

**NEW YORK STATE BAR ASSOCIATION
MINUTES OF HOUSE OF DELEGATES MEETING
JUNE 13 and 27, 2020
REMOTE MEETING**

PRESENT: Abneri; Adigwe; Alcott; Alomar; Alsina; Bahn; Bascoe; Battistoni; Baum; Bauman; Behrins; Beltran; Ben-Asher; Bennett; Berman; Betz; Billings; Bladykas; Bloom; Buholtz; Buzard; Caceres; Carbajal-Evangelista; Chambers; Chandrasekhar; Chang; Christopher; Clark; Coffey; Cohen, M.; Cohen, D.; Cohen, O.; Cohn; Dean; Degnan; DiPietro; Doerr; Donovan; Doyle; Eberle; Effman; Eng; Engel; England; Fallek; Fennell; Fernandez; Filabi; Filemyr; Finerty; First; Fishberg; Fogel; Foley; Fox, G.; Fox, M.; Freedman, H.; Friedman; Frumkin; Gayle; Genoa; Gerbini; Gerstman; Getnick; Gilmartin; Gold; Goldberg; Good; Grady; Graves-Poller; Grays; Greenberg; Greisemer; Griffin; Grimaldi; Gross; Gutekunst; Gutenberger Grossman; Gutierrez; Hack; Hamid; Harper; Hartman; Heath; Heller; Hill; Hobika; Holtzman; Jaglom; James; Jimenez; Jochmans; Joseph; Kamins; Kamholtz; Kapnick; Karson; Katz; Kean; Kehoe; Kelley; Kelly; Kendall; Kenneu; Kiernan; Kobak; Kretzing; LaBarbera; Lambeerti; Lara; laRose; Lau-Kee; Lawrence; Leber; Leo; Lessard; Leventhal; Levin; Levin Wallach; Levy; Lewis; Lindenauer; Lisi; Lugo; Madigan; Marinaccio; Markowitz; Maroney; Marotta; Martin Owens; Matos; May; McElwreath; McGinn; Meyer; Middleton; Miller, M.; Miller, R.; Millett; Milone; Minkoff; Miranda; Montagnino; Moretti; Morrissey; Mukerji; Napoletano; Newman; Noble; Nussbaum; O'Connell, B.; O'Connell, D.; O'Donnell; Onderdonk; Ostertag; Owens; Palermo, A.; Palermo, C.; Pappalardo; Penzer; Perlman; Pessala; Peterson; Pitegoff; Pleat; Poster-Zimmerman; Purcell; Radick; Rangaacha; Ravin; Redeye; Reed, L.; Reed, M.; Richman; Richter; Rivera; Robinson; Rosenthal; Russell; Ryan; Ryba; Ryder; Safer; Salhen; Samuels; Santiago; Scheinkman; Schofield; Schonhaut; Schraver; Schriever; Schwartz-Wallace; Scott; Seiden; Sen; Shefer; Champnoi; Shapiro; Sheldon; Shisov; Shoemaker; Sigmond; Silkenat; Simon; Slavitt; Smith; Sonberg; Spicer; Starkman; Stoeckman; Swanson; Sweet; Tambasco; Tarson; Taylor; Tesser; Triebwasser; van der Meulen; Vaughn; Ventura; Vigdor; Warner; Waterman; Weiss; Welch; Welden; Westlake; Wicks; Wimpfheimer; Wolff; Woodley; Yeung-Ha; Young; Younger.

Mr. Brown 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. Brown welcomed the new members of the House.
2. Minutes of January 31 and April 4, 2020 meetings. The minutes were accepted as previously distributed.
3. Recognition of lawyers lost to COVID-19. Mr. Brown observed that a number of New York lawyers had passed away due to complications from the COVID-19 virus. A video tribute to these lawyers was shown to the House members.
4. Memorial for Past President Henry G. Miller. Mr. Miller, who served as Association President 1984-1985, passed away due to COVID-19 complications on April 16, 2020. Hon. Albert M. Rosenblatt, retired Associate Judge of the Court of Appeals, offered a memorial in Mr. Miller's honor. A moment of silence was observed.
5. Installation of officers. The following were installed as officers for 2020-2021: T. Andrew Brown as President-Elect, Sherry Levin Wallach as secretary, and Domenick Napoletano as Treasurer. The oath was administered by Hon. Jenny Rivera, associate Judge of the Court of Appeals.

