

ACES SECTION MINUTES 2005-2006

STATE BAR OF MICHIGAN Arts, Communications, Sports and Entertainment Law Section Minutes, Annual Meeting, September 23, 2005

Members Present: Tom Silvia, Howard Hertz, Claudia Morcom, Stephanie L. Hammonds, John Willems, Krummell W. Knox, Richard Hasley, Rick Herman, Henry Clay, Pamela Osborne, Duane Lewis, Neil J. Lehto, Jeffrey Richardson, Barbara Cash, Ethan Yale Bordman

Meeting Called to Order at 6:20 pm

I. Additions to Agenda

Suggestions were made to make a donation to Hurricane Katrina victims that are involved in the Arts and Entertainment fields. \$250.00 was approved with the new ACES Chairman, John Willems, given the ability to decide which organization to give the funds to. Howard Hertz suggested giving the funds to MusiCares, which is the organization through the Recording Academy created to help the arts community that were victims of Hurricane Katrina. John Willems agreed and Howard suggested we announce the donation at the upcoming Boogie Woogie Music Festival as a precursor to encourage persons at the event to also give. This was approved.

II. Remarks from 2004-2005 Chair Richard Todd Hasley

Richard thanked everyone for the opportunity and support for a great year and looks forward to another great year with John Willems as Chair.

III. Introductions for 2005-2006 - Chair John H. Willems and 2005-2006 Officers

The following persons were approved in the following positions for the 2005-2006 year:

John H. Williems – Chair
Duane Lewis – Chair elect
Tom Silvia – Treasurer
Ethan Yale Bordman – Secretary

John stated he is looking forward to a great year and as discussed in Section VII, below, wants to have accomplish a project this year to benefit all ACES members.

IV. Treasurer's Report

Outgoing treasurer Duane Lewis stated we are receiving \$20 per member with an estimated 400 members. We are estimating spending \$2,300 on the Hensel Award this year to take place at the Community House in Birmingham on Friday, October 21, 2005 from 6:30 PM - 9:30 PM. The treasurer's report was approved.

V. Presentation of 2005-2006 Schedule and Projects

John suggested scheduling all meetings for 2005-2006 as soon as possible to allow for people's schedules. He also suggested that anyone who did not receive an e-mail for today's meeting contact Susan McMann at 517.346.6367, or by email at smcmann@mail.michbar.org to be added to Listserve from the State Bar of Michigan.

John also stated he wants the section to do something this year that will benefit all ACES members. A suggestion was made to create an informational CD/DVD. Jeff Richardson made a suggestion for the informational "handout" to contact distinctions arts related law from the 6th Circuit Court. Rick Herman made a suggestion to have a book that contains ACES related legal forms.

Duane stated we should also create a strategy to get more ACES members involved. Tom Silvia stated we should give ACES memberships to law students to get them involved while in school to encourage new members. John concluded a committee be created to address this. A "projects" committee consisting of all ACES officers and Neil Lehto will address this and the "handout" project discussed above.

VI. Old Business

Right to publicity statute – draft by ACES Randy Richardville from the State Legislature who spoke at a previous meeting. For the proposed statute to be passed it will be necessary to have an estimated four attorneys and two students/clerks to assist in creating the appropriate materials. Jeff Richardson, Kurmell Knox, Stephanie Hammonds and Todd Hansley all volunteered as the appropriate attorneys.

Hensel award will be given to Rick Herman for his past efforts and hard work in the arts community. The presentation will be at the Community House in Birmingham on Friday, October 21, 2005 from 6:30 PM - 9:30 PM.

VII. New Business

A film distribution seminar with Beverly Hills, CA lawyer and author Mark Litwak entitled Financing and Distributing Independent Films will be held at Wayne State University on Saturday, October 15, 2005 from 9:00am – 5:00pm. John made the suggestion that ACES purchase some tickets for students at the five Michigan law schools. After discussion it was decided to have ACES pay \$40 to the first 10 students who contact John, which would require each student to pay \$60. This motion was passed.

Motor City Music Foundation – Howard Hertz stated the Recording Academy will be sponsoring a monthly showcase for local talent and he will keep ACES members informed to attend.

VIII. Adjournment – 8:20pm

A.C.E.S.
Minutes November 16, 2005
Meeting at Miller Canfield – Troy Office

Members Present:

Mindy Schwartz, Dan Matson, John Willems, Duane Lewis, Neil J. Lehto, Larry Jordan, Barbara Cash, Len Charla, Henry Clay, Ethan Yale Bordman

IX. Introductions – Meeting Began at 6:08pm

X. Additions to Agenda

Barbara Cash made a motion to approve the September meeting minutes upon the addendum that the person who makes a motion and seconds such motion be added to the September minutes at each appropriate motion. Duane Lewis seconded the approval of the minutes per this change.

