

**NEW YORK STATE BAR ASSOCIATION
MINUTES OF HOUSE OF DELEGATES MEETING
VIRTUAL MEETING
April 4, 2020**

Present: Aaron; Adigwe; Alcott; Alomar; Arenson; Barclay; Battistoni; Baum; Behrins; Bennett; Berman; Billings; Braunstein; Brown, T.A.; Brown, E.; Buholtz; Burke; Buzard; Castellano; Chang; Christensen; Christina; Christopher; Cobb; Cohen, D.; Cohen, M.; Cohen, O.; Connery; Crawford; Dean; DiPietro; Difalco; Doerr; Doxey; Doyle; Eberle; Effman; Eng; Engel; England; Fallek; Fay; Fennell; Fernandez; Finerty; First; Fishberg; Foley; Fox; Freedman, H.; Friedman; Frumkin; Gayle; Genoa; Gerstman; Getnick; Gilmartin; Goldberg; Good; Grady; Greenberg; Griesemer; Griffin; Grimaldi; Gross; Gutekunst; Gutenberger; Gutierrez; Haig; Hamid; Harper; Heller; Hines; Holtzman; Horan; Hurteau; Jackson; Jaglom; James; Jochmans; Kamins; Kapnick; Karson; Kearns; Kelly, K.; Kelly, M.; Kendall; Kenney; Kiernan; Koch; Krajewski; Kretser; LaBarbera; Lamberti; Lara-Garduno; Lau-Kee; Lawrence; Leber; Leo; Lessard; Leventhal; Levy; Lewis; Lindenauer; Lisi; Lugo; MacLean; Madden; Madigan; Maldonado; Mandell; Margolin; Marinaccio; Markowitz; Martin; Martin Owens; Matos; McCann; McDermott; McNamara, C.; McNamara, M.; Meyer; Miller, C.; Miller, M. Millett; Minkoff; Miranda; Montagnino; Muller; Mulry; Napoletano; Nowotarski; O'Connell; O'Donnell; Onderdonk; Ostertag; Palermo, A.; Palermo, C.; Pappalardo; Penzer; Perlman; Pessala; Peterson; Pitegoff; Pleat; Poster-Zimmerman; Purcell; Radick; Ranni; Richardson; Richter; Robinson; Rosenthal; Rosner; Russell; Ryder; Saleh; Santiago; Sarkozi; Scheinkman; Schofield; Schrauer; Schriever; Schwenker; Scott; Seiden; Sen; Shafer; Shamoon; Shampnoi; Sharkey; Sheldon; Shishov; Shoemaker; Sigmond; Silkenat; Silverman; Simon; Sinder; Singer; Skidelsky; Slavit; Smith; Sonberg; Spolzino; Starkman; Stoeckmann; Sweet; Tarson; Taylor; Tennant; Tesser; van der Meulen; Ventura; Vigdor; Warner; Weiss; Westlake; Weston; Whiting; Wimpfheimer; Wolff; Yeung-Ha; Young; Younger.

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

1. Approval of minutes of meeting. The minutes of the January 31, 2020 meeting were approved as distributed.
2. Report of President. Mr. Greenberg highlighted the items contained in his written report, a copy of which is appended to these minutes.
3. Report of Treasurer. Domenick Napoletano, Treasurer, reported on the impact of Covid-19 on the Association's projected revenue and expenses through June 2020. In addition, he reported on the impact of the financial crisis on Association investments. The report was received with thanks.
4. Election of Nominating Committee and State Bar Delegates to ABA House of Delegates. Claire P. Gutekunst, Chair of the Nominating Committee, presented the report of the Nominating Committee.

- a. Election of members of the Nominating Committee. The following were nominated for service on the 2019-2020 Nominating Committee:

