

**NEW YORK STATE BAR ASSOCIATION
ENTERTAINMENT, ARTS & SPORTS LAW SECTION
Executive Committee Meeting – June 19, 2018**

**Pryor Cashman
7 Times Square
New York, New York 10036**

Minutes of EC Meeting

Attending in Person: Anne Atkinson, Judith Bass, Ethan Bordman, Joan Faier, David Faux, Kimberly Grant, Marc Jacobson, Diane Krausz, Anne LaBarbera Paul LiCalsi, Steven Rodner, Andy Seiden, Judah Shapiro, Robert L. Siegel, Barry Skidelsky, Carol Steinberg, Irina Tarsis, Rosemarie Tully, and Mary Ann Zimmer.

Attending by Telephone: Ronald J. Coleman, Cheryl Davis, Joyce Dollinger, Leslie Greenbaum, Elissa Hecker, Kathy Kim, Bennett Liebman, Steven Richman, Innes Smolansky, Lisa Willis, Kathleen Wu

1. **Welcome.** EASL Chair Barry Skidelsky called the meeting to order at 12:30pm and welcomed everyone in attendance. He then asked attending EC members (both in person and by phone) to introduce themselves.

2. **Approval of Minutes.** Barry asked if there were any comments on the minutes from the May 15, 2018 EASL EC meeting. Anne Atkinson pointed out one addition to her committee report and Ethan Bordman, EASL Secretary, will make the appropriate change. Based on the forthcoming change the minutes were unanimously approved.

3. **Chair's Report.**

3.1 **2018 Section Leaders Conference.** Barry reported that he attended the Section Leaders Conference at NYSBA's headquarters in Albany on May 17-18. He noted that, in light of a general decline in association membership and revenues, NYSBA urged section leaders to help attract and retain membership in NYSBA and its various sections, to have sections prepare and submit to NYSBA reports on proposed legislation, and to have sections do more advance planning.

3.2 **House of Delegates.** Barry then asked Steve Richman to report on the recent House of Delegates meeting. Steve stated the NYSBA membership is down to 48,000 members, and he added that NYSBA is trying to add value for its members in part by doing more for members in regard to CLE. For example, NYSBA is considering offering a so-called "all access CLE pass" for \$99 a month with a one-year obligation, which would allow members to access and view online all recorded programs in the NYSBA CLE library. NYSBA hopes this would encourage sections to do more CLE programs, which would be recorded and added to the library. NYSBA would also allow sections to keep proceeds from CLE programs they produce. Proceeds from the Annual Meeting will continue to be received and kept by NYSBA.

Steve also reported that the House of Delegates approved converting the "Women in Law" committee to a section, in part to help generate section dues revenue. NYSBA also plans to create a program to better serve attorneys who work in the family court program. Lastly, Steve noted that NYSBA is supporting certain changes to the Jones Act (which regards the maritime transportation of goods) that may prove particularly helpful for Puerto Rico in the wake of Hurricane Maria.

3.3 EASL Section Budget. Barry also reported that he spoke with NYSBA leaders about the budgeting process for sections. He added that, as budgets are done on a calendar year, sections should complete and submit for approval their 2019 budgets in August. Barry asked all EASL officers and Steve Richman to collaborate and create a proposed budget, which is contemplated to include certain changes from EASL's 2018 budget. One of the changes, which Barry reminded EC members they had previously approved, regarded the EASL/Phil Cowan memorial scholarship. Instead of being 2 scholarships at \$2,500 each, it would now become 2 scholarships at \$2,000 each (with one scholarship funded by EASL and the other funded by BMI). Barry repeated his earlier invitation for any EASL EC members who are interested to join the ad-hoc budget committee.

3.4 By-Laws. Barry also reminded EC members that he would likewise appreciate help to review and possibly revise or update EASL's By-Laws, and that any changes to the By-Laws would need to be approved by a vote of EASL's membership at our annual meeting.

4. Committee Reports. Barry then asked for committee reports.

4.1 Hello Dolly. Kathy Kim said the section held an event for EASL members to attend a showing of "Hello Dolly." Kathy said 23 people attended the show with 18-19 attending the pre-show social event at Sardi's. Steven Richman said it was a great event. Kathy would like to hold a similar idea for the upcoming show "Head Over Heels" this summer. She would like to expand the marketing for this event to other sections of NYSBA, as well as expand attendance by incorporating several price points to serve more members.

