

FINAL MINUTES

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 Wednesday, March 7, 2017.

Members Present:

Mark A. Berman, Chair
Robert Holtzman, Vice Chair
Jamie Sinclair, Secretary
James Bergin
Thomas Bivona
Hon. Melissa Crane
Richard Dircks
Richard Friedman
Tony Harwood
Laurel Kretzing
Hon. Lawrence Knipel**
Michael Rakower
Hon. Mark Partnow*
Natasha Shishov
Hon. David Vaughan*
Dan Wiig

Members Participating by Phone:

Mitch Katz, Chair Elect
Teresa Bennett
Tracee Davis
Sophia Goring-Piard
Beth Gould
Sandra Rampersaud
Courtney Rockett

**indicates non-executive committee member*

*** indicates guest speaker for the meeting*

The meeting came to order at 6:00 p.m.

Welcoming Remarks

Section Chair Mark A. Berman welcomed attendees to the meeting and thanked them for their participation. He asked all members participating by phone to send Section Secretary Jamie Sinclair an email confirming their attendance, and introduced the guest speaker for the meeting, Justice Lawrence Knipel from the New York Supreme Court, Kings County, Commercial Division as well as the Court's Administrative Judge. Mr. Berman provided an overview of Justice Knipel's educational and professional background before inviting him to begin his remarks.

Remarks by Guest Speaker Hon. Lawrence Knipel, Supreme Court of the State of New York, County of Kings

Justice Knipel began his remarks by acknowledging his fellow justices in the room, Justice Partnow and Judge Vaughan, both Justices from Kings County Supreme Court. Justice Knipel briefly discussed the Commercial Division rules and the prospect that they could serve as a model in certain areas for the non-commercial litigation parts in Kings County Supreme Court.

Justice Knipel also addressed the overall case load of the Commercial Division of Kings County Supreme Court and the increase in the volume of cases being brought there, which he believes may be the second busiest Commercial Division in New York State. In addition, he noted that both Justice Carolyn Demarest, who helped to found the Commercial Division in Kings Supreme Court, and Justice David Schmidt have recently retired, and the Court has Ash and himself as the new Commercial Division Justice. Justice Knipel noted that while Justice Ash is recuperating from surgery, Justice Leon Ruchelsman has filled in. The Justice described the nature of the cases brought in Kings Supreme Court, Commercial Division, which tend to be highly real-estate related, including the buying/selling and management property, as well as the dissolution and partition of closely held businesses. The Kings County Supreme Court Commercial Division has also seen an increase in the amount of internet-related litigation, including litigation involving start-up companies and internet "scrubbing" cases.

Finally, Justice Knipel concluded by discussing his approach to discovery disputes noting in effect that the "way to move a case along is to move a case along." The Justice took questions from members present, which questions covered a range of topics, including the potential for a mediation PROGRAM IN KINGS SUPREME COURT. AT THE CONCLUSION OF THE JUDGE'S REMARKS, SECTION Chair Mark Berman reminded all attending of the upcoming April 19th program being planned at Brooklyn Law School, which program is being spearheaded by District Leader Greg LaSpina and will present an opportunity for members of the bar, bench, and law students to mingle together with Justices Knipel and Ash, and is being sponsored by Flushing Bank.

Attendance Matters:

Section Chair Mark Berman opened up a discussion of whether attendance at the monthly meetings has been affected by holding Executive Committee meetings out of Manhattan. The general consensus of the members' remarks was that most members did not feel that momentum is lost by holding meetings out of Manhattan, but that wherever possible, video conferencing was highly preferable to only teleconferencing the meeting.

Approval of the February 17, 2017 Meeting Minutes

With the correction of the spelling of a member's name, the February 15, 2017 Meeting Minutes were unanimously approved.

