

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

**Executive Committee Meeting – February 25, 2019**

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

**Minutes of EASL EC Meeting**

**Attending in Person:** Anne S. Atkinson, Jason P. Baruch, Judith B. Bass, Joan Faier, Marc Jacobson, Diane F. Krausz, Anne LaBarbera, Jared Leibowitz, Robert L. Seigel, Judah S. Shapiro, Barry Skidelsky, Carol Steinberg, and Rosemarie Tully.

**Attending by Telephone:** Ethan Y. Boardman, Ronald Coleman, Donna Froscos, Elissa D. Hecker, Erica Hines, Kathy Kim, Christine-Marie Lauture, Bennett Liebman, Paul V. LiCalsi, Kristina Maldonado, Barry Werbin, and Lisa Willis.

1. Welcome.

Barry Skidelsky (EASL Chair) called the meeting to order at 12:30 p.m., and welcomed everyone in attendance. He thanked those attending who sent regularly required advance RSVPs to Kristina Maldonado at NYSBA, reminding Kristina to regularly send a copy of the RSVP list to the EASL Chair and Secretary prior to each EC Meeting. Barry also asked those EC members actually attending today's meeting by telephone to confirm same by email to both Kristina and Joan Faier, Assistant Secretary who was filling in today for Secretary Ethan Bordman.

Barry stated that he had received very positive feedback on the EASL Annual Meeting CLE program, including several comments that it was "excellent" and "best ever." He extended kudos to Judy Bass, Chair of the first two panels, and to the program's planning committee.

2. Approval of Minutes.

Barry then asked if there were any corrections to the minutes from the last EASL EC meeting held on January 15, 2019. Jason Baruch made one correction in Section 4.1 of those minutes, which was that the upcoming EASL/CTI theater law program would start at 5:30 p.m. rather than 5:15 p.m. The minutes were then unanimously approved with that change.

3. Chair's Report.

3.1 Chair Succession. Barry introduced a discussion of the EASL Chair succession, by providing some background and stating that the traditional process used was to effectively "promote" the individual who served as First Vice-Chair in the preceding term to become EASL in the following term. Anne Atkinson, who is currently EASL's First Vice-Chair, stated that she will be unable to serve as EASL Section Chair for the next term beginning in 2020, adding that

she is willing to step aside as First Vice-Chair if needed to help with a smooth transition. Barry asked the Nominating Committee, which is comprised of active former EASL Section Chairs and himself as current Chair, to consider the issue of chair succession and to come up with a list of suggestions.

3.2 Bylaws. After a brief discussion, it was noted that EASL's Bylaws, which are posted on the EASL Section website, do not expressly specify such a process to "promote" the section's First Vice-Chair to Chair. Barry noted that the Bylaws were last revised in 2012, and he suggested that they should be reviewed and possibly amended in the future to provide for such a process. Marc Jacobson suggested that EASL could adopt a Chair-Elect and Chair structure similar to the approach used by NYSBA with the association's President-Elect and President. The Nominating Committee will consider these issues and further discuss at the next EASL EC meeting.

3.3 Financial Statement (11-30-18). Barry inquired as to whether Lisa Willis, EASL's Treasurer, had received from NYSBA the 2018 year-end financial statements. Lisa stated she had not yet received them so the discussion turned to the financial statement provided as of November 2018.

Barry asked whether the November income of \$10,500.00 listed in November under the "Meetings" heading reflected the income from the Music Business Law Conference. Rosemarie Tully stated that she did not think the number represented the total income for the Conference and that a portion of it had probably been reported in October.

Barry said he would like to review the year-end statements, when available, with one aim to look at which EASL programs made money. It was noted that the two key money-making EASL programs are our annual Music Business Law Conference and EASL/CTI theater law program. Rosemarie said that the Music Conference would probably net around \$13,000.00 this year, but the final numbers were expected to appear in 2018 year-end financial statements. Jason Baruch stated that the EASL/CTI program customarily netted around \$8,000.00 or \$9,000.00 for EASL each year.

### 3.4 EASL's Phil Cowan Memorial Scholarship.

At Judith Bresler's request, Barry presented a report on EASL's annual writing competition and scholarships for law students. Barry gave some history, pointing out that in the past we have awarded \$2,500.00 for each scholarship making a total of \$5,000.00; and, that this year BMI provided \$2,000.00, while EASL contributed the remaining \$3,000.00.