XI. Minutes and Treasurers Report

John Willems noted that, as stated above, future ACES meeting minutes should contain the names of persons who make various motions and those that seconded such motions. The ACES secretary noted this and will amend the September 2005 minutes to include this information.

XII. Chairpersons Report

John Willems addressed the “project” for the year that is to be of benefit to ACES members. He stated that a majority of ACES members have practices that are incidental to Arts, Communications, Entertainment & Sports. The “project” will be a resource manual for members when ACES related work arises.

John also addressed strategic planning for long-term goals and objectives. Neil Lehto and the ACES board had a conference call on November 10, 2005 to begin this process. Updates and more detailed planning will occur soon.

John passed out the ACES by-laws and stated he is getting on track to focus on these regulations and to revive participation in the section. He also extended thanks to Neil Lehto who later this evening would be making a presentation about Pending Telecommunications Legislation. John hoped we could have more people, both members and non-members, continue to keep us updated on unique fields related to ACES.

XIII. Presentation by Neil Lehto – Pending Telecommunications Legislation

Neil began by stating how technology helps to lead the law as technology occurs first and then the law is created to follow areas legislators could not anticipate. He recalled in 1966 when Home Box Office (HBO) was introduced creating pay television. Once this experiment (of pay TV) took off toward the end of the 1970’s the creation of “systems” of in home entertainment took place in various areas of the United States. Broadcasters and the entertainment industry (film) thought this concept was crazy however the “systems” became successful moving quickly from urban to non-urban areas. These “systems” were originally designed for better reception (cable) yet began to provide more variety in programming.

Eventually America On Line (AOL) came along with limited phone lines and long distance bills to connect to the Internet. Soon SBC and other companies dictated the policies needed to be adopted to get a national point-to-point broadband connection. The original policy by the

government was “if it worked we would not regulate it.” For example, deregulation allowed other communication related items, such as delivery of entertainment materials, could be added to phone lines to use this information pipeline. What soon occurred was the convergence of “let them have it,” as in let the public have what they want.

On a federal level SBC is now telling Congress we want to help finish a worldwide broadband network but need permission to compete by lifting laws regarding franchising required by use of local stations. Local stations will not do so. National franchise occurs when Congress goes against regulated industries and conflicting constitutional regulations such as interstate commerce. For example, interstate commerce will state a cable must be 13” off the ground while the local ordinance will say 6” off the ground. In order to address this problem SBC and Verizon are trying to get rid of local industry to help foster easier regulations. Neil concluded by stating competition keeps telecommunications regulations and telecommunication companies on their toes to advance technology and keep price competitive.

XIV. Old Business

Right to publicity statute

Barbara Cash moved to table this subject, as Jeff Richardson was not present. Duane Lewis seconded with the motion passing.

The Hensel Award

Congratulations to this year’s recipient Rick Herman. Special thanks went to the Hensel Planning Committee comprised of Larry Jordan, Jeff Richardson, Elizabeth Dumachelle, Dan Mattson, and Len Charla for a successful and enjoyable event. Discussions took place about collecting information for the history of Robert Hensel, which Len Charla volunteered to collect and provide for the next ACES newsletter. It was also noted how there currently exists a standing committee for the Hensel award which saves time and makes the event more efficiently planned.

XV. New Business

Annual Report

The Annual Report for 2004-5 should have been filed with the State Bar and was not done so. This report is normally sent in August to address the previous years event’s, which are included in the August issue of the Bar Journal and the September State Bar Annual Meeting.

Strategic Planning

A conference call took place on November 10, 2005 with Neil Lehto and the ACES board to discuss ACES strategic planning. The call was successful and more meetings will occur in the future to address long-term goals and planning.

ACES Website

Len Charla suggested putting an ad in the State Bar Journal to remind ACES members to have their names added on ListServe. Neil made a suggestion that ACES website have links to entertainment related associations, in particular local, such as ArtServe. Henry stated he would handle these links with Mindy Schwartz providing a list of ACES related websites. John wants to create a committee to update the site. Duane Lewis, Ethan Yale Bordman, Mindy Schwartz and Henry Clay volunteered to comprise the Website Planning Committee.

