

**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, May 10, 2017.

**Members Present:**

Mark A. Berman, Chair  
Robert Holtzman, Vice Chair  
Deborah Edelman, Treasurer  
Gregory Arenson  
Thomas Bivona  
Jeremy Feinberg  
Helen Freedman  
Richard Friedman  
Ignatius Grande  
Jay Himes  
Robert Holtzman  
Frank Maas  
Hon. Andrea Masley  
Hon. Karla Moskowitz  
Michael Rakower  
Stephen Roberts  
James Wicks  
Michael Cardozo\*  
Dwight Yoo\*\*

**Members Participating by Phone:**

Mitch Katz, Chair Elect  
Jamie Sinclair, Secretary  
Teresa Bennett  
Stephen Bennett  
James Bergin  
Jessica Clemente\*\*\*  
Janae Cummings\*\*\*\*  
Richard Dircks  
Beth Gould  
Henry (Hank) Greenberg\*\*\*\*\*  
Laurel Kretzing  
Carla Miller  
John Mitchell

Courtney Rockett  
Natasha Shishov  
David Tennant

*\*indicates guest speaker for the meeting*  
*\*\*President of the Asian American Bar Association*  
*\*\*\*indicates a Judith Kaye Scholar*  
*\*\*\*\* indicates the Section Diversity Fellow*  
*\*\*\*\*\*indicates a NYSBA executive committee member*

The meeting came to order at 6:05 p.m.

### **Welcoming Remarks**

Section Chair Mark A. Berman welcomed attendees to the meeting and thanked them for their participation, and introduced the guest speaker for the evening.

### **Guest speaker: Michael A. Cardozo, Partner, Proskauer, and Former Corporation Counsel to the City of New York**

Mr. Cardozo began by sharing events from his illustrious career as a former New York City Corporation Counsel, before turning to the subject of diversity. Mr. Cardozo first discussed his efforts at the Corporation Counsel to increase diversity. He then discussed efforts at promoting diversity at large law firms, specifically discussing current diversity initiatives at Proskauer. Mr. Cardozo also discussed unconscious bias and ideas of how to recognize it and to begin a dialogue within law firms on the topic. Finally, Mr. Cardozo discussed how to combat the “pipeline” issue by introducing diverse middle school students to the legal industry, including by partnering with groups like Legal Outreach. He also discussed Second Circuit Judge Robert Katzmann’s civic initiatives which have similar goals.

### **Approval of April 4, 2017 Meeting Minutes**

The April 4, 2017 meeting minutes were unanimously approved by all Executive Committee members present.

### **2017 Social Media Legal Ethics Guidelines Report**

Ignatius Grande advised that this is the third edition of the Guidelines, which were last updated two years ago in 2015. Mr. Grande provided an overview of the updates contained in the report, including technology competence, attorney advertising, positional conflicts and the addition of an extensive appendix. The report was unanimously approved by all members in attendance.

## **Report on the Proposed Amendment of Commercial Division Practice Rules 10 and 11 to Address Alternative Dispute Resolution**

Teresa Bennett advised that this report require counsel to certify that they have discussed the availability of ADR with their clients, and to provide a date by which a mediator will be selected. The proposed amendments are designed to encourage the use of ADR and ensure that clients are aware of this option. The report was unanimously approved by all members in attendance, except for Deborah Edelman, who abstained.

## **Report on the Proposed Revised Model Compliance Conference Stipulation and Order Form for Use in the Commercial Division**

Teresa Bennett advised that this proposed revised rule (which amends the model compliance conference order) will not be mandatory, but that it will be up to individual justices to use. The proposed order requires the signature of all counsel. After agreeing to several minor changes to the report and suggested minor changes to the model compliance conference order, all members unanimously approved the report in attendance, except for Deborah Edelman who abstained.

## **Spring Meeting update: May 19-21, 2017**

Mitch Katz provided an update on number of registrants and speakers planned for the Spring Meeting weekend, where Seymour James will be presented the Haig award. Mark Berman provided an update on the Women's Initiative ad hoc committee which will meet on Saturday afternoon to discuss their groundbreaking draft report on women in the courtroom and ADR. The final report is expected to be presented to the Executive Committee in June.

## **Kings County Commercial Division Meet and Greet at Brooklyn Law School**

Mr. Berman summarized this successful event held at Brooklyn Law School, which was attended by Justices Knipel and Ash and several other Supreme Court Justices from Brooklyn. There were 54 attendees, and Mr. Berman indicated that Dean Allard spoke and that he invited the Section back to hold a Commercial Division Rule update program next year

## **Smooth Moves 2017 Report**

Carla Miller reported that the 11<sup>th</sup> annual Smooth Moves Program held on April 24, 2017 was a huge success. The CLE's theme was how clients can partner with law firms to enhance and encourage diversity. The event was very well received. The program which was transcribed will be posted to the Section's webpage. There was a discussion that, while the program was one of the best ever, there is need to improve attendance, including starting the event at 6pm.

### **Com Fed Commercial Litigation Academy**

Mark Berman advised that this year's litigation academy was attended by 140 people and was a great success. Mr. Berman further advised that he took out four Kaye Scholars for dinner after the first day of the program along with Laurel Kretzing and Sandra Rampersaud and the two chairs of the Women in the Law Committee.

### **Federal Law Clerks "Meet and Greet" - May 23, 2017**

The Section is hosting a cocktail party for all federal law clerks in Manhattan and Brooklyn as part of its efforts to increase young membership in the section. Forty clerks have signed up so far, and Chief Judges McMahon and Irizarry, along with Claire Gutekunst will be in attendance.

### **Long Island Commercial Division Justices Annual Program with Practitioners Update**

Laurel Kretzing advised that this program is scheduled for June 14, 2017 and will be attended by almost all of the Long Island Commercial Division Justices as well as A. Gail Prudenti, who recently was named Dean of Hofstra School of Law.

### **Upcoming CLE Programs**

Mark Berman summarized upcoming Section CLE events, which will address topics such as the Social Media Legal Ethics Guidelines, legal ethics in the digital age, confidentiality and protective orders, drones and more.

### **NYSBA Report and Recommendations Concerning Whether New Yorkers Should Approve the 2017 Ballot Question Calling for a Constitutional Convention Adopted by the Committee on the New York State Constitution**

Henry M. Greenberg updated the Committee on the status of the Report and Recommendations addressing whether there should be a New York State constitutional convention which would address reforms to the judiciary article. Mr. Greenberg viewed that the benefits of having a convention outweigh the attendant risks. The Section will consider drafting a report endorsing NYSBA's report and recommendation.

### **Treasurer's Report**

Deborah Edelman provided an update on the Treasurer's Report, indicating that NYSBA had provided the final statement for the calendar year ending 2016. The final statement indicated a \$7,400 deficit for the year. The deficit was funded out of

the Section's surplus, and the amount of the deficit was viewed as de minimis given the total Section budget and the magnitude of the programs funded in 2016. Reference was made to the Section's surplus, which remains significant notwithstanding a "reserve" for the commitment of \$10,000 to each of the four federal district courts to fund business and commercial litigation programs.

The meeting concluded at approximately 8:30 p.m.