

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

Executive Committee Virtual Meeting – (Wednesday) December 7th, 2022, at 12:30 PM

Minutes of EASL EC Meeting

Attending by Virtual Conference/Telephone: Anne Atkinson, Anne LaBarbera, Arlen Appelbaum, Avita Delerme, Barry Skidelsky, Bob Seigel, Brian Caplan, Carol Steinberg, Christine-Marie Lauture, David Friedlander, Diane Krausz, Donna Frosco, Ed Flink, Elissa D. Hecker, Ethan Bordman, Imraan Farukhi, Innes Smolansky, Isaro Carter, Jason Baruch, Jill Pilgrim, Joan Faier, Judah Shapiro, Judith Bass, Judith Prowda, Kajon Pompey, Kathy Kim, Larry Sapadin, Les Greenbaum, Merissa Pico, Pam Lester, Paul LiCalsi, Phillip R. Hurwitz, Rosemarie Tully, Roxanna Menhaji, Sharmin Woodall, Steve Rodner

1. **Approval of November 2022 Meeting Minutes** – (Isaro Carter, Secretary.; Christine-Marie Lauture, Assistant Secretary; Ethan Bordman, Chair)

Pending the addition of the revisions emailed to Isaro by Judy Bass, the November minutes were approved by the EC.

2. **EASL Journal Status** – (Elissa Hecker)

Elissa reported that the Spring Issue of the EASL Journal deadline is Friday, December 23rd. She also mentioned that we should all have received the Fall Issue by now and, if not, to let her know. Elissa also asked whether there were any updates on the EASL Blog.

Sharmin let us know that there are no updates outside of NYSBA still seeking a new platform. (At this point, Jason Baruch asked to be included in the attendance.)

3. **Financial Report** - (Judah Shapiro, Treasurer)

Judah reported that the final budget for next year had been approved. Judy Bass asked about the 2022 surplus, specifically if we would add to the \$102K. Judah responded that he estimates that number will be reduced a bit. Judy also asked if the 2023 budget had been distributed to the EC, and Judah answered that he would be distributing the final version shortly.

Judy Bass noted that it would be essential to know how big our surplus will be moving forward, understanding that we came in under budget this year and what the intention for using said surplus will be.

4. **Annual Meeting 2023 – IN PERSON – Thursday, January 19, 2023**

4.1. *Hybrid – Discussion and Vote*

Ethan reported that we received a bid from an AV company that is a bit over \$18,400. His opinion is that this figure may make a hybrid meeting cost prohibitive. He also believes that we should look at doing this next year and investigate whether this can be done through sponsorship and bringing in an outside vendor.

Carol Steinberg asked whether it was necessary to have all these additional administrative fees and whether we could find someone to do this at a more reasonable price point. She stressed her opinion on the importance of having a hybrid meeting. Ethan responded that these prices are due per the Hilton charges.

Steve Rodner asked if phone attendance was still allowed at the EC meeting. Ethan said yes.

Elissa Hecker agreed that because of the amount of money and the fact that it's so close to the date that the amount is too much. She added that we might want to look into sponsorship next year as well. Beyond that, Elissa emphasized that she believes this can increase membership numbers because it allows people to participate in the meetings as a member and not after the fact by reading the transcripts in the EASL Journal. Second, no matter the registration type, folks are still paying in advance, so we'd already have that money in hand. Finally, and most importantly, Elissa emphasized accessibility matters. Even 10-40 people in attendance matter and accessibility is an expense that should be considered on the bottom line.

Jill Pilgrim added that this is both an issue of accessibility and an issue of delivering better programs. It was noted that there are individuals that we could get to speak at our programs who would otherwise be unable to without having the AV technology option. It was also stated, we shouldn't be relying on the surplus to fund this option; we should be budgeting for it. Furthermore, she made the point of it being expensive for people to travel to, stay, and eat in NYC for this meeting if they wanted to participate, and having a hybrid option makes the Annual Meeting more accessible from a financial perspective. Pam Lester agreed with much of what had been stated and emphasized the point that, as EASL, we need to be taking the lead and modernizing in this area, especially as the metaverse becomes more popular in entertainment and sports.

