

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

Executive Committee Meeting – December 18, 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, Isano Carter, Joan Faier, Marc Jacobson, Diane F. Krausz, Jill Pilgrim, Steven Rodner, Andrew Seiden, Robert L. Seigel, Judah Shapiro, Barry Skidelsky, Carol Steinberg, Rosemarie Tully, and Barry Werbin.

Attending by Telephone: Paul Cossu, Cheryl Davis, Kathy Kim, and Steve Richman.

1. Welcome.

Barry Skidelsky (EASL Chair) called the meeting to order at 12:31 p.m. and welcomed everyone in attendance, noting that this would be his next to last EC meeting as EASL's Chair in light of contemplated elections to be held at EASL's 2020 annual meeting next month. Barry asked those attending today by phone and in-person to introduce themselves.

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 November 19, 2019. No changes were noted. There upon, a motion was duly made and seconded, the EC meeting minutes were unanimously approved.

3. Chair's Report.

3.1 Budget

Barry Skidelsky reported that the section's proposed 2020 budget was just approved by NYSBA. The 2020 EASL budget is \$109,100, a slight increase from 2019's budget of \$102,000 due in part to increases in line item funding for both the Cowan scholarship (which is now sponsored solely by EASL) and diversity events. A copy of the 2020 budget, which was distributed at today's EASL EC Meeting, will be attached to today's minutes. Barry reminded the EC members that each committee has \$750 allocated to them annually to hold committee meetings and events.

3.2 NYSBA Virtual Bar and Section Leaders Conference

Barry next reminded the EASL EC that he was previously appointed co-chair of the Section Caucus' Virtual Bar Committee (VBC), which prepared and submitted a report to NYSBA on issues concerning the Association's planned website(s) revamp and related IT reforms that are collectively labelled the NYSBA Virtual Bar Center.

Barry added that, although NYSBA was formally informed by the Sections Caucus of various IT related concerns and suggestions of the sections, members of the VBC who attended the most recent Sections Leaders Conference agreed that problems persist with website navigation, registration and more. Pessimistic that NYSBA will solve these problems in the near term, VBC members are currently waiting to see if, when and how NYSBA will follow-up or act upon the reported concerns and suggestions.

3.3 Membership

Barry also reminded the EASL EC of our goal to have 1,500 EASL members by the end of each calendar year, as with 1,500 members EASL can have two delegates from the section to the Association's House of Delegates (HOD). He noted that the current section membership is less than 50 people short of our goal, and he recognized that the goal would be difficult to achieve with less than two weeks until the end of 2019. Nonetheless, he encouraged members to give this goal their best efforts. Barry will work with the incoming section chair to continue those efforts in 2020.

Barry also suggested that the section should work on membership development in conjunction with EASL's Cowan Memorial Scholarship. Law students can be simultaneously informed (at least once each Fall and again each Spring) of the Cowan Scholarship and the opportunity to join the section at no charge. Rosemarie Tully suggested that all law students who make a submission for the Cowan Scholarship should automatically receive membership in EASL. Barry agreed with her suggestion.

Barry added that if anyone has a connection to any New York law school professors who teach any subject related to entertainment, arts and sports, they should be asked to advise their law students to join and get involved with EASL. Any such connections should also be reported to the Cowan and membership committee chairpersons, and to Kristina Maldonado (who can then update the law school database she maintains on behalf of EASL -- which should include at least annual updates of EASL relevant law school faculty, journals and societies). Jill Pilgrim said she recently contacted law professors at Columbia University regarding informing their students about EASL membership opportunities.

Barry asked Anne LaBarbera to encourage EASL membership opportunities for the Young Lawyers section, with which she is also involved. Anne said that would be difficult to do, as every NYSBA section asks the same of that section and the Young Lawyers Section cannot show preference to encouraging membership in one section over another.

3.4 Phil Cowan Memorial Scholarship

Judah Shapiro reported that he extended the deadline for Cowan Scholarship submissions from December 12th to December 31st in hopes of receiving more entries. Barry said that in the past the Scholarship submissions were first submitted by a student to his or professor, who then reviewed or screened the paper before forwarding it to the EASL Cowan committee for consideration. Barry added that he recently spoke to Kristina Maldonado, who told him that many students contacted her to submit papers directly to her. Barry suggested that, going forward, EASL should adopt a more structured process similar to the one used previously by Judith Bresler to

avoid few or last minute entries and scoring. Due to the concern of having received few submissions this year, Anne Atkinson stated we should consider removing “Awards and Recognitions” from the annual meeting agenda. The EC agreed.

