

**NEW YORK STATE BAR ASSOCIATION  
ENTERTAINMENT, ARTS & SPORTS LAW SECTION**

**Executive Committee Meeting – November 19, 2019**

**Pryor Cashman  
7 Times Square  
New York, N.Y. 10036-6569**

**Minutes of EASL EC Meeting**

**Attending in Person:** Anne S. Atkinson, Judy Bass, Ethan Bordman, Paul Cossu, Donna Frosco, Diane F. Krausz, Anne LaBarbera, Jill Pilgrim, Steven Rodner, Andrew Seiden, Robert L. Seigel, Judah Shapiro, Barry Skidelsky, Carol Steinberg, and Rosemarie Tully.

**Attending by Telephone:** Jason Baruch, Brian Caplan, Cheryl Davis, Elissa Hecker, Kathy Kim, Christine-Marie Lauture, Richard Lewis, Paul LiCalsi, Dustin Osborne/Joe Hanna, Kristina Maldonado and Barry Werbin.

1. Welcome.

Barry Skidelsky (EASL Chair) called the meeting to order at 12:32 p.m. and welcomed everyone in attendance. He began by sharing some sad news that Marc Jacobson's father had recently passed away. Barry asked those in attendance to please take a silent moment of respect for Marc and his family, which we all did.

After that Barry asked those attending to introduce themselves, reminding all to please confirm their attendance at today's meeting by sending an email to Kristina Maldonado (EASL's liaison at NYSBA) with a cc to Ethan Bordman (EASL Secretary).

2. Approval of Minutes.

Barry next asked if anyone had any comments or changes to the minutes of the last EASL EC meeting, which was held on October 23, 2019. Judy Bass asked what the term "TFN" as used in those minutes meant. Barry explained that TFN meant "til further notice." No other comments were made. Thus, upon motion duly made and seconded, the October 23 EC meeting minutes were unanimously approved.

3. Chair's Report.

3.1 Budget

Barry reported that the 2020 budget for EASL was just approved by NYSBA. A copy of the section's approved budget (which in part increases our diversity events funding) will be provided at the next EASL EC Meeting.

### 3.2 Committees and Engagement

Barry Skidelsky reminded the EASL EC of our previously adopted committee engagement guidelines, which in part strongly suggest that each committee co-chair should conduct at least one event quarterly (such as a CLE program, a brown bag breakfast or lunch meeting, or a telephone conference call) on one or more topics related to that particular committee.

Barry noted that some committees and co-chairs have been much more active than others (to whom he expressed particular thanks), and he suggested that with the coming change of year and change of section officers we now review and consider implementing possible revisions to our section's committees -- particularly those that have been inactive and/or have less than 10 members. Barry added that he had received expressions of interest to organize a new committee focused on M&A, corporate and securities law, which he considered advisable and offered to chair. He then asked for help with that and with a possible revision of our section's bylaws.

### 3.3 EC and Bylaws

Barry also reminded us that EASL's Bylaws were last revised in 2012; and, he expressed his understanding that, pursuant to those bylaws, EASL's Executive Committee includes *inter alia* the section chair, section officers, committee chairpersons, delegate(s) and alternate delegate(s) to NYSBA's House of Delegates, up to six at-large members appointed by the section chair, and at least one member from each Judicial District in the State.

Steve Rodner added his understanding that both the EASL EC and Nominating Committee also include former section chairs willing to serve. Barry volunteered to try and put together a current list of all EASL EC members in time for either our next EASL EC meeting in December or our section's annual meeting in January, noting that he expected a Nominating Committee report to be made by Diane Krausz later during today's EC Meeting.

Jill Pilgrim and Anne LaBarbera likewise volunteered to review EASL's Bylaws and to make recommendations regarding possible revisions. One issue they were asked to explore is if or how the bylaws do or should specifically address the role of past section chairs, such as automatically becoming an at-large member of the EASL EC (Elissa Hecker said the at-large position was originally created for past EASL Chair Alan Hartnick). Anne added she will also look at how active committee chairpersons and the committees themselves have been in regard to planning and conducting events and meetings. Barry thanked Jill and Anne.

