

**MINUTES OF THE HOUSE OF DELEGATES  
OF THE LOUISIANA STATE BAR ASSOCIATION  
JUNE 7, 2001**

The House of Delegates was convened at 9:45 a.m. on Thursday, June 7, 2001, in the Linkside Center at the Sandestin Golf and Beach Resort in Destin, Florida.

**I. Roll Call by the Secretary.**

After reviewing the delegate check-in roster, Secretary Elizabeth Haecker Ryan determined that a quorum was present. A copy of the attendance roster is attached as an addendum to these Minutes. President E. Phelps Gay declared the meeting to be in session.

**II. 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 January 13, 2001 meeting of the House of Delegates are approved.”

The motion was seconded and passed unanimously.

**III. Reports of Standing Committees of the House of Delegates.**

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.**

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

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

**1. Legislation Committee.**

Monica T. Surprenant, committee chair, reported on the committee’s review of bills filed in the Louisiana House of Representatives and Senate. Bills believed to be of particular interest to one or more of the LSBA sections were forwarded for their information and/or action. Seven bills that could impact the general practice of law were posted on the LSBA web site. Ms. Surprenant stated that the committee was in the process of developing amendments to the LSBA Bylaws for consideration by the House of Delegates that would allow the LSBA to announce positions on legislation.

**2. Court Rules Committee.**

Susie Morgan, committee chair, provided a brief report on the recent activities of the committee and informed the House that the rules were available for review on the LSBA and Supreme Court web sites. She encouraged the House members to read the proposed rules and provide comments to the committee. The committee hopes to present a final version of the rules to the Supreme Court for their consideration later this fall.

**3. Multijurisdictional Practice Committee.**

Joseph L. Shea, Jr., committee chair, reported on the various issues being considered by the committee and comments presented to the ABA committee. Mr. Shea requested the members of the House participate in a survey sponsored by the committee that is available on the LSBA web site.

**4. Ethics 2000 Committee.**

Dane S. Ciolino, committee reporter, presented a report on the committee's activities, including the monitoring of actions taken by the ABA's committee. He indicated that the LSBA committee will present to the House of Delegates proposed changes to Louisiana's Rules of Professional Conduct once the ABA House of Delegates acts on the ABA model rules.

**VI. Reports of Special Committees of the House of Delegates.**

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

**VII. New Business**

**1. Election of a member from the House of Delegates to serve on the Budget Committee.**

Steven G. Durio, delegate from the 15<sup>th</sup> Judicial District, made the following motion:

“BE IT RESOLVED, that Michael J. Poirrier from Pierre Part be elected to serve as a member of the Budget Committee from the House of Delegates.”

The motion was seconded and adopted unanimously.

- 2. Election of three (3) members of the House of Delegates to the Special Advisory Committee to Authorize the President to Speak on Behalf of the Association. This committee was created by a resolution adopted by the House on November 13, 1971. The committee is composed of the president, president-elect, secretary, chairperson of the Public Information Committee, and three (3) members designated from the membership of the House of Delegates by the House of Delegates.**

Gerald T. Arbour, delegate from the 19<sup>th</sup> Judicial District, made the following motion:

“BE IT RESOLVED, that Vincent P. Fornias of Baton Rouge be elected to serve as a member of the Special Advisory Committee to Authorize the President to Speak on Behalf of the Association.”

The motion was seconded and adopted unanimously.

Phillip A. Wittmann, delegate from Orleans Parish, made the following motion:

“BE IT RESOLVED, that Thomas M. Flanagan of New Orleans be elected to serve as a member of the Special Advisory Committee to Authorize the President to Speak on Behalf of the Association.”

The motion was seconded and adopted unanimously.

Mimi Koch, Section chair, made the following motion:

“BE IT RESOLVED, that Walter I. Willard of New Orleans be elected to serve as a member of the Special Advisory Committee to Authorize the President to Speak on Behalf of the Association.”

The motion was seconded and adopted unanimously.

- 3. Election of a member of the House of Delegates to serve, without vote, on the Committee on Continuing Legal Education (Mandatory CLE).**

Ralph Brewer, delegate from the 19<sup>th</sup> Judicial District, made the following motion:

“BE IT RESOLVED, that Gerald T. Arbour from Baton Rouge be elected to serve, without vote, as a member of the Committee on Continuing Legal Education (Mandatory CLE).”

The motion was seconded and adopted unanimously.

4. **Election of a member of the Louisiana State Bar Association to serve ex-officio as a member of the Board of Directors of the Louisiana Bar Foundation for a three-year term. This individual must be a Fellow of the Louisiana Bar Foundation.**

John G. Swift, delegate from the 15<sup>th</sup> Judicial District, made the following motion:

“BE IT RESOLVED, that John W. Scott from Alexandria be elected to serve ex-officio as a member of the Board of Directors of the Louisiana Bar Foundation.”

The motion was seconded.

Darryl J. Foster, delegate from New Orleans, made the following motion:

“BE IT RESOLVED, that Paul B. Deal from New Orleans be elected to serve ex-officio as a member of the Board of Directors of the Louisiana Bar Foundation.”

