

Senza Sordino

Official Publication of the International Conference of Symphony and Opera Musicians

VOLUME 58 NO. 1

MARCH 2020

A Brave New COVID-19 World

In a week, our world changed.

The pace and scope of changes that have overtaken our workplaces and our communities are almost without precedent in our lifetime. What began in January as news reports of a novel virus that had been discovered in distant China, morphed over a few days in the second week of March into a massive disruption of the work and lives of almost every ICSOM musician.

The first hints of the potential disruption were there at the end of January, when the Boston Symphony Orchestra cancelled its February tour to Seoul, Taipei, Hong Kong, and Shanghai. But when the National Symphony Orchestra followed suit a week later, it cancelled only the China portion of its tour to Asia, intending to complete the Japan portion.

With our political leadership insisting that there was nothing to worry about here, many perhaps thought that COVID-19 would follow the same trajectory as SARS (caused by a related coronavirus) in 2003 and remain largely contained in Asia. But the unease continued to grow along with the number of cases outside of China.

In late February, the National Symphony cancelled the remainder of its Asia tour, at about the same time that the stock market was in the first of several volatile downward weeks.

As we watched from afar, caseloads increased in China, then in South Korea, Iran, and Italy. The governments in many of the affected countries took drastic action to contain the virus, but nothing much changed in this country except a sharp upswing in personal hygiene recommendations.

Then on March 9, the Cleveland Orchestra cancelled its tour to Europe and the Middle East and the Rochester Philharmonic suspended operations, beginning a week that was witness to an exponential explosion of postponements and cancellations, with each successive announcement seeming to prompt further announcements in a chain reaction. The NBA suspended its season, then the NHL, and then Major League Baseball postponed Opening Day; the San Francisco orchestras had their halls closed, then Broadway shut down, and then the Kennedy Center cancelled the rest of the month's programming. Each closure was, just by itself, unprece-

In This Issue

A Brave New COVID-19 World.....	1
Pre-COVID-19 Travels Across the Country	2
SphinxConnect and the National Alliance for Audition Support	
Blowing Our Own (Online) Horn	3
Highlighting ICSOM's many online initiatives	
Coronavirus and Force Majeure.....	4
What it means if you have (or don't have) a force majeure clause in your CBA	
Replacing a Tour	7
Boston puts on a local chamber music tour after cancellation	
Turning a Corner.....	7
Baltimore sees reason for hope (before COVID-19)	
Banding Together.....	8
The RMA president responds to recent events	
Newslets	8
Detroit, Milwaukee, Los Angeles, Philadelphia, Rochester, New York Philharmonic, Cincinnati, Pittsburgh, Baltimore, Oregon, Nashville	

dented; taken together, the closures were bewildering and disorienting.

Given the pace of change, and the time lag resulting from editing, printing, and mailing, by the time you read this many of these details could be very different. But at the moment (March 17), the only ICSOM orchestras that have not postponed or cancelled services are those, such as the San Francisco Opera and the Grant Park Orchestra, that don't have any scheduled services for many weeks. The initial cancellations ran the gamut from a single week (the Cleveland Orchestra) to almost two months (Chicago Lyric's entire *Ring* cycle). Some resulted from local government orders (such as for the two San Francisco ICSOM orchestras that were scheduled to perform in March) and some were decisions by the management of either the orchestra or its home performing arts center.

While a few orchestra managements have chosen to invoke force majeure clauses in their CBAs, the vast majority appear willing to continue to pay at least the regular orchestra members for now. We can only hope that that will continue even if, as seems inevitable to many, the cancellations continue for an extended period.

A few orchestras played concerts to empty halls, making use of existing media agreements or the new side letter to the IMA that was rapidly negotiated with the EMA through the hard work of Rochelle Skolnick, SSD Director, and Deborah Newmark, the AFM Director of Symphonic Electronic Media.

Disruptions for individual musicians were not limited to being at home unexpectedly. Supplemental outside gigs have also been cancelled; many universities (including conservatories) have sent students home, expecting their faculties to switch to remote instruction; and in many places everyone is dealing with concerted efforts to increase social distancing—closures of school systems as well as restaurants—and the side effects of a growing sense of dread, such as the overpurchasing of certain foods and toilet paper.

We have a rough road ahead of us. Though there is no way of knowing for certain, at this point we can expect the suspension of our seasons for several months, possibly through the summer. A big question is how long our managements will continue to pay our salaries—even the best-funded institution can't survive without revenue forever, and many endowments have also suffered from plummeting prices in equity markets. Every CBA is different; every orchestra is in a different finan-

(Continued on page 10)

Chairperson's Report

By Meredith Snow

Pre-COVID-19 Travels Across the Country

In early February, before the domestic advent of the novel coronavirus and immediately following our midwinter ICSOM Governing Board meeting in Chicago, I traveled to Detroit to attend the SphinxConnect conference. Along with SSD Director Rochelle Skolnick, ROPA President John



Michael Smith, and ICSOM President Paul Austin, our primary purpose in attending Sphinx was to participate in the roundtable discussion with the Executive Council of the National Alliance for Audition Support (NAAS).

