

**NEW YORK STATE BAR ASSOCIATION  
MINUTES OF EXECUTIVE COMMITTEE MEETING  
THE OTESAGA, COOPERSTOWN, NEW YORK AND REMOTE  
October 29, 2021**

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Present: Simeon H. Baum, Mark A. Berman, T. Andrew Brown, David Louis Cohen, Orin J. Cohen, Donna England, Jean F. Gerbini, Sarah E. Gold, Taa R. Grays, LaMarr J. Jackson, Scott M. Karson, Sherry Levin Wallach, Richard C. Lewis, Michael A. Marinaccio, Thomas J. Maroney, Michael J. McNamara, Ronald C. Minkoff, Mark J. Moretti, Domenick Napoletano, Christopher R. Riano, Aimee L. Richter, Mirna M. Santiago, Robert T. Schofield, IV, Nancy Sciochetti, Adam Seiden, Diana S. Sen, Lauren E. Sharkey, Tucker C. Stanclift, Kathleen M. Sweet, Jean Marie Westlake.

Guests: June M. Castellano, M. Elizabeth Coreno, Donald C. Doerr, Jacqueline J. Drohan, Albert Feuer, Evan M. Goldberg, David Goldfarb, Angelo Grasso, Darcy M. Katris, Amy K. Kendall, Shayna Kessler, James B. Kobak, Jr., Edwina F. Martin, Michael Miller, Hon. Karen K. Peters, Linda R. Shaw, Roy D. Simon, James Q. Walker.

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

1. Approval of minutes of June 11, August 6, and August 27, 2021 meetings. The minutes were accepted as distributed.
2. Consent Calendar
  - a) Award of Committee on Disability Rights
  - b) Award of LGBTQ Law Section
  - c) Scholarship of Commercial and Federal Litigation Section
  - d) Guidelines for Staff Liaisons and Committees

The consent calendar, consisting of the items listed above, was approved.

3. Report of President. Mr. Brown highlighted the items in his written report, a copy of which is appended to these minutes.
4. Report of Treasurer. In his capacity as Treasurer, Mr. Napoletano reported that through September 30, 2021, the Association's total revenue was \$16.3 million, a decrease of approximately \$1.3 million from the previous year, and total expenses were \$10.9 million, a decrease of approximately \$3.9 million over 2020. The report was received with thanks.
5. Report of staff leadership. Executive Director Pamela McDevitt, Associate Executive Director Gerard McAvey, and Director of Digital Business Operations Jessica Patterson updated the Executive Committee with respect to technology, CLE, membership, publications, Section and Meeting Services, and marketing. The report was received with thanks.

6. Report and recommendations of Finance Committee re proposed 2022 income and expense budget. In his capacity as chair of the Finance Committee, Mr. McNamara reviewed the proposed budget for 2022, which projects income of \$20,907,870, expenses of \$20,786,426, and a projected surplus of \$121,444. After discussion, a motion was adopted to endorse the proposed 2021 budget for favorable action by the House.
7. Report and recommendations of Committee on Committees. Donald C. Doerr, chair of the committee, reviewed the committee's recommendations with respect to nine committees, as well as recommendations for coordination of the Association's ethics-related committees. After discussion, a motion was adopted to approve the report and recommendations.
8. Report of the Chair of the House of Delegates re Rules of the House. In her capacity as Chair of the House, Ms. Levin Wallach outlined proposed changes to the Rules of the House, which were last amended in 1991. Members of the Executive Committee provided feedback on the proposed changes, and the report was received with thanks.
9. Report and recommendations of the Committee on Bylaws. Robert T. Schofield, IV, chair of the Bylaws Committee, outlined proposed bylaws amendments to remove gender-specific language from the Bylaws. After discussion, a motion was adopted to endorse the amendments for subscription by the House.
10. Report and recommendations of Emergency Task Force on Solo and Small Firm Practitioners. Task Force co-chairs June M. Castellano and Domenick Napoletano presented the Task Force's report on the effect of the Covid-19 pandemic on solo and small firm practitioners and its proposed blueprint for dealing with this and future crises. After discussion, a motion was adopted to endorse the report and recommendations for favorable action by the House. Mr. Riano abstained.
11. Report and recommendations of Committee on Immigration Representation, Committee on Legal Aid, Committee on Mandated Representation, and Criminal Justice Section. Shayna Kessler, co-chair of the Committee on Immigration Representation, outlined the groups' report calling for the New York Governor and Legislature to adopt the findings of a 2020 American Bar Association report regarding the treatment of immigrants who have contact with the criminal justice system. After discussion, a motion was adopted to endorse the following resolution for favorable action by the House:

WHEREAS, the New York State Bar Association (NYSBA) has long supported and encouraged measures to foster equity and racial justice for immigrants and all New Yorkers; and

WHEREAS, in the past, NYSBA has actively promoted and participated in efforts to provide immigrants in New York and nationwide with access to justice by promoting access to legal representation through the establishment of a committee specifically for that purpose, support for policies that invest in universal representation, and through partnerships with the Liberty Defense Project and;

WHEREAS, numerous provisions of immigration law impact people who have had contact with the criminal legal system; and WHEREAS, the United States Department of Justice (“DOJ”) has the authority to rectify a body of administrative opinions previously issued by the DOJ that misinterpret and wrongfully expand the application of the criminal provisions of the immigration laws and which improperly interpret the immigration laws; and

WHEREAS, Improper DOJ administrative opinions have caused hundreds of thousands of disproportionately Black people and other people of color to be civilly detained, deported, denied immigrations status, and criminally incarcerated; and

WHEREAS, the American Bar Association has adopted a resolution calling for the United States Attorney General to limit the immigration law impacts of criminal legal system engagement by utilizing the “certification process to withdraw certain Attorney General opinions and replace them with opinions that are consistent with congressional intent, the U.S. Constitution, and U.S. treaty obligations, and which uphold . . . well-settled legal concepts;” and

WHEREAS, immigration detention and enforcement poses grave risks to immigrant New Yorkers, particularly immigrant New Yorkers who are people of color; and

WHEREAS, NYSBA believes that an immigration system that is welcoming and inclusive will benefit all New Yorkers;

NOW, THEREFORE, IT IS


RESOLVED, that the New York State Bar Association hereby urges the New York State Governor and the New York State Legislature to adopt the findings and recommendations of the American Bar Association Resolution 103B.