### 3.4 EASL Fall Meeting

Barry then reported that the EASL Fall Meeting he had organized and moderated (which was focused on Entertainment Finance and titled "Money In, Money Out: Deal Terms and Waterfalls") was held at UBS on October 17. The afternoon CLE program and networking reception was well attended (with approximately 70 attendees) and well received, with several commenters saying that this was the best EASL Fall Meeting ever!

Barry thanked the attendees, the speakers, and UBS who co-sponsored the event by providing space at their offices in the Met Life building above Grand Central -- the result of a connection made by EASL's Jill Pilgrim, who Barry thanked again.

Barry added that the CLE program part of this Fall Meeting event, which had pairings of attorneys and business people by specific entertainment sector (e.g., music, film, and theatre), included the first known joint EASL CLE speaking engagement by a father/son duo: Jason Baruch (co-chair of EASL's theatre law committee) and his very engaging theater producer father Steven Baruch.

### 3.5 EASL's Annual Music and Business Law Conference.

Barry also said that EASL's Annual Music and Business Law Conference (MBLC) -- which took place at New York Law School on Friday November 15 -- was also a great success. He thanked Rosemarie Tully and everyone else involved in the planning and speaking, including EASL's diversity committee for its diversity in music panel portion of this program. Barry then asked Rosemarie for her report on the MBLC.

Rosemarie reported that there were over 175 attendees, including 143 registered attendees, speakers and guests. 16 CPAs attended, up from 4 last year. EASL expects to net between \$25,000 and \$27,000 from this key annual event. Rosemarie in turn praised Diane Krausz, Marc Jacobson, Anne Atkinson, Steve Rodner, Paul LiCalsi, Joyce Dollinger and Kristina Maldonado for their program planning teamwork.

Rosemarie also said that this year's event had over 35 outstanding speakers, including the following Luncheon Keynote Speakers Panel: Monte Lipman (Co-Founder and CEO of Republic Records), Avery Lipman (Co-Founder and President of Republic Record), Steve Gawley, Esq. (EVP Business/Legal, Universal Music Group, East Coast Labels) Daniel Getz, Esq. (SVP Business/Legal, Universal Music Group, Republic Records). Larry Miller (a professor at NYU Steinhardt) served as moderator of that lunch panel.

Among other topics covered at the MBLC were artists' revenue streams, copyright challenges, blanket licensing, music modernization act, music finance and trends in catalog transactions.

## 4. Other Committee Reports

### 4.1 Diversity Committee

Anne Atkinson spoke a bit more about the diversity committee's panel at the MBLC, noting that this panel was also well received. Anne directed additional thanks to Rosemarie, who she credited as being a great leader for EASL's annual music and business law conference, and to the diversity panel speakers.

Barry reminded the EC that NYSBA had proposed an update to the association's diversity plan and sought comments about it from all sections. After having read NYSBA's proposal, Steve

Richman shared his feedback. Steve stated that the recommendations made were very similar to the current NYSBA program, generally intended to encourage diversity programs and events by both NYSBA and its various sections. In turn, the EC decided that no specific comments by EASL to NYSBA were warranted about the association's diversity proposal.

Anne Atkinson added that EASL's diversity committee would continue doing events such as those we have done in the past. She said that she will be contacting the speakers of past diversity events to discuss speaking at future diversity events. Jill Pilgrim stated Anne has done a great job with past diversity events and suggested that the committee should ask past speakers to recommend new speakers for future events.

#### 4.2 International Committee

Donna Frosco, who is now working from London, requested that she be re-assigned from serving as co-chair of our Copyright committee to be co-chair of our International committee. Barry approved that request and he thanked Donna for her continuing interest and help.