Judy Bass mentioned that she reached out to a potential bank sponsor, and while she isn't sure what the response will be but, there should be some reasonable way to have a hybrid meeting. She also mentioned that last year, we had a panel on accessibility at our annual meeting and questioned how we could have such a panel and then not make our programs more accessible for our members. Judy also made the point that the COVID pandemic is not over for her, for many others as well, and it is only projected to get worse. As such she would not attend the annual meeting if it is solely in person. Judy also noted that if it doesn't come together this year, we can write a letter to the State Bar expressing our disappointment.

Anne Atkinson said that even with this outrageous amount in cost, even spending the money in this way and pushing NYSBA for accessibility moving forward, we would be putting out money where our mouth is on the issue.

Judah stated his belief that this should be prioritized for next year. This year we are not dealing with a free-market economy; we're dealing with a monopoly when it comes to the AV services. The current cost-breakdown looks like us spending \$500-\$1000/person to have this hybrid session if 20-40 people are in attendance.

VOTE

Ethan let us know that we would be voting on whether we want to spend the money ourselves to have a hybrid Annual Meeting or not. He also approved Elissa's suggestion that we would include adding this to the EASL budget moving forward as part of the vote.

Result:

Yay – 19

Nay – 9

Abstaining – 3

EASL **will** be having a hybrid Annual Meeting and going with the Hyatt providing these services (they are the most cost-effective).

Rosemarie Tully inquired whether we'd require approval from finance to do this by using surplus money. Her understanding was that if planning to use surplus monies, we'd need approval by NYSBA Finance Committee to access it. Ethan will speak with NYSBA Finance regarding approval. Jill Pilgrim noted that in one of the other sections, they've been discussing the issue of using surplus monies and that promoting diversity is one of the things that we can use the surplus to promote. Rosemarie insisted that approval may still be required.

There was a second vote on whether we should have a hybrid meeting and whether we all understand the ~\$19,000 expenditure it would incur.

Result was the same as previous:

Yay – 19

Nay – 9

Abstaining – 3

Elissa Hecker made a motion to start including this in our line items in the EASL budget moving forward; it was seconded by Jill Pilgrim and then approved by the EC.

5. **Annual Meeting Program**

5.1. “Approaches to Negotiation in Sports, Entertainment and Other Universes.” Program Co-Chair: Pam Lester (EASL Sports Committee Co-Chair); Jill Pilgrim (EASL Sports Committee Co-Chair)

Speakers: Gary Noesner (Retired FBI Agent and Negotiator) (will now be attending via Zoom)

Arthur McAfee (NFL SVP Football Operations)

Daniel Etna (Partner, Co-Chair of Sports Law Group, Herrick)

Maggie Ntim (Founder and Sports Agent, Trinity 3 Agency)

In addition to all the speakers listed, Pam Lester reported that she has positive interest from Lonnie Murray—the first Black woman to be certified as a player agent by the MLB Players Association. She is not a lawyer, and neither is Gary, but the others are, and the mix in perspective will make for a great panel. Ethan reminded us that for CLE credit, we need just one lawyer on the panel, so we should be fine.

Sharmin mentioned that she would be sending letters out to all the speakers on the panels requesting biography materials, speaker materials, and CLE materials for the panel. She is hoping to have them all in by the end of December/Early January.

5.2. “Ethics in Negotiating in Entertainment, Sports and other Universes.” Program Chair: Ethan Bordman (EASL Section Chair)

Speakers: Devika Kewalramani (Partner: Moses Singer)

Carla Varriale-Barker (Shareholder, Segal McCambridge and Professor of Sports Law and Ethics Columbia University Sports Management)

5.3. “Regulation of Social Media & Online Content” Program Chair and Moderator: Barry Skidelsky, Esq. (former EASL Chair)

Speakers: Carl Szabo, Esq. (General Counsel at Net Choice)

Scott Wilkens, Esq. (Senior Counsel at Knight First Amendment Institute)
Brian Barnes, Esq. (Partner at Cooper & Kirk, PLLC)

Barry Skidelsky reported, like the November meeting that this panel will be focusing on a case that is rolling up to the Supreme Court (Net Choice). He wrote an article about it in the previous edition of the EASL Journal. There are large implications for the future of Social Media regulations at play in this case, and the discussion will be very interesting. Anne LaBarbera mentioned that the Media Law Committee may differ in their views of some of these laws.

