

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

**Executive Committee Meeting – September 16, 2020 12:30 –2:00pm**

**Minutes of EASL EC Meeting**

**Attending by Virtual Conference/Telephone:** Jeff Aber, Dana Alamia, Anne S. Atkinson, Jason P. Baruch, Judith Bass, Ethan Bordman, Brian Caplan, Louise Carron, Isaro Carter, Paul Cossu, Gabrielle Costa, Cheryl Davis, Les Greenbaum, Elissa Hecker, Marc Jacobson, Diane F. Krausz, Kathy Kim, Christine-Marie Lauture, Jared R. Leibowitz, Richard Lewis, Bennett Liebman, Anne LaBarbera, Paul LiCalsi, Olivera Medenica, Judith Prowda, Steve Richman, Sarah Robertson, Stephen Rodner, Robert Seigel, Judah Shapiro, Barry Skidelsky, Simone Smith (NYSBA), Carol Steinberg, Tiffany Tsai, Rosemarie Tully and Barry Werbin.

1. Welcome.

Barry Werbin (EASL Chair) called the Zoom virtual meeting to order at 12:37 p.m. and welcomed everyone in attendance.

2. Chair's Report.

2.1 Introduction of Chairs of Fashion Law Committee and Pro Bono Committee.

The Chair introduced Olivera Medenica as the Chair of the Fashion Law Committee and she stated that she is excited to serve as Chair. She noted her involvement in the fashion industry for approximately 15 years as well as in intellectual property ~~area~~ generally and that she has co-authored a fashion law treatise and other books. She noted that there have been several cases of bankruptcy in the fashion industry especially given the pandemic.

Louise Carron introduced herself as ~~the~~ new Co-Chair and member of the Pro Bono Steering Committee. She noted that she runs the Center for Arts Law and has a background in copyright law and artists' rights.

2.2 Renewal of Professional Liability Coverage.

The Chair stated that the EASL professional liability coverage has been renewed for EASL's pro bono clinic work.

2.3. Approval of EASL EC June 2020 Minutes.

The EASL EC approved the June 2020 minutes unanimously.

2.4 Need for Chairs for Certain EASL Committees.

The Chair has noted that there is a need for chairs for the In-House Committee and the Television and Radio Committee.

2.5 Continued Virtual Programming.

The Chair explained that NYSBA and EASL programming shall be held virtually at least through the end of this year and into next year for the foreseeable future, including such events as the NYSBA Annual Meeting in January 2021<sup>10</sup> and the monthly EASL EC meetings.

3. EASL Journal.

Elissa Hecker stated that there is an understaffing, which has partly is resulting resulted in delays for the EASL Journal. The upcoming Summer issue of the EASL Journal should be distributed in October 2020. The Fall/Winter issue of the EASL Journal has been completed and is scheduled to be distributed in December 2020.

Elissa also stated there is a need for copy for the EASL blog.

4. Budget/Financial Report Presentation,

Treasurer Kathy Kim showed the 2020 Budget to the EASL EC and noted that there was \$977,326 in revenue prior to 2020 activities. The 2020 income for this year is approximately \$33,000 to date, which is lower than in prior years and given the pandemic will not likely vary significantly. The expenses total approximately \$45,000 and will increase somewhat this year given the expenses stated in the budget.

Regarding the 2021 Budget, Kathy Kim noted that the income for meetings will be lower than in prior years and that \$10,000 from the reserve would be carried over from 2020 to the 2021 Budget, with \$5,000 for diversity and \$5,000 for membership initiative. There will be a reduction in expenses incurred for the upcoming Annual Meeting since it will be virtual this year.

Although postage expenses will be lower since many items will be online, there will be continued printing costs for the EASL Journal and various mailings and postcards regarding EASL throughout the year.

5 EASL Phil Cowan/Judith Bresler Memorial Scholarship.

The Chair stated that Christine-Marie Lauture and Ethan Bordman will head up this committee and there is a need for EC members to volunteer as judges for the competition.

The Chair further stated that there should be a coordination amongst the Young Lawyers Committee, the Membership Committee and the Law Student Committee concerning the promotion of the competition to the law schools' law students and the law professors.

Ethan Bordman suggested delaying the deadline for the competition into January 2021 so as not to interfere with the law students' final exams.

Elissa Hecker noted that all past EASL Chairs are judges for the competition and that December 12, 2020<sub>2</sub> is the deadline for submission and January 15, 2021<sub>2</sub> is the date to announce the winners.