6. Installation of President. Mr. Karson was formally installed as President. The oath of office was administered by Hon Jenny Rivera, Associate Judge of the Court of Appeals. Mr. Karson then addressed the House with respect to his planned initiatives for his term as President. His President's Report is appended to these minutes.
7. Report and recommendations of Health Law Section. Karen Gallinari, chair of the section, together with Hermes Fernandez, the section's immediate past chair, and Mary Beth Morrissey, chair of the section's COVID-19 task force, reviewed the section's report containing recommendations with respect to the COVID-19 pandemic and the four resolutions being offered by the section for the House's consideration. After discussion, a motion was adopted by a vote of 100-87 with three abstentions to postpone consideration of the report and the resolutions to the November House meeting.
8. Report and recommendations of Committee on Technology and the Legal Profession. Mark A. Berman, immediate past chair of the committee, reviewed the committee's report recommending that the CLE Board require lawyers to complete one MCLE credit in cybersecurity for their next two registration cycles. After discussion, a motion to amend to require CLE providers to offer programming relating to technology and cybersecurity but not mandating that lawyers take such programming failed. A motion was then adopted to approve the report and recommendations.
9. Report and recommendations of Committee on Standards of Attorney Conduct. Joseph E. Neuhaus, past chair of the committee, outlined proposed amendments to the comments to Rules 1.6, 4.2, 7.1 and 7.5 of the Rules of Professional Conduct. After discussion, a motion to amend to add a reference to Rule 1.11 to Comment 17(A) of Rule 1.6 was approved, after which a motion was adopted to approve the report and recommendations as amended.
10. Report and recommendations of Commercial and Federal Litigation Section. Hon. Shira A. Scheindlin, past chair of the section, reviewed the section's follow-up report to its 2017 report entitled "If Not Now, When? Achieving Equality for Women Attorneys in the Courtroom and ADR." After discussion, a motion was adopted to approve the report and recommendations.
11. Report of the Treasurer. Domenick Napoletano, Treasurer, updated the House with respect to the results of operations for the first five months of 2020. Through May 31, 2020, the Association's total revenue was \$15.6 million, a decrease of approximately \$831,000 from the previous year, and total expenses were \$9.9 million, a decrease of approximately \$403,000 over 2019. The report was received with thanks.
12. Report and recommendations of Special Committee on Association Structure and Operations. Glenn Lau-Kee, chair of the committee, outlined the committee's recommendation that the Association Bylaws be amended to make specific provisions for remote meetings. After discussion, a motion was adopted to approve the report and recommendations.
13. Report and recommendations of Task Force on the Parole System. Seymour W. James, Jr. and William T. Russell, Jr., co-chairs of the task force, reviewed the task force's recommendations with respect to additional areas of reform, following up on the task force's November 2019 report. Mr. Effman offered, and the task force accepted, two amendments to the report. After discussion, a motion was adopted to approve the report and recommendations.
14. Report and recommendations of Task Force on Domestic Terrorism and Hate Crimes. Carrie H. Cohen, chair of the Task Force, outlined the task force's recommendations for legislative and policy changes to improve the federal and state legal systems' response to hate crime. A motion to amend

to delete recommendations with respect to mandatory minimum sentences was adopted, after which a motion was adopted to approve the report and recommendations.

15. Report of The New York Bar Foundation. Lesley Friedman Rosenthal, President of The Foundation, presented an informational report on the COVID-19 emergency fund established by The Foundation, an anti-racism initiative, and paid fellowships that were awarded to law students. The report was received with thanks.

16. Administrative items. Mr. Brown reported on the following:

- a. Seventh District Nominating Committee members. The House was unable to complete the election of Nominating Committee members from the Seventh District at the April 2020 meeting. A motion was adopted to elect the members submitted by the district.

17. New Business.

- a. Broadband Access. Past President Michael Miller outlined a proposed resolution calling for improved broadband access in rural areas of New York State. After discussion, a motion was adopted to approve the following resolution:

WHEREAS, the New York State Bar Association (“NYSBA”) supported resolution 10B at the 2019 American Bar Association (“ABA”) annual meeting which was adopted by the ABA House of Delegates and called on Congress, state, local, territorial, and tribal legislatures to enact legislation and appropriate adequate funding to ensure equal access to justice for Americans living in rural communities by assuring affordable high speed broadband access is provided throughout the United States; and

WHEREAS, in April 2020, the NYSBA House of Delegates adopted the exhaustive report of the NYSBA Task Force on Rural Justice, which documented that, inter alia, there is a significant lack of technology infrastructure in vast portions of New York State, that large portions of New York State have limited broadband availability and some areas are completely without any broadband service whatsoever; and

WHEREAS, the report of the NYSBA Task Force on Rural Justice recommended, inter alia, that NYSBA adopt a resolution that urges New York State to ensure that broadband access reaches all corners of New York State; and

WHEREAS, the Covid-19 pandemic, stay-in-place order and quarantine have made it abundantly clear that broadband service is an important communications tool which has become vitally necessary for educational purposes, medical care (“telemedicine”), business and commerce, as well as access to justice; and

WHEREAS, there has been unprecedented unemployment as a result of the Covid19 pandemic; and

WHEREAS, a public works program to build sufficient broadband access throughout New York State would provide significant employment opportunities to a large number of New Yorkers and provide badly-needed broadband access to New York citizens who currently have unreliable broadband service, or none at all;

NOW THEREFORE, NYSBA urges the Governor of the State of New York and the New York State Legislature to prioritize and appropriate funding sufficient to provide affordable high speed broadband access to all corners of New York State, with emphasis and urgency on rural areas; and

NYSBA further urges the President of the United States and the United States Congress to prioritize and appropriate funding for the expansion of a 21st century digital infrastructure sufficient to provide affordable high speed broadband access to all areas of the nation, with emphasis and urgency on rural areas.

