

**MINUTES OF THE HOUSE OF DELEGATES
OF THE LOUISIANA STATE BAR ASSOCIATION
JANUARY 19, 2002**

The House of Delegates was convened at 9:05 a.m. on Saturday, January 19, 2002, in the Ballroom of the Marriott Hotel, Baton Rouge, Louisiana.

I. Certification of Quorum by the Secretary

After reviewing the delegate check-in roster, Secretary Marta-Ann Schnabel determined that a quorum was present. A copy of the attendance roster is attached as an addendum to these Minutes. President Michael H. Rubin 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 June 7, 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.

1. President.

President Rubin presented a power point presentation on various programs, initiatives and awards that are being implemented during his term in office.

2. President-Elect.

Mr. Feldman encouraged all members of the House of Delegates to attending the LSBA Annual Meeting to be held June 26-28, 2002, at The Sandestin Golf and Beach Resort in Destin, Florida.

3. Secretary.

Ms. Schnabel presented no report.

4. Treasurer.

Mr. McKay reported on the financial condition of the Association.

5. Access to Justice Committee.

Monte T. Mollere, Access to Justice Director, presented a report on the activities of the program including the reconfiguration of Legal Services Corporation grantees in Louisiana. In October the three project directors of LSC grantees in the Baton Rouge, New Orleans and Florida Parish areas requested the committee amend its recommendation to LSC so as to allow for two programs in the southeast area instead of the one initially recommended. The committee approved the request and forwarded the recommendation to LSC. LSC has halted reconfiguration in the southeast, extending the current three-program configuration through December 2002, and is considering the matter more closely.

6. Legal Malpractice Insurance Committee/Mandatory Malpractice Insurance Subcommittee.

Michael C. Darnell, subcommittee chair, presented a white paper report on mandatory malpractice insurance in an attempt to outline current activity in other states, identify the possible goals the committee may seek to achieve, and identify alternative approaches. In concluding his report, Mr. Darnell requested that the delegates provide guidance as the committee continues to seriously consider the issues involved in mandatory malpractice insurance for Louisiana attorneys.

7. Legislation Committee.

Dawn Amacker, committee member, presented a report on the activities of the committee during the past legislative session. She informed the House that the committee has drafted proposed amendments to the LSBA bylaws that would: 1) define a specific methodology for composition of the Committee; 2) specifically define the functions of the committee and 3) set forth procedures for adoption of a position on pending or proposed legislation. She urged the House to review the proposed amendments which will be presented to the House for discussion at its June 2002 meeting.

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

1. Committee on Multijurisdictional Practice.

Joseph L. Shea, Jr., committee chair, reported on the committee's activities in monitoring the work of the ABA Commission on Multijurisdictional Practice and to research, study and report on the application of current ethics and bar admission rules in Louisiana to the multijurisdictional practice of law. An Interim Report issued by the ABA Commission was reviewed by the committee which is in basic agreement with most of the recommendations contained in the report as well as some

of the “safe harbors” proposed by the ABA Ethics 2000 Commission as long as there is reciprocity of attorney discipline between states. The committee will continue to study the ABA Interim Report and plans to submit comments and recommendations to the ABA Commission by March 15, 2002.

2. Ethics 2000 Committee.

Harry S. Hardin III, committee chair, reported on the committee’s continued efforts to prepare proposed revisions to the Louisiana Rules of Professional Conduct and to consider the various proposals of the ABA Ethics 2000 Commission for revisions to the ABA Model Rules of Professional Conduct. Mr. Hardin indicated that the committee hopes to present its proposed revisions to the Louisiana Rules of Professional Conduct at the June 2002 meeting of the House of Delegates.

VI. Old Business

1. Reconsideration of June 2001 action wherein House of Delegates approved Resolution from Elizabeth A. Alston urging the House 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.

The following motion was made:

"BE IT RESOLVED, that the Louisiana State Bar Association President appoint a three-member committee to respond to the Supreme Court of Louisiana."

The motion was seconded and adopted. Appointed were Elizabeth A. Alston from the 22nd Judicial District, Lila Tritico Hogan from the 21st Judicial District and Orlando N. Hamilton from the 5th Judicial District.

VII. New Business

1. Election from the 20th through 40th Judicial Districts plus Orleans Parish 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:

"BE IT RESOLVED, that H. Kent Aguillard from the 27th Judicial District be elected as chair of the Liaison Committee of the House of Delegates."

The motion was seconded and adopted.

The following motion was then made:

"BE IT RESOLVED, that Michael O. Hesse, 20th Judicial District, Robert Marrero, 24th Judicial District, and Harold S. Bartholomew, 24th Judicial District, be elected as members of the Liaison Committee of the House of Delegates."

