

**NEW YORK STATE BAR ASSOCIATION
MINUTES OF EXECUTIVE COMMITTEE MEETING
BAR CENTER, ALBANY, NEW YORK
NOVEMBER 4, 2016**

Present: Karina E. Alomar, Alyssa M. Barreiro, Earamichia Brown, Orin J. Cohen, Cheryl Smith Fisher, Michael L. Fox, Michael W. Galligan, Sharon Stern Gerstman, Evan M. Goldberg, Ira S. Goldenberg, Taa R. Grays, Henry M. Greenberg, Claire P. Gutekunst, Scott M. Karson, Elena DeFio Kean, Stuart J. LaRose, Peter H. Levy, Ellen G. Makofsky, Michael Miller, Steven E. Millon, David P. Miranda, Domenick Napoletano, Bruce J. Prager, Sandra Rivera, David H. Tennant, Sherry Levin Wallach.

Guests: T. Andrew Brown, Hermes Fernandez, Thomas J. Maroney, John M. Nonna (by telephone), Mirna M. Santiago, David M. Schraver.

Ms. Gutekunst presided over the meeting as President of the Association.

1. Approval of minutes of meetings. The minutes of the June 16-17, 2016 meeting and the September 9, 2016 telephone conference were approved as distributed.
2. Consent calendar:
 - a) Amendments to operating rules of the Section Delegates Caucus
 - b) Change of name of Committee on Legislative Policy
 - c) Approval of bank account signatories

The consent calendar, consisting of the three above items, was approved by voice vote.

3. Report of Treasurer. In his capacity as Treasurer, Mr. Karson reported that through September 30, 2016, the Association's total revenue was \$20.7 million, an increase of approximately \$250,000 over the previous year, and total expenses were \$17 million, a decrease of approximately \$330,000 over 2015. Mr. Karson also provided a report on the status of the long-term reserve investments. The report was received with thanks.
4. Report of staff leadership. David R. Watson, Executive Director, together with Associate Executive Director Elizabeth Derrico, reviewed staff reorganization over the past two years and provided an analysis of the Association's strengths, weaknesses, opportunities and threats. Jason Nagle was introduced as the new Managing Director of IT Services. The report was received with thanks.
5. Report re staff changes. Ms. Gutekunst reported that David L. Adkins, Chief Technology Officer; Kathleen Heider, Director of Meetings; and Patricia Spataro, Director of the Lawyer Assistance Program had left the Association staff. With the impending departure of Executive Director David R. Watson, the Association has engaged the services of Young Maiden Consultants to assist in hiring a new Executive Director and that she had

appointed a search committee to review candidates for the position. The report was received with thanks.

6. Report of President. Ms. Gutekunst highlighted the items contained in her written report, a copy of which is appended to these minutes.
7. Reports of Vice Presidents and Executive Committee liaisons. Messrs. Fox, Levy, Miller, Napoletano and Ms. Rivera and Ms. Barreiro provided informational reports on section and committee activities as well as county and local bar association events. The reports were received with thanks.
8. Report and recommendations of Committee on the New York State Constitution. In his capacity as chair of the committee, Mr. Greenberg presented the committee's report on issues a constitutional convention might address with respect to Article XIV of the State Constitution, the conservation article. After discussion, a motion was adopted to endorse the report and recommendations for favorable action by the House.
9. Discussion re county bar representation in House of Delegates. Ms. Gerstman led a discussion regarding the districts in which county bar associations are grouped together and share a delegate in the House. She asked the Vice Presidents from these districts to discuss this with local bar leaders and develop a plan for rotating the position among the counties.
10. Board development session. Associate Executive Director Elizabeth Derrico led a board development session with respect to members' leadership roles.
11. Reports and recommendations of Committee on Continuing Legal Education.
 - a. Committee Update. In her capacity as chair of the Committee on Continuing Legal Education, Ms. Makofsky, together with Senior Director H. Douglas Guevara, provided an update on the Association's continuing legal education program, including revenue and expenses and new policies and initiatives. The report was received with thanks.
 - b. Diversity CLE credit. Ms. Makofsky, together with committee member Mirna M. Santiago, outlined the committee's report recommending that the rules governing mandatory continuing legal education be amended to provide for one credit hour of diversity CLE credit as part of the 32 credit hours required for new attorneys and as part of the 24 credit hours required of experienced attorneys. After discussion, a motion was adopted to endorse the following resolution to govern consideration and debate at the January 27, 2017 House meeting for favorable action by the House:

RESOLVED, that the House of Delegates hereby adopts the following procedures to govern consideration at the January 27, 2017 meeting of the House, and any subsequent meetings as may be necessary, of the report and recommendations of the Committee on Continuing Legal Education:

1. The report and recommendations of the Committee was circulated to members of the House, sections and committees, county and local bar associations, via the Reports Community on October 20, 2016.
 2. **Comments on report and recommendations:** Any comments on or amendments to the Committee’s report or particular recommendations contained therein must be submitted in writing to the Secretary of the Association at the Bar Center by January 6, 2017; otherwise they shall not be considered. All comments complying with this procedure shall be distributed to the members of the House in advance of the January 27, 2017 meeting.
 3. **Consideration of the report and recommendations at the January 27, 2017 meeting and any subsequent meetings:** The report and recommendations will be scheduled for formal debate and vote at the January 27, 2017 meeting and considered in the following manner:
 - a. The Committee shall be given an opportunity to present its report and recommendations.
 - b. All those wishing to speak with regard to the report and recommendations may do so only once for no more than three minutes.
 - c. The Committee may respond to questions and comments as appropriate.
 - d. Procedural motions shall be considered out of order until debate on substantive issues is concluded.
 - e. A vote on the report and recommendations shall be taken at the conclusion of the debate.¹
12. Report and recommendations of President’s Committee on Access to Justice. In his capacity as a member of the committee, Mr. Miller, together with committee chair William T. Russell, Jr., reviewed the committee’s report recommending Association support for the concept and utilization of limited scope representation for low and moderate income persons. After discussion, a motion was adopted to endorse the following resolution for favorable action by the House:

WHEREAS, the New York State Bar Association has long supported and encouraged access to justice for all, including for low and moderate income persons who are not able to pay for conventional legal services; and

WHEREAS, as the late New York State Chief Judge Judith S. Kaye noted in 1999: “Access to the legal system is an inherent right of citizenship, yet far too many New Yorkers are currently denied this right because they lack economic resources;” and

¹ The resolution was amended by the House to change the January 6, 2017 date to January 13, 2017.

WHEREAS, over the past several years, the organized bar, academic institutions and courts have been experimenting with models of legal practice that permit attorneys to provide limited scope representation to clients who want or need to limit their expenses, and may be able to effectively handle the other aspects of their cases on their own; and

WHEREAS, although criminal defendants who cannot afford an attorney have a constitutional right to counsel, there is no such right in most civil matters; and

WHEREAS, it is estimated that 1.8 million New Yorkers, including mostly low income persons, appear unrepresented by counsel in family court, housing court, consumer debt matters, foreclosures and other civil matters in New York State Courts;

WHEREAS, a growing number of New Yorkers are falling into the category of the “working poor” or “modest means” and are living from pay check to pay check and cannot afford traditional legal assistance, and

WHEREAS, this lack of counsel can often mean an outcome that is less favorable for the litigants than it might be were there affordable counsel available and can result in greater strains on both our judicial system and social welfare programs; and

WHEREAS, in recent years, the New York State Court system has been confronted with significant budgetary challenges and an influx of self-represented individuals into the judicial system; and

WHEREAS, the President’s Committee on Access to Justice of the New York State Bar Association has submitted a report calling upon the Association to support the concept and encourage the utilization of limited scope representation for low and moderate income persons in civil matters,

NOW THEREFORE, IT IS

RESOLVED, that the New York State Bar Association adopts the report of the President’s Committee on Access to Justice and supports the concept and encourages the utilization of limited scope representation for low and moderate income persons in civil matters; and it is further

RESOLVED, that the officers of the association are authorized to take such actions as may be necessary to further explore, and where appropriate, implement and expand programs of limited scope representation for low and moderate income persons in civil matters.

