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**President**

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**President's Report  
to the House of Delegates  
April 13, 2019**

As I approach the last few weeks of my term as New York State Bar Association president, I am especially reflective. We have had an ambitious agenda and have achieved a great deal this year. We are sound financially and have made significant contributions to our profession and our community. I again want 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.

**NYSBA Sections, Committees, Task Forces, and Working Groups**

We have a number of task forces and other groups that have developed reports that will be presented to you at this and future meetings. I would like to highlight the work of these groups.

The **Committee on Standards of Attorney Conduct** is our premier committee that reviews the rules that govern our profession. The committee has undertaken a comprehensive review of the New York Rules of Professional Conduct. At the January meeting, the Committee presented and the House approved amendments to a number of rules; at this meeting, the Committee will continue its presentation with a number of additional rules. Of course, none of these proposals will become effective unless and until approved by the Appellate Division. We will work closely with the courts to secure approval of these rules.

At this meeting, the **Committee on Attorney Professionalism** will present proposed amendments to the Standards of Civility that the court system has adopted as aspirational standards. Our Association played a critical role in the original development of these standards almost a quarter-century ago, and it is fitting that we should continue in the updating of these rules to account for changes in our profession.

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 at this meeting and for debate and vote. It recommends the continuation of existing effective screening mechanisms. For those counties not currently served by existing screening entities, the Task Force recommends the establishment of regional or district screening committees, with funding from the Office of Court Administration. The Task Force also has

recommended a set of best practices to be used by screening committees. The report is being presented to you for vote at this meeting.

The **Task Force on Incarceration Release Planning and Programs**, co-chaired by NYSBA secretary Sherry Levin Wallach and president-elect designee Scott M. Karson, has prepared a comprehensive report with recommendations 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 report also addresses the impact on our communities and on formerly incarcerated people that results from inadequate release planning. The report is being presented to you for a vote at this meeting.

The **Task Force on Wrongful Convictions**, co-chaired by Hon. Barry Kamins and Hon. Robert S. Smith, has submitted a report with recommendations relating to the establishment of conviction integrity units; legislation to permit a newly discovered evidence claim after conviction; improvement of the quality of forensic science introduced into evidence; improvement of implementation of laws relating to eyewitness identification and recording of interrogations; and jailhouse informants. The report is being presented to you for a vote at this meeting.

The **Task Force on School to Prison Pipeline**, co-chaired by Sheila A. Gaddis and John H. Gross, and established last year by past president Sharon Stern Gerstman, has issued a report to the House with substantive recommendations to address school discipline issues, outline restorative justice alternatives, and develop best practices. It is presenting its report for a vote at this meeting.

The **Task Force on the Role of Paralegals**, co-chaired by Vincent Ted Chang, past President Maryann Saccomando Freedman and Margaret L. Phillips, has issued a report updating paralegal guidelines adopted by the House of Delegates in 1997 and making recommendations for best practices for the use of paralegals. The task force also has recommended a category of NYSBA membership for paralegals. The report will be presented for vote at the June 2019 House 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 New York Bar Exam**, co-chaired by Eileen D. Millett and Hon. Alan D. Scheinkman, which was established last month, has scheduled its first meeting next week. It will be embarking upon an ambitious agenda investigate and report on the experience and impact of New York's adoption in May 2015 of the Uniform Bar Examination (UBE). The task force will consider matters including the impact that the UBE has had upon applicants, upon the qualifications and relevant knowledge of newly admitted New York attorneys, upon potential employers, and upon diversity in the profession. Based on its investigation, the task force will make recommendations as to the future content and form of the New York Bar examination.

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 and efforts to secure an exemption from the Jones Act for Puerto Rico.

### **Advocacy**

NYSBA's voice has been strong and vibrant and our advocacy efforts have achieved concrete results to improve the administration of justice, enhance access to justice and serve our members' interests.

In February, Chief Judge Janet DiFiore presented the annual State of the Judiciary speech at the Bronx County Courthouse. In her speech, the Chief Judge singled out NYSBA for its support of court modernization. Our Association long has supported the consolidation of New York's byzantine structure consisting of 11 levels of courts into a modern, streamlined system that will benefit users of our courts – both lawyers and litigants alike. We believe that there is now an opportunity to pursue this long-time goal through legislation calling for amendment of our state's constitution.

You may recall that 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. In February, the Executive Committee approved the recommendation of the Working Group calling for a substantial amendment of the statute.