Launched in 2018, NAAS is an unprecedented national initiative aimed at increasing diversity in American orchestras. With a four-year grant from the Andrew W. Mellon Foundation, and in conjunction with the New World Symphony and SphinxMusic.org, NAAS is able to offer African American and Latinx musicians the opportunity to enhance their audition skills through individual mentoring, audition preparation, and financial aid to assist them in preparation for, and travel to, orchestral auditions.

Supported by an initial \$1.8 million grant from Mellon and funding from 74 partner orchestras (28 of which are ICSOM orchestras), NAAS has to date awarded 261 grants, totaling over \$250,000, which cover travel and other expenses for auditions and substitute positions, as well as instrument maintenance grants. Since 2018, 25 musicians supported by NAAS have won a total of 31 auditions or placements with orchestras and ensembles across the country.



The ICSOM governing board at its mid-winter meeting in Chicago in early February

At the Executive Council meeting we discussed the continuing desire for egalitarian and unambiguous practices in the hiring and tenure processes of all our AFM orchestras. In alignment with our 2018 ICSOM resolution to preserve the anonymity of candidates, NAAS encourages the use of screens throughout the entire audition process. Looking towards the future, there is a mutual desire to better under-



*A Player Conference of the
American Federation of Musicians of the
United States and Canada, AFL-CIO*

www.icsom.org

INTERNATIONAL CONFERENCE OF
SYMPHONY AND OPERA MUSICIANS

Orchestras

Alabama Symphony Orchestra
Atlanta Symphony Orchestra
Baltimore Symphony Orchestra
Boston Symphony Orchestra
Buffalo Philharmonic Orchestra
Charlotte Symphony Orchestra
Chicago Lyric Opera Orchestra
Chicago Symphony Orchestra
Cincinnati Symphony Orchestra
The Cleveland Orchestra
Colorado Symphony Orchestra
Columbus Symphony Orchestra
Dallas Symphony Orchestra
Detroit Symphony Orchestra
The Florida Orchestra
Fort Worth Symphony Orchestra
Grand Rapids Symphony
Grant Park Orchestra
Hawaii Symphony Orchestra
Houston Symphony
Indianapolis Symphony Orchestra
Jacksonville Symphony
Kansas City Symphony
Kennedy Center Opera House Orchestra
Los Angeles Philharmonic
Louisville Orchestra
Metropolitan Opera Orchestra
Milwaukee Symphony Orchestra
Minnesota Orchestra
Nashville Symphony
National Symphony Orchestra
New Jersey Symphony Orchestra
New York City Ballet Orchestra
New York City Opera Orchestra
New York Philharmonic
North Carolina Symphony
Oregon Symphony
Orquesta Sinfónica de Puerto Rico
The Philadelphia Orchestra
Phoenix Symphony
Pittsburgh Symphony Orchestra
Rochester Philharmonic Orchestra
St. Louis Symphony
The Saint Paul Chamber Orchestra
San Antonio Symphony
San Diego Symphony Orchestra
San Francisco Ballet Orchestra
San Francisco Opera Orchestra
San Francisco Symphony
Symphoria
Utah Symphony
Virginia Symphony Orchestra

Governing Board

Meredith Snow, Chairperson
Los Angeles Philharmonic
13610 Emelita Street
Van Nuys, CA 91401
818-786-3776
meredsnow@gmail.com

Paul Austin, President
Grand Rapids Symphony
561 Madison Avenue SE
Grand Rapids, MI 49503
616-304-0869
austinlpaul@gmail.com

Laura Ross, Secretary
Nashville Symphony
1609 Tammany Drive
Nashville, TN 37206
615-227-2379 • Fax 615-259-9140
lar2vln@comcast.net

Michael Moore, Treasurer
Atlanta Symphony
953 Rosedale Road NE
Atlanta, GA 30306
404-875-TUBA (404-875-8822)
mooretuba@bellsouth.net

Peter de Boor, Senza Sordino Editor
Kennedy Center Opera House Orchestra
431 North Kenmore Street
Arlington, VA 22201
703-465-9157 • Fax 866-832-7838
pdeboor@gmail.com

Keith Carrick, Member at Large
Utah Symphony
1529 E. Parkway Avenue
Salt Lake City, UT 84106
(301) 639-6614
Keith.Carrick@gmail.com

Micah Howard, Member at Large
Pittsburgh Symphony Orchestra
100 Laurel Avenue
Pittsburgh, PA 15202
(724) 328-0917
micahbhoward@me.com

Greg Mulligan, Member at Large
Baltimore Symphony Orchestra
11955 Long Lake Drive
Reisterstown, MD 21136
410-979-0208
gregmulliganicsom@gmail.com

Dan Sweeley, Member at Large
Buffalo Philharmonic Orchestra
1360 Evergreen Drive
Lake View, NY 14085
716-553-9200
sweeleydan@gmail.com

Kevin Case, General Counsel
Case Arts Law LLC
53 W. Jackson Blvd., Suite 209
Chicago, IL 60604
312-234-9926 • Fax 312-962-4908
kcase@caseartslaw.com

Subscriptions: \$10 per year, payable to *Senza Sordino*, c/o Michael Moore, Treasurer, 953 Rosedale Road NE, Atlanta, GA 30306. Report delivery-related problems to Peter de Boor, Editor, 431 N Kenmore St, Arlington, VA 22201.

Senza Sordino, the official publication of the International Conference of Symphony and Opera Musicians, Inc., is published four to six times a year. Copyright © 2019. All rights reserved. Unauthorized reproduction prohibited.

