

**NEW YORK STATE BAR ASSOCIATION
MINUTES OF EXECUTIVE COMMITTEE MEETING
BAR CENTER, ALBANY, NEW YORK, AND REMOTE MEETING
NOVEMBER 4, 2022**

Present: Gregory K. Arenson, Simeon H. Baum, T. Andrew Brown, David Louis Cohen, Elena DeFio Kean, Sarah E. Gold, Sherry Levin Wallach, Richard C. Lewis, Michael A. Markowitz, Thomas J. Maroney, Michael R. May, Michael J. McNamara, Ronald C. Minkoff, Hon. James P. Murphy, Domenick Napoletano, Christopher R. Riano, Violet E. Samuels, Mirna M. Santiago, Nancy Sciocchetti, Hon. Adam Seiden, Diana S. Sen, Lauren E. Sharkey, Kathleen M. Sweet, Kaylin L. Whittingham, Pauline Yeung-Ha

Guests: Hon. Lucy Billings, Catherine A. Christian, Clotelle L. Drakeford, Jacqueline J. Drohan, Albert Feuer, Sheryl B. Galler, Evan M. Goldberg, Henry M. Greenberg, Susan L. Harper, Shawndra G. Jones, Andy Kossover, Anna Masilela, Terri A. Mazur, Betsy R. Ruslander, Robert T. Schofield, IV, Patricia J. Shevy, Lorraine R. Silverman, Dana V. Syracuse, Justin S. Teff, Michelle H. Wildgrube

Ms. Levin Wallach presided over the meeting as President of the Association.

1. Ms. Levin Wallach called the meeting to order.
2. Approval of minutes of June 17-18, July 19, and October 25, 2022, meetings. The minutes were accepted as distributed.
3. Consent Calendar
 - a) Award of Committee on Veterans
 - b) Bylaws of Local and State Government Law Section
 - c) Bylaws of Labor and Employment Law Section

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

4. Report of Treasurer. In his capacity as Treasurer, Mr. Napoletano reported that through September 30, 2022, the Association's total revenue was \$16,051,439, a decrease of approximately \$295,278 from the previous year, and that the Association's total expenses were \$13,751,497, an increase of \$2,786,075 from the previous year. The report was received with thanks.
5. Report of Executive Director. Executive Director Pamela McDevitt and Associate Executive Director Gerard McAvey updated the Executive Committee with respect to the administration and operations of the Association, including staffing developments, preparation for the 2023 Annual Meeting, the ongoing 2023 member renewal campaign, the CLE on-demand program archive and All Access Pass, the scheduling and costs associated with Section destination meetings, and efforts to expand law firm membership. Mr. McAvey also advised on the ongoing merger of the CLE and Sections departments and

spoke to the use of the Bar Center as a venue for Section meetings, with emphasis on the cost savings associated with the in-house technology and on-site NYSBA staff. Ms. McDevitt noted that senior counsel Kathleen Mulligan Baxter would retire at the end of 2022, and thanked Ms. Baxter for her over thirty-five years of service to the Association. The report was received with thanks.

6. Report and recommendations of Committee on Children and the Law. Committee chair Lorraine R. Silverman and Committee member Betsy R. Ruslander presented an affirmative legislative proposal to amend the Civil Rights Law to grant Family Court the same jurisdiction over name change proceedings as that currently vested to Supreme Court and County Court and to amend the Family Court Act §115(e) to grant Family Court concurrent jurisdiction with Supreme Court over name change proceedings. After discussion, a motion was unanimously adopted to approve the proposal.
7. Report of President. Ms. Levin Wallach highlighted the items contained in her written report, a copy of which is appended to these minutes.
8. Report and recommendations of Finance Committee re proposed 2023 income and expense budget. In his capacity as chair of the Finance Committee, Mr. McNamara reviewed the proposed budget for 2023, which projects revenue of \$20,521,643, expenses of \$20,472,563, and a projected surplus of \$49,080. After discussion, a motion was unanimously adopted to endorse the proposed 2023 budget for favorable action by the House.
9. Report and recommendations of Task Force on the U.S. Territories. Mirna Martinez Santiago, co-chair of the Task Force on the U.S. Territories, presented on the Task Force's report calling on the Association to support efforts to overrule the *Insular Cases*, including through the filing of amicus curiae briefs in appropriate litigation. After discussion, a motion was unanimously adopted to endorse the following resolution for favorable action by the House:

NOW, THEREFORE,

IT IS RESOLVED, that the New York State Bar Association supports efforts to overrule the Insular Cases and the territorial incorporation doctrine and dismantle the colonial framework they establish, including but not limited through the filing of *amicus curiae* briefs in appropriate litigation; and it is further

RESOLVED, that the President of the Association is authorized to take such other and further action as may be required to implement this resolution.