As you know, 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. For many years, critics have argued that this requirement is seriously outdated. Our **Working Group on Judiciary Law §470**, chaired by Past President David M. Schraver, presented its report in January calling for the repeal of the statute. With House approval of the report, we are advocating for this repeal with the Legislature.

We have participated in a number of lobbying activities. In February, NYSBA leaders, held a lobby day here in Albany to advocate our state legislative priorities. A week later, we traveled to Washington D.C. to advocate for our federal legislative priorities. Earlier this week, we participated in ABA Day in Washington.

There is no doubt that the **2019-2020 New York State Budget** takes great strides toward making the State of New York freer and fairer, and NYSBA played a meaningful role in many of its most important provisions. We have lobbied hard for criminal discovery reform, and we are delighted by its inclusion in the budget. Make no mistake - this is a monumental shift toward fairness in our criminal justice system. The new rules will require automatic discovery, meaning that a motion will not be required to obtain discovery; that discovery will be conducted early in the case. NYSBA's work on this issue began in 2012, when then-President Seymour James established the Task Force on Criminal Discovery.

NYSBA policy on criminal justice has also embraced bail and pretrial detention reforms. The reforms included in the adopted state budget eliminate cash bail for misdemeanors and non-violent felonies and require police officers to issue desk appearance tickets to most people charged with misdemeanors and Class E felonies. This will ensure that the overwhelming number of people charged with a crime will no longer languish in jail prior to adjudication because of an inability to post bail.

I am very pleased to report that thanks in large part to the advocacy efforts of NYSBA members and leadership, along with bar associations and attorneys around the state, **the 2019-2020 New**

**York State budget will not include a \$50 increase in the biennial attorney registration fee** which had been proposed by the Governor.

NYSBA's Tax Section reviewed N.Y. Tax Law § 171-v in 2018. It provides that people who owe \$10,000 or more in state taxes may have their driver's license suspended as an incentive for payment, even if those debtors have no reasonable chance of paying their tax arrears without compromising their ability to cover basic living expenses. The Tax Section concluded that section 171-v is in conflict with longstanding debtor protection laws. Based on the section's affirmative legislative proposal, the 2019-2020 state budget included an amendment to the tax law that would exempt any taxpayer receiving public assistance or Supplemental Security Income and would allow exemption where the taxpayer can demonstrate that such payment would cause undue financial hardship.

### **ABA Activity**

Together with House member Ronald Minkoff and President-Elect Hank Greenberg, I have been meeting with various ABA committees and entities concerning adoption of best practices for online legal document providers, following up on the report and recommendations of the New York County Lawyers Association adopted by our House in 2017. It is our goal to bring these Best Practice Guidelines for online legal document providers to the ABA House in August 2019, which will afford consumers protections and reliability.

At the January NYSBA House meeting, Past President Mark H. Alcott offered a resolution condemning the impact of the partial government shutdown, then taking place, on the federal court system. We brought a similar resolution to the ABA House at its February 2019 meeting. Although the shutdown had ended by the time of the meeting, we thought it was important to adopt a resolution condemning any shutdown as impairing the legal system and undermining the Rule of Law. The resolution was unanimously adopted.

### **Membership & Communications**

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.

In an effort to achieve positive results in our 2019 renewal campaign, Director of Attorney Retention and Engagement Victoria Shaw began the season with a methodical and strategic approach for engagement. Starting the first week in September, which is one month earlier than in previous years, we sent an invoice eblast. We redesigned the invoice eblast for 2019 with a straightforward subject line, cleaner design and clear calls to action. We maintained this eblast schedule sending monthly invoice eblasts the first Thursday of each month starting in September and ending in February. We sent a final invoice eblast to anyone who did not renew by March 28, letting them know they would be dropped on April 1. As of this writing, our retention rate has exceeded the 2018 rate.

NYSBA’s flagship publications, the NYSBA Journal and the State Bar News, have both changed significantly over the past year. The Journal, which comes out nine times each year, has a new mix of content with more feature articles on issues of interest to attorneys, in addition to the law practice management pieces and other columns that have been mainstays of the publication. Each Journal issue also includes three “State Bar News” pages of NYSBA-specific content.

The State Bar News has been entirely redesigned to be more colorful and reader-friendly and is now issued three times each year. Content from the State Bar News and the Journal is now also

disseminated through our NYSBA Weekly Wednesday e-mail blast – a new publication that was introduced last year – and posted on the NYSBA blog on our website.

The NYSBA Weekly gives us the opportunity to get timely news and other articles of interest to our members more quickly. For the first time ever at a NYSBA Annual Meeting, the communications team was able this past January to cover some events and publish articles about them in the same week.