As no BMI representative was present at the January 2019 Annual Meeting awards ceremony to assist with the presentation of the scholarships to the two law students who wrote the winning papers (both from St. John's Law School), Barry plans to contact BMI and discuss with it its role in various other aspects of the scholarship program, such as marketing and awards ceremony as well as BMI's likely loss of interest in going forward as an EASL sponsor.

Jared Leibowitz, who was formerly with BMI and who had previously worked on the scholarship program, shared some insights into BMI's past level of involvement – for example, BMI representatives had administered the grading process, but this year BMI had not graded any of the papers.

Barry asked the EASL EC members to think about potential alternative sponsors if that should become necessary. Banks and insurance companies were suggested as possibilities, and Barry stated that he would check with NYSBA about any sponsorship limitations. He also reminded the EC that last year we agreed that, if necessary, EASL would pay the full \$5,000.

3.5 Membership Initiative. Barry also reminded the EC that to qualify for two delegates from EASL to the House of Delegates, NYSBA's governing body, our section is required to have 1,500 members by a certain record date -- which we were advised would be a membership renewal cut-off date (not expected to be earlier than March 1). Barry reported that EASL's recent membership initiative has been successful, with membership going up from 1,479 at the end of December 2018 to 1,538 as of February 20, 2019. Barry thanked everyone for their efforts in helping to secure new members, noting that the law school initiative particularly had resulted in a number of new law student members.

3.6 Committees/Engagement. Barry also reminded the EC and gave a brief summary of the Committee Engagement Guidelines previously adopted, which are recommendations for increased Committee activity, such as holding four Committee events per quarter calendar year, increasing face to face time among Committee members, and involving more young lawyers and law students.

To update the current EASL Committee list, Barry reviewed with the Committee the current list of 25 Committees and their co-chairs. He asked for comments on the utility of the Digital Media Committee in light of the fact that there is a digital aspect in virtually all media covered by the subject committees. Marc Jacobson provided the history of the formation of that committee in the 90's, noting it came about in the early days of the Internet. Judy Bass said the Digital Media Committee could still cover topics such as social media, influencers, and native advertising – subjects on which it co-sponsored a meeting with the Literary Works Committee. Barry removed the "Ethics" and "Website" removed from the list of committees and the Digital Media Committee will remain at present. Other changes are contemplated.

#### 4. Committee Reports; Recent Events.

4.1 NYS Proposed Right of Publicity Legislation. Barry said that NYSBA's legislative watch service had not yet provided EASL with requested notice of the recently-introduced Right of Publicity legislation.

Judy Bass, who is also a member of NYSBA's Media Law Committee, reported on that bill with information she had received in a briefing last week presented to the Media Law Committee. The bill (Assembly Bill A5605) was introduced into the NYS Assembly on February 14 by Brooklyn Assemblywoman Helene E. Weinstein. Judy stated that it contains three parts: a right of privacy section for living people; a right of publicity section for living and dead people,

and a section on the use of digital replicas (“deep fakes”). She said that the bill contained some conflicting language and did not totally track the language of the previous right of publicity bill passed by the Assembly on its final day in session last June. She stated that its current language might be modified by Assembly staff once they are able to turn full attention to it after April 1, when the budget is complete.

In her report, Judy noted that SAG-AFTRA has been very involved in drafting the language for this bill and in previous efforts to get a Right of Publicity bill passed in New York. She also pointed out that The Media Coalition had written an excellent opposition to last year’s bill.

Barry asked Kristina to please send a copy of the proposed bill to EC members. Judy stated that it was important for the EASL EC to follow the bill as we had done last spring when a special subcommittee was set up for this purpose in conjunction with EASL’s Committee on Right of Publicity. Barry pointed out that it would likely still be difficult for the EASL EC to reach a consensus and to take a formal EASL position on the bill due to the fact that members’ clients may have divergent interests.

#### 4.2 Committee Reports.

Fine Arts/International. Carol Steinberg reported on a program entitled “International Perspectives on Street Art” held on February 6 at Fordham Law School which was co-sponsored by the Center for Art Law, NYSBA’s EASL Fine Art Committee and International Committee, and the Fordham Law Art Law Society, noting that the international perspective on this topic was very interesting.

Pro Bono. Elissa Hecker reported on the pro bono clinic co-sponsored by EASL and the IP Sections which took place on Saturday, February 25 at Dance/NYC’s Symposium held at Hunter College, stating that it was very successful with 18 lawyers present.

