

FINAL MINUTES

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 Wednesday, September 28, 2016.

MEMBERS PRESENT

Mark Berman, Chair
Robert Holtzman, Vice-Chair
Deborah Edelman, Treasurer
Jamie Sinclair, Secretary

Hon. Janet DiFiore **
Gregory Arenson
James Bergin
Thomas Bivona
Charles E. "Trip" Dorkey III
Jeremy Feinberg
Hon. Helen Freedman
Richard Friedman
Hon. Judith Gische
Jaclyn Grodin*
Robert Haig
Anthony Harwood
Helene Hechtkopf
Jay Himes
Isaac Simonne*
Hon. Lawrence Knipel*
Laurel Kretzing
Hon. Andrea Masley
Hon. Peter Moulton*
Stephen Roberts
Jay Safer
Paul Sarkozi
Natasha Shishov
Hon. Anil Singh*
Douglas Tabachnik
Stephen Younger

MEMBERS PARTICIPATING BY PHONE

Mitch Katz, Chair-Elect

Jim Wicks

Beth Gould***

Jonathan Fellows

** indicates non-executive committee member guest*

***indicates guest speaker for the meeting and non-executive committee member guest*

****indicates Section Liaison*

The meeting came to order at 6:02 p.m.

Section Chair Mark Berman's Welcome Remarks

Mr. Berman welcomed the Executive Committee Members to the meeting, with a special welcome to our diversity fellow from the Smooth Moves Program, Simonne Isaac. He asked all Executive Committee Members attending the meeting by telephone to send Section Secretary Jamie Sinclair an email so that she could record their attendance for the meeting's minutes. Mr. Berman also asked all Executive Committee Members attending the meeting in person to sign in on the meeting's attendance sheet.

Mr. Berman also introduced the guest speaker for the evening, and provided a background of Chief Judge Janet DiFiore's illustrious career.

Guest Speaker: Hon. Janet DiFiore, Chief Judge of the New York State Court of Appeals

Judge DiFiore began her remarks by commenting that she hopes this meeting is the beginning of a strong working relationship between herself and the Section, as well as complimenting the Commercial Division as being a terrific court for New York State, the business community, the Bar, and the Court System. The Chief Judge remarked that the judiciary needs to partner with other organizations to keep New York as the premiere forum to resolve business disputes. The Chief Judge also described her Excellence Initiative, which reflects her commitment to ensuring that the judiciary works at all levels to achieve operational and decisional excellence. The Initiative requires input and participation from external partners such as our Section. Thus, the Chief Judge welcomed and took note of Section member's thoughtful and reflective remarks on how the Commercial Division might be improved. Member comments and suggestions included, among other things: (i) ways to improve the handling of discovery disputes; (2) modeling best practices from the federal courts; (iii) scheduling definite times for court conferences to improve efficiency and use of attorney time; and (iv) increasing the use of email and conference calls to settle discovery disputes.

Approval of May 2016 Executive Committee Meeting Minutes

Two typos were noted on the June 2016 executive Committee minutes, on page 1 “restraining notice” was changed to “restraining order,” and on page 3, “inciting them to rejoin” was changed to “inviting them to rejoin.” With these changes, the June 2016 minutes were unanimously approved by all Executive Committee Members present.

November 14, 2016 Shira A. Scheindlin Award for Excellence in the Courtroom (Women’s Initiative Event)

Section Chair Mr. Berman informed the Section that 50 individuals have registered to date for this event, which is packed with a list of great speakers, a CLE program led by the former women chairs of the Section, and the Kaye Scholars award program. The event will be held in the Ceremonial Courtroom at 500 Pearl Street, and 200-300 people are expected to attend. The entire New York Federal Judiciary and Judges from the New York State Court of Appeals, Appellate Divisions and Commercial Division have been invited. Mr. Berman also reminded Section members to spread the word to all interested persons that the deadline to apply for the Kaye Scholars program is 9/30/16.