10. Report and recommendations of the Committee on Bylaws. Robert T. Schofield, IV, chair of the Bylaws Committee, outlined proposed bylaws amendments: first, to implement the resolution of the Committee on Diversity, Equity, and Inclusion as adopted by the House of Delegates on June 18, 2022, directing the addition of a new Section 2 to Article II and

amendments to Article V, Section 3(H) and Article VII, Section 1(F)(1); second, to incorporate requests made by the Committee on Membership for amendments to Article III, Section 1(D)(1) and Article III, Section 6; and, third, to correct an internal citation error at Article IV, Section 7. After discussion, a motion was adopted to endorse the amendments for subscription by the House.

11. Discussion of Executive Committee liaison responsibilities and duties of Vice Presidents. Mr. Cohen reported on developments within the Eleventh Judicial District and on the work of the Task Force on Modernization of Criminal Practice and the Committee on Mandated Representation. Judge Seiden provided an update on developments with the 50+ Section, within the Ninth Judicial District, and at the Westchester County Bar Association. Mr. Lewis reported on the work of the Bylaws Committee, Business Law Section, and the Local and State Government Law Section. Mr. Baum advised on developments within the Dispute Resolution Section. Mr. Minkoff reported on the work of the Committee on Professional Ethics and the Committee on Standards of Attorney Conduct. Ms. Yeung-Ha provided an update on developments within the Second Judicial District and on the work of the Committee on Lawyer Referral, the Committee on Mass Disaster Response, and the Committee on Technology and the Legal Profession. The reports were received with thanks.
12. Report of Committee on Continuing Legal Education. Committee chair Shawndra G. Jones, vice chair Patricia J. Shevy, and senior director of CLE and Law Practice Management Katherine Suchocki updated the Executive Committee on CLE programming and revenue. The report was received with thanks.
13. Report of Committee on Membership. Committee co-chairs Clotelle L. Drakeford and Michelle H. Wildgrube, together with senior director of attorney engagement and retention Victoria Shaw, reported on the Association's member renewal and engagement initiatives. The report was received with thanks.
14. Report and recommendations of Women in Law Section. Section chair Sheryl B. Galler, together with past chairs Susan L. Harper and Terri A. Mazur, presented the Section's resolution and accompanying report entitled "Resolution Supporting Reproductive Health-Care Rights and Reproductive Autonomy and the New York State Equal Rights Amendment." After discussion, a motion was adopted to endorse the following resolution for favorable action by the House:

NOW, THEREFORE,

IT IS RESOLVED, that the New York State Bar Association supports the rights of individuals to choose legal reproductive health care, including abortion; and it is

FURTHER RESOLVED, that the New York State Bar Association supports the amendments to New York State Public Health Law, Education

Law, and Penal Law, as enacted in New York State by the signing of S.240/A.21 in 2019; and it is

FURTHER RESOLVED, that the New York State Bar Association supports N.Y. Public Health Law Article 25-A as enacted in 2019; and it is

FURTHER RESOLVED, that the New York State Bar Association supports the June 13, 2022, Legislative Package, as enacted by New York State and supports the policies and intent of the legislative package enacted; and it is

FURTHER RESOLVED, that the New York State Bar Association supports S.51002 of 2022, as passed by the New York State Senate and Assembly, and as policy the proposal codified in this concurrent resolution to amend Section 11 of Article 1 of the New York State Constitution in relation to equal protection; and it is

FURTHER RESOLVED, that the New York State Bar Association supports passage of the Women’s Health Protection Act of 2022, and supports the policies and intent of this bill; and it is

FURTHER RESOLVED, that the New York State Bar Association opposes passage of laws that would ban abortion nationwide and/or diminish the current protections under New York law; and it is

FURTHER RESOLVED, that the New York State Bar Association approves the report and recommendations of the Women in the Law Section; and it is

FURTHER RESOLVED, that the officers of the Association are hereby authorized to take such other and further action as may be necessary to implement this resolution.

Hon. James P. Murphy abstained from the vote.

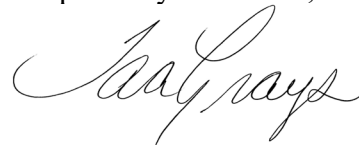
15. Report and recommendations of the Steering Committee on Legislative Priorities. Evan M. Goldberg, chair of the Committee on Legislative Policy, together with Director of Policy Hilary F. Jochmans, presented proposed legislative priorities for 2023 at both state and federal levels. After discussion, a motion was made to approve the recommendations, after which a motion was successfully carried to amend Federal Recommendation #4.10. to read “Support for passage of Extreme Risk Protection Laws, aka Red Flag Laws, consistent with constitutional and due process protections.” The main motion was then adopted, and the legislative priorities approved.
16. Reports and recommendations of Committee on Civil Practice Law and Rules. Hon. Lucy Billings, co-chair of the Committee, presented the following legislative proposals.

