

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

Executive Committee Meeting – March 4, 2020 12:00 –2:00pm

**Herrick, Feinstein LLP
Two Park Avenue
New York, NY 10016**

Minutes of EASL EC Meeting

Attending in Person: Anne S. Atkinson, Jason P. Baruch, Isano Carter, Joan Faier, Kristin Gaines, Christine-Marie Lauture, Diane F. Krausz, Paul LiCalsi, Jill Pilgrim, Robert Seigel, Barry Skidelsky, Carol Steinberg, Rosemarie Tully, Tiffany Tsai and Barry Werbin.

Attending by Telephone: Judith Bass, Les Greenbaum, Donna Frasco, Elissa Hecker, Marc Jacobson, Kathy Kim, Anne LaBarbera, Kristina Maldonado, Steven H. Richman, Stephen Rodner, Judah Shapiro, Simone Smith, Innes Smolansky.

1. Welcome.

Barry Werbin (EASL Chair) called the meeting to order at 12:32 p.m. and welcomed everyone in attendance.

2. Approval of Minutes.

Barry next asked if anyone had any comments or changes to the minutes of the last EASL EC meeting held on February 5, 2020. Thereupon, a motion was duly made and seconded, the EC meeting minutes were unanimously approved subject to revision on an “as needed” basis.

3. Chair’s Report.

3.1 Membership.

Barry Werbin thanked the Law Student Committee members for their work and he remarked that law students are a great asset to EASL and it is an opportunity for them to learn about the law. He also thanked the committee Chairs who contacted EASL members with expiring memberships to persuade them to renew their memberships so that EASL can recruit enough members to have a NYSBA second delegate. He further inquired whether law school professors would be entitled to a discounted EASL membership. Barry also inquired if anyone had a recommendations for a Co-Chairperson for the Committee on Publicity, Privacy and Media since he had stepped down as Co-Chair. Barry also mentioned that the NYSBA offers a welcome letter to new NYSBA members, and that he would work with the NYSBA regarding

such letter. Anne Atkinson suggested that committee memberships should be mentioned in such letter.

Barry mentioned the possibility of extending an honorary EC membership to Adrienne Fields, the General Counsel of the Artists Rights Society. Marc Jacobson, Judy Bass and some other EC members questioned if such an honorary EC membership would be possible since it is not addressed in the EASL bylaws. Barry proposed that he would speak with Adrienne Fields about the possibility of her becoming a (Manhattan) First District representative or possibly an EC member-at-large. Stephen Rodner suggested that Adrienne Fields could join him as a Co-Chairperson on the Copyright and Trademark Committee. Barry stated he would ask her about that possibility.

3.2 Judicial Districts.

Barry stated that there is currently no First District (Manhattan) Representative. He stated that he would review the EASL membership list regarding openings for such districts as the Fifth District and the Sixth District.

3.3 Right of Publicity Proposed Legislation.

Judy Bass discussed the newly proposed Right of Publicity bill that was introduced by Deputy Majority Leader Mike Gianaris into the New York State Senate. The bill is a compromise draft bill that resulted from a negotiation sought and managed by Senator Gianaris between the MPAA and SAG-AFTRA. It establishes a right of publicity in New York for “deceased performers” for up to 40 years after their death. It also provides for a private right of action for unlawful dissemination of a sexually explicit depiction of an individual, i.e., a digital replica. It is improved from prior drafts of the legislation in that it leaves New York’s right of privacy intact and also provides for broader protections for the media under the new right of publicity section. The bill is supposed to be fast-tracked in the New York State Senate after the budget is approved. It is being reviewed and tracked , which had been received by the NYSBA Media Law Committee of which Judy is a member.

3.4 NYSBA Staff Reimbursement.

Barry discussed the new NYSBA policy that certain costs associated with NYSBA staff members working with NYSBA sections and committees would be assessed as charges against those sections/committees. He stated he would look into the matter but he believed that this policy would not affect EASL’s budget.

4. Committee Reports.¹

¹ The various events noted here of course were planned/announced before the Covid-19 crisis and NYC shutdown. All in person events at least through May have since been cancelled.

4.1 Publications.

Elissa Hecker stated that the upcoming edition of the EASL Journal is a “monster” one and it has been edited. Elissa acknowledged that the EASL Annual Meeting transcripts and photographs will be included in the issue.

4.2 Pro Bono.

Elissa Hecker stated that the next EASL Pro Bono event would be a two-day symposium to be held on March 20-21, 2020 concerning dance. She stated that there was a possibility of a waiting list for volunteer attorneys since there is a full volunteer attorney complement for the event.

