

**ENTERTAINMENT, ARTS & SPORTS LAW SECTION,  
Executive Committee Meeting – April 3, 2019**

PRYOR CASHMAN, LLP  
7 Times Square (Broadway between W. 41 and W. 42)  
New York City

**Minutes of Meeting**

**Attending in Person:** Anne Atkinson, Jason Baruch, Donna Frosco, Steve Rodner, Robert L. Siegel, Barry Skidelsky, Innes Smolansky, Carol Steinberg, Rosemarie Tully

**Attending by Telephone:** Ronald J. Coleman, Jr., Erica Hines, Kristin Garris, Les Greenbaum, Marc Jacobson, Pamela Jones, Kathy Kim, Kristina Maldonado, Steve Richman, Andrew Seiden, Judah Shapiro, Barry Werbin

1. **Welcome.** Barry Skidelsky, EASL Chair, called the meeting to order and welcomed all attendees. He asked that in the future, Executive Committee (“EC”) members please RSVP to Kristina Maldonado two days in advance whether they planned to attend by phone or in person. The advance notice will make it easier to check telephone attendance and will help in ordering the right amount of food, etc.

2. **Minutes.** In the absence of both the Secretary and the Assistant Secretary at this meeting, Anne Atkinson offered to take the minutes for which Barry thanked Anne. Barry also thanked Joan Faier for the good job she did taking the minutes at our last EC meeting held on February 25, 2019. Barry then asked for approval of those February 25 minutes, which were unanimously approved.

3. **Chair’s Report.**

3.1. **Cowan Scholarship.** Barry stated that in the past, the Cowan BMI Scholarship had been completely funded by BMI. However, in the past year BMI paid \$2,000 and EASL paid \$3,000 (for the two \$2,500 annual scholarships). After BMI did not attend EASL’s 2019 Annual Meeting, Barry followed up with BMI and was told that they are no longer willing to support the scholarship. He reminded the meeting that the EC had previously approved EASL funding the entire \$5,000 if BMI dropped out, and he suggested we seek one or more possible sponsors (ASCAP has declined, Barry noted). Several possibilities were discussed. Steve Richman suggested that the EC formally request the NYSBA Finance Committee (whose approval is required) to be able to fund the scholarship from EASL’s surplus. The EC unanimously approved this suggestion. Barry stated that the only remaining sponsorship restriction from NYSBA relates to insurance companies, since USIA is a NYSBA sponsor.

3.2 **Financial Statements.** Barry drew the meeting’s attention to the EASL financial statements previously distributed, noting that they are subject to adjustment by NYSBA. He discussed the specifics of the statement breaking down income and expenses by meeting, and again noted that these numbers too would probably be subject to adjustment.

### 3.3. Membership; House of Delegates.

Barry stated that Kristina Maldonado had been misinformed regarding the annual “record date” by which EASL must have at least 1500 members to qualify for having two delegates from the Section to the Association's House of Delegates (HOD) as of June 1 in the following year. Rather than the annual drop date of March 31 when non-renewing members are removed from the rolls by NYSBA (and by which date in 2019 EASL would have qualified to continue having two delegates to the HOD), the record date is instead December 31 (on which date in 2018 EASL had 1479 members, just 21 shy of 1500).

Steve Richman (who also faces HOD term limits) offered to step back as a HOD delegate from EASL as of May 31, 2019. For the period from June 1, 2019 through May 31, 2020, Barry will be our sole delegate, while Diane Krausz will be our sole alternate delegate. Fortunately, two other members of EASL's EC (Rosemarie Tully and Anne LaBarbara) are also HOD members, albeit as representatives from judicial districts rather than from our section per se.

Barry suggested that we begin a push for new EASL members in the Fall each year, coordinated with marketing of our Phil Cowan Memorial Scholarship annual writing competition, in light of NYSBA's willingness to offer free membership to law students (who also count towards the 1500 member threshold re HOD delegates from sections).