DMCA and DCA Notices may be found at <http://www.icsom.org/notices.php>

stand the guiding principles of tenure in order to assist all probationary musicians to a successful outcome. How do we help them navigate their tenure process once the position has been won? In addition, the collection of demographic data from auditions is an important step in understanding outcomes in the context of our ongoing push for diversity, equity, and inclusion (DEI). How will we successfully collate the numbers moving forward in order to measure our progress? Moving forward, we will be exploring answers to these questions that best serve all parties involved.

The Sphinx Orchestral Partners Auditions (SOPA), which are held every year at the conference, give aspiring musicians the opportunity to play an entirely screened preview audition for representatives from over 35 SOPA partner orchestras, 17 of which are ICSOM orchestras. We heard more than 50 applicants from all instrument groups. Comments were collected electronically to share with candidates, and adjudicators were able to request resumes for possible substitute work or future auditions. This is a valuable ‘trial run’ for the musicians who are just stepping out on the audition circuit. It also gives an opportunity for orchestras—including musicians, management, and conductors—to hear the talent pool that is available.

In March, Rochelle, Mike, and I made our yearly trip to Miami Beach to visit the New World Symphony and educate the first-year fellows on the importance of the American Federation of Musicians in their workplace when they win a union orchestra position. We were joined by Secretary-Treasurer Jeffrey Apana and President Chaz Reskin of Miami Local 655. This year there were about 25 aspiring musicians, many of whom have already had a union affiliation through subbing with ROPA and ICSOM orchestras. (One young woman, Rebecca Olivero, had just won Matt Comerford’s former position in the Chicago Lyric Opera Orchestra!) Each of us spoke briefly about the role of the player conferences, the AFM, and the Local, in relation to the responsibilities that musicians have in the business of running an orchestra. Debbie Newmark spoke about how our national media agreements impact recording and broadcast work. We then spent the next hour illustrating problem-solving by a hypothetical orchestra committee, and holding an open discussion of experiences the fellows had already had working in professional settings. The fellows were interested and ready to participate. I would certainly recommend that as AFM and ICSOM members we all become more available to educate our upcoming colleagues on what to expect at our union workplaces—in addition to what is expected of them.

Depending on the length and severity of this unprecedented viral pandemic, upcoming trips would include an AFM Officer and Player Conference Council (PCC) organizing training in Baltimore in early April, the Locals’ Conferences Council and Player Conferences Council (LCC-PCC) meeting in Las Vegas in June, and of course all our player conferences: Organization of Canadian Symphony Musicians (OCSM) in Regina, Saskatchewan; Regional Orchestra Players Association (ROPA) in Orange County, CA; and our own ICSOM conference in Pittsburgh, PA, in August, hosted by the Pittsburgh Symphony musicians and Local 60-471—all subject to possible cancellation at this point in time.

It is important to remind ourselves of the grace and value that our music brings to our patrons and communities. There is no question that we are in for a rough road ahead. Nevertheless, we will survive. Our orchestras are wrestling with difficult decisions by the hour as this pandemic unfolds. We will continue to affirm the overwhelming power of orchestral music to express our humanity and to lift the human spirit as we move through this difficult time.



President's Report

By Paul Austin

Blowing Our Own (Online) Horn

ICSOM’s online resources are recognized as being important to the arts world today and into the future.

In February 2020, the US Library of Congress contacted ICSOM Chairperson Meredith Snow to inform us that our website (www.icsom.org) was selected for inclusion in their historical collection of online materials.

Their invitation stated that their web archives “... are important because they contribute to the historical record, capturing information that could otherwise be lost. We consider your website to be an important part of this collection and the historical record.”



ICSM was honored to grant permission for our website to be included in the Professional Organization for Performing Arts Web Archive. We share the vision of the US Library of Congress in believing that preserving Internet materials is important and permitting access to researchers world-wide is significant.

ICSM’s website is a valuable resource, as it includes current and historical information, settlement bulletins, a news archive (arranged chronologically and by orchestra), online and archived issues of *Senza Sordino*, and minutes from our annual conferences dating back to 1962. But it is just one of many online resources that ICSOM proudly maintains:

- Activated in January 2018, our online Conductor Evaluation Program has collected dozens of evaluations from ICSOM orchestras and responded to requests by managements. In addition, we recently provided assistance to ROPA while they established an online program for their full member orchestras.
- Last fall ICSOM began using the online platform Phone2Action for political lobbying of legislation that affects our membership. Recently we asked you to participate in our campaign to let key government officials know that the Puerto Rico Symphony Orchestra (PRSO) is vital to the cultural health and well being of its citizens (*Note: see <https://p2a.co/ciHAnh9>*). A future issue of *Senza Sordino* will include information about my upcoming trip to Puerto Rico with former ICSOM Chair Bruce Ridge to support the PRSO musicians (in the process of being rescheduled from March 2020 due to »

- the COVID-19 pandemic).
- Currently ICSOM is in the fourth year of the social media project Featured Orchestra of the Week, which promotes our 52 orchestras on Twitter, Facebook, and Instagram. Thanks to these weekly posts, ICSOM's followers are informed of the websites and social media accounts of the players' associations of our membership.
 - Last year's migration of our e-lists from yahoo to groups.io was a success. Orchestra-L continues to be a forum to exchange information and ideas, open to all AFM members and to musicians in ICSOM's emeritus program.
 - Our Twitter account approaches 10,000 followers and generates hundreds of tweets a month. As the curator of @ICSM, my posts there throughout the day enable me to stay informed about news items as they occur around the world. The tweet that ICSOM generated on March 13, 2020, about emergency arts funding by the German government, set a record for us: within 48 hours, the tweet was liked by 20,000 and retweeted by 6,000!