New Section Newsletter with Schedule of Events

Mr. Berman invited Section members to review the Section newsletter with its newly created schedule of events and guest speakers. On October 26, 2016, the Executive Committee meeting will be held in Albany with Judge Leslie E. Stein as the guest speaker. Our November 16, 2016 meeting will be held in NYC with Justice Sylvia G. Ash as the guest speaker. Our December 15, 2016 meeting will be held in Syracuse, and U.S. District Judge Brenda K. Sannes will be our guest speaker.

January 24, 2017 Event

Mr. Berman described an upcoming program called “Evening at Thurgood Marshall Courthouse with the Second Circuit.” The purpose of the event is to foster a relationship between the Second Circuit and the Section, as well as with younger members of the State Bar. The event will include self-guided tours of the courthouse after remarks by Chief Judge Katzmann, Judge Castel and Claire Gutekunst, as well as *hors d’oeuvres* and cocktails and it will run from 5:00 to 7:30 pm.

Annual Meeting January 25, 2017

Section Vice-Chair Robert Holtzman provided an update on the Annual Meeting planning, which will include two CLE panels from 9 a.m. – 12 p.m. The CLE program topics include an ethics portion addressing current ethical issues in commercial litigation and an appellate practice portion, focusing on attacks on arbitration awards. At the annual meeting luncheon, the entire Second Circuit will be given the Fuld Award in honor of its 125th anniversary. Chief Judge

Katzmann will accept the award on behalf of the Second Circuit. Mr. Holtzman encouraged Section members to purchase their tables early, as they are likely to sell out.

Bench Bar Forums review

Mr. Berman summarized the New York County and Long Island Bench Bar Forums, which both had excellent attendance and were well reviewed. The Long Island Bench Bar Forum had 100% attendance from all Commercial Division Judges in Long Island. These programs will be held earlier next year (2017) so as to not conflict with graduations. The Section is exploring avenues to make these events more inclusive.

Treasurer's Report

Section Treasurer Deborah Edelman provided the Treasurer's report, and specifically noted that the Section lost money (just under \$7,000) on the Smooth Moves program held in April 2016. Ms. Edelman remarked that all committee members should keep the financial component in mind when planning programs. This opened a discussion among Executive Committee members about how events may be planned in a more cost-effective manner, which included obtaining more sponsorships, using less expensive venues, and rethinking the structure of programs to make them more attractive to younger attorneys.

Membership Initiative

Mr. Berman provided an overview of the Membership Initiative plan that he and Chair-Elect Mitch Katz worked together on. Plans to increase membership in the Section include enhanced communication and use of social media, cross-fertilization between our Section and other sections, meeting with local law students when the Section travels to Syracuse and Albany for Executive Committee meetings, providing increased editing responsibilities to law students of the newsletter, and creating more "associates only" webinar programs.

JAMS Partnership and "Practical Tips to Achieve Success in Mediating Employment Disputes" CLE event

Vice-Chair Robert Holtzman described an upcoming event titled "Practical Tips to Achieve Success in Mediating Employment Disputes" scheduled for October 13, 2016, where we would be partnering with JAMS. The event will be marketed to the Section, the Labor & Employment Section, and the Dispute Resolution Section. It will be held in conjunction with national mediation week and will run from 6 p.m. to 7:40 p.m. with food and drinks following.

Other Announcements

Section Chair Mark Berman noted that 150 people have registered for the "Legal Ethics in the Digital Age: Practical Strategies for Using Technology Ethically in Your Practice" CLE (scheduled for September 29, 2016). He also advised that there will be a January webinar by Jonathan Lupkin regarding the Commercial Division rules, as well as a future CLE addressing the state of President

Obama's Deferred Action Plan for Childhood Arrivals. Finally, the Section's Spring Meeting will be held on May 19-21 at the Gideon Putnam Hotel in Saratoga Springs.

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