3.4. Section Leader's Caucus; Website. Barry stated that he planned to attend the next House of Delegates meeting on April 12 and the Section Leaders Caucus on May 9. Both are in Albany at NYSBA's Bar Center. At the Section Leaders Conference, NYSBA will unveil details of its planned revamp of the Association and Section's websites. Barry noted that he has already made several suggestions to NYSBA for IT/website improvements, such as having a read-only portion of the EASL website accessible by EASL EC members (where we could maintain a list of law school faculty contacts, an internal planning calendar, etc.), improving communications, and enhancing website navigation (to make it easier search for content, contacts, programs and events, to more easily register and join NYSBA and/or EASL).

3.5. Chair Succession. Barry stated that at the last EASL EC meeting, he had asked the Nominating Committee, comprised of all active past Chairs and himself, as current Chair, to consider the issue of Chair succession. Rosemarie Tully reported that there had been an informal discussion by a portion of the Nominating Committee, which she wishes to present to the full Nominating Committee (including Barry) before presentation to the EC. She noted that in the past, the Nominating Committee had blessed the incoming Chair's slate suggestions for officers. Steve Richman suggested that if the process could happen quickly enough, the Chair-elect could be able to accompany Barry to the May Section Leaders Caucus and thus more expeditiously become acquainted with NYSBA infrastructure.

3.6. By-Laws. Barry also requested that all EC members take a look at the By-laws (distributed with the meeting materials) to see if they should be amended. The By-laws were last amended in 2012. Any amendment must be proposed and voted on at the Annual Meeting. Barry mentioned he thought it odd that our Bylaws allow for nominations for section chair and officers to be made from the floor at the Annual Meeting, rather than requiring some advance notice or process.

Steve Richman noted that permitting nominations from the floor at the Annual Meeting mirrors NYSBA's procedures, although no one could recall when any floor nominations were ever made.

4. Committee Reports; Recent Events. Barry reminded the meeting that EASL had approved Committee engagement guidelines that call for activity (an in-person meeting, an event, etc.) at least once per quarter, which he urged committee co-chairs to please implement and report. Barry congratulated Jason Baruch on the recently held theatre law program and asked for a report.

4.1. Theater and Performing Arts. Jason Baruch reported that this year's version of the two night CLE program co-sponsored by EASL and the Commercial Theater Institute ("CTI") was not only successful but also enjoyed record-breaking attendance. He noted that Kristina Maldonado had been incredibly helpful in organizing the event. In response to Jason's question, Kristina stated that there had been 98 attendees and a total of \$23,000 in registration fees. Jason reminded the EC that this total, minus expenses, is split with CTI. He estimated that the costs were approximately \$2,500 for catering and \$600 to \$700 for the space, concluding that EASL should expect to net about \$9,000 to \$10,000. He also noted that the location for this year had been changed to a theater space mid-town in order to be ADA compliant.

4.2. Fine Arts: Carol Steinberg reported that at the annual meeting, she met with seven or eight members of the Fine Arts Committee, and there were a lot of good ideas. One of them is an idea that Mandy Estinville, a member of the Diversity Committee, has been working on for a while with the support of the Diversity Committee, relating to Activist Art. Carol has been able to be very helpful in moving this forward, including suggesting possible speakers. A panel discussion on this subject is scheduled for September 26th at the National Arts Club. Mandy has secured two excellent speakers, Katherine Wilson-Milne and Adrienne Fields. She is looking for an artist and a curator to be on the panel. A second idea is to hold a program regarding artists obtaining studio space. Carol noted that NYFA and other non-profits have initiatives, and that she was able to make connections to get a panel on this topic scheduled. The panel will be held at NYFA in the Fall. Finally, Jana Farmer of Wilson Elser, the Westchester Arts Council, and EASL co-sponsored a March 13 program on artists' legacies, which attracted 30 people and was also quite successful.

#### 5. Future Programs/Events.

5.1. Spring Meeting. Barry announced that the Spring Meeting would be held on May 15 in the afternoon at the law offices of Bracewell LLP on 6<sup>th</sup> Avenue in midtown (given a number of factors, it is scheduled for the day prior to the already-planned implicit bias seminar). EASL's Spring program will offer a total of 3 hours of CLE credit (in 3 segments), and it will be followed by a 90 minute networking reception. The registration fee for EASL members (for both the CLE program and reception) will be \$50.