While I handle ICSOM's Twitter feed and oversee our online presence, there is an outstanding team in place to assist me in these activities. Without these dedicated folks, ICSOM's outlets would not be thriving today. Please join me in recognizing and thanking Barbara Corbató (Administrator/Conductor Evaluation Program), Julie Edwards (Chief Moderator/Orchestra-L), Greg Mulligan (Member-at-Large/Facebook), Dan Sweeley (Member-at-Large/Instagram), Martha Warrington (designer/website), Randy Whatley (President, Cypress Media/Phone2Action), Laura Ross (ICSM Secretary/website) and Peter de Boor (*Senza Sordino* Editor/website) for all they do to keep ICSOM's online offerings fresh and active.



Coronavirus and Force Majeure

By Kevin Case

[Note: much of this article previously appeared in a message to ICSOM delegates on Delegate-L on March 10, and in the author's blog post on March 12. Some of the material has been updated to reflect recent developments.]

The COVID-19 pandemic has now severely impacted our orchestras. All ICSOM orchestras have cancelled performances and tours, for varying periods of time, sometimes voluntarily and sometimes in response to orders from a municipal government or other controlling authority. Musicians have concerns about the legal implications of this on their employment—particularly the application of force majeure or "Act of God" clauses—and about how to work with management in this uncertain time.



Photo by Kevin Case

This message is intended to provide (1) legal guidance regarding the application of force majeure; (2) practical guidance as to steps you may want to take in dealing with management; and (3) some personal thoughts

regarding how we may best approach this crisis. As always, however, it is crucial that your orchestra committee work closely with your Local, and, where possible, solicit advice from your Local's attorney regarding the interpretation of your particular CBA.

Force Majeure

Whether an outbreak of a disease like COVID-19 triggers a force majeure clause in a CBA requires an individualized analysis of the language. The answer may vary significantly from employer to employer.

A CBA is a binding obligation. An employer is bound by the promises it has made in the CBA and cannot be relieved of those obligations absent agreement by the Union, or bankruptcy. However, the CBA itself may contain provisions that permit the employer to suspend all or part of its obligations upon the occurrence of certain contingencies (which is the written manifestation of "agreement by the Union").

That is where force majeure clauses come in. A force majeure provision in a contract (otherwise called an "Act of God" clause) may relieve a party from performing its contractual obligations when circumstances beyond the party's control arise which make the party's performance of those obligations impossible.

Force majeure is a creature of the contract. It is not an overriding principle of contract law. That means there is typically no such thing as an "implied" force majeure provision; rather, the parties must have explicitly agreed that a force majeure event may excuse non-performance. Moreover, force majeure clauses are strictly construed by courts and arbitrators, which means that the party seeking to invoke a force majeure event will be held to the precise language the parties used in their contract.

There are a wide variety of approaches to force majeure in our orchestra CBAs. Some don't have a force majeure clause at all. Others simply refer to an "Act of God" or permit the employer to suspend its obligation "by reason of force majeure," without further elaboration. Many list examples of natural force majeure events, such as "floods, fires, earthquakes, hurricanes," etc. Some also include man-made events like "war" or "civil strife." A few (unfortunately) refer to economic hardship, which on its own is not a force majeure event, but which will be enforced if the parties have included it in their agreement. Many contain a "catch-all" provision such as "other events beyond the control of the employer."

For present purposes, I've identified three scenarios for discussion: (1) a CBA without a force majeure clause at all; (2) a force majeure clause that contains only the terms "force majeure" or "Act of God," without further definition; and (3) a force majeure clause that lists specific events.

I. No force majeure clause at all.

Because a CBA is a contract that is enforced primarily through arbitration, the body of law that governs the interpretation of a CBA has been developed through arbitration decisions; those decisions, in turn, often incorporate common-law contract principles. Although contract law varies from state to state, courts will not read an implied force majeure provision into a contract if it does not already exist. >>

The same cannot always be said for arbitrators, who sometimes inject subjective considerations into their decisions. Consequently, one can find a few arbitration awards that excuse an employer's performance in cases of, for example, extremely severe weather, even in the absence of a force majeure clause. Those cases are outliers, however, as they are inconsistent with contract law (and the well-settled principle that arbitrators are forbidden to add to or modify the terms of a CBA).

Therefore, if your CBA lacks a force majeure clause, then your management should not be able to suspend its obligations and cut off your pay and benefits in the event that COVID-19 forces some kind of shutdown. That doesn't mean your management may not try to do so, in which case you may end up in arbitration. (Note that my analysis here applies primarily to full-time, salaried musicians; for per-service musicians, subs, and extras, management may have more flexibility to cancel services without payment, depending on the language in those orchestras' CBAs.)