The motion was seconded and a vote taken. Mr. Scott from Alexandria was elected to serve ex-officio as a member of the Board of Directors of the Louisiana Bar Foundation.

5. **Resolution from House of Delegates member Steven G. Durio (15<sup>th</sup> Judicial District) proposing that the House of Delegates recommend to the Supreme Court of Louisiana an amendment to the Rules of Professional Conduct which would require a minimum of \$50,000 fidelity bond coverage per lawyer/employee.**

Steven G. Durio, delegate from the 15<sup>th</sup> Judicial District, made the following motion:

“BE IT RESOLVED, that the resolution proposing the House of Delegates recommend to the Supreme Court of Louisiana an amendment to the Rules of

Professional Conduct which would require a minimum of \$50,000 fidelity bond coverage per lawyer/employee, a copy of which is attached, be adopted.”

The motion was seconded. Ms. Arceneaux offered an amendment by deletion of “/employee” on lines three and four of the Resolved section of the resolution and adding “except those attorneys who are full-time public employees, judges, professors or in-house counsel and any other attorneys who do not maintain interest on lawyer trust accounts or escrow accounts” following the word “lawyer” in line three of the Resolved. The amendment was seconded. Ms. Alston then offered a friendly amendment to the amendment by deletion of “do not”, “interest on lawyer” and “escrow accounts” and the addition of “are not required to” following the word “who” and adding “trust” following the word “maintain”. The friendly amendment was accepted by Ms. Arceneaux and Mr. Durio accepted Ms. Arceneaux’s amendment as a friendly amendment. A vote was taken on the resolution as amended and the resolution was defeated.

**6. Resolution from Client Protection Fund Study Committee proposing creation of the Client Protection Fund Trust Fund with an approximate \$2 million corpus, and further proposing that the House of Delegates recommend to the Supreme Court of Louisiana a \$10 per year per lawyer assessment for five years in order to provide partial funding for the establishment of the Trust Fund.**

Frank X. Neuner, Jr., committee chair, spoke briefly on the merits of the resolution and proposed a friendly amendment by deletion of the words “for five years” in the 12<sup>th</sup> WHEREAS and Resolve. He then made the following motion:

“BE IT RESOLVED, that the resolution as amended proposing creation of the Client Protection Fund Trust Fund with an approximate \$2 million corpus, and further proposing that the House of Delegates recommend to the Supreme Court of Louisiana a \$10 per year per lawyer assessment to provide partial funding for the establishment of the Trust Fund, a copy of which is attached, be adopted.”

The resolution was seconded. Ms. Arceneaux suggested that instead of asking the Supreme Court for an assessment the House request a Supreme Court opinion to determine if IOLTA money could be used to help fund the trust fund. Discussion followed and Mr. Farmer offered the following motion:

“BE IT RESOLVED, that the resolution proposing creation of the Client Protection Fund Trust Fund be tabled for further study and to determine if IOLTA

monies can be used to help fund the trust fund. Further, the committee should not limit funding to IOLTA but search for other mechanisms to fund the trust fund."

The motion was seconded and defeated by a vote of 83 in favor and 51 against.

7. **Resolution from Family Courts Committee proposing endorsement of its model family court, as well as implementation of same in such jurisdictions where feasible and demographically justified.**

E. Ted Wegener, delegate from the 22<sup>nd</sup> Judicial District and committee co-chair, made the following motion:

"BE IT RESOLVED, that the resolution proposing endorsement of the model family court, as well as implementation of same in such jurisdictions where feasible and demographically justified, a copy of which is attached, be adopted."

The resolution was seconded and adopted.

8. **Resolution from Louisiana Association of Professional Responsibility Lawyers, through LSBA members Paul J. Hebert and Elizabeth A. Alston, urging the House of Delegates to recommend to the Supreme Court of Louisiana amendment of Supreme Court Rule XIX to include a provision allowing for private admonitions in certain circumstances.**

Steven G. Durio, delegate from the 15<sup>th</sup> Judicial District, made the following motion:

"BE IT RESOLVED, that the resolution urging the House of Delegates to recommend to the Supreme Court of Louisiana amendment of Supreme Court Rule XIX to include a provision allowing for private admonitions in certain circumstances, a copy of which is attached, be adopted."

The motion was seconded and adopted.

9. **Resolution from the Louisiana Association of Professional Responsibility Lawyers, through LSBA members Paul J. Hebert and Elizabeth A. Alston, urging the House of Delegates to recommend to the Supreme Court of Louisiana amendment of Supreme Court Rule XIX in order to impose time restrictions on disciplinary investigations or proceedings.**

Elizabeth A. Alston offered an amendment by deletion of “Upon the expiration of the following time delays, respondent may file a motion to dismiss a disciplinary investigation or proceeding. Such a motion will be granted, unless good cause is shown for its denial.” under Section 34. Abandonment; the deletion of “a motion may be made to be” under Section 34. Abandonment, Subsection (A); and the addition of “respondent may file a motion to dismiss a disciplinary investigation or proceeding. Such a motion will be granted unless good cause is shown for its denial. This motion will be” following the word “year” in Subsection (A). She then made the following motion:

“BE IT RESOLVED, that the resolution as amended to urge the House of Delegates to recommend to the Supreme Court of Louisiana amendment of Supreme Court Rule XIX in order to impose time restrictions on disciplinary investigations or proceedings, a copy of which is attached, be adopted.”

