

**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.

**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 February 13, 2018.

**Members Participating in Person**

Mitch Katz, Chair  
Robert Holtzman, Chair-Elect  
Laurel Kretzing, Vice-Chair  
Sandra Rampersaud, Treasurer  
Matt Aaronson  
Tom Bivona  
Sam Blaustein  
Alan Brody  
Hon. Melissa Crane  
Deborah E. Edelman  
Hon. Helen Freedman (Ret.)  
Richard Friedman  
Ignatius Grande  
Hon. Marguerite Grays\*  
Tony Harwood  
David Holanan\*\*  
Gregory Laspina  
Nicole McGregor\*  
Hon. Karla Moskowitz  
Michael Rakower  
Hon. Joseph Risi\*\*  
Natasha Shishov

**Members Participating by Phone**

Jamie Sinclair, Secretary  
James Bergin  
Suzanne Galbato  
Laura Sedlak  
Jim Wicks

*\*indicates non-executive committee member*

*\*\* indicates guest speaker for the meeting*

Section Chair Mitch Katz called the meeting to order at 6:00 pm and introduced Justice Risi, the newest commercial division judge in the State of New York who was just appointed to the Queens County Commercial Division. Justice Risi is a Judge of the Court of Claims and Acting Supreme Court Justice.

**Guest Speaker: Justice Grays (Queens County Supreme Court Commercial Division)**

Justice Grays provided an overview of the Queens County Commercial Division. Justice Grays advised that the Commercial Division's docket in Queens is heavily weighted with corporate dissolution and construction cases. The Queens Supreme Court currently has three dedicated Commercial Division judges: Justices Risi, Livote and Grays. Due to the Court's high case load, the Court stresses moving cases expeditiously and adheres to the Commercial Division rules. The Court also encourages early mediation of cases. Justice Grays's law clerk handles most telephone conferences, which cuts down on motion practice before the Court. Justice Grays also noted that practitioners are advised to appear for court conferences well prepared and fully familiar with the facts and history of the case. A discussion ensued regarding the current trend towards encouraging younger lawyers to appear at court conferences in the commercial division.

**Motion to approve January 4, 2018 Minutes**

The January 4, 2018 were unanimously approved.

**Treasurer's Report**

Sandra Rampersaud summarized the 2017 treasurer's report and advised that the current surplus is \$167,168, (which is effectively \$127,168 after the \$40,000 commitment to the courts is extracted). The Section should continue its focus on increasing membership. Income from meetings over the past year came to \$114,289, which was largely attributed to the Scheindlin Event and the Spring Meeting.

**Evening at Thurgood Marshall Recap**

This second annual event was held on January 23, 2018, the night before the Section's Annual meeting, and included a cocktail hour, tours of the Court and remarks by Chief Judge Robert A. Katzmann. The event was held at the Thurgood Marshall Courthouse from 5:30 to 7:30 p.m and approximately 50 people attended.

**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.

**Annual Meeting Update**

The Annual meeting was held January 24, 2018 at New York Midtown Hilton where the Section presented Justice Ramos with the Fuld Award and Michael Miller following the two morning CLE programs.

**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. Members are encouraged to register for the weekend.

**Other Business**

The Section has several upcoming CLE events including Legal Ethics in the Digital Age (March 13, 2018), the Use of Social Media and its Legal Ethics (March 21, 2018) and the Smooth Moves Program (April 10, 2018). The Section is also planning a CLE program on the basics of Commercial Division Litigation and a webinar series on the basics of trial practice and procedure.

The meeting adjourned at approximately 7:45 p.m.