Diversity. Anne Atkinson reported that the Diversity Committee is working on a program to be held in May on implicit bias which would qualify for CLE credit in Diversity and Inclusion.

#### 5. Programs and Events (Currently Scheduled):

5.1 CTI/EASL Theatre Law Program: Jason Baruch reported that the annual CTI/EASL theater law program is scheduled for the evenings of March 27 and March 28 this year. He would like to send out an email blast/PDF in addition to NYSBA’s regular marketing, so he asked Kristina to provide him with a website registration link for the PDF and otherwise help market this event. Jason said that the program usually has an attendance of 80 people, but that the theater hosting this year's event could accommodate more than 100 people. So far, only 23 people have registered, which is the norm for this point in time. Kristina stated that NYSBA would be sending out two more dynamic emails and one email just dedicated to this program (and one more solo email, if needed) in the next month.

## 6. Programs and Events (Planned and Proposed).

### 6.1. Music Business Law Conference:

Rosemarie Tully reported that the Music Business Law Conference is scheduled for November 15 at New York Law School in the same space as used last year. She said that the program had received permission from NYSBA's CLE Department to be recorded, although she wasn't currently sure of all the details, adding her belief that those who attend would have a chance to review the recordings on our website. Rosemarie stated that this would be particularly useful to attendees who might have been frustrated due to the conference having several simultaneous break-out sessions. She stated that planning for this year's conference had already begun, and if people had ideas for panels they should get in touch with her.

### 6.2 EASL Spring Meeting:

Barry discussed plans for panels at the Annual Spring Meeting, in addition to the annual litigation update to be provided by Stan Soocher. He suggested that drawing attention to the relationship among entertainment, tax, and trusts and estates law could be interesting. Barry said he had been approached by a tax lawyer, Michele J. Alexander at Bracewell, expressing her interest in hosting and speaking at such a program.

Additionally, Barry said he had also been contacted by Robert J. McLaughlin, an attorney with a background in gaming law who is at the Buffalo-based Hodgson Russ, a law firm with an expertise in state and local taxes, about his interest in participating with EASL for the Spring Program or otherwise. Barry said he would connect McLaughlin and Bennett Liebman, who is reportedly planning to hold an Albany Law School conference on gaming and sports betting during the first week of August in Saratoga Springs and/or in connection with a possible other program in Albany – either of which EASL could co-sponsor.

Bob Seigel said that he had been planning a spring meeting for the Motion Pictures Committee on tax law, and that he had been speaking about that with a certified public accountant, Fred Siegel. Bob said that if EASL was going to include tax as a topic in the section's Spring Meeting, he wouldn't hold a Committee meeting on the same topic. Barry asked him to co-chair the panel on tax and entertainment law for EASL's Spring Meeting, and he agreed to do so. Besides the possible speakers mentioned above, Carol Steinberg suggested another possible speaker, Patricia Pernes, who has an art law and accounting background.

Barry suggested a second panel touch on trusts and estates matters related to entertainment law. Diane Krausz stated that there were some interesting issues in this area related to the appointment or non-appointment of literary executors in wills. She said she knows an attorney who is against literary executor appointments in wills and had a number of ideas about who might speak on the opposite point of view. She will follow-up in this and report back. Marc Jacobson suggested that the topic of copyright terminations (or more broadly, copyright re-capture) should also be included in this panel.

Barry will ask Mary Ann Zimmer to reach out again to Stan to ask him to again present his popular annual update on entertainment litigation as the first part of EASL's Spring Program, including to check on his date availabilities. Barry suggested that Stan try to add a few trusts and estates oriented entertainment law cases, if possible. The week of May 13 was tentatively agreed upon for the Spring Meeting, dependent on Stan's availability with a specific date and location TBD.

6.3 June CLE Program/Introduction to Entertainment Law: Barry asked Diane Krausz about the annual Introduction to Entertainment Law program which EASL had been offering (and which Diane had been co-chairing) in conjunction with NYSBA's CLE Department. Diane noted that the June program usually alternates annually between a general introductory program on entertainment law practice and one with a specific media area focus. She stated that she will handle this program for EASL again and will look into the topics to be covered this year.

Adjournment: Due to time constraints, discussion of possible new business was tabled until the next EASL EC Meeting. Upon motion made and unanimously approved, this EC meeting was adjourned at 2:10 pm. The date and place of the next EASL EC meeting is TBD during the last week of March.

Respectfully submitted,

Joan Faier  
Assistant EASL Secretary