There is also a chance your management may cite "impossibility" as permitting suspension of its obligations in a shutdown. There is indeed an "impossibility doctrine" in contract law, but it is rarely applied to CBAs and should have no place here. When it comes to paying musicians their salary and maintaining benefits, nothing about COVID-19 has rendered that "impossible." If the city shuts down your venue, it may be impossible for the orchestra to actually perform; but that doesn't mean it is impossible to pay the musicians. Payroll can still operate.

Impossibility also applies only when the event was plainly unforeseeable, such that the parties would have been unable to provide for the risk of that event in their contract. Although pandemics may not have been specifically contemplated by the parties when your CBA was negotiated, the risk of an event that would preclude a concert from occurring was always known—indeed, that's the whole reason for force majeure language, "fire, flood, earthquake," etc. Management presumably had every opportunity to bargain for such force majeure language so as to mitigate its risk; and if management failed to do so, it can't assert "impossibility" now.

2. Force majeure clause simply says "force majeure" or "Act of God."

There is no standard definition of the terms "force majeure" or "Act of God." Rather, such terms have whatever meaning the parties chose to give them in the contract.

That's not helpful, though, if the parties declined to specify that meaning and simply used the terms in isolation. There are two schools of thought. One says a force majeure event must result solely from natural causes and not from any human action; so, even if the initial cause was wholly natural, it doesn't count if the event involves human actions taken in response. Under that approach, concert cancellations as the result of a governmental order would not be deemed an "Act of God" because even though COVID-19 arose from natural forces, the decision to close venues was made by human beings. In other words, there would be a distinction between the pandemic itself, and a government measure taken in response.

Different arbitrators come to different conclusions, though, and the second school of thought holds that even if the decision was made by management or others, it is nonetheless considered an "Act of God" if the "real reason" was the natural event. So, under that approach, a concert cancellation by municipal order might still be seen as an "Act of God," even though a significant amount of human decision-making would be involved. On the other hand, if your management voluntarily cancelled concerts without being directed to do so by the city or other controlling authority, it is less likely that would be deemed a force majeure event. A subjective judgment call by your executive director shouldn't be considered an "Act of God."

3. Force majeure clause lists specific events.

Where a force majeure provision lists examples of qualifying events, courts construe the language narrowly to apply force majeure to only the events specifically identified. Clearly, then, a force majeure clause that refers to "epidemic," "plague," "quarantine," or even "public health emergency" would encompass a COVID-19 shutdown. Similarly, if the clause specifies governmental action, then a venue shutdown by municipal order would likely qualify. But if the list of events is confined to specified natural disasters, war, or civil disturbance, then a COVID-19 shutdown should properly be considered outside the scope of that force majeure clause. Similarly, if your force majeure clause lists "work stoppages," that will be deemed to mean a strike or lockout—not just any stoppage of work for any reason.

Note that if the list ends with the clause "other similar act, event, or occurrence," that doesn't necessarily expand the scope of the provision. The principle of contract interpretation for such clauses is that "other" means events of the same kind or nature as the specific events mentioned.

However, the same may not be true if the force majeure provision ends with a catch-all clause like "other causes beyond the control of the employer." The "beyond the control of the employer" clause is often deemed to encompass any event that is, well, beyond the control of the employer. If your CBA has that language, then it is more likely that a COVID-19-related shutdown would be considered a force majeure event.

Practical Steps

There should be no doubt whatsoever as to ICSOM's position: with respect to any cancellations or shutdowns in our orchestras, whether voluntary or involuntary, orchestra managements should maintain salary and benefits for their musicians, including subs and extras (or other per-service musicians) that have been engaged for cancelled services. In other words, regardless of whether your management can legally invoke a force majeure clause, it should not do so.

It is in everyone's best interests to come to an understanding on this issue. Clearly, your managements need flexibility to deal with this crisis: schedules will need to be revamped; locations may need to change; and some orchestras may find it viable to stream concerts rather than perform before a full audience. Just as clearly, you need assurances that you will continue to be paid and your health insurance and other benefits will continue. >>

Working collaboratively with your management to provide such flexibility in exchange for the assurances you need would thus be a positive outcome. At the Local/OC level, that means a willingness to provide waivers where management makes a compelling case that a waiver is necessary. With respect to media, Debbie Newmark and Rochelle Skolnick at the AFM's Symphonic Services Division have negotiated a side letter to the IMA that affords management streaming options in exchange for a commitment to pay all musicians for rolling 30-day periods.

Again, however, any such flexibility should be provided only if you get the assurances you need from management (including with respect to subs and extras). Further, you should hold management to a burden of demonstrating that any requested changes are truly necessary. That means management must come up with an actual plan for dealing with COVID-19 going well into the future—not simply an ad hoc, short-term reaction. You should also insist on total transparency from management, including with respect to the financial impact of any cancellations and efforts to replace lost revenue.

To that end, you should consider making an information request to management regarding any business interruption insurance policy maintained by the orchestra. Granted, many such policies specifically exclude from coverage interruptions caused by epidemics, or limit coverage to physical damage. But if there is a chance that the organization may be insured in whole or in part for financial losses caused by a shutdown, then you need to know about it.

There are sound reasons why your managements should decline to invoke force majeure during this crisis. For one thing, any management that cites COVID-19 to cut off pay and benefits would essentially be declaring war on its musicians. However difficult CBA negotiations may have been in the past, or however tense the relationship has been, that would be nothing compared to the fallout resulting from any such decision. The damage would be far-reaching and permanent.