4. Committee Reports

4.1 Executive Committee

Prior to this EASL EC meeting and as an attachment to the Agenda for today's meeting, Barry prepared and distributed a Tentative Partial Memo (dated as of 11/30/19), in part to help the EC and the incoming EASL Chair develop a current and/or new list of EASL section officers, committee chairs, Delegates to the House of Delegates, At-Large Members, Judicial District Members, and Nominating Committee Members (all of the foregoing collectively constituting the EASL EC). Liaisons or other individuals who are also on the EASL EC mailing list are also listed.

Noting that several EC members have old, otherwise incorrect or conflicting contact information at various locations within NYSBA and EASL, Barry asked each EASL EC member to please review his or her contact info within NYSBA and in the last EASL Journal (e.g., Judy Bass and Paul LiCalsi are incorrectly listed in the Journal), and in turn to notify both Kristina Maldonado and Elissa Hecker of any corrections.

Barry then reviewed with the EC the Tentative Partial Memo to confirm the EC members listed and their positions. The below described updates and changes were among those now noted, which Barry said he would incorporate into a Revised Tentative Memo for the next EASL EC Meeting.

In part, the Revised Tentative Memo will aid the EC and the incoming EASL Chair in a contemplated analysis and reorganization of EASL's committees (consistent with the EC's previously adopted Committee Engagement Guidelines), will aid Elissa Hecker in updating the listings in the EASL Journal, and will aid Kristina Maldonado in updating NYSBA records.

a) Copyright Committee

Steve Rodner is the sole chairperson of the Copyright Committee.

b) Ethics Committee

The committee does not have a current chairperson.

c) In-House Counsel

The committee does not have a current chairperson.

d) Law Student Liaisons

The committee does not have a current chairperson.

e) Television and Radio

The committee does not have a current chairperson.

f) Website

The committee does not have a current chairperson. Marc Jacobson said that this committee was created before we had a section website, and he suggested that we dissolve it now. Barry agreed, adding his hopes that NYSBA's Virtual Bar Center plans will bear fruit.

g) Music

Rosemarie Tully is a co-chairperson of the Music Committee.

h) Not for Profit

The committee does not have a current chairperson.

i) Cowan Scholarship

Christine Marie Lauture and Judah Shapiro are the co-chairpersons.

j) Theatre and Performing Arts

Jason Baruch, Kathy Kim and Diane Krausz are co-chairpersons.

k) House of Delegates

Diane Krausz is the current alternate Delegate to the House of Delegates.

l) Judicial Districts

Barry suggested that EASL should try to have at least one representative from each Judicial District in the State of New York. He noted that Judicial Districts 1 (Manhattan), 5 (Syracuse), 6 (Ithaca), 7 (Rochester) and 12 (The Bronx) do not currently have any EASL district reps.

Barry added that, as each of these districts have law schools in them, we should consider asking one or more law school professors to serve as EASL district representatives (and/or to otherwise get more involved with EASL, such as to hold more CLE programs or events outside of Manhattan, Cowan, Membership, etc.),

Barry suggested that the following law schools be encouraged to get closer to EASL:

- 1) Judicial District 1 – Manhattan – NYLS, NYU, Cardozo, Columbia
- 2) Judicial District 5 – Syracuse – Syracuse Law School
- 3) Judicial District 6 – Ithaca – Cornell Law School
- 4) Judicial District 7 – Rochester – University of Rochester Law School
- 5) Judicial District 12 – Bronx – Fordham

4.2 Publications

Barry also reported that he spoke with Elissa Hecker just before this meeting, and she asked him to remind the EC that January 31st 2020 is the deadline for submissions to the EASL Spring EASL Journal. Members are encouraged to submit articles for the EASL Journal and Blog.

4.3 By-Laws

Barry asked Steve Richman to clarify which EASL positions under our Bylaws are appointed by the section Chairperson and which are elected by the EASL members. Steve stated that EC Officers, House of Delegates Representatives and Judicial District Representatives are elected by EASL members. The section chairperson appoints committee chairs and EASL EC Members-at-Large.