**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 April 26, 2018

**Members Participating in Person**

Mitch Katz, Chair  
Robert Holtzman, Chair-Elect  
Laurel Kretzing, Vice-Chair  
Tom Bivona  
Clara Fleebus  
Hon. Helen Freedman (Ret.)  
Hon. Frank Maas (Ret.)  
Ryan Mott  
Matthew Pener  
Jay Safer  
Natasha Shishov  
Karen Steel  
Steve Younger  
Jim Wicks

**Members Participating by Phone**

Jamie Sinclair, Secretary  
Sandra Rampersaud, Treasurer  
Mark Berman  
Alan Mansfield

*\*indicates non-executive committee member*

*\*\* indicates guest speaker for the meeting*

Section Chair Mitch Katz called the meeting to order at 6:00 pm and introduced the guest speakers for the meeting, SDNY Magistrate Judges Lehrburger and Aaron.

**Guest Speakers SDNY Magistrate Judges Lehrburger and Aaron**

The guest speakers were SDNY Magistrate Judges Lehrburger and Aaron, who discussed how they are adjusting to the responsibilities of their new roles. They also provided suggestions for practice, especially regarding how to obtain a shorter wait time for trials. The guest speakers also discussed the breadth of cases on their dockets and structuring of their chambers, and took questions from attendees.

**Motion to approve March 15, 2018 Minutes**

The March 15, 2018 meeting minutes were unanimously approved.

### **International Discovery Protocols Report adopted**

The International Discovery Protocols were adopted. It was noted that the international community is interested in additional information relating to technology and the courtroom.

### **CD Report re: Proposed Amendment re: Immediate Trial or Pretrial Evidentiary Hearing on a Material Issue of Fact**

Theresa Bennett discussed this draft report regarding the proposed rule 9-a which encourages parties and counsel to take advantage of the authority judges already have under the CPLR to order an immediate trial of material issues of fact. The report was unanimously adopted.

### **CD Report: Proposed Amendment re: Addressing Technology-Assisted Review in Discovery**

Matt Maron discussed this draft report regarding the proposal is to amend rule 11-e to formerly implement protocols including technology assisted review in discovery and encrypted coding. The report was unanimously adopted.

### **CD Report Proposed Amendment re: Word Limits in Papers**

Matt Maron discussed this draft report regarding the proposed amendment to rule 17 regarding changing page limits to word limits. The report was unanimously adopted.

### **Smooth Moves**

Mitch Katz advised that the Smooth Moves Program was an excellent success, with a fantastic panel discussion and presentation of the George Bundy Smith award to Hon, Eric D. Holder, Jr., the 82<sup>nd</sup> Attorney General of the United States.

### **Spring Meeting**

Robert Holtzman reported that 130 people had registered for the Spring Meeting, which is scheduled for May 4-6, 2018. All members are encouraged to attend.

### **Other Business**

Mitch Katz provided an update on various matters including NYSBA membership decline, Judge Schechter's appointment as the newest Commercial Division justice, and the Kings County Bench and Bar program held at Brooklyn Law School. Additionally, on May 24, 2018 a lunch series will take place at Queens Supreme, with Justices Gays, Livote and Rici in attendance. A CLE program is scheduled for June 21<sup>st</sup> in Westchester featuring a mock hearing in a new commercial division high tech courtroom with Justices Walsh and Jamison.

The meeting adjourned at approximately 7:45 p.m.



**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 June 27, 2018

**Members Participating in Person**

Robert Holtzman, Chair  
Laurel Kretzing, Chair Elect  
Natasha Shishov, Secretary  
Stephen Roberts  
Mark Davies  
Greg Aronson  
Ron Hedges  
Laura Deslak  
Alan Brody  
Hon. Helen Freedman (Ret.)  
Tony Harwood  
Frank Maas

**Members Participating by Phone**

Jonathan Fellows, Vice Chair  
Anne Sekel, Treasurer  
Mark Berman  
Alan Mansfield  
Ignatius Grande  
Vince Syracuse  
Hon. Karla Moskowitz (Ret.)

Section Chair Robert Holtzman called the meeting to order at 6:00 pm and congratulated former Chair, Mitch Katz, Secretary Jamie Sinclair, and Treasurer Sandra Rampersaud, on their leadership last year. The Chair introduced the new officers of the Section and provided a summary of the former Chairs dinner, held on June 25, 2018.