#### 4.3 Pro Bono

Barry also reported that he was recently contacted by Elena Paul, who is currently General Counsel at the Alvin Ailey Dance American Dance Theatre. Elena, who was previously Executive Director of the New York Volunteer Lawyers for the Arts (VLA), informed Barry that she would like to become more involved with EASL. Barry asked Elissa Hecker to please contact Elena, at least in part regarding EASL's Pro Bono dance clinic. Barry also asked that any volunteers willing to help expand EASL's pro bono offerings should please contact Elissa.

#### 4.4 Virtual Bar Center

Barry reported that NYSBA's President Hank Greenberg will be in New York City this week at a sections' leader conference that Barry plans to attend, the focus of which will be the NYSBA Virtual Bar Center and website reforms. Barry will update us at the next EASL EC meeting.

#### 4.5 NYSBA House of Delegates

Anne LaBarbera attended the recent House of Delegates (HOD) meeting in Albany. Anne reported that not much was conducted at that meeting that directly affected the EASL section. She noted that a HOD resolution was passed to recommend that the New York State Board of Law Examiners remove from the bar admission application form questions regarding whether an applicant ever had any mental health issues. Anne said that asking this question works against bar applicants, as in the case of a law student who would like to obtain mental health support services but who might not do so for fear of having to later reveal his or her private or confidential information.

Anne also reported that another resolution passed by the House of Delegates addressed representation in Alternative Dispute Resolution (ADR). That resolution provided that when a party in an ADR proceeding is not represented by an attorney, the mediator or arbitrator must notify such unrepresented party that the mediator or arbitrator is not that party's attorney or legal representative. Rosemarie Tully added that if anyone would like to see the entire HOD meeting it is available as video-on-demand on NYSBA's website.

#### 4.6 Membership

Barry reminded the EASL EC of our goal to have 1,500 EASL members by the end of this calendar year. Kristina Maldonado stated the current membership number is 1,439 – just 61 members away from our goal. With 1,500 members EASL can have two HOD delegates.

Anne LaBarbera, who is active with the NYSBA Young Lawyers section, said she is working on getting more young members to join EASL. Barry suggested that, given the success we have had with our diversity committee events, we should consider doing events with the NYSBA Young Lawyers Diversity committee as well.

Anne LaBarbera also noted that postings on legal issues on the so-called community pages of EASL's website, which could help inform as well as attract new members, has not been used or received as well as hoped. Anne said she would like to work on possibly posting podcasts on the EASL website, which was acknowledged as an excellent idea.

Barry again asked all EASL EC members to urgently contact and encourage other attorneys and law students to join our section. Barry Werbin suggested that law school professors who teach any subject related to EASL could be asked to inform their students of the opportunity to join NYSBA and EASL at no cost.

Judah Shapiro stated he has sent out a letter to NY law school professors who teach any EASL related subject asking them to do just that, to please notify their law students of membership opportunities in EASL including the Phil Cowan Memorial Scholarship.

Judah asked for follow-up by any EASL EC member who professionally or socially knows any law school professor teaching any EASL related subject. He added that he would like to attend the professor(s) class to do a few minutes of presentation on the benefits of joining the section while still in law school. Judah said he would follow-up with Kristina Maldonado to send another letter to the law school professors on our list regarding membership and the Cowan scholarship.

Anne LaBarbera stated we should look at NYSBA members who have joined any practice area section as potential EASL members and she offered to cold call them regarding joining EASL. She also stated that we should go back to sports committee members who left since we are now trying to do more sports law programs or events, in order to gain renewed interest in EASL. Jill Pilgrim stated that we should contact law school entertainment & sports law student organizations.

Rosemarie Tully said she gave all law student volunteers at our Annual Music and Business Law conference complimentary memberships to EASL. Kristina stated the volunteers (about 20) will be added as EASL members soon, which will help bring us closer to our 1,500-member goal.