Jill Pilgrim stated that she and Anne LaBarbera have reviewed the EASL By-Laws. They have created a 10-question survey to collect information from members to update the By-laws to better serve EASL members. Jill said she wants to use Survey Monkey, a data surveying platform, which is no charge if the survey contains no more than 10 questions.

Steve Richman said the earliest any proposed changes in the by-laws can be made is at the annual meeting in January 2021. This is because all EASL members must have adequate notice of the proposed changes, time to provide feedback and for section votes on changes in by-laws at the 2021 annual meeting. This would not be possible for the 2020 annual meeting.

Jill encouraged EC members to fill out the survey when it is sent out. She stated the core issues are how the section should work on developing new members and how to address inactive committees. She stated the new ideas collected from members in the survey will help improve membership growth and will give us information on other issues or concerns members may have.

Marc Jacobson stated that membership should not be affected under any change to the EASL By-Laws. Jill stated that she understood Marc's concern and that it will be addressed once the information on the survey is collected.

4.4 Annual Meeting - Committee Meetings

Barry reminded the EC that, consistent with the EASL Engagement Guidelines previously adopted, all EASL committees are encouraged to hold a committee meeting at our annual meeting on January 28, 2020 -- just before the EASL EC next meets then.

EASL committee meetings will be held in a conference room TBD at the Hilton Hotel, from 10am – 11:30am. Kristina Maldonado recently sent an email to all committee chairpersons asking if they would like to hold a committee meeting to please notify her. She stated she would then contact all committee members to inform them of the exact meeting date, time and location. Barry said if any committee chairpersons would like to hold a meeting and have not informed Kristina yet to please do so as soon as possible.

4.5 Fine Arts

Anne Atkinson reported that the Fine Arts committee will be holding a brown bag lunch meeting with Jill Feldman, gallery director of the Tanya Bonakdar Gallery on the topic of art gallery operations. The event titled "Agency Relationships in the Art World," is tentatively planned for March 2020 with date, time and place to be confirmed soon.

4.6 Sports

Jill Pilgrim stated EASL is a tentative co-sponsor with the NYSBA Dispute Resolution Committee on the issue of sports arbitration panels. The event is tentatively planned for April 2020 with a confirmed date soon. Jill also said that she would like to have EASL hold an annual sports law program. She will update the EASL EC accordingly.

4.7 Diversity

Anne Atkinson said the diversity committee held an event on implicit bias at the Annual Music and Business Law Conference, which was well received. The diversity committee met recently and is planning on hosting several additional events in 2020. Among the future events will be one addressing transgender or LGBT employment issues in entertainment. Other events discussed were holding a non-CLE music event and an event on diversity in artificial intelligence.

4.8 Music

Judah Shapiro stated the music committee held a meeting last month which was well attended. The committee is planning more events and will inform EASL accordingly.

5. Programs and Events (Currently Scheduled)

5.1 Annual Meeting

Judy Bass, Anne Atkinson and Sara Robertson are serving as co-chairs of the planning committee for the EASL Annual Meeting CLE program to be held on Tuesday January 28, 2020. Judy reported that the event planning is going well. She is looking for a video game attorney who knows platform deals. She asked any EASL EC members who know anyone in this area to please contact her. Judy said that Perry Krinsky will be moderating the Ethics panel. Judy elaborated that the EASL 2020 annual meeting will involve the following topics and speakers:

1) Digital Distribution: Legal and Business Aspects [1:30 to 3:45 p.m., 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; 4:05 -5:30 p.m., 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.
- Perry D. Krinsky, principal, Krinsky PLLC
- Liz Orr, TV Literary Agent, Buchwald
- Jill Pilgrim, Founder and Managing Attorney, Pilgrim & Associates

EASL's post-program joint networking reception with the Intellectual Property (IP) section will again be held at Bill's Burger Bar in Rockefeller Center. Barry noted that last year some of the IP members left the reception early, and that he recently learned that the IP section has long had a dinner each year with their annual meeting speakers at 8pm. Judy Bass noted that the EASL speakers are invited to the reception at Bill's, and she suggested that EASL should also hold a speaker dinner in 2021 (but perhaps the night before our annual meeting).