**Motion to approve April 26, 2018 Minutes**

The April 26, 2018 meeting minutes were unanimously approved.

**Bench Bar Forum Update**

Mark Berman gave an update on several bench/bar programs the Section has been hosting around the State. In April, a program was held at Brooklyn Law School, which had approximately 30 to 40 attendees, including Judge Lawrence Knipel, Judge Sylvia Ash and several other judges. A second program was held in Buffalo, which had approximately 22 attendees, including Judge Deborah Chimes and Judge Henry Novack. A third program was held in Queens, which had approximately 40 attendees, including Judges Marguerite Grays, Leonard Livote and Joseph Risi.

Follow up letters to attendees were sent after the Queens and the Buffalo programs. A bench/bar program is scheduled to take place in Syracuse in July.

### **The 21<sup>st</sup> Century Courtroom: Using Integrated Courtroom Program Update**

Mark Berman gave a summary of this CLE program, which was held at the Supreme Court, Westchester County. Judge Linda Jamieson and Judge Gretchen Walsh participated in the program, which featured a mock traverse hearing in a new commercial division high tech courtroom. There were approximated 35 attendees.

### **House of Delegates Update**

Mark Berman gave a House of Delegates update. The President's Reports, presented at the HOD, highlighted a number of task forces that have been implemented by the NYSBA President, Michael Miller, including: (1) task force that will be dealing with personal attacks on the judiciary; (2) task force concerning judicial candidates; (3) task force to update the report on wrongful convictions; (4) task force concerning the incarceration release programs; (5) task force concerning mass shootings and assault weapons; (6) task force put together to assess the roll of paralegals and prepare NYSBA guidelines on paralegals; and (7) working group established concerning the enactment and modification of laws concerning and affecting Puerto Rico.

The following reports were also presented and approved at the HOD: (1) A report recommending an amendment to Article 18B of the County law, which would increase the sign counsel rates and provide for annual adjustments to Article 18B Attorneys; (2) the NYSBA Women in the Law Committee will be converted to a Women in the Law Section; (3) a report recommending that Puerto Rico be permanently exempt from the Jones Act.

### **Report on the Proposed Revisions to Civility Standards**

Tony Harwood discussed this draft report regarding proposed revisions to the Civility Standards. The EC recommended that the words "best of their abilities" be removed from paragraph 7B and with that change, the report was unanimously adopted.

### **Proposed revisions to the Com Fed Bylaws**

Robert Holtzman discussed proposed revisions to the Bylaws of the Section. The report and revisions were unanimously approved and adopted.

### **Other Business**

Ron Hedges discussed CLE programs scheduled for 10/30 through 11/2, the theme of which will be technology. Reminders to the EC will be sent out.

Robert Holtzman announced that the EC officers will be in touch with committee chair throughout the summer to discuss committee goals for the upcoming bar year.

Robert Holtzman also addressed the issue of membership and encouraged EC members to invite and bring a new person to an event and act as their sponsor.

The meeting adjourned at approximately 7:05p.m.

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

Minutes of the Telephonic 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 August 14, 2018

**Members Participating by Phone**

Robert Holtzman, Chair

Jonathan Fellows, Vice Chair

Anne Sekel, Treasurer

Natasha Shishov, Secretary

Mitch Katz

Karla Moskowitz

Alan Mansfield

Lauren Sedlak

Stephen Roberts

Paul Sarkozi

Helen Freedman

Greg Arenson

Theresa Bennett

Mark Berman

Jay Himes

Courtney Rockett

Jay Safer

Section Chair Robert Holtzman called the meeting to order at 6:01 pm

**Report on the Proposed Amendment to Rule 3 of the Commercial Division Rules**

A draft report regarding the proposed amendment to Rule 3 of the Commercial Division Rules was presented. The report was adopted with 16 in favor and 1 abstention.

The meeting adjourned at approximately 6:12p.m.