Jill Pilgrim, without wanting to make any assumptions, asked if there was diversity on this panel as the names seemed to be all men's names. She also asked whether there were any POC (person(s) of color) on the panel. Barry Skidelsky responded that there were no women and probably no POC. Jill then asked if anyone could make a recommendation for this panel. Barry Skidelsky asked Judy Bass if she could recommend anyone; she agreed to discuss it offline and thanked Jill for bringing the matter up. Ethan did mention that we always encourage diversity and that looking at all the speakers on the three panels the meeting would have a diverse group of speakers with diverse backgrounds.

6. **Committee/Program Reports/Updates (ad hoc)**

6.1. Motion Picture Committee – Bob Seigel

Bob reported that there will be a meeting with Peter Broderick, a distribution & sales consultant. He's a pioneer of the concept of hybrid distribution, where instead of one party having all the distribution rights, the rights are sliced up and go to different parties. The Committee is looking at Feb. 9th, 2023, for this program with Peter specifically so that he can give attendees the latest news from Sundance. It won't be a panel; it's more of a presentation with a question-answer period to follow.

6.2. MBLC – Rosemarie Tully

Ethan mentioned that he attended the last panel (in-person event) and that it was great. Rosemarie Tully reported that the panels were outstanding. She did note that as EASL had reduced the attendance fee that anyone planning a panel moving forward should understand that there will be a deduction off the top of revenue before the split between EASL & NYSBA for registration fees. For the MBLC, the off-the-top amount was \$1000/virtual session. NYSBA's base price for section members for programs is \$60. With the MBLC having a discounted price of \$25, NYSBA took \$35 off the top for each registration. Rosemarie said that because of this, there wasn't much income realized for the MBLC, so anyone planning

panels/sessions should take these factors into consideration. A loss wasn't realized on the MBLC, but we are only ahead ~\$100 on the event.

6.3. Cowan/Bresler Committee (Kajon Pompey and Aniq Chowdhury)

Kajon Pompey reported that she and Aniq will be reaching out to their committee members to make sure that they are updating their excel spreadsheet. She added that everything is going well. **Deadline for Submissions January 3, 2023.**

6.4. Sponsorship Committee

Judy Bass reported that there aren't any sponsors for the Annual Meeting yet. There aren't yet any year-long sponsors. She urged the EC to reach out to any connections they may have at any companies and let them know of the sponsorship opportunities.

6.5. Louise Carron moving from Co-Chair Pro Bono to Co-Chair Publicity, Privacy & Media

Ethan informed us of this change on behalf of Louise. Ethan also let us know that Arlen Appelbaum will be resigning as Co-Chair of the Digital Television Committee—he will be missed. Taking over for him will be Ezra Doner, who has a great background in entertainment law and has done several programs with EASL in the past.

6.6. Legislation Committee Update – Talent Agencies Act

NYSBA voted to approve our proposal that lawyers be exempt from the Talent Agencies Act of New York. The next step is that NYSBA will be working with sponsors in the NY Legislature on the matter soon.

6.7. Appraising Fine Art – Thursday, December 8th, 2022 – Non-CLE – 1pm – 1:45pm -Virtual Event (Fine Arts Committee – Judith Prowda)

Judith Prowda reported that the panel would be about hiring qualified appraisers of fine art and decorative art. Specifically, the program will be addressing who is qualified to appraise fine and decorative art, what is a qualified appraiser, appraisal reports, what happens if you hire an appraiser who's not legally competent or otherwise not qualified, and a lot of other questions that are relevant to the topic. Panelists include Charles Rosoff from Appraisal Services Associates, Michael McCullough from Cardozo Law, and Lisa Desmarais, from the Appraisal Foundation. The panel will be free to EASL members.

