

**NEW YORK STATE BAR ASSOCIATION
ENTERTAINMENT, ARTS & SPORTS LAW SECTION
Executive Committee Meeting – April 4, 2018**

Pryor Cashman
7 Times Square
New York City

Minutes of EC Meeting

Attending in Person: Anne Atkinson, Ethan Bordman, Judith Bressler, Joan Faier, David Faux, Marc Jacobson, Anne LaBarbera, Christine-Marie Lauture, Steven H. Richman, Andy Seiden, Judah Shapiro, Robert L. Siegel, Barry Skidelsky, Innes Smolansky, Carol Steinberg, Rosemarie Tully, Adam Weissman, Barry Werbin, Mary Ann Zimmer

Attending by Telephone: Jason Baruch, Cheryl Davis, Pamela Jones

1. Welcome. EASL Chair Barry Skidelsky called the meeting to order and welcomed everyone in attendance. He then asked those EC members attending (both in person and by phone) to introduce themselves. Barry's thanked everyone, and drew attention to the fact that this was Christine-Marie Lauture's first EC meeting following her appointment as a co-chair of EASL's Young Lawyers Committee.

2. Approval of Minutes. Barry asked if there were any comments on the EC meeting minutes for the January 23 2018 (pre Annual Meeting) and the March 1 2018 minutes. No changes or comments were made. Both minutes were unanimously approved.

3. Chair's Report.

3.1 Advance Planning for CLE and Other Events.

Barry stated that EASL has several upcoming programs scheduled and in various stages of planning. He then spent a few minutes explaining to the EC the new process of how CLE programs are to be planned and approved by NYSBA CLE's Department.

He emphasized the need for more advance planning for CLE (and other) events, given the longer time frames now required for planning, approving, coordinating moderators and panelists, writing and compiling written materials, and marketing or promoting the events.

3.2 Phil Cowan Memorial Scholarship.

Barry briefly outlined the history of EASL's writing scholarship for law students (primarily those attending law school in New York State), including BMI's continuing sponsorship. Barry then asked Judith Bressler to elaborate and report on the most recent developments. Judith explained that she and Barry recently met at BMI with Stu Rosen, Revi-Ruth Enriques and Kerri Howland of BMI to discuss their organization's concerns. The meeting went well, and it led to an

understanding that BMI and EASL would continue to partner and offer two scholarships. However, each scholarship would now be \$2,000 (rather than \$2,500 each as it has been in the past). EASL will pay for one \$2,000 scholarship, and BMI will pay for the other \$2,000 scholarship. BMI's Revi-Ruth Enriques will serve as the designated contact for BMI, who will continue to have the right to select (on a rotating basis each year) up to 10 additional law schools whose students are eligible to compete. EASL will now handle distribution and grading of the scholarship submissions. BMI will continue to have the opportunity to present one of the scholarships each year at EASL's annual meeting. After the scholarships are awarded, BMI will include a piece in *BMI World*, their newsletter, as well as post the information on BMI's website. BMI also expressed an interest in becoming more involved with other EASL events, such as our annual Music Business and Law Program.

Upon motion, unanimously approved, the EC approved the re-structured relationship between EASL and BMI in connection with the Phil Cowan Memorial Scholarship, including without limit EASL paying for one of the two \$2,000 scholarships. This expense item will be included among other contemplated EASL budget revisions.

Judith Bressler added that she also needs someone to join her as co-chair of the Cowan scholarship initiative. She invited Christine-Marie Lauture (as new co-chair of EASL's Young Lawyers Committee) and all other EC members to solicit their committee members, and to recommend someone to serve work with Judith on the scholarship.

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

4.1 Engagement Committee. Marc Jacobson provided a report on his work with the Ad Hoc Engagement Committee, resulting in several recommendations for new guidelines relating to a reorganization and revitalization of EASL's various standing committees. Discussion ensued.

Among the recommendations made were that each substantive committee (as contrasted with administrative committees): have a maximum of two co-chairs, have a minimum of six members, and hold a minimum of three meetings per year. Also recommended was an increase in annual budget allocations for each committee, from \$500 to \$750 per year.

It was also recommended that each committee chair generally serve a maximum three-year term (with the EASL chair having the option to renew or extend a committee chair's term for up to another three years); and, that each committee chair's term should be staggered, so that an experienced chair is always on a committee and able to advise a new co-chair of prior matters, etc. It was further recommended that each committee chair should establish committee goals at least once a year, which goals should be reviewed and revised as appropriate.

The definition of what constitutes committee meetings for this purpose would be broad, given the objective of encouraging members of each committee to become more active, including discussing current topics and planning future events relevant to that committee. CLE events would not satisfy this contemplated meeting requirement, as committee members generally do not plan future events at any particular CLE event. However, committee meetings held at EASL's annual

meeting, as well as brown bag lunch meetings during the year, could count towards the proposed three required committee meetings per year.

