

**NEW YORK STATE BAR ASSOCIATION
MINUTES OF EXECUTIVE COMMITTEE MEETING
REMOTE MEETING
November 6, 2020**

Present: Jonathan Behrins, Mark A. Berman, T. Andrew Brown, John P. Christopher, David Louis Cohen, Norman P. Effman, Donna England, Margaret J. Finerty, Jean F. Gerbini, Sarah E. Gold, Henry M. Greenberg, Richard M. Gutierrez, Andre R. Jaglom, Scott M. Karson, Sherry Levin Wallach, Richard C. Lewis, Michael A. Marinaccio, Domenick Napoletano, Marne L. Onderdonk, Aimee L. Richter, William T. Russell, Jr., Mirna M. Santiago, Robert T. Schofield, IV, Adam Seiden, Diana S. Sen, Carol A. Sigmond, Jean Marie Westlake.

Guests: James M. Barnes, Jill Choate Beier, Art C. Cody, Hermes Fernandez, Karen Gallinari, Sharon Stern Gerstman, Evan M. Goldberg, Taa R. Grays, John H. Gross, Carl Howard, Katrina F. Kuh, Prof. Mary Beth Morrissey, Benjamin Pomerance, Christopher R. Riano, David M. Schraver, Nicholas M. Ward-Willis.

Mr. Karson presided over the meeting as President of the Association.

1. Approval of minutes of June 12 and 25, September 23, and October 15, 2020 meetings. The minutes were accepted as distributed.
2. Consent Calendar
 - a) Amendments to mission statement of Committee on Courts of Appellate Jurisdiction

The consent calendar, consisting of the item listed above, was approved.
3. Report of Treasurer. In his capacity as Treasurer, Mr. Napoletano reported that through September 30, 2020, the Association's total revenue was \$17.7 million, a decrease of approximately \$1.5 million from the previous year, and total expenses were \$14.9 million, a decrease of approximately \$1.3 million over 2019. The report was received with thanks.
4. Report of staff leadership. Executive Director Pamela McDevitt updated the Executive Committee with respect to staff, Annual Meeting marketing, and technology. The report was received with thanks.
5. Report and recommendations of Trusts and Estates Law Section. Jill Choate Beier, chair of the section, outlined the section's affirmative legislative proposals (a) to amend Executive Law §29-a to protect attorneys and those acting on the advice of an attorney for acting in good faith based on a reasonable interpretation of Executive Orders and (b) to amend the New York tax law to conform to federal law with respect to access to retirement and savings plans for individuals qualifying for COVID-19 relief under the CARES Act. After discussion, a motion was adopted to approve the proposals.
6. Report and recommendations of Committee on LGBTQ People and the Law. Christopher R. Riano, chair of the committee, presented a proposal to create a LGBTQ Law Section. After discussion, a motion was adopted to endorse the proposal for favorable action by the House.

