

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

**Executive Committee Hybrid Meeting –
(Wednesday) November 1st, 2023, at 12:30 PM**

Minutes of EASL EC Meeting

Attending by Virtual Conference/Telephone: Andrew Seiden, Anne Atkinson, Anne LaBarbera, Avita Delerme, Barry Skidelsky, Barry Werbin, Bennett Liebman, Carol Steinberg, Cheryl Davis, Christine-Marie Lauture, Carol Steinberg, David Friedlander, Diane Krausz, Ethan Bordman, Ezra Doner, Isaro Carter, Jake Dore, Jason Baruch, Jill Pilgrim, Joan Faier, Judah Shapiro, Judith (Judy) Bass, Kathy Kim, Larry Sapadin, Louise Carron, Les Greenbaum, Marc Jacobson, Nibras Ayad, Phillip Hurwitz, Robert (Bob) Seigel, Rosemarie Tully, and Sharmin Woodall.

1. **Approval of October 2023 Meeting Minutes** – (Isaro Carter, Secretary; Christine-Marie Lauture, Assistant Secretary; Ethan Bordman, Chair)

Ethan Bordman asked for the approval of September Minutes pending the correction Judith Bass and Barry Werbin sent. Jill Pilgrim seconded, the motion passed, and the minutes were approved pending the changes.

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

Elissa Hecker was not able to attend but forwarded her update to Sharmin Woodall. On her behalf, Sharmin stated Elissa is still seeking partner organizations for pro-bono clinics. The EASL Journal is complete for the Fall and Winter and should be in mailboxes by December. The Spring deadline for submissions is December 22, 2023. Elissa noted that the Journal and EASL Blog is always open for submissions.

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

Judah opened with sharing that in terms of the financial report, there are no changes.

Committee/Program Reports/Updates (ad hoc)

- 3.1. **Sponsorship Committee**

Very briefly, Ethan shared that we are always looking for sponsorships. He also offered to reach out on EASL's behalf if someone else does find a potential sponsor.

4. **Other Initiatives and New Business**

- 4.1. **Budgets for Section – Start thinking about initiatives for 2024 & beyond**

Ethan encouraged the EC to start thinking about initiatives for 2024.

4.2. House of Delegates – Barry Skidelsky – New EASL Committee Website/Social Media Committee to interface with New Section Caucus committee to Help NYSBA Improve Website and IT

Barry Skidelsky shared that the NYSBA is looking at the section budgets going forward. Barry S. also suggested, for our EASL budget, that the line item for “Officers’ Expense” be changed to “Executive Committee Member Expenses.” The change is being suggested due to a conflict between NYSBA’s financial policy and EASL’s financial policy. Also, the adoption of an expense reimbursement policy that states prior approval of a set amount must be approved by a Section Chair or majority vote of those that are present in an EASL EC meeting.

Barry S. also shared that in order for him to become the chair of the Section Caucus he would have to become a delegate at the next election. He then went on to discuss various topics related to the upcoming meetings in Albany. These include reports on facial recognition, legislation on biometrics, AI's impact on entertainment and employment, a task force on Anti-Semitism, and proposals for rule and legislative changes in personal jurisdiction.

Barry S. shared the challenges with the NYSBA website's user experience and the new membership model, which promises additional benefits for members. Some of the benefits are that members will pay approximately the same or a little more, gain additional access to forms, publications, and membership to two free sections. Barry then encouraged efforts to increase EASL membership before the December 31 cutoff for House of Delegates appointments.

Ethan referred to Article 7 under the duties of EASL EC, emphasizing the responsibility of the EASL Executive Committee to authorize commitments and contracts involving the payment of money, in line with NYSBA Finance Committee policies. Barry S. acknowledged this but shared that we don’t currently have a policy on expense reimbursement.