13. Report and recommendations of Finance Committee re 2016 proposed income and expense budget. T. Andrew Brown, chair of the Finance Committee, reviewed the

proposed budget for 2017, which projects income of \$24,348,950, expenses of \$24,313,075, and a projected surplus of \$35,875. A motion was adopted to endorse the proposed budget for favorable action by the House.

14. Report of Committee on Membership. Thomas J. Maroney, chair of the Membership Committee, reported on recent membership developments, including committee activity and the President's Membership Challenge. The report was received with thanks.
15. Report re legislative activities. John M. Nonna, chair of the Committee on Federal Legislative Priorities, updated the Executive Committee with respect to Federal legislative activities. The report was received with thanks.
16. Report and recommendations of Steering Committee on Legislative Priorities.

- a. Committee on Legislative Policy. Hermes Fernandez, chair of the Committee on Legislative Policy, reported on the committee's recommendations of the following items for inclusion on the list of the Association's state legislative priorities: integrity of New York's justice system; wrongful conviction reform; increase the age of criminal responsibility; support for the legal profession; reform statutory power of attorney; and sealing records of conviction of certain crimes.

After discussion, a motion was adopted to approve these items as the Association's 2017 state legislative priorities.

- b. Committee on Federal Legislative Priorities. John M. Nonna, chair of the Committee on Federal Legislative Priorities, presented the committee's recommendations of the following items for inclusion on the list of the Association's 2017 federal legislative priorities: integrity of the justice system; support criminal justice reform; the Paycheck Fairness Act; support for increased voter participation; support paid family leave; support for legislation to address immigration representation; support for states' authority to regulate the tort system; oppose the Lawsuit Abuse Reduction Act; and support for the legal profession.

After discussion, a motion was adopted to approve these items as the Association's 2017 federal legislative priorities.

17. Report of Nominating Committee. David M. Schraver, chair of the Nominating Committee, reported that the Committee had nominated the following individuals for election to the indicated offices for the 2017-2018 Association year: President Elect: Michael Miller, New York City; Secretary: Sherry Levin Wallach, Mt. Kisco; Treasurer: Scott M. Karson, Melville; Vice Presidents: 1st District – Taa R. Grays, New York; 2nd District – Domenick Napoletano, Brooklyn; 3rd District – Henry M. Greenberg, Albany; 4th District – Matthew R. Coseo, Ballston Spa; 5th District – Stuart J. LaRose, Syracuse; 6th District – Alyssa M. Barreiro, Ithaca; 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, 2017: Richard M. Gutierrez (Diversity Seat); Margaret J. Finerty, New York City; 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 Sarah E. Gold, Albany The following individuals were nominated as delegates to the American Bar Association House of Delegates for the 2017-2019 term: Claire P. Gutekunst, Yonkers; Seymour W. James, Jr., New York City; Glenn Lau-Kee, New York City; Stephen P. Younger, New York City; Michael Miller, New York City.

18. New business. Ms. Gutekunst reported that the report and resolution approved for co-sponsorship during the Executive Committee’s May 9, 2016 conference call with respect to sexual and gender-based violence in the Democratic Republic of Congo had been revised and would be considered by the American Bar Association’s House of delegates at its February 2017 meeting. After discussion, a motion was adopted to approve co-sponsorship of the revised report and resolution.
19. Date and place of next meeting.
Thursday, January 26, 2017
Hilton Midtown New York, New York City
20. Adjournment. There being no further business, the meeting of the Executive Committee was adjourned.

Respectfully submitted,



Ellen G. Makofsky
Secretary