It is also a simple matter of fairness. It comes down to a question of who is best able to withstand the pain of a COVID-19 shutdown. The answer is obvious. Yes, the employer will lose money and its financial condition may ultimately become precarious. But if the musicians lose their pay and benefits, then they won't be able to buy food, go to the doctor, or pay their mortgage. Even if the orchestra is forced to dip into emergency reserves or its endowment, and even if that means future CBA negotiations will be more challenging because of it, that would be a far better outcome than one in which the very lives of musicians and their families are put at risk.

Concluding Thoughts

We are in uncharted territory. The disruption we are about to experience, not only in our workplaces but in nearly every aspect of our lives, may be unlike anything we have seen in generations.

But in such times, it is important to make every effort to remain calm; to think rationally; to recognize that there are some things we can control, but many things that are wholly outside our control. Panic is the enemy—one far worse than the coronavirus itself. This is a time to engage in prudent de-

cision-making, and not to take rash steps out of fear without considering the consequences.

First and foremost, we must recognize that we're all in this together. In our orchestras, this should not be, and cannot be, a musicians-vs.-management situation. Everyone's interests should be aligned: we all want to take care of our people; we all want to keep our patrons safe; and we all want our orchestras to survive. That means we need constant, open, frank communication between orchestra committees, management, and musicians. Decision-making must be collaborative above all else.

Every decision should be made not only in consideration of the immediate problem, but also with an eye towards the future. We will come out of this. But every step we take now will determine how we do so. I believe that we can emerge stronger than before: a renewed emphasis on music's importance to our fellow citizens; a stronger bond within our orchestras, both among our colleagues and within the organization as a whole; and perhaps a new way of doing business that recognizes legitimate needs for flexibility as well as the true value of our musicians as we navigate an uncertain future. We can, and must, put ourselves in the best position to succeed on the other side of this.

At this point, most, if not all, of the orchestras that have cancelled services have promised to continue paying their regular members for the foreseeable future. Many of those orchestras have force majeure language in their CBAs but haven't yet invoked it. Part of the reason is that musicians and the Union have been willing to offer substantial flexibility to their managements (as evidenced by the AFM's new IMA side letter). This makes perfect sense: if the orchestra is willing to commit to its musicians, then the musicians can commit to doing what it takes to help the orchestra through this crisis.

Unfortunately, substitutes and extras have not been as fortunate. Many managements that are willing to pay regular members for cancelled work are not extending that to our colleagues contracted as subs and extras. I can understand from management's perspective the need to prioritize resources; but a solution that takes the most vulnerable among us and throws them under the bus is the wrong one. "We're all in this together" means all.

That is an example of the kind of short-term thinking that we should all try to avoid, because there are consequences. When this crisis is over, we can have a stronger workplace where the collaborative efforts we made in response to COVID-19 continue; or we can have one where top-down decision-making has angered or divided musicians and poisoned the relationship between musicians and management. Given the financial challenges that our orchestras will doubtlessly face in the weeks and months ahead, the latter outcome would not be productive.

Note: the author is ICSOM counsel.

More information relating to the impact of COVID-19 on musicians can be found in the Coronavirus Resources folder of the SSD Resource Center, located at the AFM's website, www.afm.org. Member login is required.

Replacing a Tour

By Daniel Getz

On January 30, 2020, the Boston Symphony announced the cancellation of its Asia tour due to novel coronavirus. The tour was scheduled for February 3–17, with eight sold-out concerts in Seoul, Taipei, Hong Kong, and Shanghai.



Musicians of the BSO were asked to propose concert programs to present in lieu of the tour, as part of a "Chamber Music Neighborhood Tour." These pop-up concerts were scheduled, by management, throughout the Greater Boston area and at the new Linde Center Tanglewood Learning Institute (TLI) at Tanglewood.

The concerts were held at venues such as Horizons for Homeless Children, Angell Animal Medical Center, New England Center for Veterans, Dana Farber Cancer Institute, Citywide Senior Center, and other locations, giving BSO musicians the opportunity to perform for the city's most vulnerable populations. The pop-up concerts were open to staff, residents, and visitors at each location, but closed to the public. The concert at Tanglewood was ticketed and open to the public.

Participation in the "Chamber Music Neighborhood Tour" was voluntary, but many BSO musicians made a point to get involved, in some cases performing in multiple venues with different groups. A total of twelve chamber music programs were scheduled as part of this tour from February 9 to 14.

On a personal note, I had the pleasure of playing at the TLI and at Angell Animal Medical Center. The concert at the TLI was sold out, well-attended despite the snowy weather. And the concert at the animal hospital was special as well. While I have always enjoyed our international tours, there was something memorable about performing for exceptionally well-behaved dogs!

In addition to the pop-up concerts, the BSO Chamber Players performed at WGBH's Fraser Performance Studio on February 13. The BSO also played a free orchestra concert at Symphony Hall on February 16, with conductor Thomas Wilkins and cellist Sterling Elliott.

Note: the author is the ICSOM delegate for the Boston Symphony Orchestra.