4.3. The Organization of Major Sports Events: Opportunities and Challenges – International Section – December 5th 12pm Eastern/6pm Central (Paris Time) - Pitor Wojtowicz., Barry Werbin

Barry Werbin provided a brief update. The event is scheduled for December 5th at 12pm ET and 6 PM Central time (Paris time). Donna Frosco, initially the liaison from EASL, is unable to fulfill her role due to a personal obligation. The program offers 1 CLE credit for New York lawyers and features a panel discussing the Paris and Los Angeles Olympics, including Tim Lamarella, Senior VP and General Counsel at Legends Hospitality, and other industry experts. The event is hybrid and co-sponsored by the EASL International Committee and NYSBA's International Committee. The main sponsor is the International Section of EASL, with co-sponsorship from EASL's Sports

Committee as well. The program is expected to be insightful, especially in the context of the upcoming Paris and Los Angeles Olympics.

4.4. Talent Agencies Act of New York – Lena Faustel, New Government Relations Policy Manager

Ethan informed the EC that Lena Faustel, Anthony Macerola from Senator Kavanagh's office, Dave Miranda, NYSBA's general counsel, and Marc Jacobson discussed the legislation that attorneys be exempt from registration as talent agents. Marc Jacobson provided an overview of the Talent Agencies Act, emphasizing the challenges attorneys face in negotiating contracts for talent. They highlighted the stricter requirements for attorneys compared to talent agents in terms of education, the bar exam, character & fitness, and ethics. The group plans to introduce the idea in January, acknowledging that an earlier introduction would be ineffective. The previous call was deemed successful, and gratitude was expressed to Anthony from Senator Kavanagh's office for participating.

Marc Jacobson also mentioned he attended the NYSBA section open house, where they answered questions about advice for students and how to enter the field. The event was virtual and well-received, with a good turnout.

4.5. Updates to New York State Film Tax Credit Program – Marc Jacobson, Robert Seigel, Larry Sapadin – Motion Pictures Committee – Thursday October 12th – 12pm – 1pm (No CLE) –Virtual

Robert Seigel shared that the webinar featured a representative from the New York State Economic Development Office, a representative from 120 DB (a company dealing with monetizing tax credits), and a producer experienced in tax credits in various states. The discussion also touched on the importance of information gathering for diversity purposes, and the webinar lasted about an hour. Ethan stated the event was very informative and well received.

4.6. MBLC – Friday, November 17th, 2023 – 8:15am – 5:15pm- In-Person at American Arbitration Association 150 E. 42nd Street – 17th Floor (Between Lexington and 3rd) – Rosemarie Tully

Rosemarie Tully shared that the agenda will be finalized soon, and there are efforts to address technical issues on the event site for a smoother registration process. The panels will cover various topics, including revenue streams, litigation, estate planning, copyright office updates, and more. The event will not be hybrid, but panels will be recorded for later viewing due to technical constraints. Judy Bass suggested we have a policy that we no longer use facilities/venues that cannot accommodate hybrid capabilities. Ethan mentioned that he suggested to NYSBA that they invest in a hybrid-enabled event space in midtown. Rosemarie mentions the possibility of establishing law student rates and the need for volunteers. Current registrations are around 22, with Sound Royalties sponsoring the luncheon. The event has a capacity for approximately 80 paid registrants.

4.7. NYSBA: Section Open House – October 5th – 3:30pm – 5pm Virtual – Anne LaBarbera & Christine-Marie Lature, Ethan Bordman attended – Recap

Ethan gave a brief recap on the event. Each section was able to answer questions for about 15 minutes. The event was around an hour and a half in total. The questions received were things like, “What advice do you have for students? What advice do you have for somebody who wants to get into entertainment? How did you get your foot in the door?” It was a very straightforward event with a nice turnout.

4.8. Nominating Committee

Berry Werbin discussed plans to send an email to all former chairs still active on the Executive Committee to schedule a virtual meeting within the next couple of weeks, preferably the following week. The goal is to finalize a proposed slate for the December Executive Committee meeting, aiming to have it ready for a vote at the annual meeting. The process involves the nominating committee proposing a slate, which the Executive Committee adopts before presenting it to the membership. Berry mentions the need to contact potential candidates and may extend offers to both first and second choices for various offices.