District members and alternates of the Nominating Committee: First – Vincent Ted Chang, Stephen C. Lessard, Susan B. Lindenauer, Michael J. McNamara, John Owens Jr., Seth Rosner Jay G. Safer, Kaylin Whittingham and Stephen P. Younger, with Adrienne B. Koch, First Alternate, Jai Chandrasekhar, Second Alternate; Second – Andrea E. Bonina and Armena Gayle, with Judith Grimaldi as Alternate; Third Hon. Rachel Kretser and Elena DeFio Kean, with Matthew Griesmer as Alternate; Fourth – Michelle H. Wildgrube and Tara Ann Pleat, with Peter Coffey as Alternate; Fifth – Timothy J. Fennell and Michael E. Getnick, with Hon. James P. Murphy as Alternate; Sixth – Kathryn Grant Madigan and Alyssa M. Barreiro, with Aaron Eberle as Alternate; Seventh – to be submitted; Eighth – Vincent E. Doyle III and Leah Nowotarski, with Thomas O'Donnell as Alternate; Ninth – Kelly M. Welch, James L. Hyer and Jessica D. Parker, with Dawn Kirby as Alternate; Tenth – Rosalia Baiamonte, Justin Block, Dorian Glover and Lynn Poster-Zimmerman, with Marian C. Rice, First Alternate, and Rosemarie Tully, Second Alternate; Eleventh – Violet E. Samuels and Chanwoo Lee, with Steven Wimpfheimer as Alternate; Twelfth – Adam Sheldon and Samuel M. Braverman, with Steven E. Millon as Alternate; Thirteenth – Michael J. Gaffney and Robert A. Mulhall, with Orin J. Cohen as Alternate.

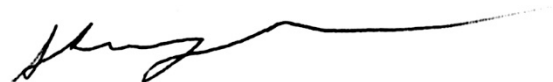
A motion to elect the foregoing was adopted.

- b. Election of Delegates to ABA House: A motion was adopted to elect the following for a two-year term commencing in August 2020: T. Andrew Brown, Sharon Stern Gerstman, Henry M. Greenberg, David P. Miranda, and Kenneth G. Standard.
- c. Election of Young Lawyer Delegate to ABA House: A motion was adopted to elect Natasha Shisov as Young Lawyer Delegate to the ABA House of Delegates.
5. Report and recommendations of Task Force on Rural Justice. Hon. Stan L. Pritzker and Taier Perlman, co-chairs of the Task Force, presented the Task Force's recommendations to ensure access to justice for rural communities. After discussion, a motion to amend with respect to the Task Force's recommendation as to Rule 100.6 of the Rules of the Chief Administrative Judge was adopted with five members abstaining. A motion to approve the report as amended was adopted with three members abstaining.
6. Report and recommendations of Task Force on the New York Bar Examination. Hon. Alan D. Scheinkman, chair of the Task Force, outlined the Task Force's recommendations with respect to the administration of the bar examination in New York. After discussion, a motion to table consideration of the report failed with four members abstaining. A motion was then adopted to approve the report with two members abstaining.
7. Report and recommendations of Committee on Standards of Attorney Conduct. Prof. Roy D. Simon, co-chair of the committee, together with committee member Joseph E. Neuhaus,

reviewed the committee's proposed amendments to Rule 7.5 of the Rules of Professional Conduct. After discussion, a motion to amend to disapprove the committee's proposed deletion in Rule 7.5 (b)(3) was approved with three abstentions. A motion was then adopted to approve the report and recommendations as amended. Two members abstained.

8. Report and recommendations of Task Force on Autonomous Vehicles and the Law. Dean Aviva Abramovsky, chair of the Task Force, reviewed the Task Force's recommendations for the regulation of autonomous vehicles; testing policies for autonomous vehicles; and liability and insurance. After discussion, a motion was adopted to approve the report and recommendations. One member abstained.
9. Report and recommendations of Task Force on Free Expression in the Digital Age. Cynthia Arato and David E. McCraw, co-chairs of the Task Force, outlined the Task Force's recommendations with respect to libel reform; FOIL reform; transparency; encouragement of nonprofits; and expanded legal services. After discussion, a motion to amend with respect to counsel fees as contained in Mr. Alcott's dissent was approved with two members abstaining. A motion to table the report was then approved with two members abstaining.
10. Administrative items. Mr. Karson reported on the following:
 - a. Motions to approve the designation of delegates filed by the county and local bar associations for the 2020-2021 Association year and to approve the filed roster of the members of the House for the 2020-2021 year were requested and approved.
 - b. He noted that this meeting represents his last as Chair of the House and thanked the House for the opportunity to serve. He thanked the departing members of the Executive Committee and the House for their service and thanked the staff for their support. He introduced Mr. Brown as the next Chair of the House.
11. Date and place of next meeting. Mr. Karson announced that the next meeting of the House of Delegates would take place on Saturday, June 13, 2020.
12. Adjournment. There being no further business to come before the House of Delegates, the meeting was adjourned.
13. Adjournment. There being no further business, the meeting of the Executive Committee was adjourned.

