

**NEW YORK STATE BAR ASSOCIATION  
MINUTES OF HOUSE OF DELEGATES MEETING  
JUNE 12, 2021  
REMOTE MEETING**

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PRESENT: Abneri; Adigwe; Alomar; Alsina; Bahn; Barreiro; Bascoe; Battistoni; Baum; Beltran; Ben-Asher; Berlin; Berman; Brown; Bunshaft; Burke; Buzard; Caceres; Carbajal-Evangelista; Chambers; Chandrasekhar; Chang; Choi; Clouthier; Cohen, B.; Cohen, D.; Cohen, O.; Cohn; Crawford; D'Angelo; Dean; Degnan; Doerr; Doyle; Dubowski; DuVall; Eberle; Effman; Eng; Engel; England; Fallek; Fellows; Fernandez; Filabi; Filemyr; Finerty; First; Fox, G.; Fox, M.; Friedman; Frumkin; Genoa; Gerbini; Gerstman; Getnick; Gilmartin; Gold; Good; Grays; Greenberg; Griesemer; Griffin; Gross; Gutekunst; Haig; Harper; Hartman; Harwick; Heath; Hill; Himes; Hoffman; Holder; Holtzman; Houth; Islam; Jaglom; James; Jamieson; Jimenez; Joseph; Kamins; Kapnick; Karson; Katz; Kean; Kelley; Kelly; Kendall; Kenney; Kiernan; Kimura; Klass; Klugman; Kobak; Kretser; Kretzing; LaBarbera; LaRose; Lau-Kee; Lawrence; Leber; Leventhal; Levin; Levin Wallach; Levy; Lewis; Lindenauer; Lisi; Loyola; Lugo; MacLean; Madigan; Marinaccio; Markowitz; Maroney; Marotta; Martin; Mathews; Matos; Mazur; McElwreath; McGinn; McGrath; McNamara; Meyer, H.; Meyer, J.; Middleton; Miller, C.; Miller, M.; Milone; Minkoff; Miranda; Montagnino; Moretti; Morrissey; Mukerji; Muller; Mulry; Napoletano; Newman; Nielson; Noble; Nolfo; Nowotarski; O'Brien; O'Connor; O'Connell, B.; O'Connell, D.; Owens; Palermo, A.; Palermo, C.; Pappalardo; Parker; Pitegoff; Porzio; Pruzansky; Purcell; Quaye; Quinones; Radick; Ranni; Raskin; Ravin; Reed; Riano; Richman; Richter; Rivera; Rosenthal; Russ; Russell; Ryan; Safer; Samuels; Santiago; Scheinkman; Schofield; Schram; Schraver; Schwrtz-Wallace; Sciocchetti; Scott; Seiden; Shafiqullah; Sharkey; Silkenat; Silverman; Slavit; Smith; Sonberg; Starkman; Stephenson; Stoeckmann; Strong; Strenger; Swanson; Sweet; Tambasco; Taylor; Triebwasser; van der Meulen; Vaughn; Vigdor; Wan; Ward; Warner; Washington; Watanabe; Waterman; Weis; Weldon; Wesson; Westlake; Wimpfheimer; Wolff; Woodley; Yeung-Ha; Younger; Zweig.

Ms. Levin Wallach 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 Ms. Levin Wallach welcomed the new members of the House.
2. Minutes of April 10, 2021 meeting. The minutes were accepted as previously distributed.
3. Installation of President. Mr. Brown was formally installed as President. The oath of office was administered by Hon. Janet DiFiore, Chief Judge of the State of New York.
4. Report of President. Mr. Brown addressed the House with respect to his planned initiatives for his term as President. His President's Report is appended to these minutes.
5. Report of the Treasurer. Domenick Napoletano, Treasurer, updated the House with respect to the results of operations for the first four months of 2021. Items covered included dues

revenue of \$8,996,000; CLE net revenue of \$709,300; and Annual Meeting net revenue of \$466,000. The report was received with thanks.

6. Report and recommendation of Lease Negotiation Committee and Finance Committee. David P. Miranda, chair of the Lease Negotiation Committee, and Sandra Rivera, chair of the Finance Committee, reported on the negotiations between the Association and The New York Bar Foundation with respect to a potential transfer of One Elk Street from The Foundation to the Association. They reported that a Memorandum of Understanding (MOU) between the parties had been executed, by which ownership of One Elk will be transferred from the Foundation to the Association; the Association would provide office space for Foundation staff and in-kind services to the Foundation; the Association would bear responsibility for renovation and maintenance costs of One Elk; and the Association and Foundation would work closely in joint fundraising in order to meet common goals. The MOU is contingent upon approval of the Association's House, the Foundation's Board, and the New York State Attorney General. After discussion, a motion to adopt the following resolution was approved:

Whereas, the New York State Bar Association and The New York Bar Foundation are parties to a lease, as tenant and landlord respectively, for property at One Elk Street, Albany, New York, that ends on December 31, 2021; and

Whereas, the Association and Foundation have concluded negotiations regarding future use of One Elk Street; and

Whereas, the Association President signed a Memorandum of Understanding with the Foundation on May 20, 2021 calling for the transfer of One Elk Street from the Foundation to the Association subject to, inter alia, the approval of the Association's House of Delegates;

Now, therefore, it is

Resolved, that the House of Delegates hereby approves the May 20, 2021 Memorandum of Understanding, subject to the terms and conditions set forth therein and the provisions of this Resolution:

Further resolved, that the Association President is authorized to conduct necessary due diligence, including but not limited to obtaining the written opinions of counsel regarding any tax implications, fundraising matters, and approval of the Attorney General concerning the proposed transaction;

Further resolved, that subject to the prior approval of the Executive Committee, the Association President is authorized to enter into a final agreement regarding the property transfer as outlined in the Memorandum of Understanding.

7. Report and recommendations of Task Force on Racial Injustice and Police Reform. T. Andrew Brown and Taa R. Grays, co-chairs of the Task Force, outlined the Task Force's

recommendations with respect to 21<sup>st</sup> century policing; improving policing at key stages; and additional accountability within the criminal justice system. After discussion, a motion was adopted to approve the report and recommendations.

8. Report and recommendations of Task Force on Free Expression in the Digital Age. Cynthia S. Arato and David E. McCraw, co-chairs of the Task Force, reviewed the Task Force’s recommendations on (a) amendment of the Freedom of Information Law (FOIL); (b) the advancement of government transparency outside of FOIL; (c) the growth of nonprofit journalism; and (d) the expansion of legal services for news organizations. After discussion, a motion was made to approve the report and recommendations, following which a motion to amend to eliminate from the report Recommendations III.C.1-4 concerning FOIL and Recommendations IV.B.1-3 concerning the Open Meetings Law was approved. Seven members abstained from voting on the motion to amend. The motion as amended was then approved.
9. 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 report on the remote administration of the exam and the long-term future of the New York bar examination, together with its recommendation that New York replace the Uniform Bar Examination with its own examination. After discussion, a motion was adopted to approve the report and recommendations.
10. Report and recommendations of Committee on Standards of Attorney Conduct. On behalf of the Committee on Standards of Professional Conduct, Debra Raskin and Prof. Ellen Yaroshefsky reviewed proposed amendments to Rule 8.4 of the Rules of Professional Conduct with respect to discrimination in the practice of law to prohibit improper behavior in the practice of law; expand the protected classes to conform to New York anti-discrimination law; define and prohibit “harassment”; and eliminate the requirement to exhaust administrative remedies. After discussion, a motion was made to approve the report and recommendations, after which a motion to eliminate “severe and pervasive” from the definition of harassment failed. The motion was then approved.
11. Report and recommendations of Task Force on Nursing Homes and Long-Term Care. Hermes Fernandez and Sandra Rivera, co-chairs of the Task Force, reviewed the Task Force’s report on the effect of the pandemic on the long-term care sector and its recommendations for protecting public health; preparing for emergencies; providing clear guidance; preventing the spread of communicable diseases; collecting and disseminating information; and allocating resources. After discussion, a motion was adopted to approve the report and recommendations.
12. Report of Task Force on the Uniform Rules. Richard C. Lewis, chair of the Task Force, together with members Sharon Stern Gerstman and Matthew J. Kelly, provided an informational report on the Task Force’s work to date, including four hearings it had held on the impact of the rules. The report was received with thanks.

13. Report of The New York Bar Foundation. Carla M. Palumbo, President of The Foundation, presented an informational report on The Foundation's fundraising and grantmaking activities. The report was received with thanks.
14. Administrative items. Ms. Levin Wallach reported on the following:
  - a. New Finance Committee members. At its June 11, 2021 meeting, the Executive Committee had confirmed the appointment of Drew Jaglom and Michael McNamara. Pursuant to the Bylaws, the House is required to ratify the selection of these members. A motion was adopted to ratify the members' selection.
15. New Business.
  - a. Certification of judges. House member Steven Richman made a motion that the Association urge the Governor to sign legislation to eliminate the discretionary denial of re-certification of New York Supreme Court Justices. The motion was ruled out of order by the Chair; an appeal from the Chair's ruling failed.
16. Date and place of next meeting. Ms. Levin Wallach announced that the next meeting of the House of Delegates would take place on Saturday, October 30, 2021 at the Otesaga in Cooperstown.
17. Adjournment. There being no further business to come before the House of Delegates, the meeting was adjourned.

Respectfully Submitted,



Taa R. Grays  
Secretary