- A) Amending CPLR § 4013. Judge Billings outlined an affirmative legislative proposal to amend CPLR § 4013 to permit the use of remote audio-visual technological means at judicial proceedings. After discussion, a motion was duly carried to table the report. Mr. Napoletano abstained from the vote.
- B) Amending NY City Civil Court Act §§1808 & 1808- A; Uniform District Court Act §§1808 & & 1808-A; Uniform City Court Act §§1808 & & 1808A; and Uniform Justice Court Act §1808 – all of which are titled “Judgment obtained to be res judicata in certain cases”. Judge Billings presented an affirmative legislative proposal to amend the NY City Civil Court Act §§1808 & 1808- A; the Uniform District Court Act §§1808 & & 1808-A; the Uniform City Court Act §§1808 & & 1808A; and the Uniform Justice Court Act §1808 to clarify the preclusive effect of small claims court judgments on subsequent claims. After discussion, a motion was unanimously adopted to approve the proposal.
17. Report and recommendations of Trusts and Estates Law Section. Albert Feuer and Anna Masilela, members of the section, outlined an affirmative legislative proposal in support of the New York Equity for Surviving Spouses Act (“ESSA”), with focus on comments received from NYSBA sections, committees, and other stakeholders since the proposal was presented at the June 16 and 17, 2022, meeting of the Executive Committee. After discussion, a motion was adopted to approve the proposal. Mr. McNamara abstained from the vote.
18. Report and recommendations re the Rules of the House of Delegates. Justin S. Teff, a member of the Committee on Bylaws subcommittee tasked with reviewing the Rules of the House of Delegates, outlined proposed amendments to the Rules. After discussion, a motion was unanimously adopted to endorse the report and recommendations for favorable action by the House.
19. Report and recommendations of Committee on Procedures for Judicial Discipline. Justin S. Teff, chair of the Committee on Procedures for Judicial Discipline, reviewed the Committee’s report and recommendations concerning suspension as a mode of judicial discipline. After discussion, a motion was adopted to endorse the report and recommendations for favorable action by the House. Hon. James P. Murphy abstained from the vote.
20. Report of Nominating Committee. Henry M. Greenberg, chair of the Nominating Committee, reported that the Committee had nominated the following individuals for election to the indicated offices for the 2023-2024 Association year: President-Elect – Domenick Napoletano of Brooklyn; Secretary – Taa R. Grays of New York City; Treasurer – Susan Harper of New York City; District Vice-Presidents: First District – Bridgette Ahn of New York City and Michael McNamara of New York City; Second District –Pauline Yeung-Ha of Brooklyn; Third District – Jane Bello Burke of Albany; Fourth District – Nancy Sciocchetti of Saratoga Springs; Fifth District – Hon. James P. Murphy of Syracuse; Sixth District – Michael R. May of Ithaca; Seventh District – Mark J. Moretti of Rochester;

Eighth District – Kathleen M. Sweet of Buffalo; Ninth District – Karen Beltran of Yonkers; Tenth District – Michael A. Markowitz of Hewlitt; Eleventh District – David Louis Cohen of Kew Gardens; Twelfth District – Michael A. Marinaccio of White Plains; Thirteenth District – Orin J. Cohen of Staten Island. The following individuals were nominated to serve as Executive Committee Members-at-Large for a 2-year term beginning June 1, 2023: LaMarr J. Jackson of Rochester (Diversity Seat); Thomas J. Maroney of New York City; and Christopher R. Riano of New York City. Nominated as Young Lawyer Member-at-Large was Lauren E. Sharkey of Schenectady. Nominated as Section Member-at-Large was Barry D. Skidelsky of New York City. The following individuals were nominated as delegates to the American Bar Association House of Delegates for the 2023- 2025 term: Claire P. Gutekunst, Yonkers; Scott M. Karson, Melville; Michael Miller, New York City; Domenick Napolitano, Brooklyn; and Sherry Levin Wallach, White Plains. The report was received with thanks.

21. Report of Task Force on Modernization of Criminal Practice. Catherine A. Christian and Andy Kossover, co-chairs of the Task Force on Modernization of Criminal Practice, presented on the mission, composition, and goals of the Task Force. The report was received with thanks.
22. Report of Task Force on Emerging Digital Finance and Currency. Jackie Drohan and Dana Syracuse, co-chairs of the Task Force on Emerging Digital Finance and Currency, presented on the Task Force’s ongoing work and programming. The report was received with thanks.
23. Date and place of next meeting. The next meeting of the Executive Committee will take place on Thursday, January 19, 2023, in person at the New York Hilton Midtown in Manhattan.
24. Adjournment. There being no further business, the meeting of the Executive Committee was adjourned.

Respectfully submitted,



Taa R. Grays
Secretary