

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

Minutes of the Meeting of the Executive Committee of the Commercial and Federal Litigation Section held in accordance with the rules of the New York State Bar Association on September 25, 2018.

Members Participating in Person

Robert Holtzman, Chair
Laurel Kretzing, Chair Elect
Anne Sekel, Treasurer
Mark Berman
Alan Brody
Michael Cryan
Richard Dircks
Ignatius Grande
Gerard Hathaway
Helene Hechtkopf
Jay Himes
Christie McGuinness
Karla Moskowitz
Syan Mott
Stephen Roberts
Jay Safer
Stephen Younger

Members Participating by Telephone

Michael Cardello III
Jonathan Fellows
Claire Gutenkunst
Frank Maas
Gregory LaSpina
Laura Sedlak
James Wicks

Section Chair Robert Holtzman called the meeting to order at 6:00 pm and welcomed SDNY Chief Judge Colleen McMahon as guest speaker at the meeting.

Motion to approve June 27, 2018 and August 14, 2018 Minutes

The minutes of both meetings were unanimously approved with certain changes. In the June 27, 2018 minutes, “Greg Avenson” should be changed to “Greg Aronson”; “Igantius Grande” should be changed to “Ignatius Grande” and “Hon. Carla Moskowitz” should be “Hon. Karla Moskowitz.” In the August 14, 2018 minutes, “August 14, 218” should be changed to “August 14, 2018”.

Update Regarding Second Meeting of the Standing Forum of International Commercial Courts

Stephen Younger provided a summary of the second meeting of the Standing Forum of International Commercial Courts. Mr. Younger explained that the meeting was attended by judges from 35 jurisdictions around the world. The focus of the meeting was an agreement on the enforcement of judgments across borders. Mr. Younger suggested that once the agreement is published, the Commercial and Federal Litigation Section should review and comment on it. Another issue discussed at the meeting was the effective use of technology.

Section Report on the Cross-Border Discovery Protocol

Stephen Younger discussed the Guidelines for Obtaining Cross-Border Evidence, which are meant to be a restatement of the law that provide black letter principles in a format that is short enough to read and use as a starting point for further research. The EC recommended that the first page of the guidelines should be revised to state that the Guidelines are a product of the Commercial and Federal Litigation Section and with that change, the Guidelines were unanimously adopted.

Proposed Name Change to the Com Fed Social Media Committee

Mark Berman reported that in April 2019, the fourth round of social media guidelines will be published. He also explained that the Social Media Committee had determined that due to changes in technology, and to ensure that the Committee keeps pace of such changes as reflected in its name, the Committee proposes to change its name to the Social Media and New Communication Technologies Committee. The proposal was unanimously approved.

Special Committee on Section Awards

Robert Holtzman reported that recipient selection committees for the Haig and Fuld awards are to be formed.

Review of Commercial Litigation for the General Practitioner CLE

Helene Hechtkopf reported that the General Practice CLE, which was attended in-person by approximately 25 attorneys. The General Practice section sponsored a light dinner and moderated the discussion. Ms. Hechtkopf also reported on the substantive nature of the program – i.e. a nuts and bolts CLE which identified questions to ask on client intake; how to budget and other similar topics. Ms. Hechtkopf further explained that the audience was highly interactive; the feedback was good; and the program is now available as a recording.

Annual Meeting Update

Jonathan Fellows reported that there would be two panels at the annual meeting in January. The first program will focus on litigating sexual harassment cases in the #metoo era and will include Gerry Hathaway; Kathleen Haratus; Saliann Scarpulla and others. The second panel will discuss negotiated NDAs and confidentiality agreements and will include Stephen Younger and Mohamad Faridi.

Update on “New Technologies: What Lawyers Need to Know” Program

Mark Berman reported on a recent CLE on new technologies which was attended by approximately 45 people. It consisted of two panels – the first on the admissibility of electronic technologies and the second on biometric data. Dentons co-sponsored the event.

Update on “Mediation Choices for Effective Mediation and Advocacy”

Robert Holtzman reported that a program on “Mediation Choices for Effective Mediation and Advocacy” was presented in collaboration with the ADR section.

Dispute Resolution Section Recommendation for Adoption by NYSBA HOD of ABA Resolution 105

Robert Holtzman reported that the Dispute Resolution section has asked that our section look at the recommendation and the resolution. The Dispute Resolution section intends to issue a report and present it to the delegates.

The meeting was adjourned at approximately 8:00 p.m.