Over the past year, we have seen significant continued growth across our social media platforms. Twitter remains our most viable social medium with 13,600+ followers. Successful posts include tasteful Legal Humor posts and breaking news on the legal profession, as well as law practice management tips.

Our Facebook presence has seen its biggest growth in five years with a 23 percent increase in growth to more than 6,900 likes. This is due to carefully curated posts that highlight the best of our profession, better use of Facebook events, and strategic advertising campaigns on NYSBA Podcasts and Free Legal Answers. This past November, NYSBA earned its biggest numbers on Love Your Lawyer Day. NYSBA's post reached 288,330 people including 341 reactions, 117 comments and 1,700 shares.

Our Instagram grew 47.8 percent to 1,705 followers, and we are currently the second-most followed bar Instagram in the bar world. This is currently our most successful platform for member engagement and reaching younger members. It gives us a lot of opportunities to be creative and tell our stories to law students and newly-admitted attorneys.

NYSBA also has seen a 15 percent growth in our LinkedIn followers, to 8,100+. We get more clicks than likes and it remains an effective marketing tool for events and news.

All of these media work differently, but together they help us form a unified and cohesive digital communications strategy. We have the analytics on our side to help us continually refine our strategies and deliver the content our members want and need to succeed.

The NYSBA website remains our primary communications hub with our members. Our total growth from June 1 is 15 percent and our individual visitors are up 20 percent. Our most visited pages include our Ethics Opinions, CLE homepage, Downloadable Forms and Fastcase. We also have added weekly blog content highlighting our Journal and State Bar News articles. In addition, our new NYSBA Podcasts series launched last June 1 and is available for streaming on the website, Apple Podcasts, Google Play and Spotify.

This fall, NYSBA will unveil a new website through our new web vendor, Clique Studios. NYSBA kicked off the project on March 26, 2019. New features will include more personalized content, improved delivery of section publications and searchable directories.

With support from our International Section, we continue outreach to the global marketplace. 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. We have learned that the NYSBA brand is remarkably strong in the international sector – lawyers in other countries view NYSBA as the premier United States bar association.

In our continuing effort to provide a more meaningful membership experience for NYSBA's non-resident members, NYSBA hosted receptions for non-resident members in Chicago and Washington, D.C.

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

In the written Treasurer's Report that you have received, you will find the results of the 2018 NYSBA audit. Our financial position remains strong, and we ended 2018 with a significant budget surplus.

We continue to focus on increasing non-dues revenue and developing new types of non-dues revenue. In 2018, we worked with MCI, our sales consultants, and focused on growing our non-dues revenue streams. We added 10 revenue streams in 2018 growing our portfolio of opportunities to 15 revenue streams including everything from event sponsorships, digital sponsored content on our NYSBA blog and direct email blast and mail opportunities for our member benefit partners. We increased our revenue for sponsorships, print and digital media sales by 50 percent in 2018 ending the year with \$313,400 in total net non-dues revenue through MCI's sponsorships, print and digital media sales.

We finalized an agreement with Kaplan Test Prep which will provide NYSBA student members with a significant discount and a royalty payment to NYSBA. We are finalizing member benefit agreements with JDL, which provides vulnerability assessments and penetration testing on firms' external-internal network and systems, and with Cybersecurity Risk Solutions, which provides cybersecurity and data breach protection solutions to commercial enterprise and small-to-midsize businesses.

We are now in the process of replacing our outdated, cumbersome IT database system with a modern association management system. At present we are in the discovery phase of this project with Jessica Patterson of our staff being tapped as project manager. In addition, by the end of 2019 we will have a new website, designed to make the member experience significantly more user-friendly.

Chaired by Mark A. Berman, the Committee on Technology and the Legal Profession has approached law students in a way like never before. Through the Committee, NYSBA is teaching a full multi-credit course at CUNY School of Law. Each week, different members of NYSBA teach students in areas such as artificial intelligence, blockchain, cryptocurrency, biometrics, cybersecurity, ediscovery, algorithms, and social media ethics. Other members of the law school community are also welcome to attend. In the fall, the Committee will be similarly teaching a two-credit course at Syracuse Law School. The Committee also has taught at Hofstra Law School and plans are in the works for Buffalo Law School. In this way, NYSBA shows relevance to the next generation of lawyers and helps drive students to the Association.