Respectfully submitted,



Sherry Levin Wallach
Secretary



Henry M. Greenberg
President
Greenberg Traurig, LLP
54 State Street
Albany, New York 12207
greenbergh@gtlaw.com
518-689-1492

April 4, 2020

**President's Report
to the House of Delegates
April 4, 2020**

Our Finest Hour

Our entire society is in the throes of a historic public health crisis. Our lives have been upended, and the legal profession is not immune. As the state and federal governments work to contain the novel coronavirus (COVID-19), it continues to race across the nation and globe, leaving a trail of hardship and suffering in its wake. Here in New York, the epicenter of the pandemic, the virus has forced mass cancellations, curtailed our travel and compelled businesses and schools to close indefinitely. Most of us are cloistered at home in hopes of “flattening the curve” of infections and preventing our already stressed health care system from being completely overwhelmed.

The New York State Bar Association is meeting this unprecedented challenge head-on. Leaders and staff are working around the clock to help our members and the public. Rather than shut down, we stepped up. No bar association is providing more services or engaging in more effective advocacy for the betterment of the profession.

To paraphrase Winston Churchill, this is our finest hour.

Here are just a few examples of the work being done to address the challenges presented for lawyers by COVID-19.

Information Center

Because COVID-19 forced most lawyers to hunker down at home, it forced us to shift our law practices from real to virtual. NYSBA was well positioned to support and assist our members.

This past June we launched an all-out effort to complete construction of a “Virtual Bar Center” -- a digital platform where attorneys across the street and around the world are just a click away on their computer or smart phone from accessing NYSBA’s services and benefits. To do this, we overhauled our operating systems by creating a new website, adding state of the art e-commerce technology, enhancing the quality and reach of our communications capacity and digitalizing all publications.

When we were forced to close the Bar Center at 1 Elk Street in Albany, our Virtual Bar Center was open for business and could be operated remotely. In just a week, we converted NYSBA’s website, social media outlets and other digital platforms into the most robust COVID-19 information center of its kind for lawyers. Our members are kept up to date on the latest information -- including court notices, summaries of new directives and laws, and other developments -- through a continuous stream of e-mail alerts, podcasts, real-time posts on social media and original news stories.

At the same time, we have provided a record number of online CLE programs and webinars that address the unique legal issues arising from the crisis. Many of our coronavirus-related webinars are offered for free to members.

NYSBA has updated and reissued a comprehensive book on the state's public health laws entitled "New York State Public Health Legal Manual: A Guide for Judges, Attorneys and Public Health Professionals." The book, issued in collaboration with the New York State Office of Court Administration, examines the law governing the containment of communicable diseases, including pandemics like the one we now face.

We have also sought to educate the public about the laws that govern a public health crisis. NYSBA leaders have been cited and quoted in numerous news outlets on the complex civil liberties dimensions of the crisis.

Only when we are armed with accurate and timely information can we make smart decisions that will best prepare us to represent our clients, serve our communities and do the public good. NYSBA is providing our members with the information they need to navigate the crisis.

Emergency Task Force for Solos & Small Firms

Solo practitioners and law firms of fewer than 10 attorneys comprise more than half of NYSBA's membership. COVID-19 is having a devastating impact on these practitioners, many of whom have limited financial resources to draw upon during the crisis.

To provide immediate assistance, we have established an emergency task force comprised of a distinguished group of lawyers and judges from around the state. The task force is chaired by Domenick Napoletano from Brooklyn and June Castellano from Rochester, both solo practitioners themselves. This body is focused like a laser beam on the needs of solos and small firms and will make recommendations to get them help as quickly as possible.

Statewide Pro Bono Network

NYSBA has been in communication with senior officials in all three branches of government throughout the crisis. Lawyers have always led in times of crisis and policymakers are turning to us for ideas, assistance and support.