The motion was seconded and a standing vote taken. Elected to serve as members of the Liaison Committee of the House of Delegates were Harold S. Bartholomew from the 24th Judicial District and Michael O. Hesse from the 20th Judicial District.

2. Resolution from Labor and Employment Law Section seeking approval of amendments to Section's bylaws.

Michelle T. Butler, section chair, made the following motion:

"BE IT RESOLVED, that the resolution to amend the Labor and Employment Law Section bylaws, a copy of which is attached, be adopted."

The motion was seconded and adopted unanimously.

3. Resolution from Section on Insurance, Negligence, Compensation and Admiralty Law to amend section bylaws to increase dues to \$20 per year.

Darryl J. Foster, executive counsel for the section, made the following motion:

"BE IT RESOLVED, that the resolution to amend the Insurance, Negligence, Compensation and Admiralty Law bylaws to increase dues, a copy of which is attached, be adopted."

The motion was seconded and adopted unanimously.

4. Resolution from Solo and Small Firms Section to increase dues to \$20 per year, effective June 1, 2002.

James F. Willeford, section chair, made the following motion:

“BE IT RESOLVED, that the resolution to amend the Solo and Small Firms Section bylaws to increase dues, a copy of which is attached, be adopted.”

The motion was seconded and adopted unanimously.

5. **Resolution from Client Protection Fund Study Committee to: 1) approve an assessment of \$24 per year per lawyer for period of five (5) years for sole purpose of creating client protection fund trust fund and seek Supreme Court approval of such assessment; 2) seek Supreme Court approval of procedural changes in disciplinary cases involving misappropriation of client funds; 3) seek legislative changes in area of lawyer misappropriation of client funds; 4) provide for notice of Office of Disciplinary Counsel in event of lawyer trust account overdrafts; 5) provide for payee notification upon payment of settlement funds; 6) make restitution a requirement for readmission and/or termination of disciplinary sanctions in cases involving misappropriation of client funds; and 6) establish pro bono panel to prosecute such cases should Court and legislative changes be adopted.**

Frank X. Neuner, Jr., study committee chair, made the following motion:

“BE IT RESOLVED, that the resolution from the Client Protection Fund Study Committee be amended by deletion of the \$24 assessment for creation of client protection fund trust fund, a copy of which is attached.”

The motion to amend was seconded and adopted. Mr. Neuner then made the following motion:

“BE IT RESOLVED, that the resolution from the Client Protection Fund Study Committee, as amended, a copy of which is attached, be adopted.”

The motion was seconded and adopted.

6. **Resolution from Bar Governance Committee to create a Special Committee to Study the Size and Composition of the House of Delegates.**

Lawrence J. Centola, committee chair, made the following motion:

“BE IT RESOLVED, that the resolution from the Bar Governance Committee to create a Special Committee to Study the Size and Composition of the House of Delegates, a copy of which is attached, be adopted.’

The motion was seconded and adopted. The following were elected to serve on the Study Committee: Mary Heck Barrios, 21st Judicial District; Paul S. West, 19th Judicial District; Daniel A. Cavell, 17th Judicial District, Glenn B. Adams, Orleans Parish; Clement Story, 15th Judicial District; John L. Olivier, 27th Judicial District and Andrew Reed, 16th Judicial District.

7. Resolution from Ethics 2000 Committee to amend Rule 3.6 of the Rules of Professional Conduct regarding trial publicity.

E. Phelps Gay, committee member, made the following motion:

“BE IT RESOLVED, that the resolution from the Ethics 2000 Committee to amend Rule 3.6 of the Rules of Professional Conduct, a copy of which is attached, be adopted.”

The motion was seconded and adopted unanimously.

8. Resolution from 18th Judicial District Delegate Robert W. Morgan proposing amendment to Rule 4.5 of the Rules of Professional Conduct regarding honoring debts for litigation expenses.

Robert W. Morgan made the following motion:

“BE IT RESOLVED, that the resolution from 18th Judicial District Delegate Robert W. Morgan proposing amendment to Rule 4.5 of the Rules of Professional Conduct, a copy of which is attached, be adopted.”

The motion was seconded and Mr. Morgan offered a friendly amendment by deletion of the words “at the conclusion of a litigated matter, pay obligations owed to clerks of court, court reporters, medical providers and other persons, and shall” and inserting the words “or pertaining to the practice of law” following the word “litigation.” Mr. Hardin from Orleans Parish then made the following motion:

“BE IT RESOLVED, that the resolution from 18th Judicial District Delegate Robert W. Morgan proposing amendment to Rule 4.5 of the Rules of Professional Conduct be tabled and referred by the President to an appropriate committee for further study.”