Turning a Corner

By Brian Prechtel

It's hard to believe that just a few months ago, as we sat in a finance committee meeting, the Baltimore Symphony Orchestra board treasurer told us that if we didn't get an advance from the Endowment Trust the BSO might have to cease operations in January. Since then, we have engaged Michael Kaiser to help write a five-year



strategic plan that puts the art and the Orchestra first. He is a remarkable agent for change within the organization and in the greater community. In the space of six weeks, the BSO was able to produce the plan and raise an amazing amount of money. The goal was to raise \$6 million by the end of the season. This amount would cover the shortfall the BSO was projecting for this year, as well as forestall the use of next season's ticket money to balance the current year's budget. An astonishing and productive flurry of activity ensued, and we not only raised the \$6 million needed, we far exceeded that goal—at this point we are closing in on \$10 million. The most significant thing about the effort is that the lead donors were not the usual givers.

At the same time the BSO was working with Michael Kaiser, we were engaged in discussions with the state of Maryland as part of the workgroup that was established by the John C. Merrill Act, passed by the Maryland General Assembly last year (*Note: See "Newslets" in the June 2019 issue*). This bill provided for \$3.2 million in bridge funding as well as a workgroup that was empaneled to analyze improvements necessary to ensure the future viability of the BSO. The workgroup, composed of musicians, staff, and board members, and headed by a former state senator, has been meeting since last August. We had a deadline of February 24 to produce a final report, which we met, thanks to much of the work that was contained in the strategic plan that Kaiser helped us produce. This report, entitled "Recommendations for Cost Containment, Audience Development and Future Sustainability of the Baltimore Symphony Orchestra," was submitted to the Maryland General Assembly on February 25. Both this report and Kaiser's strategic plan contain aspirational goals for increased contributed income while developing a vibrant artistic profile for the BSO that reexamines how the BSO can better serve the city of Baltimore and the state of Maryland. Also included in the report are a series of recommendations to improve community engagement and education, the patron experience, board development, and the use of technology. There is a final recommendation for five more years of bridge funding from the state of Maryland to help the BSO put many of the proposals into practice.

One of the most important aspects of the plan is the recommendation that the orchestra maintain the 52-week structure that has been under threat. The over-arching themes that Kaiser advocates are that success is dependent on putting the art first, and that generating enthusiasm for the artistic product of the organization is the number one factor in driving contributed and earned income. This is obviously good news for the musicians and not really a revelation to us at all, but it has certainly effected a substantial change of attitude from the staff, board, and donor community.

The other element that has had a big effect on the organization is the advent of a Vision Committee. This committee came out of the one-year memorandum of understanding we negotiated in September. Similar to the state-mandated workgroup, the vision committee is composed of musicians, staff, and board members, and also features the addition of community members. This committee, which will be a standing committee of the board, has examined every aspect of the BSO and provided a valuable opportunity for the musicians to

be integrally involved in the decision-making processes of the organization. A lot of the enthusiasm that is being generated around the BSO is due to the fact that it is clear that all the stakeholders at the BSO are now rowing in the same direction. There is a marked difference in the appeal of an organization that seems to be working together rather than being at war with itself. When I reflect on the antagonism during last summer's 14-week-long lockout, the contrast is remarkable. There is no doubt that the current climate of peace and collaboration has brought with it a stunning reversal of fortune for the BSO. For the first time in a long time, I can truly describe our future as hopeful.

Note: the author is ICSOM delegate for the Baltimore Symphony Orchestra.

Banding Together

By Marc Sazer

When I was graciously invited to contribute some words to address ICSOM members through *Senza Sordino*, the world was a different place indeed.

Recording musicians and the AFM had just inked and ratified a successor agreement for film and television scoring, and we were looking forward to negotiating with the TV networks for our Live TV contract.

Then came COVID-19.

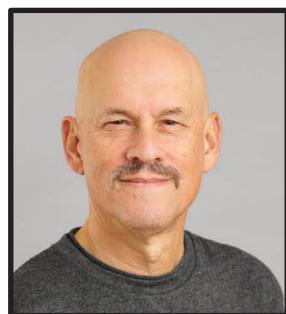
Without commenting on the degree to which this pandemic will have a deeper and more dangerous impact as a result of the failures of our own US government, we now all

know that the effects on musicians worldwide are devastating. We are symphonic, opera, ballet, and theater musicians who tour, play in clubs, perform chamber music, perform on Broadway, record on scoring stages for film and television, and play for late night and variety shows on TV. We are all in this together.

The economic toll this is taking on us as individuals varies in the short run, but loss of income is sure to be widespread. For recording musicians, daily reports of cancellations of sessions, productions shutting down, shows going off the air and studio lots closing down threaten millions of dollars of AFM wages—that is, paychecks for musicians.

One consequence of the pandemic will inevitably be a tremendous loss of revenue for Locals and the American Federation of Musicians. This could threaten programs we know to be crucial: organizing, research, and education. Our union will still need to bargain, administer, and enforce our contracts. This hydra-headed disruption is unprecedented.

President Hair has called on Congress to act on our behalf. Local AFM leaders from around the country and our Player Conferences have stepped up, quietly but with determination, to do what we can. The new side letter to the Integrated Media Agreement spearheaded by ICSOM and ROPA leadership working together with AFM staff is a shining example of Player Conference leadership on behalf of musicians.



Events are moving so rapidly that it is difficult to envision what the headlines will be by the time you read this article. The one thing we can be confident of is that we will need to remember our common needs and goals. We will survive COVID-19, as we have survived all along: together.

