

## MEMORANDUM

June 2, 2020

To: Delaware State Bar Association Executive Committee

From: Henry E. Gallagher, Jr., Chair; Allison L. Land, Vice Chair; and Roxanne L. Houtman, Secretary

Re: Report of the DSBA Corporation Law Section

The following is a report to the Delaware State Bar Association (“DSBA”) Executive Committee on behalf of the DSBA Corporation Law Section (“Section”) for the 2019-2020 year.

1. The Section currently has approximately 593 members. The officers of the Section are Henry E. Gallagher, Jr., Chair; Allison L. Land, Vice Chair; and Roxanne L. Houtman, Secretary.
2. The members of the Council for the upcoming year (from July 1, 2020 through June 30, 2021) are as follows: Frederick H. Alexander, Michael D. Allen, Corinne Elise Amato, Michael J. Barry, P. Clarkson Collins, Jr., Henry E. Gallagher, Jr. (Chair), Ellisa Opstbaum Habbart, Lawrence A. Hamermesh, Richard D. Heins, Kurt M. Heyman, James D. Honaker, Roxanne L. Houtman (Secretary), Bruce E. Jameson, David A. Jenkins, Andrew M. Johnston, Kristopher Knight (member *ex officio*), Allison L. Land (Vice Chair), Lewis H. Lazarus, David C. McBride, Edward B. Micheletti, Mark A. Morton, Elena C. Norman, Matthew J. O’Toole, Srinivas M. Raju, S. Michael Sirkin, Patricia O. Vella, and John Mark Zeberkiewicz.
3. The Council and the Section thank the Honorable Paul A. Fioravanti, Jr., for his service on the Council until his recent appointment and confirmation as a Vice Chancellor of the Delaware Court of Chancery, at which time he resigned from the Council. The Council and the Section also thank long-time member Samuel A. Nolen, who will retire from the Council as of June 30, 2020, after many years of distinguished service.
4. All members of the Section were invited in September 2019 to submit any legislative proposals to the Council and to participate in the Council’s work. The Council considered the proposals submitted and acted upon many of them. Some Section members volunteered to assist the Council, were given assignments, and have been of great assistance.
5. The Council and its subcommittees met many times between September 2019 and April 2020 to consider and formulate proposed amendments to the Delaware General Corporation Law (“DGCL”), and the Council has approved various such proposed amendments. In addition to approval by the Council, the proposed amendments were approved by the Section at its annual meeting May 5, 2020, and by the DSBA Executive Committee at its meeting held on May 21, 2020.

6. The Council's alternative entity subcommittee has prepared proposed amendments to the Delaware Revised Uniform Limited Partnership Act, the Delaware Revised Uniform Partnership Act, and the Delaware Limited Liability Company Act. The Council, the Section, and the DSBA Executive Committee also approved these proposed amendments at their respective meetings referred to above.
7. The Council's nominating committee met in March 2020 and proposed officers and Council members for the next Council year (commencing July 1, 2020). The nominating committee also proposed to increase the number of Council members by one, and made proposals to fill the new seat as well as the two vacant seats resulting from the resignations of the Honorable Paul A. Fioravanti, Jr and Samuel A. Nolen. The increase required an amendment to the Section's bylaws, which amendment was approved by the DSBA Executive Committee. The Council approved the recommendations of the nominating committee at its regular meeting in March 2020, and the Section members also approved them at their annual meeting on May 5, 2020.
8. The annual meeting of the members of the Section was delayed this year by circumstances surrounding the current COVID-19 pandemic. The annual meeting was held by means of remote communications, which required an amendment to the Section's bylaws. Such bylaw amendment was approved by the DSBA Executive Committee, along with an amendment that clarified that Council meetings may be held by means of remote communications.
9. In light of circumstances surrounding the current COVID-19 pandemic, the Council considered and drafted certain proposed amendments to the DGCL in late March and April 2020, addressing emergency bylaws and other actions that could be taken by corporations during an emergency. However, due to the current pandemic and the resultant inability of the General Assembly to meet, such proposed amendments could not be submitted to the General Assembly for its immediate consideration, and such proposed amendments are included among the proposed amendments referred to in paragraph 5 above. Members of the Council did participate in communications with the office of the Governor of the State of Delaware, however, regarding a modification to the Governor's declaration of emergency pertaining to the current pandemic. Thereafter, the Governor included certain of the concepts contained in the Council's above-referenced proposed emergency amendments as provisions in a modification to his declaration of emergency related to the COVID-19 pandemic, which provisions had been approved expeditiously by the DSBA Executive Committee, and which modification was signed by the Governor on April 7, 2020.
10. The Section's annual CLE seminar, to be co-chaired by Ellisa O. Habbart and Lewis H. Lazarus, was scheduled for June 24, 2020, but the circumstances of the COVID-19 pandemic required postponement of the seminar, and the present plan is to reschedule it for a date in November 2020.