

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, 2019.

Members Participating in Person

Laurel Kretzing, Chair

Jonathan Fellows, Chair-Elect

Natasha Shishov, Secretary

Anne Sekel, Treasurer

Robert Holtzman

Hon. Stephen Crane

Richard J. Dircks

Helene Hechtkopf

Stephen A. Hochman

Hon. Linda Jamieson**

Kevin Quarantino

Courtney Rockett

Maryann Stallone

Hon. Gretchen Walsh**

Travis Mock

Jeremy Vest

Marcella Jayne**

Jim Wicks

Matthew R. Maron

Members Participating by Telephone

Hon. Helen Freedman

Hon. Karla Moskowitz

Akan J. Brody

Michael Fox

Rachel Morgenstern

Stephen T. Roberts

Claire Gutekunst

Douglas T. Tabachnik

Michael S. Cryan

Viktoriya Liberchuk

Suzanne Galbato

Ignatius Grande

**Indicates guest attendees and speakers at the meeting

Section Chair, Laurel Kretzing, called the meeting to order at 6:03 pm.

Guest Speakers:

Hon. Linda Jamieson and Hon. Gretchen Walsh

Westchester County Supreme Court, Commercial Division

The Judges discussed the new presumptive ADR program that will be implemented in civil cases in Westchester Supreme Court, which will impact cases relating, but not limited to, corporate dissolutions, derivative actions, actions concerning closely held entities, employment agreements, commercial real estates (except Yellowstone injunctions), and construction litigation. A committee has been formed and draft rules for the Commercial Division in the 9th Judicial District, concerning this required mediation program. The rules will include protocols for mediation disclosure and set forth temporal guidelines, such as requiring completion of mediation within 45 days from the Order of Reference. The underlying litigation will not be stayed pending mediation. The program will contemplate an opt-out provision, which will require a showing of good cause and an imbalance of power.

The Judges also discussed their observation that there is a big difference in the quality of lawyering between commercial case and other cases. Both Judges have smart boards in their courtrooms, which make a difference for the attorneys that appear before them. They encourage attorneys to come in and test out the technology. When addressing the question of how the Bar can do better, both Judges responded that they would like to see more women appear before them and encourage firms to send female attorneys to court.

Review of June 26, 2019 Meeting Minutes (Tab 1)

With one change to the minutes (the addition of Jonathan Fellows to the attendance list) the minutes were unanimously approved.

Draft Report on Remote Conferencing in the Commercial Division

Travis Mock presented the report on the proposed changes to Rule 1 of the Commercial Division rules, which would permit, but not mandate, parties and attorneys to attend conferences remotely. An amendment to change the word “will” to “may” in the Rule and add a third paragraph to the Section recommendation portion of the Report was voted on and approved, with one abstention. After the amendment, the Report was unanimously adopted, with one abstention.

Shira A. Scheindlin Award for Excellence in the Courtroom Update

This annual event is scheduled for November 13, 2019 in the Ceremonial Courtroom of the Southern District of New York. Applications for the Kaye Scholarship have been distributed and the deadline to respond is October 16, 2019. The EC is encouraged to distribute the application to associates within their firms.

Annual Meeting Update

This year’s annual meeting is scheduled for January 29, 2020. Two panels have been lined up including panels on “Emerging Technologies in Litigation” and “Developments in Cannabis Litigation”. The EC is encouraged to purchase a table for the Section’s Annual Luncheon.

Report on the Kings Country Bench/Bar Forum

Barry Wadler presented on this program, which concentrated on diversity and how to improve your appearance in court by understanding implicit bias. CLE credit was offered. There were 30 people in attendance. Justice Ash and Knipel presented and light refreshments were served after the fact.

Commercial Litigation Academy Update

The Commercial Litigation Academy is scheduled for November 14-15, 2019. Rachel Mortgenstern will reach out to the Young Lawyers Section concerning co-sponsorship.

The Electronic Courtroom Program Update

This program, which follows the same program that was presented in New York County, is tentatively scheduled to take place in the Queens County Supreme Court on October 22, 2019.

Other Business

Justice Leonard B. Austin is updating the Pattern Jury Instructions. If anyone is interested in helping with the update, please reach out to Laurel.

The next EC meeting is scheduled for October 23, 2019. Justice Joel Cohen from the New York County Supreme Court, Commercial Division, will be our guest. A lot of reports will be presented. All members of the EC are encouraged to attend in person.

Kevin Quaratino discussed the program being prepared by the Young Lawyers Committee (scheduled for February 5, 2020), which will concentrate on tips for how young attorneys can navigate the work place. The goal of the program is to bring young attorneys and decision makers together to discuss topics specifically relevant to young attorneys.

Meeting Adjourned at 7:25.