

THE NEW YORK STATE BAR ASSOCIATION
COMMERCIAL & FEDERAL LITIGATION SECTION
EXECUTIVE COMMITTEE

Minutes of the Meeting of the Executive Committee of the Commercial & Federal Litigation Section held in accordance with the rules of the New York State Bar Association on December 5, 2017.

Members Participating in Person

Mitch Katz, Chair
Robert Holtzman, Chair-Elect
Laurel Kretzing, Vice-Chair
Thomas C. Bivona
Mark Davies
Deborah Edelman
Jeremy Feinberg
Hon. Helen E. Freedman (Ret.)
Ignatius Grande
Beth Gould
Helene Hechtkopf
Dan Kolb*
Jonathan Lupkin
Frank Maas
Matt Maron
Hon. Andrea Masley**
Deborah Massucci*
Hon. Karla Moskowitz
Charlie Moxley
Michael Oberman
Rebecca Smithwick
Dan Wiig

Members Participating by Phone

Jamie Sinclair, Secretary
Alan Brody
Richard Dircks
Suzanne Galbato
Courtney Rockett
Jim Wicks

**indicates non-executive committee member*

*** indicates guest speaker for the meeting*

The meeting came to order at 6:00 p.m. Section Chair Mitch Katz called the meeting to order and invited guest speaker Hon. Andrea Masley, Justice of the Supreme Court of the State of New York, New York County, to begin her remarks.

Guest Speaker: Hon. Andrea Masley, Justice of the Supreme Court of the State of New York, New York County

Judge Masley began by introducing her law clerks and summarizing many of the procedures and practices in her chambers, including her methods for handling of discovery disputes. Her part rules are a mixture of Judge Oing's and Judge Ramos's rules, and she welcomes any suggestions from practitioners regarding ways to improve them. Judge Masley also advised lawyers to refrain from using any of her pet peeves in the courtroom, which include using overly dramatic tactics, yelling, and using legalese. The Judge recommends the use of direct testimony by affidavit to expedite the trial process and invited members to otherwise encourage the judiciary's efforts to adopt technology in the courtroom. Finally, Judge Masley took questions from members in attendance.

Approval of November 1, 2017 Meeting Minutes

The November 1, 2017 meeting minutes were unanimously approved.

Committee Highlight- Alternative Dispute Resolution

Charles Moxley, co-chair of the Alternative Dispute Resolution along with Jeff Zaino, advised that the Committee has been quite active, putting on programs almost every two months, ranging from topics such as "10 most important things for counsel and arbitrators" and "how to build a mediation practice". An upcoming program will address why mediation is underused in New York as compared to other jurisdictions. An engaging discussion regarding programming and collaboration between the Section and the Committee ensued.

Dispute Resolution Section – A Discussion about Collaboration with guests, Dan Kolb, Chair and Deborah Masucci, Chair Elect

The Section was joined by Dan Kolb and Deborah Massucci from NYSBA's Dispute Resolution Section. Mr. Kolb and Ms. Massucci discussed the Section's efforts to provide mediation advocacy training to educate lawyers about the role of mediation. Advocating in the mediation setting requires different techniques than those typically utilized in a litigation setting. The ADR section is offering a 3-day commercial mediation training program in March at Fordham University School of Law, which will explore the differences between facilitative and evaluative or directive approaches in mediation, both from a practical and from an ethical perspective, and will discuss the advantages and disadvantages of these styles. Several suggestions were discussed for young lawyer programming including a program on how to become mediator and a shadowing or mentoring program for arbitration practice.

Scheidlin Award Program Recap

The Scheindlin Award event was well received this year, with many in attendance commenting that it was a meaningful and touching event. Mitch Katz advised that the mock trial program will take place March 5, 2018 at a location TBD.

Evening at Thurgood Marshall Update

Section Secretary Jamie Sinclair advised that this program will be held January 23, 2018 from 5:00pm – 7:30pm at the Thurgood Marshall Courthouse. Tours of the courthouse will be available followed by cocktails and hors d'oeuvres and remarks by Section Chair Mitch Katz and Chief Judge Katzmann.

Annual Meeting Update

Vice Chair Laurel Kretzing provided an update regarding planning and topics for the Annual Meeting which will be held on January 24, 2018. The first panel will address cyber security concerns and will be followed by an implicit bias program, each for 1.5 CLE credits. At the luncheon program, Justice Ramos will receive the Fuld Award and Michael Miller, President Elect of NYSBA will present the award to Justice Ramos. Counsel Press and US Legal are both providing sponsorship.

Spring Meeting Update

Chair Elect Robert Holtzman advised that this year's Spring Meeting will be held at the Sagamore Hotel at Lake George May 4-6, 2018 and programming is currently underway.

Other Business

Section Chair Mitch Katz advised of various upcoming events the Section is involved in, including:

Smooth Moves – April 10, 2018;

Task Force CLE – March 5, 2018;

Ethics committee report on change to RPC – presentation at meeting on January 4, 2018;

CD committee report on proposed CD rule – presentation at meeting on January 4, 2018;

Younger lawyers programming currently in the works;

CPLR Committee CLE with General Practice Section; and

White Collar Committee collaboration with Criminal Practice Section on sealing legislation.

The meeting concluded at approximately 7:45 p.m.