7. Report and recommendations of Committee on Veterans. Committee members Art C. Cody and Benjamin Pomerance outlined a proposed collaboration with Psych Armor to train lawyers providing services to veterans. After discussion, a motion was adopted to approve the proposal.
8. Report and recommendations of the Committee on Bylaws. In his capacity as chair of the Bylaws Committee, Mr. Schofield outlined proposed bylaws amendments to implement the recommendation of the Special Committee on Association Structure and Operations, approved by the House in June, to govern remote meetings of Association entities. The House would be asked to subscribe to the proposed amendments to allow them to be placed on the agenda of the 2021 Annual Meeting. After discussion, a motion was adopted to endorse the House's subscription.
9. Report of Committee on Continuing Legal Education. Committee chair James M Barnes and Senior Director of CLE Katherine Suchocki updated the Executive Committee on CLE programming and revenue. The report was received with thanks.
10. Report and recommendations of Steering Committee on Legislative Priorities, Evan M. Goldberg, chair of the Committee on Legislative Policy, together with Director of Policy Hilary F. Jochmans, presented proposed legislative priorities for 2021 at both state and federal levels. After discussion, a motion was adopted to approve the recommendations.
11. Report and recommendations of Environmental and Energy Law Section. Section Chair Nicholas M. Ward-Willis, together with members Carl Howard and Katrina F. Kuh, reviewed the section's proposal for a "Green Amendment" to the State Constitution. After discussion, a motion was adopted to postpone consideration to a later meeting so that Executive Committee could review comments submitted by the Committee on the NYS Constitution.
12. Report of President. Mr. Karson highlighted the items in his written report, a copy of which is appended to these minutes.
13. Report and recommendations of Finance Committee re proposed 2021 income and expense budget. John H. Gross, chair of the Finance Committee, reviewed the proposed budget for 2021, which projects income of \$19,292,955, expenses of \$18,802,064, and a projected surplus of \$490,891. After discussion, a motion was adopted to endorse the proposed 2021 budget for favorable action by the House.
14. Report and recommendations of Health Law Section. Karen Gallinari, the section chair, together with immediate past chair Hermes Fernandez and COVID-19 Task Force chair Mary Beth Morrissey, reviewed the section's report containing recommendations with respect to the COVID-19 pandemic and the resolutions being offered by the section for the House's consideration. After discussion, a motion was adopted to endorse the resolutions offered by the section for favorable action by the House.
15. Report of Task Force on Racial Injustice and Police Reform. T. Andrew Brown and Taa R. Grays, co-chairs of the Task Force, presented an informational report on the work of the

Task Force to date. They noted that the Task Force plans to present an interim report in January and final report in April 2021. The report was received with thanks.

16. Report and recommendations of Task Force on Mass Shootings and Assault Weapons. Margaret J. Finerty and David M. Schraver, co-chairs of the Task Force, reviewed the Task Force's report and recommendations with respect to the role of mass shootings and assault weapons on gun violence in the United States. After discussion, a motion was adopted to endorse the report and recommendations for favorable action by the House.
17. Report and recommendations of Committee on Civil Practice Law and Rules. In his capacity as co-chair of the committee, Mr. Napoletano presented affirmative legislative proposals to amend CPLR2101 and 2103 with respect to service by e-mail; CPLR 3113 with respect to depositions; and CPLR 2309 with respect to affidavits. After discussion, a motion to approve the amendments to CPLR 2101 and 2103 failed. Motions to approve the amendments to CPLR 3113 and 2309 were approved.
18. Approval of creation of Ruth Bader Ginsburg Memorial Scholarship Award. Mr. Karson outlined a proposed award to be established in memory of the late Hon. Ruth Bader Ginsburg, awarded annually to a law student who, through written submission, research project, or an exemplary internship, externship, or pro bono service, demonstrates character consistent with and honoring her legacy. After discussion, a motion was adopted to approve the establishment of the award.
19. Report of Nominating Committee. Sharon Stern Gerstman, chair of the Nominating Committee, reported that the Committee had nominated the following individuals for election to the indicated offices for the 2021-2022 Association year: President-Elect: Sherry Levin Wallach, White Plains; Secretary: Taa R. Grays, New York City; Treasurer: Domenick Napoletano, Brooklyn; Vice Presidents: 1st District – Diana S. Sen, New York City and Michael McNamara, New York City; 2nd District – Aimee L. Richter, Brooklyn; 3rd District – Robert T. Schofield, IV, Albany; 4th District – Nancy Sciochetti, Saratoga Springs; 5th District – Jean Marie Westlake, East Syracuse; 6th District – Richard C. Lewis, Binghamton; 7th District – Mark J. Moretti, Rochester; 8th District – Kathleen M. Sweet, Buffalo; 9th District – Adam Seiden, Mount Vernon; 10th District – Donna England, Centereach; 11th District – David L. Cohen, Kew Gardens; 12th District – Michael A. Marinaccio, White Plains; 13th District – Orin Cohen, Staten Island. The following individuals were nominated to serve as Executive Committee Members-at-Large for a 2-year term beginning June 1, 2021: La Marry Jackson, Rochester (Diversity Seat); Sandra Rivera, Albany, and Thomas J. Maroney, New York City. Nominated as Section Member-at-Large was Simeon Baum, New York City. The following individuals were nominated as delegates to the American Bar Association House of Delegates for the 2021-2023 term: Claire P. Gutekunst, Yonkers; Scott M. Karson, Melville; Bernice K. Leber, New York City; Michael Miller, New York City, and Sherry Levin Wallach, White Plains. The report was received with thanks.

