

**MINUTES OF THE HOUSE OF DELEGATES
OF THE LOUISIANA STATE BAR ASSOCIATION
JANUARY 22, 2005**

The House of Delegates was convened at 9:14 a.m. on Saturday, January 22, 2005 in the auditorium of the LSU Paul M. Hebert Law Center in Baton Rouge, Louisiana.

I. Certification of Quorum by the Secretary.

After reviewing the delegate check-in roster, Secretary James R. McClelland determined that a quorum was present. A copy of the attendance roster is attached as an addendum to these Minutes. President Michael W. McKay declared the meeting to be in session.

II. Recognition of Deceased Members of the House of Delegates.

The House observed a moment of silence in memory of Charles S. Smith of Monroe.

III. Reports of Standing Committees of the House.

No oral reports were given; all reports that were in writing were submitted.

IV. Reports of Officers, Board of Governors, Standing Committees and Sections of the Louisiana State Bar Association.

1. President

a. House of Delegates Retreat.

President McKay asked the House members if they would be interested in participating in a House of Delegates retreat on Friday, May 6. Approximately half the delegates present indicated an interest in attending. President McKay stated that he would present the proposal to the Board of Governors for its consideration and notify the House of the Board's decision.

b. 2005 Annual Meeting.

President McKay presented a brief report on plans for the 2005 Annual Meeting to be held June 26-28 at Caesars Palace in Las Vegas, Nevada.

c. Recognition of Sponsors.

President McKay acknowledged the generous donations received from Breazeale, Sachse, Wilson; LexisNexis; Gilsbar; Kantrow, Spaht, Weaver & Blitzer, A P.L.C.; Phelps Dunbar LLP; Simon, Peragine, Smith & Redfearn, LLP; and Snellings, Breard, Sartor, Inabnett & Trascher.

d. Fastcase Presentation.

President McKay introduced Ed Walters with Fastcase for a presentation on the new online legal library member benefit.

2. Treasurer

A written report was distributed to the House.

V. Reports of Special Committees of the Louisiana State Bar Association.

1. Committee on Rules of Professional Conduct.

Mr. Richard C. Stanley, committee chair, referred the House to a report regarding the ABA Proposed Court Rule on Disclosure of Professional Liability Insurance. The ABA sent its recommendations on mandatory disclosure of professional liability insurance to the Louisiana Supreme Court, who in turn has requested comments from the LSBA. Elizabeth A. Alston made the following motion:

“BE IT RESOLVED, that the LSBA recommend to the Louisiana Supreme Court that, for 2006/07 only, the Attorney Registration Statement include an area for members to indicate whether or not they have professional liability insurance, and that this information be used to develop statistics and that no information on individual members be released to the public.”

The motion was seconded and a vote taken. The motion was adopted by a vote of 91-70.

VI. Presentation for approval of the minutes of the last meeting of the House.

The following motion was made:

“BE IT RESOLVED, that the minutes of the June 11, 2004 meeting of the House of Delegates are approved.”

The motion was seconded and unanimously approved.

VII. NEW BUSINESS

- 1. Election from the 1st through 19th Judicial Districts of a chairperson and two (2) members of the House of Delegates to the Liaison Committee of the House. The chairperson will serve a one-year term as an ex-officio member of the Board of Governors and shall have the same rights and privileges of all other members of the Board, including the right to vote.**

The following motion was made by Ralph Brewer:

“BE IT RESOLVED, that James E. Boren of the 19th Judicial District serve as Chair of the Liaison Committee to the House of Delegates.”

The following motion was made by Steven G. Durio:

“BE IT RESOLVED, that Timothy A. Maragos of the 15th Judicial District serve as Chair of the Liaison Committee to the House of Delegates.”

Nominations were closed and a vote taken. James E. Boren of the 19th Judicial District was declared elected as Chair of the Liaison Committee to the House of Delegates.

The following motion was made by John S. “Chip” Coulter:

“BE IT RESOLVED, that Timothy A. Maragos of the 15th Judicial District serve as a member of the Liaison Committee to the House of Delegates.”

The following motion was made by Herschel E. Richard:

“BE IT RESOLVED, that Billy R. Casey of the 1st Judicial District serve as a member of the Liaison Committee to the House of Delegates.”

The following motion was made by Robert J. Burns, Jr.:

“BE IT RESOLVED, that Daniel A. Cavell of the 17th Judicial District serve as a member of the Liaison Committee to the House of Delegates.”

The following motion was made by Michael J. Poirrier:

“BE IT RESOLVED, that Andy Reed of the 16th Judicial District serve as a member of the Liaison Committee to the House of Delegates.”

Nominations were closed and a vote taken. Timothy A. Maragos of the 15th Judicial District and Andy Reed of the 16th Judicial District were declared elected to serve as members of the Liaison Committee to the House of Delegates.

