

ENTERTAINMENT, ARTS & SPORTS LAW SECTION,
Executive Committee Meeting – **March 1, 2018**

Pryor Cashman
7 Times Square
New York City

Minutes of EC Meeting

Attending in Person: Anne Atkinson, Jason Baruch, Judy Bass, Ethan Bordman, Judith Bressler, Joyce Dollinger, Joan Faier, David Faux, Kristin Garris, Anne LaBarbara, Marc Jacobson, Diane Krausz, Anne LaBarbera, Steven H. Richman, Andy Seiden, Judah Shapiro, Robert L. Siegel, Barry Skidelsky, Rosemarie Tully, Mary Ann Zimmer

Attending by Telephone: Jason Aylesworth, Amanda Dworetsky, Leslie Greenbaum, Pamela Jones, Kathy Kim, Teresa Lee, Paul LiCalsi, Andy Seiden, Irina Tarsis, Sarah Robertson, Lisa Willis.

1. **Welcome.** Barry Skidelsky called the meeting to order and welcomed all. Noting that today's Executive Committee meeting was his first as EASL's new Chair, Barry reminded those present that EASL's new Officers, District Representatives and Delegates include the following:

Officers:

Chair, **Barry Skidelsky**
First Vice Chair, **Anne Atkinson**
2nd Vice Chair, **Joyce Dollinger**
Secretary, **Ethan Bordman**

Assistant Secretary, **Joan Fair**
Treasurer, **Lisa Willis**
Assistant Treasurer, **Andy Seiden**

District Representatives:

Second, **Innes Smolanky**
Third, **Bennett M. Leibman**
Fourth, **Edward B. Flink**
Eighth, **Leslie Mark Greenbaum**

Tenth, **Amanda Dworetsky**
Eleventh, **David H. Faux**
Twelfth, **Jennifer Meredith Liebman**
Thirteenth, **Daniel C. Marotta**

EASL Delegates (as of June 1, 2018):

Barry Skidelsky
Steven Richman
Diane F. Krauz, alternate

Barry then asked each person attending the meeting (in-person and via phone) to introduce themselves, which each person did.

2. **Approval of Minutes.** Barry asked if there were any comments on the EC meeting minutes for the January 23rd 2018 Annual Meeting. Judy Bass and Steven Richman made some hand-written suggested changes and requested that Ethan Bordman (the new Secretary) incorporate them. Ethan said he would do so; and, as the requested changes were not significant, the board approved the minutes including the minor clarifications submitted by Judy and Steve.

3. Chair's Report.

3.1 Annual Meeting. Barry stated that the 2018 Annual Meeting program was generally well received, based on informal feedback from attendees then and from formal feedback surveys subsequently submitted by attendees to NYSBA in Albany. Beth Gould said she would provide copies of the formal feedback surveys soon. Barry added that some attendees told him they wished the event would have been longer. He also reminded the EC that this event included the first joint reception of EASL and the NYSBA Intellectual Property law section. Barry also said that he would reach out to the IP section Chair to check on additional feedback. The reception at Bill's Burgers sold out, and Barry suggested that we not only repeat the joint reception at the 2019 annual meeting, but also that we try to do additional events with the IP and other NYSBA sections. Anne Atkinson added that we should target more CLE's with other committees as well.

3.2 EASL Membership. Members in the NYSBA and EASL who have not paid their dues for 2018 will be dropped at the end of March. Barry noted that we need to work on increasing section membership, including recruitment of and involvement by the next generation of young lawyers. It was noted that all students attending law school in New York State are eligible to receive complimentary admission to the NYSBA and to one section; and, that all new admittees to the practice of law in New York State receive a letter from NYSBA informing them of one complimentary year of membership to the NYSBA and one section.

Mary Ann Zimmer suggested reaching out to law faculty at the New York law schools to get involved in CLE events and thus encourage their students to become active. Steve Richman stated we should use EASL law school liaisons to get names of entertainment, sports, arts course professors, and that letters could be written to them to suggest becoming active in the EASL section including EASL CLE events. Judah said we should have the law school liaisons speak to the entertainment, sports and art law professors in person before or after class, so that they could make announcements regarding EASL membership and events. Judah is serving as a judge in the BMI/Cardozo Moot Court (an entertainment/IP moot court competition involving law schools from all over the United States), which event is to occur later this month and is an opportunity to speak with students interested in entertainment law. Mary Ann suggested that we invite the committee and law student liaisons to attend EASL EC meetings, to meet other members and otherwise get active.

Judith Bass inquired about how students who are interested in getting active with EASL go about doing so. She asked about how student liaisons are selected. Steve Richman stated he has spoken to school entertainment law clubs/committees to encourage them to join NYSBA. Anne LaBarbara suggested we set up a table at the NY bar admissions ceremony. Beth Gould stated that NYSBA has a table at NY admissions ceremony, and NYSBA sends new admittees a letter informing them of a free one-year membership even if they don't stop by the NYSBA table to obtain new member information. Anne then suggested setting up a EASL table at law schools during orientation for new students. Steven suggested using school student groups to inform students of the opportunity to get active with EASL. Anne Atkinson said we should have more meetings and events for students that do not include CLE credits, including lunches.