12. Report and recommendations of Task Force on Attorney Wellbeing. Task Force co-chairs Hon. Karen K. Peters and M. Elizabeth Coreno outlined the Task Force’s report on factors that impact the health and well-being of the legal community and its recommendations on steps to be taken to improve well-being. After discussion, a motion was adopted to endorse the report and recommendations for favorable action by the House.
13. Report and Recommendations of Committee on Standards of Attorney Conduct. Committee chair Roy D. Simon, together with committee members James B. Kobak, Jr., Ronald C. Minkoff, and James Q. Walker outlined proposed amendments to the Comments of Rule 5.6 of the Rules of Professional Conduct. After discussion, a motion was adopted to endorse the amendments for favorable action by the House. The members also presented an informational report concerning a proposed new Rule 5.9 and accompanying comments; they noted that the committee is seeking additional comments on the proposal before presenting it for debate and vote. The report was received with thanks.

14. Report and recommendations of Trusts and Estates Law Section. Jennifer F. Hillman, chair of the section, introduced the following affirmative legislating proposals.
  - a) Executive Law §137-a. Angelo Grasso reviewed a new statute to govern remote notarization. After discussion, a motion was adopted to approve the proposal.
  - b) Amendments to EPTL, SCPA, Public Health Law and General Obligations Law. Darcy M. Katris outlined amendments to the foregoing to permit virtual witnessing of estate documents. After discussion, a motion was adopted to approve the proposal.
  - c) Harmonization of Protections for Savings and Retirement Benefits Act. Albert Feuer outlined a proposal to protect certain benefits from creditors before, during or after distribution. After discussion, a motion was adopted to approve the proposal.
15. Report and recommendations of Environmental and Energy Law Section. Section chair Linda R. Shaw, together with Amy K. Kendall, presented an affirmative legislative proposal to extend the NYS Brownfield Cleanup Program. After discussion, a motion was adopted to approve the proposal.
16. Report and recommendations of Elder Law and Special Needs Section. Past section chair David Goldfarb presented an affirmative legislative proposal to amend the power of attorney law to grandfather previously executed powers of attorney; make the gift-making provision the default unless specifically excluded; and change the power of attorney construction sections. Concerns were raised with respect to the gift-making provision, and after discussion a motion was adopted to postpone consideration to a future meeting to permit the section to confer with the concerned groups.
17. 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 2022 at both state and federal levels. After discussion, a motion was adopted to approve the recommendations.
18. Report of Committee on Leadership Development. Committee co-chair Edwina F. Martin presented an informational report on the committee's activities. The report was received with thanks.
19. Report and recommendations of LGBTQ Law Section. Jacqueline J. Drohan presented a proposed memorandum in support of the Equality Act, H.R. 5, which would expand the definition of "sex" to include "sexual orientation and gender identity" and provide additional protections against discrimination. After discussion, a motion was adopted to approve the report and recommendations.

20. Report of Nominating Committee. Michael Miller, chair of the Nominating Committee, reported that the Committee had nominated the following individuals for election to the indicated offices for the 2022-2023 Association year: President-Elect: Richard C. Lewis, Binghamton; 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 – Pauline Yeung-Ha, Brooklyn; 3rd District – Elena DeFio Kean, Albany; 4th District – Nancy Sciochetti, Saratoga Springs; 5th District – Hon. James P. Murphy, Syracuse; 6th District – Michael R. May, Ithaca; 7th District – Mark J. Moretti, Rochester; 8th District – Kathleen M. Sweet, Buffalo; 9th District – Hon. 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 J. Cohen, Staten Island. The following individuals were nominated to serve as Executive Committee Members-at-Large for a 2-year term beginning June 1, 2022: Mirna M. Santiago, Pawling (Diversity Seat); Sarah E. Gold, Albany; Violet E. Samuels, Rosedale; and Kaylin L. Whittingham, New York City. Nominated as Section Member-at-Large was Gregory K. Arenson, New York City. The following individuals were nominated as delegates to the American Bar Association House of Delegates for the 2022-2024 term: T. Andrew Brown, Rochester; Sharon Stern Gerstman, Buffalo; Henry M. Greenberg, Albany; Richard C. Lewis, Binghamton; David P. Miranda, Albany; and Jacob Petherchak, New York City (Young Lawyer Delegate). The report was received with thanks.
21. New Business. Ms. Levin Wallach reviewed plans for in-person components of the 2022 Annual Meeting, including the Executive Committee, House, and Annual Meetings, the Diversity Reception; the Presidential Summit and President’s Reception; and the House of Delegates Dinner.
22. Date and place of next meeting. The next meeting of the Executive Committee will take place on Friday, January 21, 2022, at the New York Hilton Midtown, New York City
23. Adjournment. There being no further business, the meeting of the Executive Committee was adjourned.

Respectfully submitted,



Taa R. Grays  
Secretary