7. **Other Initiatives and New Business**

7.1. EASL By-Laws – EASL EC review

Ethan asked Sharmin to clarify the following: Once we get the bylaws approved by our EC, are the bylaws then sent out to all the members of the section, or is it only to the members at the annual meeting? Sharmin said that she would go back and confirm what the process is. She did say that we need to have them ready to go by January 4th, 2023.

Ethan asked whether we can have a central document to make comments instead of having multiple emails with multiple versions containing comments. Sharmin said that we could set up a Google Doc for this.

Jill Pilgrim shared that she is a strong proponent of a robust quorum and that today's vote on the hybrid meeting was a great example of why. With robust attendance, we were able to have a robust discussion and then vote based on that. She also quoted dictionary dot com's definition of a quorum¹ and added that she was also a proponent of having a nominating committee that puts forward a slate and having an opportunity for a supermajority of members to either add or take away from that slate or propose different candidates. Ethan, for clarification, asked if she was talking about a quorum of the executive committee or a quorum of the membership at large. Jill confirmed that she was talking about the executive committee when referring to having a quorum. She also mentioned that in the bylaws, there was nothing indicating prior notice of votes.

Donna Frosco expressed her concern about the minimum number to constitute a quorum in any given meeting, especially for a meeting where a very important vote is taking place (e.g., for the expenditure of funds). At present, the bylaws would allow for a three-person quorum, and because of the way it reads, she is in favor of having a required percentage of attendees to constitute a quorum. Donna suggested having a quorum of anywhere from 20 to 30% of the EC in attendance. Philip Hurwitz agreed to 20%, noting that as doable. Ethan agreed on having a percentage as opposed to a concrete number. Ethan will also be reaching out to Dave Miranda, a former NYSBA President, now General Counsel for NYSBA regarding what NYSBA recommends about quorum.

Jill said that if we have a higher percentage, that would incentivize people to come to the meetings and that we shouldn't defer to the lowest common denominator just because it is hard to get people to come to the meetings. That said, she is more in favor of 40% than 20%.

There was then a spirited discussion on whether a quorum was necessary and whether we could just leave it to the discretion of the members present at a meeting to not vote on something

¹ “the number of members of a group or organization required to be present to transact business legally, usually a majority.”

important if a large part of the membership was not present. Ultimately, the bylaws discussion was adjourned to a later special meeting of the EC specifically to discuss changes and put the approval to a vote. Judy Bass suggested that the bylaws committee distribute an updated version of the bylaws, including all the comments that people have added to date.

Barry Skidelsky requested that any additional comments be sent to him by December the 12th so they can be added before the December 15th Bylaws Committee meeting and the December 17th executive committee special meeting on the bylaws.

7.2. House of Delegates – Future Meetings:

Friday, January 20th, 2023 – New York Hilton Midtown – In-Person or Virtual

Saturday, April 1st, 2023 – NYSBA Bar Center – In-Person or Virtual

Saturday, June 10, 2023 – The Otsega Resort Hotel – In Person or Virtual

Saturday, November 5th, 2023 – NYSBA Bar Center – In-Person or Virtual

8. Dates of Future EC Meetings – Save the Date:

2023

January 19th (Thursday) 2023 – Annual Meeting – In Person at Hilton (1365 6th Ave, NYC)

10:30am – 11:30am – Committee Meetings

11:30am – 12:50pm – EASL EC Lunch Meeting

1pm – 5:30 – EASL Annual Meeting

5:30pm – 8pm – Bill’s Bar and Burger – 161 W 51st NYC – 3 blocks from Hilton

February 1st, 2023

March 1st, 2023

April 5th, 2023

May 3rd, 2023

June 7th, 2023

July – NO Meeting

August – NO Meeting

September 6th, 2023

October 4th, 2023

November 1st, 2023

December 6th, 2023

9. Adjournment. The EC meeting was adjourned at 2:17 pm.

Respectfully submitted,
Isaro Carter, EASL Secretary