver; Schreiber; Shafer; Shamoan; Champnoi; Sharkey; Shautsova; Singer; Spicer; Spitle; Standard; Starkman; Stieglitz; Strenger; Sullivan; Sweet; Temkin; Tennant; Thaler-Parker; Tully; Vigdor; Vitacco; Weathers; Weiss; Whiting; Wildgrube; Williams; Young; Younger.

The members of the House recited the Pledge of Allegiance and Michael F. Donegan, counsel at the New York State Commission of Correction, sang “God Bless America.”

1. Approval of minutes of June 17, 2017 meeting. The minutes were deemed accepted as previously distributed.
2. Report of Treasurer. Scott M. Karson, Treasurer, reported that through September 30, 2017, the Association’s total revenue was \$20.7 million, a decrease of approximately \$964,000 from the previous year, and total expenses were \$17 million, a decrease of approximately \$60,000 over 2016. 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 2016 income and expense budget. T. Andrew Brown, chair of the Finance Committee, reviewed the proposed budget for 2018, which projects income of \$23,704,135, expenses of \$23,797,360, and a projected deficit of \$93,225. After discussion, a motion was adopted to approve the proposed 2018 budget.
4. Report of The New York Bar Foundation. John H. Gross, President of The New York Bar Foundation, announced the unveiling of a portrait of former Chief Judge Judith S. Kaye for display in the Bar Center. He also presented a report on some of The Foundation’s initiatives, including the establishment of a disaster relief fund, a veterans program, and an awards booklet for distribution at the 2018 Annual Meeting. The report was received with thanks.

5. Report of President. Ms. Gerstman highlighted the items contained in her written report, a copy of which is appended to these minutes. In addition, she updated the House with respect to new committees, judicial vacancies, and membership initiatives.
6. Report of Nominating Committee. Glenn Lau-Kee, chair of the Nominating Committee, reported that the Committee had nominated the following individuals for election to the indicated offices for the 2018-2019 Association year: President Elect: Henry M. Greenberg, Albany; Secretary: Sherry Levin Wallach, White Plains; Treasurer: Scott M. Karson, Melville; Vice Presidents: 1st District – Taa R. Grays, 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 – Matthew R. Coseo, Ballston Spa; 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 – Michael L. Fox, Newburgh; 10th District – Peter H. Levy, Jericho; 11th District – Karina E. Alomar, Ridgewood; 12th District – Steven E. Millon, New York; 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, 2018: Earamichia Brown (Diversity Seat), New York City; Mark A. Berman, New York City; Evan M. Goldberg, New York City; Erica M. Hines, Albany; and Tucker C. Stanclift, Queensbury Nominated as Section Member-at-Large was Rona G. Shamoan, Scarsdale. The following individuals were nominated as delegates to the American Bar Association House of Delegates for the 2018-2020 term: Sharon Stern Gerstman, Buffalo; Henry M. Greenberg, Albany; Kathryn Grant Madigan, Binghamton; David P. Miranda, Albany; Kenneth G. Standard, New York City; and Alena Shautsova, Brooklyn (Young Lawyer Delegate). The report was received with thanks.
7. Report and recommendations of Trusts and Estates Law Section. Prof. Ira M. Bloom, chair of the section's Uniform Trust Code Committee, together with section chair Sharon L. Wick, outlined a proposal for a New York Trust Code, which would enable the codification of changed practices and case law. After discussion, a motion was adopted to approve the report and recommendations.
8. Memorial for Ms. Jana Springer Behe. Elizabeth Jean Champnoi, chair-elect of the Corporate Counsel Section, presented a memorial in honor of Jana Springer Behe, chair of the Corporate Counsel Section and a member of the House, who passed away on August 20, 2017. A standing ovation was observed in honor of Ms. Behe's memory and her contributions to the Association and the profession.
9. Report and recommendations of New York County Lawyers Association. Sarah Jo Hamilton, director of NYCLA's Ethics Institute, and Ronald C. Minkoff, chair of NYCLA's Committee on Professionalism and Professional Discipline, presented a report that reviews issues related to providers of online legal documents and makes recommendations for regulations/best practices. They noted that NYCLA had accepted amendments to the report to reference a related ABA report. After discussion, a motion was adopted to approve the report and recommendations as amended. Mr. Coffey abstained from participation.
10. Memorial for Mr. John Eric Higgins. Kenneth G. Standard, Past President, presented a memorial in honor of John Eric Higgins, past chair of the Committee on Diversity and Inclusion and a member of the House, who passed away on September 4, 2017. A moment of silence was observed in honor of Mr. Higgins' memory and his contributions to the Association and the profession.

11. Report of Committee on Membership. Thomas J. Maroney, chair of the Membership Committee, together with Associate Executive Director Elizabeth Derrico, reported on recent committee developments, including the work of the committee's subcommittees. He noted that the committee's January 2018 meeting will be an open meeting and he encouraged members to attend. The report was received with thanks.
12. Report and recommendations of Commercial and Federal Litigation Section. Past President Bernice K. Leber, together with immediate past section chair Mark A. Berman, presented the section's report on the number of women lawyers who serve as litigators, arbitrators and mediators, with recommendations as to steps firms, ADR providers, and clients can take to increase the number of women in litigation and ADR settings. After discussion, a motion was adopted to approve the report and recommendations.
13. Administrative items. Mr. Miller reported on the following items:
 - a. He announced 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.
 - b. Elizabeth Derrico, Associate Executive Director, is retiring at the end of 2017 and this would be her last House meeting. The members of the House thanked Ms. Derrico for her service to the Association.
14. New Business. Elena DeFio Kean, chair of the Committee on Leadership Development, announced that the committee would host a luncheon immediately following the meeting to discuss leadership opportunities and the nominating process.
15. Date and place of next meeting. Mr. Miller announced that the next meeting of the House of Delegates would take place on Friday, January 26, 2018 at the New York Hilton Midtown, New York City.
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