Barry asked for someone to volunteer to create a list of law school entertainment, arts and sports law related organizations and journals to be contacted along with law school faculty. Judah Shapiro and Ethan Bordman volunteered to do so, and to coordinate with Kristina who maintains a list of NY law school faculty who teach subjects related to EASL.

#### 4.7 Phil Cowan Memorial Scholarship

Kristina Maldonado noted that the deadline for the Phil Cowan Scholarship is December 12, and that some law students have already contacted her to say that papers are forthcoming. Elissa Hecker recommended that the students first submit the papers to the law school's administration/dean for review, so that the law school sends the paper to EASL for consideration. Elissa said that by having the law school first review the material it helps EASL get higher quality papers. Moreover, only papers that have been submitted by the school's faculty should be published in the EASL Journal.

Judah Shapiro, Cowan Scholarship Committee Chair, will divide up the New York law schools to various EASL members in order to contact their assigned schools and to serve as judges of submissions received from them. Ethan Bordman volunteered to contact Columbia University, which he had been assigned to contacting for the last several years.

#### 4.8 Nominating Committee

Diane Krausz reported that EASL's nominating committee has recommended the following slate of section officers for 2020-2022:

Chairperson	Barry Werbin
1 <sup>st</sup> Vice Chairperson	Ethan Bordman
2 <sup>nd</sup> Vice Chairperson	Andy Seiden
Secretary	Robert Seigel
Assistant Secretary	Carol Steinberg
Treasurer	Kathy Kim
Assistant Treasurer	Chery Davis

Barry Skidelsky asked for EC approval of the recommended slate, which was approved unanimously. This slate will be presented at the 2020 EASL annual meeting for membership voting.

#### 4.9 Motion Picture

Robert Seigel reported that the Motion Pictures committee held a lunch meeting at Pryor Cashman on October 24<sup>th</sup> from 12:30pm to 1:30pm titled "Negotiating Motion Picture Distribution Agreements." Larry Sapadin (former FilmRise Vice President of Business and Legal Affairs)

and Minh Vo (the current FilmRise Vice President of Business and Legal Affairs) discussed key deal points to consider when a producer is negotiating a motion picture distribution agreement.

The discussion included the various means of distributing a motion picture and how to negotiate distribution deals for both conventional media and streaming services. The event, planned by Robert and Ethan Bordman, had about 10 people attend and was well received. Robert thanked Anne Atkinson for the use of meeting space at Pryor Cashman. Ethan said he sent email thank yous to all attendees encouraging them to become involved with EASL and to attend the annual EASL meeting.

#### 4.10 Publications

Elissa Hecker asked if everyone attending this meeting had received the most recent version of the EASL Journal. Everyone stated they did. Elissa added that, due to the large amount of work being handled by an under-staffed publications department at NYSBA, publication of the next EASL Journal has been delayed. She expressed concern that this issue might not be published and distributed prior to our annual meeting. Barry Skidelsky said that he would try to move the publication date up before the year ends.

#### 4.11 Fine Arts

Carole Steinberg reported on the three-part series on Art and Activism titled “Working Along the Lines of Activism and Artistic Expression.” The series is produced collaboratively by the National Art Club (the NAC), and by both EASL's Diversity and Fine Arts committees. The first event, titled “Activist Art: An Artists Perspective,” was held at NAC on September 26 and it included Ming Smith, Adrienne Fields and Zoe Buckman as speakers.

The second event, titled “Activist Art: Institutional Considerations”, was held at NAC on November 15. That event explored the institutional world of activist art through a conversation with curators and museum directors who have worked to present activist art, as well as those who have experienced public protest. The third event on “Activist Art: Digital Issues” will be held at NAC on January 15, 2020.

Paul Cossu stated he is on the early stages of working on a brown bag lunch meeting on art dealer/agency relationships. The event is anticipated to be held in February 2020 depending on speaker availability. Carole also announced that she would like to plan an event on how to hire a litigator in fine arts.