In late March, NYSBA and the Office of Court Administration announced a partnership to support and coordinate a statewide pro bono network of lawyers to handle the expected surge in legal cases resulting from the coronavirus pandemic and the ensuing economic fallout. New York's network of pro bono and institutional legal service providers was strained prior to the pandemic and will not be able to handle the expected onslaught of virus-related cases unaided. Thousands of New Yorkers will need help with a wide range of legal issues, including those arising from unemployment, evictions, family emergencies and claims by creditors. We will support legal aid societies and other institutional providers by matching pro bono attorneys with the anticipated overflow of clients.

The partnership between NYSBA and the state court system will seek to ensure that all indigent New Yorkers are able to exercise their right to legal counsel at a time when the demand for legal services will be higher than ever. As a first step, we will convene meetings of the state's bar associations, large law firms, the heads of law school clinics, institutional providers of legal services and others for the purposes of assembling a network of pro bono lawyers who can be rapidly dispatched to help those in need. Former Chief Judge Jonathan Lippman has agreed to spearhead the effort.

In times of crisis, lawyers and law firms have always met their professional obligation to protect the rights of those who cannot afford an attorney. We saw that during 9/11. We saw that in 2017, when thousands of lawyers mobilized at the nation's airports in response to

President Trump's attempt to ban entry into the United States by people from predominantly Muslim countries. We are seeing that again now.

Enhanced Advocacy

NYSBA has ramped up its advocacy efforts on multiple fronts. We joined the chair of the state Senate Judiciary Committee, Brad Hoylman, and other lawmakers in calling for Governor Andrew Cuomo to toll all statutes of limitations for the duration of the coronavirus disaster emergency. Our motive was simple: litigants and attorneys should not have to choose between placing themselves at risk of exposure to the coronavirus or pursuing civil and criminal justice.

Within two days of our announcement supporting this measure, the Governor signed the executive order.

In a similar vein, NYSBA has battled for graduating law students, many of whom carry massive student loan debts and are facing declining job opportunities as a result of the pandemic. Adding to their stress is the uncertainty over when they would be able to take the bar examination in New York. On March 23, I charged our Task Force on the Bar Examination on an emergency basis to consider how the state should handle the examination during the coronavirus crisis. In a week, the task force produced a cogent report that made three recommendations: First, that the July bar exam be rescheduled for a later date, as soon as possible around Labor Day. Second, if circumstances make a fall bar exam impossible, then graduates should be allowed to engage in certain law practice under practice orders, with the supervision of licensed attorneys. Third, a one-time general waiver should be granted to all law schools of the Court of Appeals' limits on distance learning credits for applicants to the New York bar, so that students completing law school this year would not be penalized due to

widespread social distancing measures implemented by their law schools to stop the spread of the coronavirus.

In less than 48 hours, the Court of Appeals adopted all three of the task force's recommendations. That action is a testament to the extraordinary leadership of the task force's chair, Hon. Alan Scheinkman, presiding justice of the Appellate Division, Second Department, and diligence of his colleagues. It also speaks volumes about the esteem with which NYSBA is regarded by the court system's leaders.

Attorney Well-Being

The COVID-19 outbreak is not only a threat to lawyers' physical health and law practices. It is also taking a toll on their emotional well-being. In this time of fear and isolation, many are experiencing anxiety and depression.

To help judges, attorneys and law students cope with the crisis, NYSBA is offering confidential support groups being held weekly via videoconference. The group is facilitated by Libby Coreno, the chair of the Attorney Well-Being Committee, and Kerry O'Hara, a psychiatrist. Each group session is organized with an overarching theme for discussion. All participants are given the opportunity to share if they wish, with supportive conversation to follow.

Looking to the Future

An old adage holds that "this too shall pass." And it shall. We have been here before. Just as NYSBA has weathered dangerous storms in the past — including two World Wars and the Great Depression — so too we will overcome the current crisis.

That said, the coronavirus pandemic is an inflection point. Trends long underway in the practice of law have been accelerated. With respect to the use of technology, for example, the

profession has experienced more change in just the past few weeks, than it has in the past few decades. It does not require prophetic powers to know that, when the crisis passes, traditional face-to-face encounters with clients and others will be less necessary as remote options become the norm. I am confident that soon, technology-enhanced courtrooms will become commonplace from Niagara Falls to Montauk.

The New York State Bar Association is now an agile technological powerhouse. That is a good thing, because never in the association's storied history has our voice and leadership been more desperately needed. Our response to the COVID-19 crisis proves that we are up to the challenge.