2. **Resolution from Bar Governance Committee proposing an amendment to the House of Delegates Rules of Procedure to require House members to register for the Annual Meeting in order to participate in House deliberations at the Annual Meeting.**

Donald R. Abaunza, committee member, made the following motion:

“BE IT RESOLVED, that the resolution from the Bar Governance Committee proposing amendment to the House of Delegates Rules of Procedure to require House members to register for the Annual Meeting in order to participate in the House deliberations at the Annual Meeting, a copy of which is attached, be adopted.”

The motion was seconded and defeated.

- 3. Resolution from Legislative Process Review Committee requesting the House of Delegates allow the LSBA to move forward with the identification of a legislator to file legislation which would require insurance companies to provide plaintiffs with written notice whenever a settlement check is issued to the plaintiff’s lawyer and, if approved, the LSBA petition the Louisiana Supreme Court to adopt the ABA Model Rule for Payee Notification.**

David W. Leefe, Client Assistance Fund Committee chair, made the following motion:

“BE IT RESOLVED, that the resolution from the Legislative Process Review Committee requesting the House of Delegates allow the LSBA to move forward with the identification of a legislator to file legislation which would require insurance companies to provide plaintiffs with written notice whenever a settlement check is issued to the plaintiff’s lawyer and, if approved, the LSBA petition the Louisiana Supreme Court to adopt the ABA Model Rules for Payee Notification, a copy of which is attached, be adopted.”

The motion was seconded. Mr. Maragos made the following motion:

“BE IT RESOLVED, that the resolution from the Legislative Process Review Committee be amended by deleting the words ‘third party liability claim’ from Section A.”

Mr. Leefe accepted the motion as a friendly amendment. Mr. Maragos then made the following motion:

“BE IT RESOLVED, that Section B of the resolution from the Legislative Process Review Committee be amended to read ‘there shall be no cause of action for any person based upon the provision of or failure to provide notice as required by this section.’”

Mr. Leefe accepted the motion as a friendly amendment. Following discussion, a vote was taken and the resolution was defeated.

4. Resolution from Legislative Process Review Committee proposing amendment of Article IX of the Bylaws of the Louisiana State Bar Association by adding language regarding changes to legislation where the House of Delegates has adopted a position.

Steven G. Durio, committee member, made the following motion:

“BE IT RESOLVED, that the resolution from the Legislative Process Review Committee proposing amendment of Article IX of the Bylaws of the Louisiana State Bar Association by adding language regarding changes to legislation where the House of Delegates has adopted a position, a copy of which is attached, be adopted.”

The motion was seconded. Robert M. Marrioneaux, Jr. made the following motion:

“BE IT RESOLVED, that the resolution from the Legislative Process Review Committee proposing to add language regarding changes to legislation where the House of Delegates has adopted a position be amended by reducing the 36-hour comment period of the House of Delegates to a 12-hour comment period.”

The motion was accepted by Mr. Durio as a friendly amendment. Val Exnicios then made the following motion:

“BE IT RESOLVED, that the resolution from the Legislative Process Review Committee proposing to add language regarding changes to legislation where the House of Delegates has adopted a position be amended by reinstating the 36-hour comment period.”

The motion was seconded and a vote taken. The motion was defeated. A vote was then taken on the resolution as amended. The motion was adopted as amended.

5. Resolution from Legislative Process Review Committee proposing amendment to the Rules of Procedure of the House of Delegates to provide for privileges in the House for the Association’s lobbyist.

Val Exnicios, committee member, made the following motion:

“BE IT RESOLVED, that the resolution from the Legislative Process Review Committee proposing amendment to the Rules of Procedure of the House of Delegates to provide for privileges in the House for the Association’s lobbyist, a copy of which is attached, be adopted.”

The motion was seconded and adopted unanimously.

6. **Resolution from the Legislative Process Review Committee and Louisiana Client Assistance Foundation requesting the House of Delegates allow the LSBA to move forward with the identification of a legislator to file legislation which would allow banks to provide attorney trust account overdraft notification to the Office of Disciplinary Counsel and would give banks immunity in the provision of such notice and, if approved, petition the Louisiana Supreme Court to adopt the ABA Model Rules for Trust Account Overdraft Notification.**

David W. Leefe, Client Assistance Fund Committee chair, made the following motion:

“BE IT RESOLVED, that the resolution from the Legislative Process Review Committee and the Louisiana Client Assistance Foundation requesting the House of Delegates allow the LSBA to move forward with the identification of a legislator to file legislation which would allow banks to provide attorney trust account overdraft notification to the Office of Disciplinary Counsel and would give banks immunity in the provision of such notice and, if approved, petition the Louisiana Supreme Court to adopt the ABA Model Rules for Trust Account Overdraft Notification, a copy of which is attached, be adopted.”

The motion was seconded and a vote taken. The resolution was adopted by a vote of 96 in favor and 40 against.