### **Continuing Legal Education**

NYSBA continues to provide high quality continuing legal education programs for attorneys. In 2018, the CLE Department, in conjunction with sections and committees, presented a total of 178 program topics in 293 locations statewide. With CLE and Sections combined, including the 38 programs at Annual Meeting, over 250 programs were presented in 329 locations. All programs carrying CLE credit were added to master listing and calendar of events on the CLE website in 2018. Free programs, in addition to Section Destination Meetings were added to the Spring and Fall calendars and the CLE homepage to increase awareness of events.

Over 4,000 programs, including individual course segments, are available online on demand. In 2018, online, on demand program archive gross revenue surpassed one million dollars for the first time. Combined gross revenue sales of DVDs and CDs totaled \$330,000.

NYSBA sponsored 30 free diversity, inclusion and elimination of bias CLE programs in 2018 for members. The Association will continue to offer free diversity programs to members in 2019 to enable attorneys to meet the new requirement.

Core curriculums by area of practice and section have been added to the NYSBA CLE website. Landing pages were created to highlight specific programs of interest to design and lay a foundation for core competencies. In 2019, the goal is to work closely with each section to be sure past program archives are posted and available online by practice area and that they are tagged to section pages.

In 2018, the CLE Department launched an all access pass enabling members to access all online CLE programs for a year for a set flat fee. A special introductory rate for solo and small firm practitioners was offered for \$595 in November 2018. 45 attorneys purchased the all access pass generating \$26,975 in revenue. The regular member rate is \$795. Non-members are charged \$1,995. In 2019, efforts will be made to offer firm or group discounts for larger organizations or firms to meet their CLE needs.

The bundling discount will be discontinued in 2019. The offer was based on total credits purchased rather than total courses or products and was automated at checkout. Marketing efforts will focus on the launch of the new all access pass rather than the bundling discount.

NYSBA is transitioning the existing CLE portal for online program viewing to a new learning management system called CE21, and testing and integration are largely complete. In addition to hosting all of our online videos, MCLE certificating for other states including New Jersey, Pennsylvania, California and Connecticut and the uniform certificate will be processed through the new platform for a set annual fee.

In 2019, we are using Convene, a new facility in New York City as a venue for CLE programs. The Association contracted in December 2018 with Convene, which offers high tech meeting space including built in A/V and outlets for all laptops and all-day beverage and snack service, all for a flat fee. CLE programs in New York City are scheduled on Mondays and Fridays at Convene located at 810 Seventh Ave between 52nd and 53rd Streets. Programs are currently scheduled from January through June, and programs are in the process of being scheduled for September through December 2019.

The New York State Bar Association will host its first ever Tech Summit September 19-20, 2019 in NYC. This special program will offer a unique experience for attorneys to learn more about technology and legal practice. The day and a half program will be held at the Crowne Plaza Times Square and will offer special keynotes and three tracks for learning more about technology and practical applications and software.

### **Representing NYSBA**

Among the events I attended since our January meeting were:

- The ABA Mid-Year Meeting and House of Delegates in Las Vegas January 25 - January 2;
- The Albany County Bar Association's annual Court of Appeals Dinner on February 13;
- The State of the Judiciary address at the Bronx County Courthouse on February 26;
- Meet the Presiding Justices event at Appellate Division, 2nd Dept., on March 4;
- The Westchester County Bar Association's Annual Dinner on March 7;
- The Dutchess County Bar Association Membership Luncheon on March 14;

- The inaugural Women in Law Section Trailblazer Series, honoring Attorney General Letitia James, on March 15;
- The New York Intellectual Property Law Association Federal Judiciary Dinner on March 22; and
- NYS Judicial Institute on Professionalism in the Law Spring Convocation on April 1.

### **In Closing**

This is my last meeting of the House as President of the Association. It has been a greatest privilege and honor of my professional life to serve in this role during the past year. I am deeply grateful to have had a front-row seat to witness the many, many great and inspiring things being done by our members and by lawyers throughout the country and the world.

I want to thank the officers of the Association for their strong support and friendship throughout the year. Many thanks to the members of the Executive Committee for their dedicated work. A special thank you to Pam McDevitt, our extraordinarily dedicated Executive Director, and to the members or our staff for everything they do to further the good work of the Association.

I especially want to thank again our next president, Hank Greenberg, for his steadfast support, solid counsel and abiding friendship. I know that Hank will be a superb leader of our great Association and look forward to supporting him during his term.

And finally, thank you to you, the members of our House, for your support and commitment to improving the administration of justice and to the highest standards of professionalism, civility and collegiality. You set the standards by which all others in our profession are measured.

The next meeting of the House of Delegates will occur on Saturday, June 15, 2019 at The Otesaga in Cooperstown. 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 style with a large, sweeping initial "M" and a long, horizontal flourish at the end.