

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

**Executive Committee Hybrid Meeting –
(Wednesday) September 6th, 2023, at 12:30 PM**

Minutes of EASL EC Meeting

Attending in person at Pryor Cashman: Anne Atkinson, Jason Baruch, Ethan Bordman, Joyce Dollinger, Ezra Doner, Anne LaBarbera, Jill Pilgrim, Kathy Kim, Diane Krausz, Steve Rodner, Larry Sapadin, Judah Shapiro, Bob Seigel, Barry Werbin

Attending by Virtual Conference/Telephone: Barry Skidelsky, Carol J. Steinberg, Cheryl Davis Christine-Marie Lauture, David Friedlander, Donna Frosco, Elissa Hecker, Imraan Farukhi, Isaro Carter, Joan Faier, Judith Bass, Kristin Paradisis, Lisa Bertrand, Les Greenbaum, Nibras A., Phillip R. Hurwitz, Rosemarie Tully, Ryan Bickett, Sharmin Woodall

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

Ethan Bordman asked the EC if anyone had any revisions for the June EC Meeting Minutes. There were none. The EC unanimously approved the meeting minutes.

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

Elissa Hecker let us know very briefly that for the upcoming issue of the journal there were twelve articles in, the journal is currently being edited, and she is aiming to send it in to the galleys a week following this meeting. She also asked people to submit articles to the EASL blog. The deadline for the issue to follow this upcoming issue will be in December.

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

Judah open by sharing the good news that we are evidently an active organization as far as numbers go. He shared that we should also be thinking about being more conservative in the way that we are spending. For the last couple of years EASL has been running about a \$30,000 deficit each year and the biggest part of that is always the Annual Meeting. Judah noted that for 2024 we're working on mitigating expenses for the Annual Meeting, although nothing has been finalized yet. That said in 2024 and 2025 we would be fine but in 2026 we would face a problem if our surplus remained the same because in running that deficit that's what we're drawing down from. Right now, our surplus is around \$60,000.

Judah shared that there have been times in the past where this section had no surplus and so how that was handled is going to be worth exploring. His recommendation is that this section starts looking at, more formally, what we could be doing to save more money so that we could avoid having no surplus come 2026.

Jill Pilgrim asked a pertinent question, of what was done to allow us to have built up the

surplus in the past. Many members of the EC noted that we didn't have in person meetings for a couple of years due to the pandemic, we had sponsorships for different events, and it was only recently that NYSBA made the change of sections only receiving money from Seasonal events as opposed to all of them. Ethan Bordman let us know that officially our seasonal events are the Spring Meeting and the MBLC, NYSBA rejected the annual theatre program as a seasonal event. Ethan promised that he was still working on it though and pitched the theater program as the first of many seasonal meetings. He also noted the Theater program was seasonal for many years with CTI. Sharmin suggested that we pitch the Theatre program as a Summer Meeting.

Anne LaBarbera asked how we compare to other sections regarding surplus. Ethan Bordman shared that there are some sections that have hundreds of thousands in surplus. Jill Pilgrim suggested that we develop a signature program that's very special that can be a big revenue generator. Specifically, a program that could certify attendees in something subject matter specific. There was then a discussion of how for EASL there really wouldn't be a certification that applies but, there might be something else that's congruent in value to a certification for an entertainment and/or sports lawyer that we could develop a signature event around.

Judy Bass raised the point that the largest expense in our budget our newsletter costs and our newsletter costs are our journal. She asked if there was anything that we could do to help with those costs. Elissa Hecker responded that for over 20 years she's tried to get sponsors for the journal. She also mentioned that a lot of the costs associated are postage and in recent times they've changed the way that postage is done. There's also the issue of the way that the journal is printed and there's only one certain way that it can be printed so that's out of her control. Judy then mentioned that with the sponsorship committee maybe there could be a more concerted effort with more hands on deck to try to get advertisers for the journal. Elissa was open to that suggestion. Anne LaBarbera also suggested distributing electronic copies of the journal. Ethan said that we would be looking into it next year since this year's journal is set to be printed.

Barry Skidelsky suggested that when the discussions with NYSBA are being had about what gets classified as a seasonal event or a seasonal meeting and the destination meeting, we should ask them for clarification on what the definition of "seasonal" and "destination" is. He also noted that it's against New York's ethics rules for lawyers to identify themselves as a specialist in a specific practice area, unless you have a certification from an appropriate organization or a jurisdiction. Barry Werbin further clarified that the organization that NY state recognizes regarding attorney certifications is the ABA.