4.9. Diversity Committee – Anne Atkinson, Cheryl Davis, Robert Seigel, Larry Sapadin – Diversity in Filmed Entertainment November 2nd 5:00pm – 7:00pm – 2 CLE – Hybrid – In-person at Pryor Cashman with refreshments

Anne Atkinson highlighted the event noting the affordability at \$25 for 2 CLE credits and a reception for in-person attendees. Cheryl Davis will be moderating. The event features notable speakers, including several from Pryor Cashman as well as Julia Alexander, a columnist for Puck News and Parrot Analytics, will interview Dr. Christina Ramon, the lead author of the Diversity and Hollywood Report by UCLA. The report focuses on diversity in the film industry and emphasizes the economic benefits of diversity. Other speakers will cover topics such as WGA programs, state tax credits, and the legal implications of recent Supreme Court cases on affirmative action. The second hour will delve into workplace effects of these SCOTUS cases, and the event will also provide suggestions on promoting diversity in individual workplaces. Cheryl encouraged attendance, both virtually and in-person, and expects the panel to be fascinating and helpful for participants.

4.10. Sports Law Committee Brown Bag Lunch

Jill Pilgrim discussed the event featured an entertainment and sports attorney Lee Howley from California, who represents clients in roller derby. Other speakers included Mary-Jane Rabeony, Associate General Counsel at the NFL, and Maggie Tim, a female soccer agent who previously spoke at the EASL Annual Meeting. The event was relaxed, with a lunch setting and engaging dialogue. Pam Lester is set to conduct a negotiation brown bag herself before the end of the year and is seeking a young sports attorney to join her. The event was enjoyable and offered free admission.

4.11. Cowan-Bresler 2023-24 – Materials Ready - Deadline: Wednesday January 3rd 2024 - 5pm eastern – reach out to students, professors, alumni

Ethan emphasized the scholarship opportunity available, reminding everyone to spread the word, especially to law students, family, friends, and alumni who know law students or have a connection to a law school. The scholarship offers two \$2,500 awards for law students in New York or New Jersey law schools. Students can submit papers they have previously written for school, adjusting for length and proper citation. The submission process allows for a quick and straightforward application if they have a suitable existing paper.

4.12. AI Committee Update Task Force - Barry Werbin, Judy Bass

Barry Werbin provided an update on the AI Committee's progress. They plan to send a Doodle invite to committee co-chairs to organize a virtual meeting. The special committee's program on AI for the Annual Meeting is in the works, with confirmed speakers Vish Mohan and Umair Kazi. Vish Mohan is an attorney from Greenberg Glusker, who specializes in entertainment litigation, particularly in AI issues related to gaming companies. Umair Kazi, Head of Policy and Advocacy at the Authors Guild, will bring a balanced perspective to the panel. They are also considering representatives from the Dramatists Guild and SAG-AFTRA, as well as a potential moderator or journalist.

4.13. Annual Meeting – Thursday January 18th, 2024 10:30 am to 11:30 am – at Dorsey

Ethan announced plans for each committee to have an open house-like opening event, and encouraged committee Chairs to inform Sharmin if they want a table. The open house provides an opportunity for members to make suggestions and get involved. Lunch meeting for the EC will follow, and the annual meeting will commence at 1pm. The panels' order is flexible based on the chairs' preferences, with currently locked times for specific panels. Each panel will now be an hour and a half, offering 4.5 credits for the annual meeting. Ethan requests the final agenda, a panel summary, and speaker names by the upcoming Friday. A sample of the agenda is as follows:

1. Open House – 10:30am – 11:30am – Hilton Hotel

- Committee Members interested in a table for their Committee should inform Sharman.
- Emphasis on the benefits of in-person involvement.
- Opportunity for members to interact, make suggestions, and get involved.

2. EASL EC Lunch Meeting – 11:30am – 12:45pm – Hilton Hotel

3. EC Walk to Dorsey – 12:45pm

- Transition to Dorsey for the subsequent meeting.

4. Meeting at 1:00pm

- The meeting officially begins at 1:00pm.
- Announcements, Cowan-Bresler presentation

5. Panel Order Flexibility

- Chairs can arrange panels in any order that suits their preferences.
- Locked times for specific panels to avoid changes.