Marc noted that the goal is also to have substantive committee members meet in person and talk, in order to help drive more engagement and involvement. Marc also noted that NYSBA offers several useful technical services (such as webinars and telephone conference call services); and, he recommended that committees utilize these when conducting committee meetings and events. Anne LaBarbera emphasized that in person meetings are particularly important for networking. Carol Steinberg suggested that Pro Bono should be treated as a substantive committee for these purposes, even though it may be considered an administrative committee.

Steve Richman suggested that any new committee guidelines which the EC might adopt should not take effect until January 1, 2019, which would coincide with other section deadlines. Mary Ann concurred, but she suggested that meanwhile each committee should be encouraged to hold two more meetings by December 31, 2018.

Rosemarie Tuly suggested that we should look to EASL's Bylaws, in part to make sure that any of the Ad Hoc Engagement Committee's recommendations that the EC may adopt do not conflict with the section's Bylaws. She further noted that the EASL EC previously had its own attendance policy, whereby if any EC member failed to attend three EC meetings in a given year, he or she would be asked to resign from the EC.

Barry Skidelsky said that the EASL EC would take the Ad Hoc Engagement Committee's recommendations and discussions had under consideration; and, that we should aim for an effective date of January 1, 2019 to finalize and adopt committee guidelines, as well as a possible revision of EASL's Bylaws.

4.2 Pro Bono Committee. Barry Skidelsky said that Elissa Hecker had asked him to report for her that the Pro Bono Committee put on its annual Dance/NYC Annual Symposium at Gibney Dance Studios on February 25; and, that the event was very well received. Barry suggested that EASL try to expand its pro bono clinics.

4.3 Diversity Committee. Anne Atkinson reported that the diversity committee had held an event on February 22, and planned to hold a "How I Got My Start" event on Sept. 27. In addition, EASL will again co-sponsor the NYSBA annual Smooth Moves CLE and awards program, which will take place at Lincoln Center on April 10. This year's program is titled *Strengthening the Rule of Law by Fighting Discrimination*. EASL members were encouraged to attend.

4.4 Membership Committee. Anne LaBarbera and Judah Shapiro reported on behalf of the Membership Committee, suggesting that another good way to help drive membership is to encourage discussions in the online EASL community. Anne asked that EC and other EASL members post online as often as they can, including information on substantive topics and issues. The goal here is to further engage EASL membership, as well as to link together younger and more experienced attorneys, by encouraging online discussions.

Anne recommended that Non-Disclosure Agreements (NDAs) would make a good online discussion point, as that is a currently hot topic. She also suggested that we should plan a CLE

program concerning NDAs, including whether they could be construed as criminal obstruction of justice (for example, if and when someone is paid to not file criminal charges). Mary Ann agreed that NDAs would be great topic, and she suggested that we include it as part of the EASL Fall Meeting. Barry concurred, adding that there had been some recent articles published about the tax implications of payments made to confidentially settle lawsuits, which could increase interest in this topic.

Anne Atkinson asked how the Membership Committee is targeting new NYSBA members who are not section members, in order to inform them of the EASL discussions that are now happening on the EASL online community board. Anne LaBarbera reminded us that NYSBA provides law students with association/section information and invitations for free membership, which may lead those law students who become involved with EASL (initially for free) to continue to be involved with EASL as paid members after passing the bar.

It was then suggested that, as another way to encourage EASL membership, we could possibly post questions publicly on the EASL online community, but make the answers available only to section members. Mary Ann suggested that we might do a tutorial for EASL members to show them how to post information. Barry also suggested that EASL could share more information with (and provide more value to) section members by also posting online EASL EC minutes, as well as various contracts and license, among other useful materials.

4.5 Law School Liaison Committee. Barry then reminded us that Jason Aylesworth will be stepping down as Chair of the Law Student Liaison Committee in May, and that the EC is also looking for someone to fill that role. Judah suggested that we speak to entertainment law professors to advise their law students to get more involved with EASL and about other opportunities with EASL. Barry also noted that Beth Gould was attempting to compile a list of New York law schools and contacts from each school, in part to be used for membership recruitment.

4.6 Fine Arts Committee. Carol Steinberg reported that the Fine Arts Committee held three brown bag events last year. The committee will hold a CLE lunch event on design issues, on July 26 at Fross, Zelnick, Lehrman and Zissu (4 Times Sq. 17th Floor). Committee members Nisa Ojalvo (Vice President of Legal Affairs at LVMH) and Lena Saltos (General Counsel of Urban Outfitters) will co-moderate the panel and speak. Other panelists are Jill Ellman, also a committee member, as well as John Margiotta of Fross Zelnick.