The Chair suggested that the submission deadline be changed to the first week in January 2021 and that January 26, 2021<sub>2</sub> be the date to announce the winners of the competition at the second annual meeting session. Vice Chair Ethan Bordman recommended that the scholarship submission deadline should be Jan. 8, 2021<sub>10</sub>. Elissa Hecker said she would update the summer Journal issue announcement accordingly and post it in the EASL website Discussion groups.

Barry Skidelsky reminded the EC that the EASL pays the total \$5,000 for the two scholarships of \$2,500 each and that NYSBA has on its database a list of law schools and specific law professors who teach courses in entertainment, arts and sports law. Simone Smith said she would provide the current list. Dana Alamia said she would add the list to the EASL "EC Community" website section.

The Chair suggested that that this list could be updated and there should be an outreach to editors of journals in the entertainment, arts and sports law areas as well as law school organizations and societies which address these areas.

#### 6. Membership.

The Chair urged further efforts to recruit new EASL members especially since many current and potential members (including student members) are home during the pandemic and may be interested in and have the time for virtual programming, especially for CLE, and we need to hit 1,500 members by December 31, 2020<sub>2</sub> to get a second delegate at the NYSBA House of Delegates for 2021.

Anne LaBarbera observed that some recent law school graduates are boycotting NYSBA since there is no law school diploma privilege in New York State and they cannot become attorneys unless they take the bar exam. They believe there has been a lack of NYSBA support in this goal. The effect of these boycott measures on law students and not recent law school graduates is unknown at this time.

#### 7. Proposed Diversity Series.

        The Chair advised that ~~Jill Pilgrim and~~ Anne Atkinson and Cheryl Davis, Co-Chairs of the EASL Diversity Committee, have proposed a series of ~~addressing diversity issues~~ programs addressing systemic racism (including the past and continuing systemic and other impediments that have permitted racial inequality and injustices to continue in that industry) in the various EASL industries and the lawyers that serve them. Each program would be co-sponsored with the

EASL committee(s) that address that industry. ~~sectors such as sports, fashion, television, radio and others, with each committee addressing their own respective sector with perhaps a one hour or more program, such as a panel.~~

Anne Atkinson stated ~~that Cheryl Davis as Co-Chair of the~~ that the idea was the outgrowth of Diversity Committee discussions ~~Diversity Committee~~ following the murder of George Floyd. The idea ~~of~~ for making this a series came from Jill Pilgrim, and the impetus to “think big” came from Rob Thony. Anne said that the first program of ~~has been working on~~ this proposed series ~~and that one of the first diversity sessions~~ would address the publishing industry since the industry is New York-centric and it may be easier possible to organize it in time for ~~for perhaps~~ the Annual Meeting. She added that Judy Bass and Joan Faier, Co-Chairs of the Committee on Literary Works and Related Rights, had agreed to help and that their Committee would co-sponsor the Annual Meeting Program. There is a need to locate written materials to have such sessions qualify for CLE credit. ~~The Diversity Committee and the Young Lawyers Committee also could work on coordinating this series. Other EC members assisting with this Diversity series are Judy Bass, Joan Faier and Jill Pilgrim.~~

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-8. Annual Meeting.

The Chair stated that the upcoming Annual Meeting section for EASL is scheduled for Tuesday, January 19, 2020, from 2 p.m. to 4 p.m. and Tuesday, January 26, 2021, from 2 p.m. to 4 p.m. for 240 minutes or approximately 4 CLE credits (with 50 minute credits), factoring additional time needed for the Scholarship awards and program introductions but not including the EC meeting and “Meet the Section” networking.<sup>1</sup>

The proposed topics include:

- The Impact of COVID-19 on Sports: A Legal Perspective
- SaaS Agreements and Data Privacy
- Copyright: Updates on Fair Use, VARA and DMCA
- Dispute Resolution of Art Disputes (including Authenticity)
- Diversity Series Part I

Dana Alamia will send out an e-mail survey in which the top two topics (with brief descriptions of each topic) will be included in the Annual Meeting.

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<sup>1</sup> After the EC meeting, Patricia B. Stockli, Esq. Director of Section and Meeting Services-NYSBA, advised that EASL will now have two expanded time slots for up to 5.5 CLE credits with additional time for presentations and introductions.

9 Program Sponsorships.

The Chair stated that NYSBA has provided a short deadline for EASL to indicate whether it wants to plan its own sponsorships for its part of the Annual Meeting (in which case EASL retains all of the sponsorship monies) or have sponsorships arranged through an agency used by NYSBA (for which the agency retains a 38% commission).

The EC consensus, as acknowledged by the Chair, is for EASL to arrange its own sponsorships.

