

**NEW YORK STATE BAR ASSOCIATION  
MINUTES OF HOUSE OF DELEGATES MEETING  
JUNE 16, 2018  
THE OTESAGA, COOPERSTOWN, NEW YORK**

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PRESENT: Alsina; Battistoni; Baum Bauman; Behrins; Belowich; Berman; Billings; Bowler; Braunstein; Brown, E.; Brown, T.; Buholtz; Burke; Carola; castellano; Chambers; Christensen; Coffey; Cohen, D.; Cohen, O.; Connery; Dean; Di Pietro; Doerr; Dozey; Effman; Eng; Entin Maroney; Fallek; Fay; Fernandez; Finerty; Fishberg; Foley; Freedman, H.; Friedman; Frumkin; Galvan; Genoa; Gerstman; Getnick; Gingold; Gold; Goldberg; Grady; Grays; Greenberg; Grimmick; Gutekunst; Gutenberger Grossman; Gutierrez; Haig; Heath; Hersh; Hurteau; Hyer; Jaglom; Kamins; Karson; Kean; Kearns; Kelly; Kendall; Kirby; Kobak; Lawrence; Levin Wallach; Levy; Lewis; Lindenauer; Lugo; MacLean; Madden; Maldonado; Mancuso; Mandell; Mariano; Marinaccio; Markowitz; Maroney; Martin; Matos; May; McCann; McDonald; McGinn; McGowan; McNamara, T.; Meyer; Miller, C.; Miller, M.; Miller, R.; Millett; Millon; Minkoff; Moretti; Moskowitz; Murphy; Napoletano; Nowotarski; O'Donnell; Onderdonk; Ostertag; Palermo, C.; Perlman; Pitegoff; Pleat; Radick; Richman; Richter; Rodriguez; Rosenthal; Rosner; Ryder; Salch; Samant; Santiago; Scheinkman; Schofield; Schraver; Schriever; Scott; Shafer; Shamon; Champnoi; Sharkey; Sigmond; Skidelsky; Slavik; Stanclift; Standard; Strong; Strenger; Sweet; Tarver; Taylor; Tennant; Triebwasser; van der Meulen; Vigdor; Weathers; Weiss; Westlake; Weston; Wimpfheimer; Witmer; Wolff; Young; Younger.

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

1. Call to order, introduction of new members. The meeting was called to order and the Pledge of Allegiance was recited, and Mr. Greenberg welcomed the new members of the House.
2. Minutes of April 14, 2018 meeting. The minutes were accepted as previously distributed.
3. Report of the Treasurer. Scott M. Karson, Treasurer, updated the House with respect to the results of operations for the first four months of 2018. Through April 30, 2018, the Association's total revenue was \$16 million, an increase of approximately \$528,000 over the previous year, and total expenses were \$8.2 million, a decrease of approximately \$476,000 over 2017. The report was received with thanks.
4. Presentation of Root-Stimson Award. President Miller presented the Root-Stimson Award, which honors members of the profession for outstanding community service, to James O'Neal of Long Island City. The founder of Legal Outreach, he was honored for his work in assisting underprivileged youth to attend and graduate from college.
5. Installation of President. Mr. Miller was formally installed as President. The oath of office was administered by Hon. Sherry Klein Heitler, Chief of Policy and Planning of the Office of Court Administration, who also read a congratulatory message from

NYSBA Past President Maryann Saccomando Freedman. Mr. Miller then addressed the House with respect to his planned initiatives for his term as President.