**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.

**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 November 27, 2018.

**Members Participating in Person**

Robert Holtzman, Chair  
Laurel Kretzing, Chair-Elect  
Mark Berman  
Hon. Melissa Crane  
Tracee Davis  
Deborah Edelman  
Tony Harwood  
Helen Hechtkopf  
Jay Himes  
Hon. Deborah Kaplan\*\*  
Joan G. Levenson\*\*  
Frank Maas  
Rachel Morgenstern  
Karla Moskowitz  
James Wicks

**Members Participating by Telephone**

Jonathan Fellows, Vice-Chair  
Teresa Bennett  
Jay Safer

*\*\*Indicates Guest Speaker for the meeting*

Section Chair Robert Holtzman called the meeting to order at 6:00 pm and welcomed Administrative Judge of the New York County Supreme Court, Civil Branch, Deborah A. Kaplan as guest speaker at the meeting.

**Guest Speaker: Justice Kaplan (Administrative Judge of the New York County Supreme Court, Civil Branch)**

After being introduced by the Chair, Justice Kaplan described her background leading up to her current role as Administrative Judge for Civil Matters in the First District. She introduced the two newly appointed New York County Commercial Division justices and described numerous initiatives being undertaken in Manhattan, including a focus on commercial cases that do not meet the jurisdictional requirements of the Commercial Division (so-called “non-Commercial Division commercial cases”) and recent improvements to the Court’s alternative dispute resolution program. In particular, Justice Kaplan explained that the roster of neutrals for the ADR program was recently reviewed and revised to ensure that high-quality neutrals are available to parties.

Members of the Executive Committee discussed several programs that might be of service to the bench and the bar, including a program regarding the litigation of non-Commercial Division commercial cases in New York County and a program demonstrating the cutting-edge technology that has been installed in Justice Scarpulla's courtroom at 60 Centre Street.

### **Motion to approve September 25, 2018 Minutes**

The September 25, 2018 minutes were unanimously approved.

### **Oral Report of Nominating Committee**

Robert Holtzman reported that the Nominating Committee had selected Daniel Wiig, currently co-Chair of the Publications Committee and Editor of the New York Litigator to serve as Vice-Chair of the Section for 2019-2020.

### **Section Allocation to District Court Educational Efforts**

In 2014, the Section implemented a special one-time "Excellence in Federal Business Litigation" initiative. The Section earmarked up to \$40,000 of surplus funds (\$10,000 for use in each of the United States District Courts in New York State) to present CLE program, training and pilot project initiatives in business litigation. The goal was to advance the relationship between the Section and the Federal bench.

The Section has now agreed with the Western District of New York (subject to required approval of the NYSBA Finance Committee) to allocate \$10,000 in funds to defray the costs of training 53 attorneys who recently were appointed to the District's ADR panel of neutrals.

### **Review of the Shira A. Scheindlin Award for Excellence in the Courtroom Event and Reception**

Robert Holtzman provided a summary of the Shira A. Scheindlin Award for Excellence in the Courtroom event, which took place on November 15, 2018. The Honorable Judith S. Kaye Commercial and Federal Litigation Scholarships were presented to four Kaye Scholars, each of whom is invited to attend the 2019 Commercial Litigation Academy. The Honorable Shira A. Scheindlin Award for Excellence in the Courtroom Award was presented to Rita Glavin of Seward & Kissel LLP and Diane M. Perri Roberts of Lipsitz Green Scime Cambria LLP. Viva Chen, of The Careerist and The American Lawyer, was the keynote speaker and there was a networking cocktail reception after the awards presentation.

Notwithstanding an early-season major snowstorm, there were approximate 60 attendees at this inspiring event celebrating the successes of outstanding women litigators.

### **Evening at Thurgood Marshall Courthouse Event Update**

Laurel Kretzing provided an update on this third annual event, which will be held on January 15, 2019, the night before the Section's Annual Meeting, and will include a cocktail hour, tours of the Court and remarks by Chief Judge Robert A. Katzmann. The event will be held at the Thurgood Marshall Courthouse from 5-7:30pm.