6. Panel Schedule (as of now) – 4.5 CLE

- 1:25 to 2:40: "Making Sense of Fair Use in Post- Warhol"
- 2:40 to 2:50: Break
- 2:50 to 4:05: "The Influence of Money in College Sports"
- 4:05 to 4:15 Break
- 4:15 to 5:30: "The Impact of AI"

7. Panel Duration

- Each panel extended to an hour and 15 min
- One and a half credits per panel, totaling 4.5 credits for the annual meeting.

Submission Deadline

- Ethan emphasized the need for the final agenda by the upcoming Friday.
- Ethan requested a summary (8 to 12 sentences) for each panel. Sharmin confirmed this.
- Ethan shared that NYSBA requires names of confirmed speakers thus far.
- Acknowledgment of potential changes in speakers within the next month or six weeks.

Jill Pilgrim suggested implementing a comprehensive message board in the hotel during the annual meeting. This board would provide detailed information (including

pricing/what is free) about the different breakout sessions for various sections. The idea is to not just mention the EASL annual meeting in a room but also include the specific topic of each session. This way, attendees could easily identify interesting panels on the spot and promptly register for them, enhancing the overall experience. Sharmin Woodall stated she would mention this idea in the next board meeting.

Ethan mentioned that as the annual meeting approaches, he will send out an email to members regarding Annual Meeting to encourage attendance at the open house and to attend annual meeting. He also encouraged committees to reach out to their members, especially those with tables, to invite them to participate. Ethan shared a positive experience from his time as Co-Chair of Motion Pictures regarding the open house, where people walked in expressing interest, and they were able to engage to become involved. It was a nice casual way to meet members who are interested in a more active role with the committees. He expressed a commitment to making sure this outreach and engagement opportunity is utilized.

8. New York and California Legislation

Judah Shapiro brought up recent legislation in New York and California, stating that, with some exceptions, non-compete clauses are essentially illegal. In California, it was updated to not only be void but also explicitly illegal. Judah is curious about the potential impact on the entertainment and sports industry, as well as whether this legislation is retroactive or prospective.

Bennett Liebman shared that the non-compete bill in New York has been passed by the Legislature but has not yet been signed by Governor Hochul. The bill is currently awaiting the Governor's decision, and it remains uncertain whether she will sign it into law.

Barry Skidelsky mentioned that New York already has a statute regarding non-competes in the broadcast industry. The recent developments stem from the Federal Trade Commission's (FTC) effort to formalize the widespread public policy that non-competes are challenging to enforce and disfavored in law. The New York State Assembly sent this information to the Governor in June.

Bennett Liebman mentioned that there is significant pushback from the Business Council on the non-compete bill. It was noted that there has been a practice in the Governor's office to hold bills until the last moment. This means that although a bill passed in June, many bills are not before the Governor yet. The delay tactic involves waiting until the bills are physically sent from the legislature to the Governor's office. More controversial bills, like the non-compete bill, tend not to be signed until late in the calendar year. Bennett speculates that the delay may be a strategy for the Governor to sign the bill with the understanding that modifications will be made in the next legislative session, although this is speculative, and he has no inside information.

4.14. Fine Arts Committee Update

Carol Steinberg shared that the Literary Rights, Fine Arts, and Pro Bono Committees put together two programs with NYFA. The recent one was about small claims, copyright claims, and arbitration; it was terrific. Carol also shared that the next event will be on November 16th, which will be about trust and estates for artists and creatives across the board. This will be a great talk, even for lawyers who aren't necessarily specialists in that area. Finally, Carol promised to get that information to Sharmin so that we can begin to spread the word. Judy Bass clarified that no Cle credit would be available for the November 16th event.

5. Future Meeting Dates – Wednesdays 12:30pm – 2pm

2023

December 6th – Hybrid Meeting

2024

Annual Meeting – Thursday January 18th, 2024 – at Dorsey

Respectfully submitted,

Isaro Carter, EASL Secretary