716-856-3500

sgerstman@magavern.com

**REPORT OF THE PRESIDENT
TO THE HOUSE OF DELEGATES
November 4, 2017**

CONSTITUTIONAL CONVENTION

After the House voted in June to support the November 7, 2017 referendum on a constitutional convention, we did a formal kickoff of our “Vote Yes” campaign with a September 19 press conference in Albany. Our focus has been on the goals of fixing New York’s court structure; lifting barriers to voter participation; adjusting the balance between state and local government decision-making; ensuring the rights of New Yorkers; and streamlining the Constitution to meet today’s needs. In addition to the press conference, we have authored articles and dedicated the September Bar News and the October issue of the State Bar Journal to support “Vote Yes.” Our website with resources and videos is available at www.nysba.org/nyconstitution. As we approach November 7, please do all you can to convince your friends and family to vote, turn over the ballot, and vote YES for Proposition One.

PRESIDENT’S INITIATIVES and NEW COMMITTEES

New Committees – At its June meeting, the Executive Committee approved the creation of two new committees. The Committee on Cannabis Law will serve as the Association’s focal point on the status of cannabis at both state and federal levels. Its membership is comprised of representatives from a number of Sections that are impacted by this developing area of the law. The Committee on Transportation will focus on issues such as automated transportation and app-based services.

Task Force on School to Prison Pipeline – In my June report, I announced the appointment of this committee to focus on ways to reduce the inmate population in state and federal prisons by reducing the number of children entering prisons. The Task Force has organized and created four subcommittees: 1) Populations Subject to Disparate Treatment; 2) Restorative Justice and other Current Productive Practices; 3) Dignity for All Students Act; 4) Data Analysis and Collection.

LEGISLATIVE INITIATIVES

Federal Legislative Priorities

I wrote to each member of New York's Congressional Delegation to express the Association's opposition to H.R.3808, the Infrastructure Expansion Act of 2017. This bill, introduced in September, would effectively overrule in all projects involving public money New York State's Labor Law, section 240, which imposes absolute liability on property owners and contractors for falls and elevation-related injuries suffered by workers. Our Association has long held that laws covering the area of civil justice characterized as "tort law" are truly within the province of the states. We have consistently urged that Congress refrain from involving itself in this area. This bill is a clear attempt to enact at the federal level what the sponsor could not achieve when he was in the New York legislature. It will take a level of vigilance because the bill is drafted in a way that only New York will be effected.

State Legislative Priorities

NYSBA'S Legislation to Reform the Power of Attorney (POA)

The Association has developed an affirmative legislative proposal in order to: (1) Simplify the current power of attorney form; (2) Prevent third parties from improperly refusing to accept a consumer's valid power of attorney; (3) Provide protection for third parties who follow the process for accepting a power of attorney; and, (4) 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. The legislation, A.8120-B, passed the Assembly on June 21. The Senate "same-as" bill, S6501-A, was reported out of the Senate Judiciary Committee, but was not taken up by the full Senate.

Since the June end of the Regular Legislative Session we have continued our advocacy and work with other stakeholders to ensure passage of a bill that would vastly improve the current law regarding powers of attorney. For more information on our efforts regarding power of attorney, go to <http://www.nysba.org/AssemblyPowerofAttorneyBill>.

OTHER ACTIVITIES

During July, I attended the excellent meetings of our Family Law, Tax and Real Property Sections. These meetings not only provided first rate CLE, but also wonderful networking opportunities with other members and the expert speakers. I enjoyed getting to know so many of the attendees. In August, New York City was the host of the Annual Meeting of the American Bar Association. This meeting was the most successful one in decades due to the extraordinary work of Steve Younger and Mike Byowitz who put together CLE in the City, a firm-hosted cornucopia of cutting edge subjects. As the host State Bar, I was privileged to do welcomes for the National Conference of Bar Presidents (where I gave them an insider's tour of New York), and for the General Assembly (where I bragged about New York's legal history and luminaries). We saw John Feerick receive the Gold Medal (the ABA's highest honor), and heard Governor Cuomo's counsel, Alphonso David, address the House of Delegates. In September, I met with 1Ls at four of our law schools and joined the International Section at its fall meeting in Antigua,

Guatemala, where I participated on a panel on what bar associations could do to cut down on unethical behavior. In October, I was privileged to participate in the opening of the Legal Year of England and Wales, where I participated on a panel regarding technology in expansion of access to justice. There were also plenty of Road Shows, meetings and dinners with county bar associations and a full day budget meeting.

The next meeting of the House of Delegates will take place on Friday, January 26, 2018 at the New York Hilton Midtown in New York City in connection with the Association's Annual Meeting. This year's Presidential Summit is *Race, Slavery and Mass Incarceration*, and will focus on the issues of mass incarceration, implicit bias, wrongful conviction, fines and fees, and systemic litigation to counteract all of the factors which have resulted in the incarceration of so many men and women of color. The complete schedule of programs and registration information may be found online at <http://www.nysba.org/nysba18/>. I look forward to seeing you there.

A handwritten signature in black ink, appearing to be "John J. ...". The signature is fluid and cursive, with a large initial "J" and a long horizontal stroke at the end.