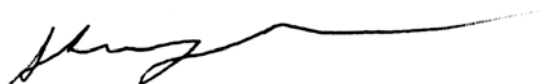
6. Report of President. Mr. Miller highlighted the information contained in his printed report, a copy of which is appended to these minutes.
7. Report and recommendations of Criminal Justice Section and Committee on Mandated Representation. Norman P. Effman, past chair of the Committee on Mandated Representation, outlined a report recommending an increase in the rates paid to private attorneys under County Law article 18-B. After discussion, a motion was adopted to approve the following resolution:
  1. Legislation should be enacted to increase assigned counsel rates. This increase should apply to all assignments as defined under “ Definition” in the NYSBA 2015 Revised Standards for providing Mandated Representation, which reads:

Mandated Representation - Legal representation of any person financially unable to obtain counsel without substantial hardship who is (1) accused of an offense punishable by incarceration; (2) entitled to or is afforded representation under §249, §262 or §1120 of the Family Court Act; Judiciary Law §35 including child custody and habeas corpus cases; Article 6-C of the Correction Law; §407 of the Surrogate’s Court Procedure Act; §259-i of the Executive Law; or §717 of the County Law; or (3) otherwise entitled to counsel pursuant to constitutional, statutory or other authority.
  2. The rates of compensation should be comparable to the percentage increase of judicial and elected district attorney salaries.
  3. The legislation should provide for an annual review and adjustment as needed of assigned counsel rates based on a formula using comparable compensation rates similar to the formula utilized by the Federal Criminal Justice Act.
  4. The increase in rates should not result in an unfunded mandate to the counties and should be a state expense.
8. Address by Hon. Alan D. Scheinkman – Presiding Justice, Second Department. Mr. Greenberg reported that he planned to ask each of the Presiding Justices to address the House in the coming year with respect to initiatives and activities in their respective Departments. Presiding Justice Schenkman, a member of the House, reviewed initiatives being undertaken in the Second Department and efforts to promote a close relationship between bench and bar. The Chair received the report with thanks.
9. Report and recommendations of New York City Bar Association. Roger Juan Maldonado, President of the New York City Bar Association, presented a report recommending that Puerto Rico receive a permanent exemption from the Jones, Act, 46

U.S.C. §§5501 et seq. After discussion, a motion was adopted to approve the report and recommendations.

10. Report and recommendations of Committee on Women in the Law. Susan L. Harper, chair of the Committee on Women in the Law, outlined a proposal to convert the committee to a Women in Law Section. After discussion, a motion was adopted to create the proposed section.
11. Report of Committee on Continuing Legal Education. James R. Barnes, chair of the Committee on Continuing Legal Education, presented an informational report on the status of the Association's CLE programming. The chair received the report with thanks.
12. Report of The New York Bar Foundation. Lesley Friedman Rosenthal, President of The Foundation, presented an informational report on recent developments with respect to The Foundation, including new and departing Board members; an update on the Catalyst Public Service Program; and fundraising. The report was received with thanks.
13. Report re Nominating Committee. In a pre-recorded video, Nominating Committee Chair David P. Miranda reviewed the Nominating Committee process and encouraged interested members to submit nominations. The chair received the report with thanks.
14. Administrative items. Mr. Greenberg reported on the following:
  - a. Bar Leaders Retreat. The Committee for Bar Leaders of New York State will host a retreat on September 28-29 at the Bar Center in Albany.
  - b. Following the meeting, the Committee on Leadership Development will host a luncheon for first-time House members to review the House meeting.
15. New Business.
16. Date and place of next meeting. Mr. Greenberg announced that the next meeting of the House of Delegates would take place on Saturday, November 3, 2018 at the Bar Center in Albany.
17. Adjournment. There being no further business to come before the House of Delegates, the meeting was adjourned.

Respectfully Submitted,



Sherry Levin Wallach  
Secretary





**Michael Miller**

**President**

Law Office of Michael Miller  
666 Fifth Avenue, Suite 1717  
New York, New York 10103  
mmiller@nysba.org  
212.545.7000

**President's Report  
to the House of Delegates  
June 16, 2018**

We members of this great profession of ours, particularly the members of the organized bar, stand on the front lines protecting, defending - and yes, even expanding - our precious civil liberties and the administration of justice. Our emphasis at the State Bar in the coming year will be on a broad range of topics relevant to those liberties and the effective administration of justice which I will briefly describe. But first, I will provide a brief summary of actions and activities since the last meeting of the House of Delegates.