Rosemarie Tully shared that the only way that we can increase our income right now is through sponsorships. Our goal there should be to at least breakeven but of course make a profit. Destination meetings in the past haven't really worked for EASL so now we're faced with one of the only ways that we've been able to make revenue, being taken away from us by being restricted to keeping revenue from only seasonal events.

The conversation then shifted to a discussion about our budget from NYSBA based on our membership. Barry Werbin said that our priority should be increasing our membership. Ethan Bordman specified that paid membership was what we should be focusing on. Anne LaBarbera

mentioned that when we were looking at what was going on when our membership count dipped, we found that most of the people dropping out were more sports oriented. Since then, we have improved our sports programming and it might help increase membership if we send out an e-mail blast to those former members letting them know about the changes to sports programming in our section.

Rosemarie Tully made an excellent point that everything that we're talking about today regarding our surplus and things related may change next year so we should be keeping that in mind. Ethan clarified that the new rules regarding section dues allocation go into effect in 2025 regarding membership are based on a formula. NYSBA will be looking at the number of overall members and the number of section members with each section receiving a credit per person based on different tiers of membership numbers (i.e., based on 1,200 members, 1,500 members, etc.) In our situation, if we increase our membership by a few hundred people, the money distributed to us for the budget will go up ~\$10K-\$12K. Barry Werbin suggested that if we sent an e-mail blast to more than just the people who left but also to former student members who have become paid members of NYSBA to invite them to become a member of EASL, even if we get a 10% return on that, it would be really good for our numbers.

Finally, Ethan made a motion to approve the proposed budget, it was unanimously approved.

4. Committee/Program Reports/Updates (ad hoc)

4.1. Sponsorship Committee

Very briefly, Ethan thanked the sponsorship committee for the hard work that they're doing. He also noted that if anybody had any leads for the sponsorship committee feel free to contact him. He is willing to contact individuals if anyone is uninterested in doing so themselves.

4.2. Sections - Hold Seminars on timely topics in the news – Ex: Ed Sheeran Case, Avianca Airlines (Carla)

Ethan shared that if members have an idea about doing a program on a topic that has recently been in the news, please reach out. There will be an effort to put it together as quickly as possible so that we can strike while the iron/topic is hot.

5. Other Initiatives and New Business

5.1. Budgets for Section – Start thinking about initiatives for 2024

Ethan encouraged the EC to start thinking about initiatives for 2024 and 2025 about what we would like to do regarding programs and regarding the spring meeting programs.

5.2. 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 he attended the last House of delegates meeting in June in Cooperstown. The next one will be in November which we he will be attending virtually. There is only one delegate from EASL to the House of delegates and that is Bennett

Liebman. Barry Skidelsky clarified that he's a member of the Section Caucus, its Executive

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Committee, and from the Section Caucus he has been made a Member At Large of the Executive Committee of NYSBA.

Barry also mentioned that NYSBA is moving forward on the subscription membership model. Barry also shared that there is an interesting task force on anti-Semitism and Asian Hate, and another interesting task force on artificial intelligence.

Future Meetings:

Saturday November 4th, 2023 – NYSBA Bar Center – In-Person or Virtual

Friday January 19th, 2024 – New York City (Annual Meeting) – In-Person or Virtual

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

Ethan reported that Lena reached out to Senator Kavanaugh's office in May and there was interest. He will be reaching back out to Lena Faustel from NYSBA in the next week.

5.4. Literary Works and Related Rights Committee - Estate Planning for Authors: What Lawyers Need to Know – June 8, 2024 – Recap

Judy Bass reported that this was a great program and Ed McCoy, who is one of the members of the committee, presented on the topic. There was no charge for this event. Judy noted that if they charged for the event attendance might not have gotten the 90 attendees. Ed is a former lawyer for the authors Guild. The event was very well received, and there was participation from other Author's Guild affiliates.

5.5. Theater and Performing Arts Committee – Shakespeare in the Park – July 13th - Recap - Fundraising For Commercial Theater - June 14th - Recap

Jason Baruch shared that the summer event went well. The event featured Hamlet in the park with a picnic after. He also shared that the fundraiser at Loeb & Loeb went well too. The feedback was very positive from attendees. Jason also shared that his committee is in the process of planning the next event that will be happening in the fall.

5.6. ADR Committee – High-Profile Arbitration & The Press: What About Confidentiality? – June 20th – Recap

Ethan said that he went to the event. It was very interesting and very well done. Judy Bass shared that Kyle-Beth Hilfer moderated the panel.

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

Bob Siegel shared that Marc Jacobson will be moderating this panel, giving

overview to changes in tax credit programming increases. Among the attendees will be an individual from a company that helps monetize tax credits, and a producer who has made use of those tax credits. It will be about an hour-long discussion and free for members to attend.