7. **Resolution from the Rules of Professional Conduct Committee proposing amendment to the Bylaws of the Louisiana State Bar Association to create a standing committee called the Rules of Professional Conduct Committee and abolishing the Lawyer Advertising Advisory Service Committee and consolidating the function of that committee into the “Ethics Advisory Service/Advertising Advisory Committee.”**

Richard C. Stanley, committee chair, made the following motion:

“BE IT RESOLVED, that the resolution from the Rules of Professional Conduct Committee proposing amendment to the Bylaws of the Louisiana State Bar Association to create a standing committee called the Rules of Professional Conduct Committee and abolishing the Lawyer Advertising Advisory Service Committee and consolidating the function of that committee into the ‘Ethics Advisory Service/Advertising Advisory Committee,’ a copy of which is attached, be adopted.”

The motion was seconded and adopted unanimously.

8. Resolution from Alternative Dispute Resolution Section to amend the section’s bylaws regarding election procedures.

Elizabeth W. Middleton, section chair, made the following motion:

“BE IT RESOLVED, that the resolution from the Alternative Dispute Resolution Section to amend the section’s bylaws regarding election procedures, a copy of which is attached, be adopted.”

The motion was seconded and adopted unanimously.

9. Resolution from Antitrust and Trade Regulation Law Section to amend the section’s bylaws to change the name of the section to the “Section of Antitrust, Trade Regulation and Business Torts Law.”

The resolution received no motion to approve.

10. Resolution from 22nd Judicial District Delegate Phillip M. Lynch, Jr. proposing amendment of all rules of the Louisiana Supreme Court, Courts of Appeal and all District Courts to change size of paper to be used in all court filings.

President McKay informed the House that the resolution was withdrawn by the author.

11. Resolution from the Family Law Section to amend the section’s bylaws regarding its annual meeting and election procedures.

Walton J. Barnes II, section chair, made the following motion:

“BE IT RESOLVED, that the House of Delegates waive its rules and consider a resolution not pre-filed.”

The motion was seconded and adopted.

Mr. Barnes then made the following motion:

“BE IT RESOLVED, that the resolution from the Family Law Section to amend the section’s bylaws regarding its annual meeting and election procedures, a copy of which is attached, be adopted.”

The motion was seconded and adopted unanimously.

12. Resolution from Executive Committee proposing amendment to Article VIII of the Bylaws of the Louisiana State Bar Association to require sections without expense reimbursement policies to be subject to the expense reimbursement policies of the Louisiana State Bar Association.

Val Exnicios, Section Council chair, made the following motion:

“BE IT RESOLVED, that the House of Delegates waive its rules and consider a resolution not pre-filed.”

The motion was seconded and adopted.

Mr. Exnicios then made the following motion:

“BE IT RESOLVED, that the resolution from the Executive Committee proposing amendment to Article VIII of the Bylaws of the Louisiana State Bar Association to require sections without expense reimbursement policies to be subject to the expense reimbursement policies of the Louisiana State Bar Association, a copy of which is attached, be adopted.”

The motion was seconded and adopted unanimously.

13. Resolution from 19th Judicial District Delegate Darrel J. Papillion recommending to the Louisiana Supreme Court the amendment of rules of the Court specifically providing that all decisions of all Louisiana state courts be made public and to further amend the Court rules to provide that

any decision of any Louisiana state court may be cited in any and all briefs, memoranda and other legal documents.

Darrel J. Papillion made the following motion:

“BE IT RESOLVED, that the resolution recommending to the Louisiana Supreme Court the amendment of rules of the Court specifically providing that all decisions of all Louisiana state courts be made public and to further amend the Court rules to provide that any decision of any Louisiana state court may be cited in any and all briefs, memoranda and other legal documents, a copy of which is attached, be adopted.”

The motion was seconded and adopted unanimously.

14. Resolution from House of Delegates members to amend Rule 8.2 of the Rules of Professional Conduct and to establish a judicial campaign matching fund.

Roy Raspanti made the following motion:

“BE IT RESOLVED, that the resolution from House of Delegates members to amend Rule 8.2 of the Rules of Professional Conduct and to establish a judicial campaign matching fund, a copy of which is attached, be adopted.”

The motion was seconded. John S. “Chip” Coulter offered the following substitute motion:

“BE IT RESOLVED, that prior to the House of Delegates voting on a resolution that only affects the parishes of Jefferson and Orleans, that the delegates from those parishes be polled as to their support of the resolution.”

President McKay ruled the motion out of order and welcomed comments from the delegates from Orleans and Jefferson parishes. Donald R. Abanza then made the following motion:

“BE IT RESOLVED, that the resolution from House of Delegates members to amend Rule 8.2 of the Rules of Professional Conduct and to establish a judicial campaign matching fund be tabled.”

The motion was seconded and adopted.

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There being no further business to discuss, the meeting was adjourned at 11:05 a.m.

Respectfully Submitted:

James R. McClelland
Secretary

Date