### **The Annual Meeting Update**

Jonathan Fellows provided an update on the Section's Annual Meeting, which will be held on January 16, 2019 at the New York Midtown Hilton.



### **Review of “The Use of Social Media and its Legal Ethics” CLE**

Mark Berman reported on the CLE program that took place on October 4, 2018 at Maurice A. Deane School of Law at Hofstra University, which concerned social media and legal ethics. There were approximately 40 attendees from firms around Long Island. Local attorneys served as panelists and the former Presiding Justice of the Second Department, Randall T. Eng spoke at the program. NYSBA sent down two people to monitor the registration desk and to recruit. It was an abbreviated CLE predicated upon our semiannual digital ethics CLE.

### **JAMS/ComFed Program: Resolving E-Discovery Disputes Efficiently In Arbitration and In Court**

JAMS and ComFed are teaming up to repeat this program, which was first held in April 2018. The program will be held during Legal Tech week in Manhattan, just a few blocks down Sixth Avenue from the hotel where the conference is held, and the goal is to attract attendees who have not previously participated in Section events. Two panels will be presented: E-Discovery Issues in Arbitration, and the Use of Special Masters and E-Discovery Mediators in Connection with Court Litigation

### **Report on Mediation Advocacy Training Program**

Robert Holtzman reported on this program, which took place on October 29, 2018 at New York Law School. This full-day program was a joint effort of the Section and the Dispute Resolution Section, and each panel featured a combination of neutrals and commercial advocates (many of whom are active members of our Section). The program focused on training advocates on how to more successfully employ mediation to resolve disputes. It was extremely well-received, and plans are underway to repeat the program, perhaps in a slightly shorter format, in 2019.

### **Other Business**

The Chair introduced Rachel Morgenstern of the Jaspan Schlesinger, LLP, who has been appointed as the Young Lawyer Section’s liaison to the Commercial and Federal Litigation Section.

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

**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 December 19, 2018.

**Members Participating in Person**

Laurel Kretzing, Chair-Elect  
Natasha Shishov, Secretary  
Jeremy R. Feinberg  
Kevin J. Quaratino  
Hon. Andrea Masley  
Mark Berman  
Hon. Karla Moskowitz  
Daniel Wiig  
Stephen G. Crane  
Ryan Mott  
J. Joseph Bainton  
Paul D. Sarkozi  
Hon. Melissa Crane  
Clair P. Gutekunst  
Stephen Crane  
Gregory K. Arenson  
Hon. Frank Maas  
Michael S. Oberman  
Hon. Rolando Acosta\*\*  
Hon. Helen Freedman  
Gerald Hathaway

**Members Participating by Telephone**

Robert Holtzman, Chair  
Jonathan Fellows, Vice-Chair  
Anne Sekel, Treasurer  
Jonathan Lupkin  
Jeffrey Harradine  
Rachel Morgenstern  
Alan Mansfield  
Jay Safer  
Teresa Bennett

*\*\*Indicates Guest Speaker for the meeting*

Section Chair-Elect, Laurel Kretzing, called the meeting to order at 6:06 pm and welcomed the Presiding Justice of the Appellate Division, First Department, Honorable Rolando Acosta as guest speaker at the meeting.

**Guest Speaker: Hon. Rolando Acosta (Presiding Justice of the Appellate Division, First Department)**

Justice Acosta discussed the developments of the First Department, which have been focused on reducing pending appeals, modernizing the court with live e-filing and live streaming and promoting transparency between the bench and bar. He explained that the First Department has over 3600 appeals in the last academic year, which is attributable to the Judges, the staff and the unique calendaring system of the First Department. The term system permits litigants to have a better sense of timing. A litigant can perfect his/her appeal for a specific term and be assured that in most cases, the appeal will be argued in that term and a decision will be rendered in four to six weeks after oral argument.