Regarding NYSBA drops for members who do not pay dues for 2018, who will be dropped at the end of March, Beth said that EASL will likely drop 362 members for non-payment (69 of whom have renewed NYSBA but have not EASL membership). She said committee involvement is important for retention, and people do want opportunities to get involved. NYSBA has sent seven reminders since the beginning of the year to EASL members who have not yet paid 2018 dues.

Steven suggested we divide up a list to call those members who have not renewed, and to invite them to renew. Beth said that the Governmental Law section made such calls last year and got back to their membership numbers in a month. Anne Atkinson said we should include more membership benefits (such as discount for attending EASL events if you join the section). Beth stated that after attending an EASL event the attendees are added to both NYSBA and EASL email lists for future events and are provided membership information if they are not yet members of either NYSBA or EASL. Steve inquired about discounts for NYSBA and EASL members, and Beth said that every event EASL has includes a discount if the attendee is an EASL member. She also stated that EASL offers early bird discounts for advance registration (such as at EASL's Annual Music Conference).

Barry inquired about EASL's Membership committee. Joyce Dollinger said she and Rob Thony are co-chairs of that committee. Rob was out of town for a bit, and Joyce said she has been busy with other committees so she has been serving as the sole Chairperson. Judah and Anne LaBarbara agreed to serve as co-chairs of the Membership committee going forward, with Joyce agreeing to stay on in an advisory role. Marc Jacobson said we have to find reasons for people to join, and we must require committee chairs to hold events based on the size/demand of the group. For example, if the largest committee, Music, has a large number of members it should have more meetings and events than smaller committees.

Judith Bressler said that in the past each committee had to have two events per two-year cycle of committee leadership. Judith Bass said it was difficult to find a venue sometimes for events, and other deterrents include whether the event offers CLE and whether any money is available to the committee. Beth said all CLE's now must first go through NYSBA to approve holding any CLE program. NYSBA's CLE Department will then determine if it will be a NYSBA or EASL event (and whether NYSBA and/or EASL will bear expenses and be credited with net receipts). She said that most people do not attend CLE seminars based on who is sponsoring the event (NYSBA or EASL) but rather what the topic/subject of the CLE is. She also suggested that we have more webinars (such as the employment law section does), and that brown bag lunch meetings have also been successful.

Marc Jacobson suggested we create a committee on engagements to see the status of activity of each EASL committee. Mary Ann Zimmer, Judy Bass and Marc Jacobson agreed to chair the committee. Joyce said one difficult element in regard to venue is that it must be ADA compliant, so that makes it difficult to find locations that comply and lunch time is difficult for attendees. Steven suggested we could do an event where EASL pays for appetizers and attendees pay for their own drinks, then have a person speak about EASL or a topic for 10 minutes with the rest of the event dedicated to networking. Judith Bass said we should focus on having more receptions

with each event, so that we have more time for networking. Joyce said we should have ambassadors at events to welcome/assist attendees.

4. Standing Committees. Barry started to review each committee to determine their status, and he asked Beth for updates on each committee chair and whether the committee was active. Due to time constraints, Barry then asked Beth to provide information on all EASL committees and chairpersons, noting that he would like EASL committees to focus on having more meetings. The engagement committee appointed at today's meeting will follow-up with a report and recommendations.

5. Phil Cowan Memorial EASL/BMI Scholarship. Judith Bressler noted that there were 12 submissions for the 2017-18 EASL/BMI law student writing competition. She explained the history of the scholarship, including that at the scholarship's inception the EASL EC had agreed to fund the \$5,000 of prize money (2 scholarships of \$2,500 each) it; but, BMI instead has funded the full \$5,000 each year since the competition began. Judith also stated that BMI may not intend to remain involved with the Phil Cowan memorial scholarship, and may not continue to fund the scholarship. Judith suggested the possibility that EASL provide \$2,500 and BMI provide \$2,500 for future scholarships. Discussion about the scholarship ensued.

Steve Richman suggested we might establish a fund to generate interest income, which could be used to support the Phil Cowan scholarship each year. The money would come from the EASL surplus, and we would have to put this item in the budget in order to move the money from *surplus* to *awards and grants*. Steven made a motion to authorize the EASL treasurer to do so and put \$5,000 in the budget for the award. Judith Bass said that \$5,000 was a lot of money for law students, and that maybe we could provide a smaller amount. Marc Jacobson opposed the suggested motion, stating that we should first talk to BMI about their future involvement. He also suggested possibly having only one scholarship of \$2,500. Judith Bressler agreed to talk to Revi Ruth-Cohn, the contact at BMI, stating that if BMI does not agree to fund the full \$5,000 in the future, she will suggest that \$2,500 come from BMI and \$2,500 from EASL. Barry agreed to table the motion until Judith speaks with BMI.