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5.8. MBLC – Friday, November 17th, 2023 at American Arbitration Association 150 E. 42nd–17th Floor (Between Lexington and 3rd) – Rosemarie Tully

Rosemarie Tully shared that the Music Business Law Conference (MBLC) attendees will be getting 6 CLE credits. There will be a light breakfast and lunch. The luncheon speaker is Bill Werde who was formerly an editor at *Billboard* and now heads up the Bandier Music Program at Syracuse University. Bill will be inviting a surprise guest and we have it in him to bring someone very interesting.

Rosemarie also shared the great news that the MBLC has a sponsor for the luncheon program for \$2,500 from Sound Royalties. Tickets will be \$250 and Sharmin has sent out a note to everyone that there would be early bird pricing for EASL members. Joyce Dollinger shared that for the panel she is working on, they have a great person from the copyright office for the *Copyright Office Update* program. Rosemarie shared that they will also be having a basics panel on beats (think music production) as that's now become a litigated issue. Other panels include: a panel called *The Brand Expands* where branding will be discussed, a program reviewing how terminations are done particularly when reviewing for catalog sales, and a panel on and royalty statements and income streams in music (a partnership with Citrin Cooperman).

The MBLC is also partnering with Citrin Cooperman on a panel about estate planning for recording artists and songwriters. Finally, there will be the annual Litigation and Music Review panel, this year it will be quite interesting because Paul LiCalsi has been able to bring in Ilene Farkas who did the Ed Sheeran trial this year.

Judy Bass asked if there is a hybrid option for the MBLC this year. Rosemary responded that there is not one yet and in trying for that the planning committee has hit an interesting snag regarding coordinating remote viewer selection for the breakout panels. The other dilemma is that the AAA doesn't have the best technology to be able to support virtual attendance. Judy then asked if it was possible to have even some of the sessions available for a different price that did not include breakout sessions and offer less CLE credits, so that those who cannot attend in person have at least that option to be able to attend. Carol Steinberg seconded the suggestion. Rosemary promised that she would take that back to the MBLC planning committee so that this suggestion could be considered.

5.9. Introduction to Entertainment law for NYSBA Members – Fall 2023 -- Postponed - Diane Krausz, Stephen Rodner, Rosemarie Tully

Ethan shared that this event is not going to happen this year. Diane Krausz stated EASL would be solely responsible for the expenses of producing the program and receive no revenue from the event. All revenue would be received by NYSBA. Jill

Pilgrim asked for clarification on when the fee splitting would apply to in person meetings. Sharmin Woodall shared that the fee split for in-person meetings would only apply when the meeting is a seasonal meeting, and the fee split is with a virtual option. Each hybrid meeting, the section would get 25% of the hybrid option but the in-person portion we would get the full revenue if the event is seasonal. If the in-person event is not seasonal EASL would not be receive any revenue from the event.

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Ethan shared that separately he has spoken to NYSBA about leasing a venue in New York City so that finding a venue for EASL and other sections would be of no issue.

5.10. NYSBA: Section Open House – Fall 2023

Ethan shared that this event is in conjunction with the Intellectual Property section and the Commercial Law section. This is a law student and young lawyers event. The purpose is to put on a question-and-answer session to get to know the sections and practice areas for attendees. Ethan has asked any volunteers to reach out to him. Anne LaBarbera volunteered. The event will be on October 3rd from 3:30pm to 5:00 pm. The event is virtual.

5.11. Diversity Committee – Anne Atkinson, Cheryl Davis – Filmed Entertainment Program– Winter 2024

Cheryl Davis shared that this program would be about facilitating diversity in front and behind the camera. The event will feature diversity in who and what is portrayed on screen and how they are portrayed on screen. Cheryl shared that the diversity committee is looking to have this event perhaps the week of October 30th. The event would be a hybrid event with in-person at Pryor Cashman.

5.12. Fine Arts Committee – Carol Steinberg

Carol Steinberg shared there is a virtual event for creators (No CLE) on September 20 from 12:30pm – 2:00pm, in collaboration with the Pro Bono, Literary Works, and Fine Arts Committees, and NYFA on the new CCB (Copyright Claims Board). Sharmin has the Zoom link, and she will be sending it out.

5.13. Law Students in the Mix: An EASL Networking Event – Fall 2023

Kristin Paradisis wasn't in attendance at this point, but this event is being planned and we'll follow up with her in the next meeting.