Spring Meeting Update

Section Chair-Elect Mitch Katz updated everyone on the Section's upcoming Spring Meeting, which is being held at the Gideon Putnam Hotel in Saratoga Springs on May 19-21, 2017. Seymour W. James, Jr., the Attorney-in-Charge of the Legal Aid Society will receive the Haig award for public service at the Spring Meeting. Mr. Katz reminded everyone of the four program leaders and panels planned for the weekend, which will address, *inter alia*, trade secret defense, restrictive covenant litigation, a rule and case law comparison between Commercial Division rules and the Federal Rules of Civil Procedure, and a program on fake news. Mr. Katz also advised that a total of seven sponsors are lined up for the meeting, including four tech sponsors in an attempt to present a mini litigation-related technology show. A general discussion among members regarding other sponsorship avenues ensued. Finally, members were reminded to reserve their rooms for the Spring Meeting early as the block of rooms reserved will fill up quickly.

Smooth Moves Update:

Section member Tracee Davis provided an update on the 11th annual Smooth Moves program which will be held at Lincoln Center on April 24, 2017 from 5:00 p.m. to 8:00 p.m., where the George Bundy Smith Award will be presented to Jeh Johnson, the former Secretary of Homeland Security. Chief Judge Colleen McMahon of the United States District Court for the Southern District of New York will present the award to Mr. Johnson. A CLE program will be held during the first half of the meeting, which will address how diversity works and how law firms can align their diversity initiative programs with their clients' goals; the economic case for diversity; and innovative ways to increase and promote diversity in the commercial litigation arena. All section members are encouraged to attend, to promote attendance within their firms, and to consider sponsoring the program.

Com Fed Commercial Litigation Academy Update

Section Chair Mark Berman reminded everyone of the upcoming Commercial Litigation Academy, scheduled for May 4-5, 2017, where five young women will attend free of charge on account of the Kaye Scholarships awarded to them by the Section. Subjects addressed at the Litigation Academy, which has been organized by Kevin Smith, include injunctive relief, discovery and discovery, dispositive motion practice, trials, civil appeals, and more.

Westchester Meet and Greet

Section Member Courtney Rockett provided a summary of the “meet and greet” program held at the United States District Court for the Southern District in White Plains, New York, on February 15, 2017, which was attended by approximately 40 people including three District Judges and two Magistrate Judges. The remarks by Judge Cathy Seibel were wonderfully received, and the Section is appreciative of the efforts of all members who were integral in planning the program as well as those who attended in person, including Tracee Davis, Courtney Rockett, Paul Sarkozi and Tony Harwood (as well as Section Officers Mark Berman, and Robert Holtzman).

Section Sponsorship of American Bar Events

The Section will be sponsoring two programs at the ABA’s annual meeting, which will be held in New York City this year. The programs will be held on August 10th and August 11th and will feature 12 tracks of programming. Michael Byowitz provided a brief overview of the programming. Each program will cost \$25 and provides 1.5 CLE credits.

Publications Committee Proposal

Section Member Dan Wiig summarized the Publications Committee proposal, which is designed to assist the Section’s publication efforts. The Committee will be limited to 15 law students and recent graduates who will: (i) assist the Editor of the *New York Litigator* in reviewing and editing articles and section reports submitted for publication; (ii) attend section events and draft summaries of the events for newsletters; (iii) update the section website with court rule changes; (iv) offer research and writing assistance for reports/projects coordinated, and as requested by, section Committees; and (v) participate in other discrete projects as assigned by the Committee Chair. The proposal to form the Publications Committee was approved unanimously by all members attending.

Upcoming Law School Events

As part of the Section’s efforts to reach out to younger attorneys, Section Chair Mark Berman updated the Executive Committee on the officers’ efforts to meet with law schools: Laurel Kretzing and Deborah Edelman will be attending Hofstra’s dinner

with a lawyer program; Mark Berman will attend Brooklyn Law School's dinner and career talk; and Mitch Katz will be having a meeting with University of Buffalo's law career services.

Upcoming CLE's and Section Reports

Finally, Section Chair Mark Berman reminded everyone of the Section's upcoming CLE programs, which include, among other things, the joint program with the Dispute Resolution Section on March 13, 2017, and the immigration law webcast scheduled for March 22, 2017, which will address the implication of immigration law and policy changes within the first 100 days of the Trump administration. Additionally, the Section has an upcoming reports in the pipeline, which is version 3 of the Social Media Ethics Guidelines.

The meeting adjourned at approximately 7:45pm