You may have read in the New York Times last week about the refusal to disclose the disciplinary records of the policeman who choked Eric Garner to death because of a previously obscure section of New York's Civil Rights Law, section 50-a. We have established a Working Group to explore whether that law should be amended, revised or revoked. Catherine Christian and NYSBA VP from the 8th Judicial District (Buffalo) Norman Effman will co-chair that effort. As a result of the Garner case, NYSBA's Media Law Committee and Civil Rights Committee had asked NYSBA's Executive Committee to adopt a legislative proposal to repeal Civil Rights Law §50-a. Our Executive Committee decided to create a Working Group with representation from the two committees and members from or collaboration with the Labor and Employment Law Section, the Criminal Justice Section, and the State and Local Government Law Section to examine the issues raised by the report and asked the two committees to refrain from issuing comments on the proposed legislation until the working group reports back to the Executive Committee.

NYSBA and the New York State Bar Foundation have joined forces to file an amicus brief in a case before the U.S. Supreme Court *Frank v. Gaos*, that challenges the award of cy pres funds in a class action to not-for-profits. We will

be challenging the argument that the settlements should not transfer money to charities and nonprofits that have not been injured by the conduct that sparked the lawsuit. An Executive Committee subcommittee consisting of William Russell, Erica Hines and Scott Karson will coordinate our efforts with the New York State Bar Foundation in preparing and filing an amicus brief concerning the challenge to cy pres distributions and the Nixon Peabody firm has generously agreed to represent NYSBA and the NYSBF pro bono.

In a substantial departure from past years, the annual Section Leaders Conference was held over a two-day period at the Bar Center in Albany instead of a one-day session at the Harvard Club in Manhattan. Also, in a departure from past years, I asked Jean Gerbini, the chair of the Section Leaders Conference, to co-chair the conference with me. The conference was well-attended by section officers and we provided a significantly more robust and in-depth curriculum for attendees. Additionally, attendees had meaningful opportunities to socialize and share common interests and challenges. An added fiscal benefit is that having our two-day program at the Bar Center where we served five meals and had a wonderful cocktail reception for attendees on our patio, compared to just breakfast and lunch at the Harvard Club, resulted in total savings of approximately \$22,000. While there are areas to be improved upon, I believe that by any measure, this conference was a significant success.

In previous years, New York State Bar Association section, committee and task force reports have been trusted and widely-used sources of insights and information, and have served as the basis for legislative and other proposals. The coming year will be no exception. Our emphasis in the coming year will be on a broad range of topics relevant to the effective administration of justice in the 21st century. We will focus on important criminal justice issues; explore the criteria and best practices for screening candidates for election to judicial office; discuss important law practice management matters; and address America's scourge of mass shootings, assault weapons and related legal issues. And we will take a look at how, through the law, we might assist our fellow Americans in Puerto Rico.

Personal attacks on members of the judiciary have increased exponentially and as you all know, the judiciary is constrained from responding. In order to help us respond more quickly and effectively during the 24-hour news cycle when judges are unfairly attacked, or other matters call for prompt response, we are establishing a **Rapid Response Advisory Group**, which will be led by NYSBA Past President David Miranda.

There is no more important pillar to the foundation of our justice system than the quality of our judiciary. It has long been the policy of NYSBA to advocate for the

selection of judges by appointment, rather than by election. However, as long as there are judicial elections, it is vitally important that the process of evaluation is fair and fosters the best judiciary possible. I have heard from the highest levels of the court system that there are significant concerns regarding the existing evaluation system. Therefore, we have established the **Task Force on the Evaluation of Candidates for Election to Judicial Office**, co-chaired by Robert L. Haig, and former Court of Appeals Judge Susan Phillips Read. This task force will review the various vetting structures that exist throughout New York and will propose best practices, guidelines and minimum standards for review of candidates for election to judicial office and will make recommendations to assist local bar associations and good government groups to ensure that we have the best possible judicial evaluation efforts throughout the State. The task force is already hard at work, developing surveys for current and former members of the Independent Judicial Election Qualifications Commissions as well as of elected judges; a questionnaire for bar associations, good government groups and others interested in judicial elections; public hearings and focus groups; and interviews and polls. Its first full meeting will be held on August 1.