The motion was seconded. A motion was then made to table the resolution for further study. The motion to table was adopted by a vote of 74 in favor and 34 against.

- 10. Resolution from House of Delegates member Troy E. Bain (1<sup>st</sup> Judicial District) requesting that the House; (1) ask the Supreme Court of Louisiana appoint a Commission to determine whether changes are needed to Rule 7.1 (dealing with lawyer advertising); and (2) direct the LSBA President instruct the LSBA staff to prepare a detailed proposal for the structure of the Commission, along with a budget and proposed funding mechanism.**

Troy E. Bain withdrew the resolution and made the following motion:

“BE IT RESOLVED, that the House of Delegates adopt a special order of business to consider a proposed amendment to Rules of Professional Conduct, Rule 7, by the addition of Rule 7.5 – Filing of Communications, a copy of which is attached.”

The motion was defeated.

- 11. Resolution from House of Delegates member William J. Dutel (22<sup>nd</sup> Judicial District) proposing that the House of Delegates recommend to the Supreme Court of Louisiana that Supreme Court Rule XVII (which governs admissions to the Bar) be amended to require a one-year mentoring period.**

William J. Dutel made the following motion:

“BE IT RESOLVED, that the resolution proposing the House of Delegates recommend to the Supreme Court of Louisiana amendment of Supreme Court Rule XVII to require a one-year mentoring period, a copy of which is attached, be adopted.”

The motion was seconded. Ms. Hogan, chair of the Practice Assistance and Improvement Committee, informed the House that the committee had established a mentoring subcommittee that is working with the Supreme Court Ad Hoc Committee to develop recommendations on a mentoring/internship program. She then made the following motion:

“BE IT RESOLVED, that the resolution proposing the House of Delegates recommend to the Supreme Court of Louisiana amendment of Supreme Court Rule XVII to require a one-year mentoring period be tabled until such time as the Practice Assistance and Improvement Committee’s subcommittee and the Supreme Court Ad Hoc Committee have had an opportunity to develop recommendations for submission to the House of Delegates.”

The motion was seconded and adopted.

**12. Resolution from House of Delegates member Roy Raspanti (24<sup>th</sup> Judicial District) proposing creation of Judicial Campaign Matching Fund, and proposing assessment on Louisiana lawyers to finance creation of fund.**

Roy Raspanti made the following motion:

“BE IT RESOLVED, that the resolution proposing creation of Judicial Campaign Matching Fund and proposing assessment on Louisiana lawyers to finance creation of fund, a copy of which is attached, be adopted.”

The motion was seconded. Mr. Raspanti then made the following motion:

“BE IT RESOLVED, that the resolution proposing creation of Judicial Campaign Matching Fund and proposing assessment on Louisiana lawyers to finance creation of fund, be tabled to allow for input and referral to the appropriate committee(s).”

The motion was seconded and adopted.

**13. Resolution from Sole Practitioners and Small Firms Section to change name of section to Solo and Small Firm Section.**

Vincent P. Fornias, delegate from the 19<sup>th</sup> Judicial District and section member, made the following motion:

“BE IT RESOLVED, that the resolution changing the name of the Sole Practitioners and Small Firms Section to Solo and Small Firm Section, a copy of which is attached, be adopted.”

The motion was seconded and adopted unanimously.

**14. Resolution from House of Delegates members Jack C. Benjamin, Jr. and Walter I. Willard (both from Orleans Parish) proposing creation of the Administrative Law Section and adoption of bylaws of same.**

Walter I. Willard, delegate from Orleans Parish, made the following motion:

“BE IT RESOLVED, that the resolution proposing the creation of the Administrative Law Section and adoption of section bylaws, a copy of which is attached, be adopted.”

The motion was seconded and adopted unanimously.

**15. Resolution from LSBA member David L. Guerry of Baton Rouge proposing creation of the Public Utility Section and adoption of bylaws of same.**

Paul S. West, delegate from the 19<sup>th</sup> Judicial District, made the following motion:

“BE IT RESOLVED, that the resolution proposing creation of the Public Utility Section and adoption of section bylaws, a copy of which is attached, be adopted.”

The motion was seconded and adopted unanimously.

**16. Draft of proposed change to Supreme Court Rule XVIII, Section 5, which would allow for the permanent resignation from the practice of law in certain circumstances. This is being provided to the House by the Court for review and comment.**

**Minutes of the House of Delegates**  
**June 7, 2001**  
**Page 10**

President Gay informed the House that the proposed change to Supreme Court Rule XVIII, Section 5, was placed on the agenda for informational purposes. He asked the members of the House to review the proposal and provide any comments directly to the Supreme Court.

There being no further business before the House, President Gay declared the meeting adjourned at 12:20 p.m.

Respectfully Submitted by:

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Elizabeth Haecker Ryan  
Secretary

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Date