#### 4.12 Music

Judah Shapiro announced that the Music Committee is holding a non-CLE lunch meeting tomorrow (Wednesday November 20<sup>th</sup>) on “The Impact of Digital Technology on the Music Business” and “Are Personal Managers Fiduciaries?” It will take place from 12:30pm to 1:30pm at the law offices of Ritholz Levy Fields. The meeting will also include discussing a general overview of recent Supreme Court cases relevant to the music business.

#### 4.13 Theater

Kathy Kim said the theater committee will be holding a breakfast on December 10<sup>th</sup>. Details are forthcoming. Jason Baruch sent an email to the EC stating that Toby Butterfield is interested in doing a stand-alone theater litigation EASL program. He noted that Toby spoke briefly as a module at a previous CTI Theater Producing event. Jason suggested that this could be a joint program between the litigation and theater/performing arts committees, or it can be just a theater program offering about 2 CLE credits. He was open as to the date to have this event.

### 5. Programs and Event (Currently Scheduled)

#### 5.1. Annual Theater Law Program

Jason Baruch also reported that the annual EASL/CTI Theater Producing event will be held April 1-2, 2020. This event, which features a “deep dive” into theatrical producing, will offer 7 CLE credits.

#### 5.2 Annual Meeting

Judy Bass, Anne Atkinson and Sara Robertson co-chair the planning committee for the EASL Annual Meeting CLE program to be held on Tuesday January 28, 2020. Judy reported that it will involve the following topics and speakers:

#### 1) Digital Distribution: Legal and Business Aspects [1:30 to 3:45 tentative]:

##### Motion Pictures and Television

- Peter Hamilton, Senior Consultant. Founder / Publisher / Editor of DocumentaryBusiness.com
- Karen Robson, Partner, Pryor Cashman LLP
- A representative from CBS Interactive
- Ashley Tan, Assistant General Counsel, BuzzFeed

##### Podcasts

- Ben Davis, Partner, WME
- Huma Khan, Lead Business Affairs Counsel, Luminary Media
- Merlyne Jean-Louis, Jean-Louis Law, P.C.

##### Videogames and E Sports

- Ben Golant, Chief Counsel for Intellectual Property Policy, Entertainment Software Association
- Leo Wan, Senior Legal Counsel, Score Media and Gaming

2) Attorneys, Agents, and Managers: Changing Roles and Implications for Legal Ethics [1.5 credits plus questions; 4:05 -5:30 tentative]

- Hal Biagas, Executive Director, NALCS Players Association, and Senior VP, Excel Sports Management
- Ann Burdick, General Counsel, Writers Guild of America East
- Jack Greenbaum, Manager, The Arlook Group
- Marc Jacobson, partner, Marc Jacobson P.C.
- Pery D. Krinsky, principal, Krinsky PLLC
- Liz Orr, TV Literary Agent, Buchwald
- Jill Pilgrim, Founder and Managing Attorney, Pilgrim & Associates

6. Program and Events (Planned or Proposed)

Due to time constraints, Barry tabled to the next EASL EC Meeting further discussion of other possible programs and events, including EASL's Spring 2020 meeting, a possible new annual CLE program on film/tv and a possible new annual CLE program on sports law.

7. Other Initiatives and New Business.

Also due to time constraints, tabled to the next EASL EC Meeting was further discussion of any Other Initiatives and New Business.

8. Adjournment. Upon motion unanimously approved, the EC meeting was adjourned at 2:05 pm.

**The next two EASL EC meetings will be held on:**

**(i) Wednesday December 18, from 12:15pm to 2pm,**  
**at Pryor Cashman; and,**

**(ii) Tuesday January 28 (at approximately 12pm, exact time and room TBD),**  
**at the NY Hilton (during the NYSBA annual meeting week).**

Respectfully submitted,

Ethan Bordman, EASL Secretary