Steve agreed to withdraw his motion authorizing EASL to fund the full \$5,000. Judith Bressler said it was acceptable to her that EASL be responsible for \$2,500. and she will reach out to Barbara Jaffe to join her and Barry Skidelsky at a meeting with BMI. Les Greenbaum noted that as a state court judge Barbara cannot be involved in fundraising. Joyce said that EASL should consider working with another music organization such as ASCAP. Judith Bressler agreed and said she would do so. David Faux said we should also look to other organizations outside of purely entertainment or copyright-oriented ones, such as Christie's. Marc Jacobson noted that BMI is a non-profit organization, which likely does not have as much in available funds as they had in the past, and he suggested looking to SESAC among other profit related music organizations.

6. 2018 Upcoming Events.

6.1 Commercial Theater Institute/EASL Seminar. Jason Baruch announced that this year's theatre seminar will be held on March 27 – 28th at the Actor's Temple, from 6 – 9:30 PM each night (with registration at 5:30). Several interesting topics will be presented by esteemed speakers, including top entertainment lawyers and theater producers and managers.

6.2. Spring Meeting. Mary Ann Zimmer stated that this year's Spring Meeting program will be held in May, and Stan Soocher will be participating again with his always well-received annual update year in review on entertainment law issues and decisions. The Spring program is being planned by Mary Ann, Pam Jones, Robert Siegel and Ethan Boardman. A second panel will address life rights, rights of privacy/publicity, and the newsworthiness exception., This panel will include discussions of the Christopher Porco story, who successfully represented himself in litigation about alleged misrepresentations made in the story on his life produced by Lifetime Network. This decision could affect NY Right of Privacy, Civil Rights Sections 50 & 51 (see below). Ethan spoke to Barry Werbin. and Herrick has open space on May 15 or May 16. The focus of a third panel, likely regarding some aspect of sports law, will be decided soon.

6.3 Introduction to Entertainment Law. Diane Krauz said the EASL section will put on its biannual Introduction to Entertainment Law course for the NYSBA. This event, which will be a full day, will be held on June 13th with a venue TBD. She mentioned it will include, film, career paths and sports transactions. which was not in previous intro classes.

7. Other Initiatives.

7.1 Proposed Federal Budget Cuts. In response to the newly proposed budget cuts to public media and arts funding EASL discussed sending a report to members of the NY congressional delegation on proposed budget cuts for arts programs such as the NEA.

7.2 Legislative Update/NYS Bill re Right of Publicity.

Judy Bass stated that at our last EASL Executive Committee meeting, held at the Hilton just before our Annual Meeting, we discussed the right of publicity bill that was introduced into the New York State Assembly by Assembly Majority Leader Joseph Morelle last spring. As proposed, it would modify if not eliminate NY's right of privacy law, Civil Rights Sections 50 and 51. EASL appointed a subcommittee, which Judy Bass is chairing, that consists of 8 volunteers -- Cheryl Davis, Elissa Hecker, Pamela Jones, Anne LaBarbera, Steve Richman, Robert Siegel, Carol Steinberg and Mary Ann Zimmer -- to review the legislation and possibly recommend taking a position on it. The subcommittee has been advised, however, that a new and revised bill will be introduced in April, so we are waiting for that revised bill before doing anything further.

Several of the subcommittee members did attend a very interesting program at Cardozo Law School on February 22nd that specifically dealt with the currently pending Assembly bill A08155. Judy stated that at that program, it became clear that one of the major issues the new bill is trying to address is the use of avatars of deceased actors in films and other works. and other "reanimations." Uses without permission of the actors' estates is a concern of the MPAA and SAG-AFTRA. Regulating revenge porn is another issue relevant to this bill. A suggestion was made at the Cardozo conference that these and other issues could be better addressed by

separate legislative solutions. In addition, Judy stated, it was suggested that a post-mortem right of publicity that was structured like 50/51—to prohibit uses of deceased celebrities' names or likenesses for advertising or trade—might be more acceptable. At the Cardozo program, Professor Jennifer Rothman said that a major concern is who is actually in the room drafting the proposed new legislation. It appears that SAG-AFTRA and the MPAA are there, but more voices are needed. The subcommittee will continue to follow this legislation and report back after the new bill is introduced.

8. Other Business.

8.1 Fashion Law Committee. Barry Skidelsky stated the Fashion Law section is planning to have an event on April 25 or 26th.

8.2 Music Committee. Joyce Dollinger stated that Relix Magazine is doing a tour conference, and she is trying to get EASL to do a CLE program with them. Beth Gould asked members to keep in mind that any CLE program, even just an initial idea, should be sent ASAP to her in order to check dates and go through the CLE department . (whose approval process takes some time). Rosemarie will bring up in the section caucus meeting the issue of the CLE Department's new process, including having sections check with them first to obtain approval for CLE events.

9. Adjournment. The EC meeting was adjourned at 2:05pm. Agenda issues not addressed were tabled for the next meeting. The next EASL Executive Meeting is scheduled tentatively for Wednesday April 4th at Pryor Cashman's offices. Upon motion duly made and seconded, the meeting was adjourned.

Respectfully submitted,

Ethan Bordman, EASL Secretary