

THE NEW YORK STATE BAR ASSOCIATION
COMMERCIAL & FEDERAL LITIGATION SECTION
EXECUTIVE COMMITTEE

Minutes of the Meeting of the Executive Committee of the Commercial & Federal Litigation Section held in accordance with the rules of the New York State Bar Association on January 4, 2018.

Members Participating by Phone

Mitch Katz, Chair

Robert Holtzman, Chair-Elect

Laurel Kretzing, Vice-Chair

Sandra Rampersaud, Treasurer

Jamie Sinclair, Secretary

James Bergin

Mark Berman

Alan Brody

Michael Cardello III

Carrie Cohen

Kathryn C. Cole

Mark Davies

Richard J. Dircks

Jonathan Fellows

Jennifer Finnegan

Richard Friedman

Clara Flebus

Michael Fox

Helene Hechtkopf

Suzane Galbato

Beth Gould

Ignatius Grande

Maura Grossman

Sharon Grubin

Claire Gutekunst

Ron Hedges

Jay Himes

Hon. Frank Maas

Matthew Maron

Alan Mansfield

Carla Miller

Hon. Karla Moskowitz

James Potter

Michael Rakower

Stephen T. Roberts

Paul Sarkozi

Robert Schwinger
Anne Sekel
Natasha Shishov
Rebecca Smithwick
Vincent Syracuse
David Tennant
Dan Wiig
Stephen Younger

**indicates non-executive committee member*

*** indicates guest speaker for the meeting*

The meeting came to order at 6:00 p.m. Section Chair Mitch Katz called the meeting to order after confirming a quorum was present.

Draft Report: Proposed Amendment to Commercial Division Rule 11-g to Mitigate Risk Associated with Privilege Waiver During Disclosure

Matt Maron, Co-Chair of the Commercial Division Committee, provided a brief summary of the Report, which provides comments on the Commercial Division Advisory Council's Memorandum proposing an amendment to the Rules of the Commercial Division include a sample privilege claw-back language for use in the standard form stipulation and order for the production of confidential information in matters before the Commercial Division. The report was approved by the Committee with no abstentions and the dissenting vote of Sharon Grubin.

Draft Report: Recommendation for Amendments to the New York Rules of Professional Conduct made by the NYS Bar Association Committee on Standards on Attorney Conduct

Anne Sekel, Co-Chair of the Ethics Committee, summarized the content of this report, which endorses the Committee on Standards of Attorney Conduct's ("COSAC") proposed amendments with certain minor modifications as described in the Report. After a brief period of discussion regarding the following was made change to the suggested language of rule 1.6(b)(3):

“to withdraw a written or oral opinion or representation previously given by the lawyer and reasonably believed by the lawyer still to be relied upon a third person, when the lawyer knows or comes to know that the opinion or representation was based upon materially inaccurate information or is being used to further a crime or fraud...”

With no abstentions, the report as amended was unanimously approved.

Update on the International Judicial Conference

Stephen Younger provided an update on the International Judicial Conference. The Conference will include both presentations to lawyers and judges, as well as social events. The Commercial and Federal Litigation Section has been tasked with developing a protocol or best practices for sharing information across borders. The goal is to prepare a report for approval over the summer, which would be approved by the House of Delegates and be submitted at the

Conference in the Fall. Individuals interested in participating in the drafting of the report should reach out to Stephen Younger or Clara Flebus.

Smooth Moves Program Update

This year's Smooth moves program will be held April 10, 2018 at the Lincoln Center Stanley Kaplan Penthouse where former U.S. Attorney General Eric Holder will be presented with the George Bundy Smith Pioneer Award. The program will also include special tributes to Judge Smith and Judge Shila Abdus-Salam as well as a CLE program titled "Strengthening the Rule of Law by Fighting Discrimination." Panelists will include Justice Cheryl Chambers, Judge Fern Fisher, Professor Angela Davis, and others. This new CLE program will meet the Diversity and Bias new CLE requirement.

Evening at Thurgood Marshall Events

This second annual event will be held on January 23, 2018, the night before the Section's Annual meeting, and will feature both a cocktail hour and tours of the Court and remarks by Chief Judge Robert A. Katzmann. The event will be held at the Thurgood Marshall Courthouse from 5:30 to 7:30 p.m. Ticket prices are set at \$35 per member and \$25 for members of the Young Lawyers' Section.

Annual Meeting Update

The Annual meeting will be held January 24, 2018. Justice Ramos will receive the Fuld Award and Michael Miller, President Elect of NYSBA will present the award to Justice Ramos. Sponsorships are currently being organized, and two organizations have already signed on.

Spring Meeting Update

Chair Elect Robert Holtzman advised that this year's Spring Meeting will be held at the Sagamore Hotel at Lake George May 4-6, 2018 and programming is currently underway.

Young Lawyers Programming

Young Lawyers' Section liaison Natasha Shishov described various contemplated programming options for young lawyers planning including an anonymous questions panel, a teleconference/webinar best practices series, and a fun run and social activity.

Other Business

Section Chair Mitch Katz advised that the Committee on Women in the Law has organized a January 23, 2018 symposium which will include a panel discussion of the Women's Task Force Report.

Meeting Minutes

The December 5, 2017 meeting minutes were unanimously approved.

New Business

Ron Hedges advised that there are four technology-centered CLE programs coming up in March.

The meeting concluded at approximately 7:30 p.m.