5.14. Cowan-Bresler 2023-24 – Materials Ready - Deadline: Wednesday January 3rd, 2024 - 5pm eastern – Welcome Lisa Bertrand new co-chair

Lisa Bertrand gave a brief bio on herself and her background. Welcome Lisa, we're happy to have you at the EC! Ethan also asked EASL members to reach out to any law school students or law schools that EASL members have a relationship - whether it is as an alumnus of the school or if a member knows a law professor - to inform the

school/professor of Cowan-Bressler to share with the students.

5.15. Creation of AI committee – Task Force - Barry Werbin, Judy Bass

Barry Werbin & Judy shared that they've yet to convene the taskforce so there are no updates today. They will give an update at the October EC meeting

5.16. Annual Meeting – Thursday January 18th, 2024 – Discuss EC Meeting Time, CLE Topics, Section Meetings and Location.

Ethan shared that the Annual meeting will be taking place at Dorsey—Thank you, Sarah Robertson! There will be an in-person meeting at the Hilton, then lunch will be at the Hilton, then our Annual Meeting & dinner will be at Dorsey – across the street. We are still working on a venue for the reception. Bill's Burgers may be too expensive to do on site so we may just have to have it delivered to Dorsey as we did last year.

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5.16.1. Post-Warhol

Judy Bass suggested having a panel about the impact of Warhol on Fair Use and what will have happened since the Warhol decision. There are a couple of cases coming through so there is ground to cover there. The working title for this panel will be *A Post-Warhol World and its Impact on Fair Use*.

5.16.2. Artificial Intelligence (AI) and Unions Agreements

There was a brief discussion on how we could have a panel on what's going on with the strikes in Hollywood in some of the issues surrounding AI that have influenced them. Judy Bass, Carol Steinberg, Anne LaBarbera, Barry Werbin, and tentatively Judith Prowda, will be Co-chairs for this panel. The working title for this panel will be *What Do the Labor Strikes Mean for the Entertainment Industry*. (1.5 CLE credits)

5.16.3. Ethics Panel

Anne LaBarbera suggested blending an Ethics panel with AI. Jill Pilgrim then suggested doing a whole entire panel on technology and entertainment. Elissa Hecker shared that the non-compete clause issue is huge federally and state-wise, and this could also be a good ethics program topic because it transcends all industries and all businesses.

5.16.4. Name, Image, Likeness in College Sports

Jill Pilgrim shared that there is a big revolution going on in college sports surrounding money. Due to this she was wondering if the title should reflect the influence of big money on college sports as a broader topic and deal with both the high coaches salaries (football) and the realignment, or all three issues which are the high coaches salaries (football), the realignments, and the NIL issues. There is also a subset to that which is the impact of all of this on female college athletes and Title IX because all the new money funding college sports is going to male programs and frankly the women are getting screwed. The program would be anywhere from an hour to an hour and a half long.

5.16.5. Other Suggestions and Ideas

Jill Pilgrim shared that regarding entertainment and technology panel, it would be a very good idea to get a general counsel from a technology company who works with technology. Specifically, it would be a good idea to bring in some of these younger lawyers who are practicing in the space. Beyond the panel it's a good idea to build up the section for the future. Judy Bass suggested that the panels that discuss the unions and AI shouldn't just be limited to the AI lens because there are other issues that are involved in the Hollywood strikes. It would be great timing for us to be discussing all the issues if negotiations are settled soon.

Ethan noted the Annual Meeting Launch Form is Due – September 15, 2023. NYSBA just needs tentative titles of the panels with a brief (2-3 sentence) summary of each panel.

Ethan stated NYSBA is hold a Working Group Panel on – Sept 14th – 12:pm – 1:30pm and Sept 21st 12pm – 1:30pm regarding Annual Meetings. NYSBA will be asking for feedback on whether Annual Meeting should continue to be held at the Hilton, hybrid

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capabilities and other suggestions. Ethan will be attending to share EASL's EC Input, Ideas, Suggestions.

5.17. Meet The Authors – December 2023 – Ezra Doner

Ezra shared that he's looking into planning a program in December where he will be getting authors of three different kinds of practice guides, one in television, one in film, and one in reality television to speak on these topics. He's also thinking of combining this program with a list of books that attendees can possibly gift for the holidays.

6. Chair's Remarks –

Ethan welcomed everyone back from summer break and stated that, when possible, events should look to locations with hybrid capabilities.

Ethan shared that in December (6th) he would like to have a holiday party meeting for the EC meeting to thank everyone for the great work they do.

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

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

2023

October 4th- Virtual

November 1st- Virtual

December 6th– Suggestions for Holiday Meeting/Social Event

2024

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

Respectfully submitted,

Isaro Carter, EASL Secretary