18. Date and place of next meeting. Mr. Brown announced that the next meeting of the House of Delegates would take place on Saturday, November 7, 2020 at the Bar Center in Albany.
19. Adjournment. There being no further business to come before the House of Delegates, the meeting was adjourned.

Respectfully Submitted,



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Secretary



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**President's Report
to the House of Delegates
June 13, 2020**

A heartfelt thank you to Judge Jenny Rivera, the Senior Associate Judge of the Court of Appeals of the State of New York. It is an honor to stand here with my fellow officers of the New York State Bar Association and take the oath of office from you.

It is significant that my friendship with Judge Rivera is directly attributable to the New York State Bar Association.

As a member of the Committee to Review Judicial Nominations, I – along with my colleague Chan Woo Lee – was assigned to study and evaluate the qualifications of CUNY Law School Professor Jenny Rivera for a seat on the Court of Appeals. We read through her voluminous scholarly writings, spoke with her references and visited the law school for an in depth face-to-face interview of the candidate.

During that interview, she candidly revealed that she had once been ticketed for improperly mixing glass and paper recyclables at the curb in front of her home. We reported that transgression to the full Committee, which decided to overlook it and found her qualified. The rest – as you can see – is history.

All that I would add is that – as the result of my service to the Association through the Committee to Review Judicial Nominations – I had the opportunity to meet and get to know Judge Rivera, whom I have come to admire greatly and am proud to count as a friend.

Friends and colleagues: On behalf of Andrew, Domenick, Sherry and myself, I want to say how honored we are that our great Association has put its trust in us.

When I decided to run for president of the New York State Bar Association, I devoted much thought to the future of our Association and the initiatives I would pursue to advance the interests of our members should I be elected.

However, I have come to realize that leadership requires that we confront the world as it is, not what we wish it was.

Nobody could have imagined that a microscopic, deadly virus would appear and wreak havoc upon our world at large.

What we could have seen, but perhaps did not want to imagine, was that the cancer of racism in America would flare up in such a horrific way.

The appalling murder of George Floyd while in police custody, a senseless and horrible act, and the many such acts that have preceded it, are rooted in racial bigotry, and the egregious inequities in how people of color are treated in our criminal justice system and society at large.

We as an Association are moving quickly to address Mr. Floyd's murder and the clearly unsustainable status quo at the heart of the recent events rattling our nation.

I have asked two distinguished members of our Association, President-Elect Andrew Brown and Taa Grays, a former Vice President from the First Judicial District, to co-chair a new Task Force on Racial Injustice and Police Reform, which will develop strategies to combat the repeated incidents of police brutality and inequality in our criminal justice system that we have all witnessed.

The Task Force will engage a diverse team of stakeholders to come to an understanding of why racial bias persists in policing practices, and will provide recommendations to policymakers, law enforcement and the judiciary to end policing practices that disproportionately and deleteriously impact persons of color.

It will create and work with advisory groups from around the state, which shall include diverse bar associations. By asking and struggling with difficult questions and listening to those who bear witness to and suffer from the consequences of racism, we will learn, and we will act.

You can contact the task force by email: FightingInjustice@nysba.

As we strive to meet the challenges of our times, we are blessed to have tremendous examples of leadership. Their creativity, flexibility and willingness to take risks inspire and inform us.

Under Chief Judge Janet DiFiore's exemplary leadership, our entire court system underwent unprecedented modifications, which allowed it to weather the most severe public health crisis in modern history. She is a model of leadership that I will aspire to emulate during the coming year.

Another example of leadership: Hank Greenberg, immediate past president of the New York State Bar Association.

Hank's extraordinary vision and commitment to building a virtual bar center is the reason that we are able to keep meeting and doing the business of the Association.

Because Hank looked to the future, we were prepared for the unthinkable. Our great Association has survived and thrived.

I also acknowledge the leadership of my fellow officers: President-Elect T. Andrew Brown, Secretary Sherry Levin Wallach and Treasurer Domenick Napoletano; and our brilliant and tireless Executive Director Pam McDevitt.

I am indeed fortunate to serve as your president with such extraordinary people at my side.

There is another group of leaders that I would like to acknowledge and recognize: the past Presidents of the New York State Bar Association.