ACES Council

Len Charla explained the ACES council structure comprising of subcommittees of membership, publications, projects and the Hensel Award. Duane Lewis suggested meeting with past chairs of each subcommittee to learn about what each group has done to benefit

future chairs and events. Len stated when he was Chair of ACES he often met with the State Bar Association to coordinate ACES events.

Henry Clay made a motion to establish a committee to have an issue of the State Bar Journal dedicated to ACES. Barbara Cash seconded the motion, which passed. Len Charla estimated the time line on getting an issue prepared for the Bar Journal would be 18-24 months. Henry also stated that the articles submitted to the Bar Journal could be converted into a seminar such as the “project” discussed earlier in the meeting that could be sent out to ACES members.

Committee Structure

John wants to meet with subcommittees every other month and would like an update from each group at the monthly ACES meetings. Mindy Schwartz volunteered to contact the State Bar to look into and update the ACES archives. Larry Jordan stated ICLE wants to co-sponsor an event with ACES on any subject we would like and suggested it be on Internet broadcast issues. Barbara Cash stated if we cannot do a seminar due to logistics she volunteered her home to hold the event. Barbara Cash made the motion to have Larry pursue this project Duane Lewis seconded – the motion passed.

XVI. Adjournment

John Willems called for adjournment at 8:08pm. Barabara Cash made the motion to adjourn with Duane Lewis seconding – the motion passed.

The next ACES meeting will occur on Thursday January 12 at 6pm at the Detroit Office of Miller Canfield.

**ACES Meeting
January 12, 2005
Miller Canfield**

Members Present: Pamela Osborne, Yashmyn Jackson, Leonard F. Charla, Chris Walker, Fallasha Erwin, Melodee Henderson, Howard Abrams, Elizabeth DuMochelle, Barbara Cash, Gary Segatti, Matt Bower, Jeff Greenfield, Henry Clay, Duane Lewis, Howard Hertz, Thomas V. Silva, Ethan Bordman

I. Introductions – Meeting called to order at 6:28pm

II. Additions to Agenda

Duane Lewis and Howard Abrams both had new business. Duane wanted to speak to about ACES possibly being involved in the upcoming Super Bowl while Howard wanted to speak about the upcoming Motor City Music Conference. John Willems asked they bring this up in New Business. They agreed.

Jeff Greenfield also made note of a grant to Charles Palmer to purchase art related journals from Cooley Law School. Jeff will follow up on this.

Minutes of November 16, 2005 Meeting

Two spelling errors of members' names were found in the November 16, 2005 minutes. The secretary noted this and will correct it in the minutes and for future use. There was a motion to accept the minutes with these changes by John Willems, seconded by Elizabeth DuMochelle. The motion passed.

III. Treasurer's Report

John Willems read the treasurer's report for the month ending November 30, 2005. Leonard Charla noted that State Bar fees were due November 30 so we can probably expect to have more money come in from members who waited until the deadline to pay.

IV. Adoption of Treasurer's Report

Tom Silvia, the treasurer, arrived just before we began this portion of meeting and made a motion to pass his report. Howard Hertz seconded the motion. The motion passed.

V. Chairpersons Report

John noted ACES has been given the Michigan Bar Journal for September 2007 for focus on Arts, Communications, Entertainment and Sports related articles. Leonard stated that Tom Anderson will help coordinate as will Yashmyn Jackson, from the Publications and Website Advisory Committee of the State Bar of Michigan. Leonard further stated he will use the Bar Journal and ACES email list to inform members of the issue and ask for article submissions.

Yashmyn stated clearly that **JUNE 2007 is the cut off date for article submissions.** John asked if any members would be interested in writing articles focusing on the sports or communications portion of ACES. Henry Clay and Duane Lewis stated they will do so. John also noted he would like to have more ACES related events and speaker focusing in on sports and communications in the future.

Duane stated we should discuss using the Super Bowl, to be discussed in New Business, to help the sports portion of ACES.

VI. Old Business

ICLE

The meeting handout contained information on the ICLE event occurring on Thursday May 11, 2006 in Ann Arbor entitled *The Brave New World of Law and Technology: Handling Special Issues Related to New Digital, Communications and Other Cutting Edge Technologies*. The cost to attend the afternoon event will be looked into. Matt Bower asked if all speakers were established and John said those interested should contact Lawrence Jordan.

It was also asked if the Computer Section of the State Bar would be involved in the event as ACES is a co-sponsor. Elizabeth stated if they are not we should get them involved. Jeff Greenfield stated he will follow up on this.