10. Music Business Law Program.

Rosemarie Tully stated that the forthcoming Music Business Law program, which usually is a day-long event in November, will be an online program. This would consist of four separate online panels for each Friday as of October 30, 2020, and will address music law basics, including the Music Modernization Act, music licensing, financial issues, music litigation issues and music revenues pre-COVID-19 and during COVID-19.

Marc Jacobson mentioned that E-Minutes (a business entity formation company specializing in the entertainment industry) will be a \$2,500 sponsor and perhaps a neighboring rights organization will provide a \$1,500 sponsorship.

11. Committee Reports.

11.1 Sports.

Sports Committee Co-Chair Jeff Aber stated that there was a virtual social mixer on July 15, 2020 for new and other members so they could indicate what topics would be of interest to them and how they would like to network. In August 2020, there was a virtual “brown bag” lunch concerning the women’s national soccer team and its equal pay lawsuit opportunity litigation, featuring Carol Goodman of Herrick, Feinstein LLP. There will be another virtual “brown bag” luncheon later in September 2020 with the vice president legal of Rock Nation. The EASL Sports Committee is supporting the Sports Lawyer’s Association also a free CLE program addressing gaming and e-sports on September 24, 2020. The Sports Committee is also planning a webinar on the topic of athletes activism-discussion in November 2020.

11.2 Music.

Rosemarie Tully stated that there will be a panel on October 20, 2020 addressing royalty audits with an accountant from the Citrin Cooperman accounting firm.

### 11.3 ADR.

Judith Prowda noted there was a June 11, 2020, virtual ADR Committee program with Simeon Baum concerning negotiating skills that was very interactive and a great success. The ADR Committee also had a program with JAMS addressing insurance and event cancellation.

### 11.4 Fine Arts.

Co-Chair Carol Steinberg stated that Paul Cossu arranged a “Brown Bag” discussion, which addressed challenges confronting galleries during the time of coronavirus and was well attended and featured a gallery director as speaker.

### 11.5 Right of Publicity.

The Chair explained that once the Right of Publicity bill, which passed in both houses of the NYS legislature, is signed into law by Governor Cuomo, the Publicity. Privacy & Media Law Committee will have a program to discuss the new law.

Judy Bass, who is also a [member of the -NYSBA Media Law CommitteeSection subcommittee, which -member that provided comments on the bills](#), explained that the new legislation [that, -which-](#) was passed in July 2020, received input from such organizations as the Motion Picture Association of America and SAG-AFTRA [as coordinated by State Senator Michael Gianaris](#). Judy noted that there are some 300 bills awaiting submission to Gov. Cuomo, because once a bill is presented, the Governor only has 10 days to sign. (Details of the new legislation can be found in [heran](#) EASL blog online.)

### 11.6 Motion Picture.

Co-Chair Ethan Bordman mentioned that there was a non-CLE panel [f](#) on September 10, 2020, which addressed the motion picture industry resuming production during COVID-19. The panel was well attended (with over 80 attendees at one point) and included an independent producer/director, two members of the insurance industry and a business rep from SAG-AFTRA. Dana Alamia did a very fine job moderating the discussion.

### 11.7 Theatre and Performing Arts.

Co-Chair Kathy Kim mentioned that there was a small group conversation recently which was an opportunity for new members to meet. Three more small conversations are scheduled. The annual EASL-Commercial Theatre Institute Theatre Law program may be rescheduled for the Fall 2021.

### 11.8 Literary Works.

Co-Chair Judy Bass mentioned the August 18, 2020, webinar that was well attended (approximately 61 attendees) and addressed publishing contract boilerplate provisions [that are](#)

[newly significant now](#) in which [Jonathan Lyons](#), a literary agent/publishing attorney, was the speaker.

11.9 Diversity.

Co-Chair Anne Atkinson explained that although the Diversity Series will occupy a significant amount of the Committee's time and effort, a LGBTQ session is in the planning stages.

11.10 International.

The Chair stated that International Committee Chair Donna Frosco noted that the Committee will co-sponsor a current basketball arbitration and mediation program that has an international element in connection with dispute resolution.

11.11 Not-for Profit.

The Chair observed that given the challenges facing not-for-profits during COVID-19, there is a need to reorganize the Not-for-Profit Committee, which has been somewhat dormant.

11.12 Copyright & Trademark.

Co-Chair Stephen Rodner noted the need for another Co-Chair.

11.13 Litigation.

Brian Caplan stated that he will be a panelist for the Music Business Law conference and that he wrote an article concerning copyright infringement for the Summer EASL Journal.

12. Adjournment. Upon motion unanimously approved, the EC meeting was adjourned at 2:32 p.m.

The next EASL EC meeting is scheduled for Wednesday, October 7, 2020.

Respectfully submitted,

Robert L. Seigel, EASL Secretary