4.2 Introduction to Entertainment Law.

Steve Rodner reported that the "Introduction to Entertainment Law" CLE program held on June 13th at the Executive Conference Center was well received with about 60 attendees. Barry Skidelsky noted a few concerns about the event that had been shared with him or that he noted such as the registration table's failure to have any NYSBA membership brochures, EASL section membership brochures, nor EASL Journals -- all of which should be made available for every EASL program. Barry asked Sydney Joy to make sure that those materials are put out at all future EASL programs and events. Sydney said she would do so, regardless of whether the event is sponsored by EASL or NYSBA. Elissa Hecker added that not only should EASL Journals be put out at all EASL events, but also that NYSBA print each run with extra copies for such purpose. Barry also asked Sydney to provide the EC with attendance survey feedback received for each EASL program or event, which she also said she would do. Barry thanked Sydney for her help.

Barry also noted that the lunch break at the June 13 program seemed too long, although it did give him a chance to personally welcome all attendees and urge new or renewed membership (as well as active involvement if desired) in both NYSBA and EASL. From that,

Barry created a list of about 20 attendees who said they were NYSBA members but not EASL members. After receiving an OK from NYSBA, Barry planned to offer those people EASL membership for one annual dues payment that would cover the remainder of 2018 and all of 2019.

Rosemarie Tully added her feeling that NYSBA's CLE department dropped the ball with this program. For example, it failed to arrange for anyone to greet attendees as they entered the building in order to direct them where to go to check-in; and, it failed to have anyone handling check-in at the registration table. Rosemarie handled the check-ins until a temp was called and arrived. Rosemarie also said that there were not enough working microphones for the speakers, and that some panelists had to share just one microphone. Kimberly Grant commented that her power point presentation was not ready and loaded as she had expected. Steve Rodner added that he received a CLE certificate from NYSBA regarding his attendance at the June 13 event, but the CLE credits he should have received were incorrectly stated in the certificate.

The EC's general consensus was that, although Sydney Joy and EASL's program planners did a great job to organize this June 13 program, NYSBA's CLE department needed to coordinate with Sydney, as well as with event venues, to make sure that hosting and administrative activities are handled better. Barry concluded discussion of this matter by noting, ironically, that at the Section Leaders Conference NYSBA emphasized the need for better planning.

4.3 Spring Meeting. Ethan Bordman stated the Spring Meeting was outstanding. Mary Ann Zimmer stated there were 65 attendees and the event was well received by both panelists and attendees. She also stated that the timing and topics were on point as the Right of Publicity is currently an important issue in the New York State Legislature and Sports Gambling had its first round of approvals in New Jersey. Mary Ann also gave a big thank you to Barry Werbin for coordinating the sports gambling panel and hosting the event at Herrick.

5. Programs and Events Currently Scheduled. Barry Skidelsky then asked for Committee reports and updates on upcoming programs and events.

5.1 Fine Arts Committee. Irina Tarsis stated the Fine Arts Committee is hosting a studio tour on July 10th with a gallerist to discuss artist Heide Hatry's work. It is limited to 30 people.

5.2 Fine Arts Committee and Pro Bono. Carole Steinberg said the Fine Arts Committee will be holding a brown bag lunch on July 25th. The event on *Design Protection, Practice and Pitfalls* will have Nisa Ojalvo from LVMH as the moderator. The event is free to attend for NYSBA members.

5.2 Music Committee. Judah Shapiro said the Music Committee will be having a meeting in September.

5.3 Music Business Law Conference. Rosemarie Tully said this annual event will be held on November 16th. She stated the panel will discuss current issues in music, including updates on proposed copyright legislation and other timely topics. She asked that anyone who has notes on the pending Music Modernization Act please share them with her. Marc Jacobson stated that Chris Castle, who has blogged about this issue at length, could speak about the bill at the event. Marc said he believes that the proposed Music Modernization Act will become law. Marc

also noted that Charlie Sanders from the Songwriters Guild, as well as certain international representatives, could also speak about the bill. Paul LiCalsi stated that he recently attended an event which included a presentation on increasing digital royalties rates. He suggested discussing that topic at the event, and he suggested having a panel on music litigation. Marc stated that the program's was changed from previous events, with the plenary sessions being extended to 90 minutes, making for less panels but keeping the number of CLE credits the same as in years past.

6. Programs and Events/Planned and Proposed.

6.1 2019 Annual Meeting. Barry Skidelsky stated the NYSBA has contacted the sections to ask (earlier than ever) for a description of topics to be addressed at the Annual Meeting. The 2019 annual meeting has been moved one week earlier than previously scheduled. The meeting will now be held during the week of January 14th – 18th. **The EASL annual meeting will take place on Tuesday January 15th.** There was some discussion about what should be the topics for not only EASL's annual meeting, but also for its fall meeting. Suggestion was made that the annual meeting should discuss inclusion riders, non-disclosure agreements and morality clauses.