First, Stan Soocher will provide his annual entertainment litigation year-in-review. That will be followed by a tax oriented panel, consisting of Michelle Alexander (a tax attorney at Bracewell) and Fred Seigel (a CPA enlisted by Bob Seigel, no relation), who will provide an overview and discussion of the latest tax law changes relevant to the media and entertainment industries, as well as New York State tax incentives relevant to TV, video and independent film.

A second panel of three speakers will then touch on related trusts and estates matters, including practical tips regarding estate planning (by Tracy Landauer, a T&E attorney at Culhane Meadows) and copyright terminations (by EASL's own Marc Jacobson), as well as an update on recently proposed legislative changes to New York's right of publicity statutes (by Jeremy Sheff of St. Johns Law School).

5.2. Disrupting Implicit Bias in Entertainment, Arts and Sports Industries with a Focus on the Legal Profession. Anne Atkinson reported that this program, being organized by the Diversity Committee in conjunction with NYSBA's Committee on Diversity and Inclusion, will be on May 16 from 6-8 pm, and will include a networking reception. Minika Udoko of NYSBA has been very helpful in organizing the event. Speakers include Josh Zuckerberg of Pryor Cashman (who will discuss how implicit bias is dealt with in employment discrimination cases), our own Cheryl Davis (moderator), Carla Miller of the Universal Music Group, Deborah Robinson of Viacom, and Jill Pilgrim of Pilgrim Associates, who has a background in sports. The amount charged will be \$15 for EASL members, \$30 for other NYSBA members, and \$50 for non-NYSBA members.

5.3. Annual Music Business and Law Conference. Rosemarie Tully reported that this full-day 10 panel event would be held November 15, and planning is underway. Included will be a panel on the basics (including recording, publishing, management, and revenue streams), the Music Modernization Act, International/Article 13 issues, and, as in the past, a number of panels geared to CPAs. Steve Rodner and Diane Krausz will head a panel on licensing music for background and in sports. Another panel will focus on copyright registration challenges, especially in light of the recent US Supreme Court Fourth Estate case. She would like to include a Diversity and Inclusion/Ethics panel, and asked if the implicit bias panel could be reprised (as it relates to music) in November. Anne offered to be helpful.

5.4. Fall Meeting. In response to a question, Steve Rodner noted that EASL's entertainment law program for the "big bar" at NYSBA will not happen this year; we will skip a year. Barry then asked for suggestions as to possible topics for EASL's Fall Meeting and other programs, raising the topics of financing and SEC compliance, antitrust (e.g., relevant to the music collection societies such as ASCAP and BMI, a recent DOJ case involving television stations sharing ad revenue information, sports leagues such as the MLB), and unions or guilds. Anne suggested addressing streaming platforms, given how many have been recently announced and how they have changed the entertainment world. She noted that the SXSW panel on this topic had generated a lot of interest. That panel was organized by Rosemarie Tully and Diane Krausz, moderated by Diane, and the speakers included IFC's senior business and legal affairs person, Betsy Rodgers, the head of programming from Rooster Teeth, Karen Robson from Pryor Cashman's LA office, and herself. Barry added that the National Association of Broadcasters convention in Las Vegas this April had a large number of panels on streaming, which might prompt additional thought as to specific streaming related topics or speakers.

6. New Business.

6.1. Comprehensive Film Program. Innes Smolansky suggested that (similar to EASL's comprehensive full-day music conference) EASL undertake a comprehensive full-day film conference. She further suggested, given the broad scope of each, that the two conferences could alternate so that they are each biannual rather than annual events. Rosemarie observed that this was a great idea, but it entails a a huge amount of work.

6.2. Recording the Music Conference. In response to a question, Rosemarie stated that they were considering recording the November music conference to distribute to attendees, and that one year later NYSBA's CLE Department could distribute it and split revenues with EASL. We would pay for the recording, but the costs are vastly diminished because of the equipment investment by NYSBA. Jason Baruch noted that he would not permit recording of the annual theatre law event for two reasons: first, some participants would not wish to be recorded, and second, it would likely diminish revenues from future CTIs.

7. Adjournment. There being no further business, upon motion duly made and seconded, the meeting was adjourned, with the next EASL EC meeting to be held in May on a date TBD.

Respectfully submitted,

Anne S. Atkinson