John asked for a motion to co-sponsor the event. Leonard made the motion and Tom Silvia seconded. The motion passed. Elizabeth asked if we, ACES, will be paying to be a co-sponsor. Leonard noted every section of the State Bar is a sponsor with ICLE each year.

Website

A committee is to be formed and under take this action. Henry Clay volunteered to lead this committee and stated he spoke with the State Bar Michigan (SBM) website coordinator. He has developed ideas and will coordinate changes with the SBM. He said his work so far has been difficult to accomplish as SBM had other areas to concentrate on during November/December and the holiday season. He asked that when we get the site up members submit articles and streamline videos on ACES topics and events. He also stated he would like people to submit any ACES related internet links to the site. He has established ACCESSBM @yahoo.com as a website temporarily.

He further noted the SBM wants continuity of all the sites in terms of layout, format, etc. John stated we should use the off-site as our website to avoid any continuity problems from the SBM. John further stated we should have a webmaster for one year terms so that each year we can continue to have new and different "fresh" ideas. Henry stated he can have the site up in a week.

Tom noted that when he was a member of the Indian section of the SBM they had to change their name to the American Indian section to help in searches on the internet. By making our site name slightly unique when people search "ACES" they can find our site more easily.

Newsletter

John is looking for volunteers to submit articles and get involved with the newsletter. Elizabeth asked about future issues and John noted a short newsletter will be forthcoming and a larger version in March.

Right to Publicity Statute

Jeff Greenfield began by stating this has been about three years in the making. He also noted that two new ACES members have joined this committee with one working on steps to get the legislation passed. Duane asked what the next step is and Jeff said it was to get the member of the state legislature to "adopt" this as a project to publicly advocate it. Henry stated we need a few sponsors, from both political parties, to hold hearings and investigate the topic through committees. Duane state the SBM should be involved and Jeff noted they have rules regarding their involvement. Jeff noted we need groups of people and companies involved who will be economically affected by this law and will put together a list as such.

Henry said there maybe a SBM person to contact to advise us on getting the legislation passed and Jeff said he has spoken to this person and they have not been much help. Tom noted the author of "Anatomy of a Murder" is from Michigan and the copyright of his work has been an

issue. He will find out how this situation may be affected by the right of publicity. Howard Hertz stated ArtServe has a full time director who may be of help in this area and suggested speaking with her. Matt Bower suggested another situation involved in this area is the estate of Rosa Parks. John said Jeff will continue to follow up on this.

By-Laws

John said he has been working on this. Elizabeth noted it should be staggered terms for the ACES advisory committee. John asked for her assistance and she agreed to help. Barbara noted it was the ex-chairs who had previously been seated on the council. Elizabeth and John agreed to meet later.

VII. New Business

Motor City Music Conference

The conference will be held May 17-21 2006. Howard Abrams said the conference, for those that did not attend last year, is designed to showcase Detroit musical talent. Various venues feature music at night with business seminars held during the day. He stated the music industry conference South by Southwest, which occurs in Texas, has attorneys on hand to advise artists and suggested ACES members do the same for this conference. John noted VLA (Volunteer Lawyers for the Arts)/ArtServe should be contacted (Ms. Kim Dabbs) to coordinate. Henry stated malpractice maybe a problem with John adding an attorney who volunteers to be involved with ArtServe must hold malpractice insurance.

ListServe

ListServe will continue to be used to promote and inform members of ACES events and news. Duane noted we should use ListServe to inform ACES members about an upcoming event by the Sphinx Organization - whose goal is to educate the public and youth about music. He contacted Aaron Dworkin, the director of the organization, who said he would like to co-sponsor an event with us. John said he would want the event to be planned well in advance so the event will be well attended.

A motion was made by Duane Lewis to end the meeting at 8:00pm, seconded by Barbara Cash. The motion passed.

Super Bowl and Sports

Duane noted that meetings with top sports promoters, agents, and attorneys to speak in Detroit around the Super Bowl fell through. He further stated ACES needs to be more involved in sports especially in our strategic planning. Henry stated we should out together a sports sub-committee to help in this goal.

John stated we should put together a list of “experts” in various ACES areas so that ACES members who have questions can use ListServe to email the appropriate people their inquires. Barbara stated we had attempted to create this “expert” list in the past via regular mail and it was unsuccessful. Henry noted that certification through the SBM should be a long-term goal in getting ACES and, in particular sports, involvement with the SBM.

VIII. Adjournment – Meeting concluded at 8:00pm