In addition, Carol is working with various committee members who are collaborating with Arts Westchester on a panel on Artists Rights to be held on May 1. Jana Farmer of Wilson Elser, Jill Ellman of M. Ross and Associates, Donna Frosco of Dunnington, Bartholow, and Miller, and Nisa Ojalvo, VP of Legal Affairs (all Fine Art Committee members) will then speak.

Carol also suggested that EASL have more CLE courses with ethics credits, since they are more difficult to find and every attorney has this as a requirement.

4.7 Theater Committee. Jason Baruch reported that the annual Legal Aspects of Producing Theater produced by EASL and the Commercial Theater Institute, held on March 27 and 28 at the Actor's Temple, was well received by the approximate 75 attendees present. The theatre committee also plans to host a social event for all EASL members to see the play "Hello Dolly" on May 17.

The event is open to members and their guests. Tickets are offered at a discount, also to encourage young lawyers to attend. At least 10 people must attend for discount ticket prices to take effect.

4.8 Fashion Law. Lisa Willis reported that the fashion law committee plans to hold a CLE event on April 25th at Doresy and Whitney, including a networking reception and two panels. The first panel will address social media influencers; and, the second panel will focus on sexual harassment and assault in the fashion industry.

4.9 CLE Committee. Rosemarie Tully suggested that the CLE committee should review the new procedures for submitting an EASL CLE event to NYSBA. Steve Richman added that the decision of making a CLE program either a section or NYSBA event (including how to allocate a program's revenue and expenses) will be discussed at the upcoming Section Caucus meeting in Albany. Steve emphasized that CLE events are important to grow sections as well as the NYSBA.

5. 2018 Upcoming Events.

5.1 Spring Meeting. Mary Ann Zimmer gave an update on this year's Spring Meeting program planned to be held on Tuesday May 15th at Herrick Feinstein. There will be three parts to this program, comprised of Stan Soocher's always well-received annual update/year in review on entertainment law and two panel discussions, plus a networking reception.

The first panel will provide an overview of the right of publicity, first statutorily recognized by the State of New York in 1903 and its continuing evolution, including discussion of current high-profile litigation involving Lindsay Lohan and Lifetime Television, as well as the currently pending New York State legislative action that would make substantial modifications to existing law. The moderator of this panel will be Sandra Baron, former Executive Director of the Media Law Resource Center and current Senior Research Scholar in Law at the Information Society Project at Yale Law School. Panelists include Jeremy Figelson (who successfully represented Take Two Interactive in the Lindsay Lohan case), and Cameron Stracher (who is representing Lifetime in the Christopher Porco case). A representative from SAG/AFTRA, and a counsel to the state assembly, will also be invited to join as panelists.

The second panel, which is being coordinated by Barry Werbin, will touch on sports law. After initially considering the topic of media rights involving sports, it was decided that the focus of this panel instead will be on sports gambling -- a currently hot topic, especially in light of a soon expected U.S. Supreme Court decision relating to federal restrictions on state rights in this area. Barry Werbin will moderate this panel; and, Dan Etna (co-chair of Herrick's Sports Law Group) will be among the panelists. Barry has also invited two other attorneys to join this panel.

Mary Ann suggested that we set a higher price for non-EASL members to attend the EASL Spring Meeting program, in order to encourage them to join the section. Barry Skidelsky agreed, adding that such a pricing structure should be in place for every EASL event.

5.2 Introduction to Entertainment Law. Steve Rodner reported that this annual CLE event, which will again be for a full day, will be held on June 13th with a venue TBD. More information is forthcoming.

5.3 Music Law Seminar. Rosemarie Tully reported that the music law committee met last week, and that it has begun working on plans for this annual event. It too will be an all-day CLE program, and is scheduled to be held on November 16. Ten panels with eight breakout groups, including a diversity panel, are contemplated.

6. Other Initiatives.

6.1 Proposed Federal Budget Cuts. As the federal budget was passed without the threatened cuts to arts and public media funding, this item is now moot.

6.2 Right of Publicity. As previously noted, proposed legislation in New York State relating to statutory rights of publicity is pending. The bill was last brought up in the NYS Assembly on March 27. Floor debate is expected to result in an amended proposal on April 16 at the earliest.

7. Adjournment. The EC meeting was adjourned at 2:00 p.m. Any agenda issues not addressed were tabled for the next EC meeting. The next EASL Executive Meeting is scheduled for Tuesday May 15th at Noon at Herrick, which will be a brief lunch meeting before the EASL Spring Meeting to immediately follow. The June EC meeting will take place on June 19 at Pryor Cashman. Upon motion duly made and seconded, the meeting was adjourned.

Respectfully submitted,

Ethan Bordman,
EASL Secretary