A decade ago, former President Bernice Leber established the **Task Force on Wrongful Convictions** which, under the leadership of former Judge Barry Kamins, issued a truly ground-breaking report in 2009. Judge Kamins and former Court of Appeals Judge Robert Smith are co-chairing a newly empaneled task force to update the 2009 report with recommendations based upon new developments, technology, science, experience, and judicial decisions, and make affirmative recommendations to reduce the likelihood of wrongful convictions. The members of the task force include representatives from the legal aid society, the attorney general's office, the defenders office, law schools, the federal bench and district attorneys. Martin Tankleff, who spent 17 years in prison before his conviction for his parents' murders in Suffolk County [was overturned](#), will also serve on the task force.

To build upon the excellent work of our Special Committee on Re-Entry, we are establishing the **Task Force on Incarceration Release Planning and Programs**, which will be co-chaired by Scott Karson and Sherry Levin Wallach. This task force will conduct an investigation and recommend state and national policy changes and best practices to help better prepare those released from incarceration to re-enter the community and reduce the rate of recidivism.

Massacres at Columbine, Las Vegas, Orlando, San Bernardino, Sandy Hook, Parkland and so many others... the epidemic of mass shootings continues unabated. We have established the **Task Force on Mass Shootings and Assault Weapons**, co-chaired by former Criminal Court Judge Margaret Finerty and

NYSBA Past President David Schraver. This task force will consider the connection between mental health and mass shootings; the relationship between domestic violence and mass shootings; whether assault weapons belong in civilian hands; and will make appropriate recommendations.

In 1997, NYSBA issued guidelines for the use of paralegals -- a lot has changed since 1997. **The Task Force on the Role of Paralegals**, co-chaired by former NYSBA President Mary Ann Saccamando Freedman, Margaret Phillips and Vincent Chang, will update the 1997 report, explore relevant issues and make recommendations for best practices for the use of paralegals in the context of the modern 21st century law office.

There is a humanitarian crisis in Puerto Rico of historic proportions. We have established a **Working Group on Puerto Rico** to explore ways through enactment or modification of laws we might be able to assist our fellow Americans in Puerto Rico who are suffering so grievously. Because of the urgency of the situation, I will ask that they report to our Executive Committee as soon as possible with any affirmative recommendations. In the meantime, I have already begun to reach out to bar leaders throughout NY to join me in contacting NY's Congressional delegation to express our profound concern regarding the crisis in Puerto Rico.

All of these groups have hit the ground running, and they plan to report regularly to both the House and the Executive Committee throughout the year.

You often have heard me say, "All roads lead to membership." Our association's greatest strength rests with its diverse, engaged members. Increasing membership is a top priority for our officers and for me. In addition to the policy initiatives described above, we will also be focusing on a challenge that is shared by most voluntary bar associations – and indeed most professional associations – across the country: attracting new members and retaining existing ones. In the coming year, as we continue our work to improve membership development in all areas, we will embark on a vigorous campaign focusing on providing a more meaningful membership experience for our out-of-state members, who comprise almost one-fourth of our membership. I have asked our Membership Committee to develop new outreach programming for these members, in conjunction with functions being held by our sections outside New York State. In addition, I have asked the committee to consider other tools to meet the needs of this important constituency.

During the coming months, I plan to attend a number of section and local bar association meetings. I look forward to seeing many of you at these events.



I am deeply honored to serve as the president of the New York State Bar Association. Thank you for the opportunity to serve you and the State Bar.

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.