The motion to table and refer was adopted.

9. Resolution from 22nd Judicial District Delegate Philip M. Lynch, Jr. proposing amendment to Supreme Court Rule XIX, Section 31, regarding liberative prescription.

Philip M. Lynch, Jr., made the following motion:

“BE IT RESOLVED, that the resolution from 22nd Judicial District Delegate Philip M. Lynch, Jr. proposing amendment to Supreme Court Rule XIX, Section 31, a copy of which is attached, be adopted.”

The motion was seconded. Ms. Hogan offered a friendly amendment to change the word “preemptive” to “prescriptive”. Mr. Lynch accepted the amendment. Mr. Fontenot then offered a friendly amendment to change the number “10” to “3”. Following discussion, Ms. Hogan offered a friendly amendment to change the number “3” to “5”. The amendment was accepted by Mr. Lynch. The following motion was then made:

“BE IT RESOLVED, that the resolution from 22nd Judicial District Delegate Philip M. Lynch, Jr. proposing amendment to Supreme Court Rule XIX, Section 31, as amended, a copy of which is attached, be adopted.”

The motion was seconded and carried.

10. Resolution from 22nd Judicial District Delegate Elizabeth A. Alston proposing addition of Section 34 to Supreme Court Rule XIX, regarding abandonment of cases filed by Office of Disciplinary Counsel.

Elizabeth A. Alston made the following motion:

“BE IT RESOLVED, that the resolution from 22nd Judicial District Delegate Elizabeth A. Alston proposing addition of Section 34 to Supreme Court Rule XIX,

regarding abandonment of cases filed by Office of Disciplinary Counsel, a copy of which is attached, be adopted.”

The motion was seconded. Following discussion, Mr. Kleinpeter made the following motion:

“BE IT RESOLVED, that the resolution from 22nd Judicial District Delegate Elizabeth A. Alston proposing addition of Section 34 to Supreme Court Rule XIX, regarding abandonment of cases filed by Office of Disciplinary Counsel, be amended by deletion of item “A” and changing items “B” and “C” to “A” and “B”.

The motion was seconded. A vote was taken and the motion to amend was defeated. A vote was then on the original motion as presented. A division of the House was requested. The motion was adopted by a vote of 89 in favor and 63 opposed.

11. **Resolution from 24th Judicial District Delegate Roy Raspanti to establish Judicial Campaign Matching Fund, to be funded by: 1) a one-time assessment of \$350 per person licensed to practice law in Louisiana, due on January 2, 2002, and a one-time \$350 assessment on every new admittee to the Bar thereafter; 2) thereafter an annual assessment of \$175 per person licensed to practice law in Louisiana, due on January 1 of each year, and 3) additional judicial campaign guidelines that would *limit contributions made by lawyers to \$175 per candidate*, and would institute other restrictions as set forth in the resolution.**

Roy Raspanti made the following motion:

“BE IT RESOLVED, that the resolution from 24th Judicial District Delegate Roy Raspanti to establish Judicial Campaign Matching Fund, a copy of which is attached, be adopted.”

The motion was seconded. The following motion was then made.

“BE IT RESOLVED, that the resolution from 24th Judicial District Delegate Roy Raspanti to establish Judicial Campaign Matching Fund, a copy of which is attached, be tabled.”

The motion was seconded and adopted.

12. **Resolution from 24th Judicial District Delegate Roy Raspanti to establish Judicial Campaign Matching Fund, to be funded by: 1) a one-time assessment of \$350 per person licensed to practice law in Louisiana, due on January 2, 2002, and a one-time \$350 assessment on every new admittee to the Bar thereafter; 2) thereafter an annual assessment of \$175 per person licensed to practice law in Louisiana, due on January 1 of each year, and 3) additional judicial campaign guidelines that would *prohibit contributions made by lawyers*, and would institute other restrictions as set forth in the resolution.**

Roy Raspanti made the following motion:

“BE IT RESOLVED, that the resolution from 24th Judicial District Delegate Roy Raspanti to establish Judicial Campaign Matching Fund and guidelines, a copy of which is attached, be adopted.”

The motion was seconded. The following motion was then made:

“BE IT RESOLVED, that the resolution from 24th Judicial District Delegate Roy Raspanti to establish Judicial Campaign Matching Fund and guidelines, a copy of which is attached, be tabled.”

The motion was seconded and adopted.

There being no further business before the House, President Rubin declared the meeting adjourned at 10:55 a.m.

Respectfully Submitted by:

Marta-Ann Schnabel

Date