4.3 Fine Arts.

Carol Steinberg stated that the Fine Arts Committee held a screening of the film “Driven to Abstraction,” [about the Knoedler Gallery art scandal], at Pryor Cashman on February 19, 2020 and that the event went well. The Committee will be holding a brown bag lunch (titled “Agency Relationships in the Art World,”) with an art gallery director on the topic of art gallery operations this spring. There was an Arts Westchester program concerning “fair use” and visual artists as well as appropriation issues which was held at Wilson Elser and went well. There will be an Arts Westchester program, which will be co-sponsored by the Fine Arts Committee and Westchester Arts, to be held in White Plains concerning artists agreements (which will be also co-sponsored with the Pro Bono Committee). The Fine Arts Committee with the Artists Rights Society and the Pro Bono Committee will be having programming events addressing artists’ legacies as well as trust and estate issues.

The Chair remarked that events such as the documentary screening by the Fine Arts Committee serve as an example of an informative event which need not be a CLE event. He stated that the committee Chairs should try for some events to include committee members once per quarter, such as a “brown bag lunch,” a call-in discussion among committee members and inviting speakers as a means to provide committee membership outreach and CLE when warranted.

4.4 Sports.

Jill Pilgrim stated the Diversity Committee will be holding an e-sports program on March 31, 2020, which will be co-sponsored with the Metropolitan Black Bar Association. The Sports Committee also will be holding an event titled “Name, Image & Likeness” on collegiate sports regarding the compensation of college athletes. She said Sports Co-Chair Joe Hanna is looking into planning this event with Syracuse Law School. The date of the event is TBD.

4.5 Music.

Rosemarie Tully announced a brown bag lunch on March 30, 2020 at the accounting firm Citrin Cooperman which will address the issue of royalty audits.

Although committee events are intended for committee members, there was a discussion about how non-committee EASL members could learn of committee events, which might be of interest to them, and how they could attend.

4.6 Diversity.

Christine-Marie Lauture stated that there would be a series of discussions held by the Diversity Committee on March 27, 2020 concerning the music industry. The topic would include: (1) current music industry trends; (2) artists & repertoire (“A & R”) today; and (3) the intricacies of licensing music from both business and legal perspectives.

Anne Atkinson mentioned a planned Diversity Committee event concerning LGBT issues and, in particular, a person who has transitioned from being a man to being a woman and who is in her seventies. There was also a request for recommendations for a family law attorney who deals with LGBT matters. The date is TBD.

4.7 Law Students.

Rosemarie Tully suggested several ways in which law students could play an integral role in EASL and its programming, such as serving as law school ambassadors for EASL at their respective law schools, working to inform students about the Cowan Scholarship Committee, assisting with EASL’s social media efforts, and working with the EASL Journal and with those who contribute articles to the EASL Journal.

Anne Atkinson added that law students could serve as liaisons on the various EASL committees with such benefits as their learning about the practice of entertainment law.

Jill Pilgrim mentioned that she was invited to speak on sports law at an upcoming panel at Cardozo Law School as part of its 8th Annual Sports Law Symposium scheduled for April 2, 2020 as well as on a panel to be held at New York Law School on a date TBD.

5. Programs and Events

5.1 Annual Theater Law Program.

Jason Baruch stated the annual EASL/CTI Theater Producing event will be held April 1-2, 2020 from 5:30 p.m. – 9:30 p.m. each night. Jason Baruch noted there were errors and misleading information on the NYSBA website concerning the event. The Chair stated that it would be rectified. [*This event has been postponed until the fall due to the coronavirus pandemic.*] There was a discussion about whether a photographer could be present at events such as this one (especially since recordings are prohibited at this particular event).

5.2 Spring Meeting and Other meeting Ideas.

The Spring Meeting (which will be held on Thursday, May 21, 2020 starting at or about 1 p.m.) will have panels addressing the following: (1) the Sports Committee will be planning a program on sports arbitration, including a focus on the summer Olympics; (2) the issue of California Assembly Bill-5 (AB-5), which recently passed [AB-5 distinguishes between the classification of workers as employees or independent contractors, which is an important change in the entertainment industry. Diane Krausz and Cheryl Davis with Stephen Rodner are planning this panel]; and (3) Prof. Stan Soocher will be giving his “Annual Year in Entertainment” review of important legal issues.

Jill Pilgrim mentioned that the issue of whether the Summer Olympics would be postponed due to coronavirus would be discussed during the Sports Law panel. [*The Summer Olympics have since been postponed to 2021.*] Other topics would include how to vet athletes to ensure they are not taking drugs and possibly sports arbitration.

6. Miscellaneous.

Jill Pilgrim mentioned, as part of the mandatory mediation program by the New York State court system, that there is a request for those interested in training to serve as mediators concerning disputes which require knowledge and expertise in a variety of entertainment practices.

7. Adjournment. Upon motion unanimously approved, the EC meeting was adjourned at 1:50 p.m.

The next EASL EC meeting is scheduled for Wednesday, April 1, 2020.

Respectfully submitted,

Robert L. Seigel, EASL Secretary