Justice Acosta then highlighted the various modernizations to technology that have been recently implemented at the First Department, including the replacement of computer servers, which were ten to fifteen years old, the new live streaming capabilities, a new electronic device policy, which permits lawyers to use tablets, phones and computers during oral argument and the e-filing of appeals in commercial cases. E-filing will be expanded to tort cases in February or March 2019.

Finally, Justice Acosta discussed the new Appellate Division rules, which went into effect on September 17, 2018. The new rules are State wide and create certain uniformity amongst all four departments. The biggest change for the First Department is that under the new rules, litigants now must perfect their appeals within six months instead of nine months. Appeals that are not perfected within six months are deemed dismissed and litigants will have one year to file motion to vacate. The First Department's unique term system has not been affected by the new rules.

**Motion to approve November 27, 2018 Minutes**

The November 27, 2018 minutes were unanimously approved.

**Oral Report of Nominating Committee**

Jonathon Fellows presented the report of the nominating committee, which nominated the following slate of officers for the 2019 to 2020 bar year: 1) Laurel Kretzing, Chair, 2) Jonathan Fellows, Vice-Chair, 3) Natasha Shishov, Secretary, and 4) Anne Sekel, Treasurer. The report was unanimously adopted and will be presented at the annual meeting.

**Commercial Division Committee Update on Bench-Bar Programing for 2019**

Mark Berman and Teresa Bennet presented an update on the upcoming Bench-Bar Programing for 2019. Teresa Bennet will be organizing bench-bar lunches in Buffalo, Syracuse and Rochester, which will be held at local bar associations instead of law firms. Lunches will also be scheduled at Nassau, Suffolk, Queens (which will be the first time for Queens) Brooklyn and Albany. The Manhattan bench/bar will be held in May 2019 because the New York County Commercial Division has two new judges. Finally, the committee hopes to recreate last year's program at Westchester Supreme Court, which included a live hearing demonstrating the use of technology in the court room.

### **NYSBA Special Committee on Cross-Border Evidence Guidelines Report**

Ryan Mott presented the report and proposed amended guidelines on behalf of the special committee. The guidelines were presented to and approved by the International Law Section on December 18, 2018. Members presented several proposed amendments and, subject to the amendments, the report was approved, with all voting to approve and one abstention.

It was also agreed that the report should be presented to the NYSBA Executive Committee in April instead of January and the report be sent to the Section Caucus for input.

### **JAMS/ComFed CLE Program Update**

Mark Berman presented an update on a CLE program that will be held in conjunction with JAMS. This is the same program that was presented last year. There will be two panels: the first will deal with e-discovery and arbitration and second will deal with special masters. The cost will be \$75 for NYSBA members and \$50 for Com Fed members. Non-member will be charged \$275, but that will include NYSBA membership.

### **Evening at Thurgood Marshall Courthouse Event Update**

Laurel Kretzing provided an update on this third annual event, which will be held on January 15, 2019, the night before the Section's Annual Meeting, and will include a cocktail hour, tours of the Court and remarks by Chief Judge Robert A. Katzmann. The event will be held at the Thurgood Marshall Courthouse from 5-7:30pm. Rachel Morgenstern, the liaison to the Young Lawyers Section, will attempt to get YLD co-sponsorship and the cost for YLD members would be \$25 instead of \$35.

### **The Annual Meeting Update**

Jonathan Fellows provided an update on the Section's Annual Meeting, which will be held on January 16, 2019 at the New York Midtown Hilton. So far, 63 people have signed up for CLE and 168 have signed up for lunch, with 16 tables reserved. Second Circuit Judge Richard J. Sullivan will be the honoree at the lunch.

### **Other Business**

Mark Berman discussed a new initiative in the Federal Courts. \$10,000 has been reserved for each of the four districts. ComFed has formally submitted the request to the finance committee. This will be used towards implementing programs as well as mediation training in Buffalo and Rochester for commercial cases.

The meeting was adjourned at approximately 7:45 p.m.