These remarkable men and women have unselfishly devoted their time, energy and wisdom in the service of our Association, its members and the public which we serve, and many of them continue to do so long after the conclusion of their year in office.

As you know, former Presidents are House members for life, and I had hoped to introduce and pay tribute to each former President in attendance at this meeting. Regrettably, however, the Zoom format simply does not lend itself to such a tribute, so it must be postponed.

Hopefully, I will have the opportunity to address the House live rather than virtually before my term as President concludes, and I will offer my tribute at that time. For now, let me just say how proud I am at the prospect of joining their ranks.

The coronavirus pandemic has brought to light many issues of critical importance – issues where lawyers can make a difference.

We will continue several of President Greenberg's COVID-19 initiatives for as long as their service is needed.

Our Emergency Task Force on Solo and Small Firm Practitioners, led by Domenick Napoletano of Brooklyn and June Castellano of Rochester, remains a vital resource for the over one-half of our members in solo and small-firm practices, who have been disproportionately affected by COVID-19.

Our Working Group on Reopening Law Firms, led by Marian Rice of Garden City, will keep working with law firms of all sizes to reopen safely, as law practice restrictions are relaxed.

Our profession has a proud tradition of providing pro bono legal services to those who are otherwise unable to afford a lawyer.

We will continue the COVID-19 Pro Bono Network, in partnership with the Unified Court System. So far we have established pro bono programs in critical areas such as unemployment insurance benefits, landlord-tenant and other housing matters, and Surrogate's Court matters. The list will grow as the need develops.

I encourage all my colleagues – from seasoned lawyers and leaders of the bar to newly admitted lawyers – to take on pro bono work in the coming year. To set the example, I pledge to do so as well.

Three new task forces also will focus on the impact of COVID-19. Two will look at legal issues. The third will look at stressors on lawyers because of the virus.

Nursing homes and long-term care facilities have become “ground zero” for COVID-19. In this crisis, these facilities have faced all manner of challenges, due to the size and health of their resident populations, their staffing needs, the availability of badly-needed equipment and the availability and utility of testing for both residents and staff.

Our task force will take a hard look at the statutory and regulatory framework under which these facilities operate and make recommendations for change where needed.

The pandemic also has revealed issues of tort and contractual liability – and immunity from such liability – issues which we lawyers are singularly qualified to sort out. Our new task force will take that on as well.

In the best of times, being a lawyer is stressful. Rates of mental illness, substance abuse, fatigue and other health issues are higher for those in the law than in any other profession. Add to that COVID-19, the distractions of working from home and maybe a good dose of cabin fever.

NYSBA has long offered support and services for members struggling with such issues after they have begun to take their toll.

Now is the time to be proactive. Maintaining mental and physical health takes focus and effort, but it is far easier than regaining health after years of neglect.

Our Task Force on Attorney Well-Being, ably co-chaired by Libby Coreno of Saratoga Springs and Judge Karen Peters of Woodstock, will take a holistic approach, studying mental and physical well-being strategies and formulating recommendations for their implementation throughout New York’s legal community.

If ever there was a time to lead, it is now.

Many people of color face daily the possibility of being targeted, threatened, maligned, or worse while engaging in the normal daily activities that the rest of us engage in with impunity, for no reason other than their race.

The threat of having one's peace or life destroyed has nothing to do with class, education or income – it has everything to do with race. This has long been unacceptable, morally and legally. Yet the needle barely moves.

It is time for lawyers to step up, to take a different tack. Why?

Lawyers are the guardians of justice and protectors of the rule of law.

We must never lose sight of that. By reason of our licenses, we are singularly positioned to fight for justice.

On paper, the law and the legal system are colorblind; in practice they are not.

It is time for lawyers to collectively stand on the front lines of the fight for full and fair implementation of the promise of the law.

It is our job.

Perhaps as an indicator of my age, the crisis of injustice with which we are faced calls to mind the words of the classic song “Blowin’ in the Wind,” by the great American songwriter and Nobel Laureate Bob Dylan. I will recite one verse of this poignant and relevant song:

Yes, 'n' how many years can a mountain exist
Before it is washed to the sea?
Yes, 'n' how many years can some people exist
Before they're allowed to be free?
Yes, 'n' how many times can a man turn his head
And pretend that he just doesn't see?

The answer, my friend, is blowin' in the wind

The answer is blowin' in the wind

My fellow delegates and members of our great profession, the wind is surely blowing as it has never blown before, and it is time for us to listen and to apply our skills and wisdom to glean the answers that are blowing in the wind.

I want to thank you. It is the greatest honor of my professional career to serve as your President.

And as we navigate the challenges of now and what lies ahead, I commit fully to you that as a leader I will be thoughtful, diligent and dynamic, mindful of the past, concerned about the present and focused on the future.

Thank you . . .