5.2 Dispute Resolution

Barry said that he and Jill Pilgrim spoke about EASL possibly co-sponsoring an event with the ADR section regarding ADR provisions in EASL related contracts. Jill stated she wanted to be clear on what is involved in being a "co-sponsor" of an event, since responsibilities can change based on each event. For example, Jill said, in some events co-sponsorship simply means ADR members inform their members of EASL events and we do the same for them. Each section then lists the other as co-sponsors of the event. In other instances, co-sponsorship can involve sharing of event planning and payment of costs. It was clarified that the contemplated event on ADR provisions in EASL related contracts would not entail a financial commitment by EASL.

Jill added that on January 9th 2020 the Metropolitan Black Bar Association is holding an information panel on ADR in connection with the NYS Courts' plan to generally require mediation for most litigation. Please contact Jill or the MBBA for more details about the January 9 program. Jill stated mediation is growing and ADR is very important for EASL members to be knowledgeable about. She encouraged members to become a court appointed ADR mediator. She also suggested that EASL related agreements should require the mediator selected to have knowledge of and/or experience in the entertainment industry.

5.3 Women in Law Section

Barry reported that the Women in Law Section (WILS) reached out to possibly co-sponsor an event with EASL at the 2020 Annual Meeting. Since EASL and the WILS hold their meetings at the same time this would be difficult. Barry thanked them for their invitation, and he expressed EASL's willingness to consider future events co-sponsored with WILS, other NYSBA sections, other bar associations, and other organizations.

5.4 Annual Theater Law Program

Barry reminded that EC 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.

6. Program and Events (Planned or Proposed)

6.1 Spring Meeting

The EC members then discussed various additional EASL and NYSBA events. Barry spoke about the semi-annual “Introduction to Entertainment” event that EASL held for NYSBA in June a couple of years ago, and he said that we need to make plans for our next annual Spring Meeting,

Rosemarie Tully stated that in order to have enough preparation time for our Spring Meeting someone should contact Stan Soocher, who has historically given his annual entertainment litigation review as part of EASL's Spring Meeting. Steve Rodner stated he would contact Stan to check his availability for this coming May. Barry asked the other EC members to consider topics and taking on event planning roles.

Due to time constraints, Barry tabled to the next EASL EC Meeting further discussion of other possible programs and events, including more discussion of EASL's Spring 2020 meeting, a possible new annual CLE program on film/tv, a possible new annual CLE program on sports law, and a possible new annual CLE program of 4 CLE credits in Ethics.

6.2 NYSBA Gala Dinner

Judy Bass inquired if any other EASL members were interested in attending the NYSBA Gala Dinner on January 30, 2020, or in EASL purchasing a table for the event (which was previously free of charge to attendees). The EC consensus was that there was not enough interest in that now; but, that we might reconsider for 2021.

7. Other Initiatives and New Business.

Marc Jacobson, co-chair of the Legislative Committee, made a motion to dissolve the legislative committee since the committee does not have enough members. He would like to stay on in an advisory role to help EASL with any legislative issues that may come up, but he felt a formal committee was not necessary.

Barry Skidelsky stated he would like to keep the legislative committee open for now to give more time for members to join that committee before considering dissolving, as well as to give flexibility to Barry Werbin (the putative next Chair of EASL).

Barry Werbin said he appreciates that and has already scheduled the dates for all of the 2020 EASL EC Meetings to follow our annual meeting January. All meetings will be held on Wednesdays at his firm, Herrick Feinstein. Save the dates reminders will be sent out after our annual meeting.

Lastly, Barry Skidelsky reminded the EC that Steve Richman would replace him as EASL's sole delegate to NYSBA's House of Delegates, as Barry Werbin is not interested in that additional role. Rosemarie Tully suggested that perhaps Barry Werbin (or a former EASL Chair) might be willing to serve as the next alternate delegate. Barry Werbin said he would take this matter under advisement.

8. Adjournment. Upon motion unanimously approved, the EC meeting was adjourned at 2:04 pm.

The next EASL EC meetings will be held on: Tuesday January 28 from 11:30am – 12:50pm at the NY Hilton (during the NYSBA annual meeting week).

Respectfully submitted,

Ethan Bordman, EASL Secretary