6.2 Fall Meeting. Barry noted that EASL's annual events include the annual meeting, spring meeting, Commercial Theater Institute, Music Business Conference, and fall Meeting. Irina Tarsis stated that because there are two big entertainment conferences in the fall, our fall meeting should occur in October or early November. Marc Jacobson said that we should consider a sports topic since EASL has not done many sports events in past years. Barry stated that Brian Malkin reached out to him about doing an event on steroids/doping. Barry also reached out to Cameron Myler, a professor at NYU law school, to inquire about speaking regarding doping. Barry also suggested that a criminal attorney and/or tax attorney might help round out this program panel. Judy Bass suggested that we also plan an event regarding underlying rights, adaptations and podcasts. Discussion about future programs will continue at the next EASL EC meeting in July.

7. Other Initiatives.

7.1 Pending NYS Legislation re Right of Publicity. Steve Richman gave a detailed update of the legislation pending in New York State regarding the Right of Publicity. The bill passed the assembly and is now with the Senate Rules committee. It can be brought to the floor before the end of the session which is tomorrow (June 20th). If not voted on tomorrow, when the current legislation session ends, then it will have to start over at the beginning of the next legislative session. Steve noted that as of today no one has debated the bill on the floor.

Judy Bass had a few questions for Steve on the procedure of the bill and noted that the Screen Actors Guild (SAG) is supporting the bill as it is. She stated that SAG has a webpage asking their members to contact their state senator to show their support of the bill. Ethan Bordman inquired how likely it is that the bill will be passed tomorrow, and Steve said he did not have a feeling either way. He said if all the democrats agree then it will have enough votes to pass. It would then go to the Governor who has 10 days (excluding Sundays) to approve or veto. If the governor veto's the bill there are enough votes to overcome the veto. Bennett Liebman stated that as of today there is a 131-9 tally in support of the bill. Steve said that other organizations such as the New York Broadcasters Association will encourage the governor to veto the bill.

Mary Ann Zimmer stated that her reading of the current draft of the bill left her curious as to why the Motion Picture Association of America is not objecting to the bill. Barry stated that in this instance television broadcaster and motion picture interests are aligned, noting for example the common interests behind ABC/Disney and NBC/Universal.

Steve Richman suggested that EASL write a letter in opposition to the bill. Barry Skidelsky said that it was apparently too late in the legislative process to stop the bill, but if the bill does pass now we might then write a letter to the governor suggesting veto because the bill was passed too quickly - not giving people who it affects sufficient time to provide their input - and noting some large consequences of the bill as drafted. Steve then said that if the bill does not pass now, it could come back in the next session which starts in November. Bennett added that the governor usually does not veto bills during election years.

UPDATE: On June 25, 2018 Sydney Joy sent an email updating the section on the status of the bill. Although the Right to Publicity bill (A.8155) passed the NYS Assembly by a vote of 131-9 on June 18th, the NYS Senate did not vote on the companion bill (S.5857) on June 20th before the legislative session ended, and the senate adjourned without taking up the bill. It is not known if the bill will be re-introduced this fall. The chief Assembly sponsor, Joseph Morelle, is now running for Congress. However, there are other co-sponsors. We will continue to liaise with Sandy Baron and NYSBA's Media Law Committee on further steps we may take together.

7.2 Theatrical Employment Agency Act. Due to time constraints this was legislation was discussed briefly. Marc stated that a key concern for EASL members is that there should be an exemption for attorneys. This too will be further discussed at the next EC meeting.

8. EASL 30th Anniversary. Elissa Hecker has asked that each committee submit an article for the EASL 30th anniversary issue. These articles can be substantive or nit, perhaps touching on historical changes affecting the particular area of each committee or addressing an issue or topic in that practice area. The deadline for articles is August 31.

9. New Business. Irina Tarsis commented about an event on artists to be held in Poughkeepsie. She will be speaking with the EASL district representative in the area about that. Barry Skidelsky suggested that we plan one or more programs or events targeting EASL members upstate. Due to time constraints, this and any other new business was tabled to the next EC meeting.

10. Adjournment. Upon motion unanimously approved, this EC meeting was adjourned at 2:00 p.m. The next EC meetings will be on Tuesday July 17 and Wednesday September 12, both at Pryor Cashman. There will not be any EASL EC meeting in August.

Respectfully submitted,
Ethan Bordman (EASL Secretary)