20. New Business.

- a) Report and recommendations of Emergency Task Force on Solo & Small Firm Practitioners. In his capacity as co-chair of the Task Force, Mr. Napoletano outlined a proposed resolution calling for the Association to urge, in the event New York deemed it necessary to curtail business activity due to COVID-19, that lawyers be considered essential. After discussion, a motion was adopted to approve the following resolution:

WHEREAS, we have learned from the experience of the early months of the global pandemic that it is important to designate the practice of law as “essential,” The absence of such a designation, beyond the limited areas delineated as emergencies by the New York State Office of Court Administration, has caused practitioners great concern, and has harmed the public.

WHEREAS, in an orderly and just society, the practice of law is both necessary and essential. Under the emergency orders issued by the Governor at the outset of the pandemic, lawyers were subject to financial sanctions for the operation of a law practice while trying to serve the public who sought legal assistance and advice. The exceptions that were carved out were inconsistent and confusing, Accountants were deemed essential, despite tax deadlines being extended. Financial institutions and insurance companies were exempted and found essential. However, the practice of law, one of the hallmarks of the society we live in and the pillar of the advocacy system that ensures access to justice, was inexplicably excluded.

WHEREAS, the edict was unduly burdensome for health care workers and other essential workers who, faced with life and death situations every day, sought to execute wills, powers of attorney, health care proxies, or other advanced directives, in an informed and proper manner. Parents and children involved in Family Court or matrimonial proceedings, in particular clients navigating custody and visitation issues brought about by the pandemic restrictions, and issues involving domestic violence, needed immediate counsel and support. Business owners who faced a myriad of employment, leasing and contractual issues, as well as issues related to COVID relief programs needed advice. Clients needed to meet with their lawyers to prepare for hearings that affected their benefits in areas such as worker’s compensation and social security. Personal injury claimants and defendants were deprived of access to counsel. Sellers and buyers needed to complete closings on residential and commercial property. This list is by no means exhaustive and illustrates just some of the many critical issues facing the public.

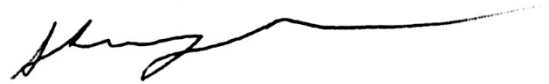
WHEREAS, lawyers are responsible members of society. We are licensed and regulated. We do not desire to place the public, clients, staff or ourselves at any risk. However, the members of the Task Force for Solo and Small Firm Practitioners believe that the practice of law is essential and can be accomplished using social distance gatherings and safe practice. The only result of not designating the practice of law as “essential” is to harm the very people we are sworn to protect. As a profession, lawyers play an integral role in guiding the public we serve through these most difficult and unprecedented times. While we recognize that there may be certain aspects of law, e.g., attorneys engaged in academia, that may not be considered “essential” during extraordinary times, without question, those of us representing the public in critical legal situations that impact on our clients’ day-to-day lives should be permitted to provide

advice and counsel in a safe and supportive manner so as to ensure the public has access to our justice system.

THEREFORE, BE IT RESOLVED that in the event that New York State finds it necessary to restrict business activities in the future due to this or any other public health crisis, we believe that the historical need for lawyers to assist the public to access justice should be recognized and that the practice of law should not be restricted, and that the New York State Bar Association should take all reasonable steps to urge this position be adopted by state leaders.

21. Adjournment. There being no further business, the meeting of the Executive Committee was adjourned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Sherry Levin Wallach', with a long horizontal flourish extending to the right.

Sherry Levin Wallach
Secretary