Note: the author is the president of the Recording Musicians Association.

Newslets

Detroit Moves Fast

The last two weeks of January were eventful ones for the Detroit Symphony Orchestra. On January 22, the DSO announced that Italian conductor Jader Bignamini has been appointed Music Director, beginning with the 2020-2021 season. Bignamini was first introduced to the DSO in the spring of 2018, stepping in at the last minute for Leonard Slatkin in concert performances of Puccini's *Turandot*. He will replace Slatkin, who is currently the orchestra's Music Director Laureate after a decade-long tenure as DSO Music Director.

On January 30, it was announced that a new contract had been ratified, seven months before the September 2020 expiration date. Some highlights of the agreement include a scale increase of 5.1% over three years and an increase of performance weeks from 38 to 39, while maintaining four weeks of vacation. This puts the total minimum guaranteed compensation for the DSO at \$105,481 by the end of the third contract year. Also, an orchestra position will be added, increasing the complement to 88. Family leave will be expanded, and stipend payments for non-work, non-vacation weeks will be continued.

The Detroit Symphony musicians extend their deepest gratitude to the members of their negotiating team: musicians Jeremy Epp, Will Haapaniemi, Peter McCaffrey, Karl Pituch, and Robert Stiles, along with AFM Local 5 President George Troia, Jr., and attorney Kevin Case.

ICSOM at the GRAMMYS

The 62nd annual GRAMMY Awards ceremony was held on January 26, and eight ICSOM orchestras were in the running. The Los Angeles Philharmonic's album *Norman: Sustain* was nominated both for Best Orchestral Performance and Best

<i>Norman:Sustain</i>
Cover Art
Permission
Denied by
Universal

Contemporary Classical Composition, winning the former category. Gustavo Dudamel, the LA Phil's music director, conducted the orchestra for the recording, and the work was commissioned by the orchestra as part of the celebration of its centennial season.

The winner of Best Contemporary Classical Composition was the Higdon Harp Concerto on the album *American Rapture*, featuring the Rochester Philharmonic Orchestra conducted by its music director, Ward Stare. The RPO gave the work its premiere and was part of a consor- >>

tium of orchestras that commissioned it.

American Rapture was also nominated in the Best Classical Instrumental Solo category, which was won by a recording of Wynton Marsalis's Violin Concerto and his *Fiddle Dance Suite*. The album featured the Philadelphia Orchestra, conducted

Wynton Marsalis: Violin Concerto Cover Art Permission Denied by Universal



by Cristian Măcelaru, and it in turn was also nominated in the Best Contemporary Classical Composition category.

A fourth nominee in that category was *Fire in my mouth*, with the eponymous work by Julia Wolfe, featuring the New York Philharmonic conducted by its music director, Jaap van Zweden. *Fire in my mouth* also received a nomination in the category of Best Engineered Album, Classical. (Note: NY Phil ICSOM Delegate Leelanee Sterrett gave a presentation about this work at the 2019 ICSOM conference in Park City.)

Joining it in this category was the Pittsburgh Symphony Orchestra's recording of Bruckner's Symphony No. 9, conducted by Music Director Manfred Honeck. The album also received nominations in the Best Orchestral Performance category, and its producer, Dirk Sobotka, was nominated for Producer of the Year.

The Detroit Symphony Orchestra (Copland's ballet scores *Billy the Kid* and *Grohg*) and the Cincinnati Symphony Orchestra (*Transatlantic*, a recording that featured the premiere recording of the new critical edition of Gershwin's *American in Paris* (Note: see "The Gershwin Critical Edition" in the March 2016 issue)) both received nominations for Best Orchestral Performance. The Nashville Symphony was nominated in the Best Classical Compendium for its album of works by Jonathan Leshnoff. The major work on the album is Leshnoff's Symphony No. 4, "Heichalos", which featured the Violins of Hope (Note: see "Newslets" in the June 2018 issue). This category also included another nomination for Cincinnati (as the Cincinnati Pops Orchestra), for its album *American Originals: 1918*.

Departing Directors

The Baltimore Symphony announced in February that its music director, Marin Alsop, will be stepping down from that role at the expiration of her current contract, in August 2021. She began her tenure in September 2007.

Alsop is the first and only female music director of a major 52-week American orchestra. In 2005, she was awarded a MacArthur Fellowship—one of the only conductors to receive that honor thus far—and used the monetary award to fund the BSO's OrchKids, a year-round program inspired by El Sistema that provides music education, instruments, academic instruction, meals, as well as performance and mentorship opportunities at no cost to students and families.

She will continue her relationship with the BSO as music

director laureate and OrchKids founder. Players Committee Chair and ICSOM Delegate Brian Precht said, "The musicians are proud of what we have accomplished under Marin's leadership. Her inventive and forward-looking tenure has been characterized by collaboration, inclusion and creativity. Marin's ability to draw listeners and community into greater understanding and relationship with the music and the musicians sets a new standard across the orchestral world. We are delighted that we will continue to work together for years to come."

Also stepping down at the end of the 2020–2021 season is the Oregon Symphony's Carlos Kalmar, who has held the position since 2003. His lengthy leadership of the orchestra has been noted for the orchestra's acclaimed Carnegie Hall debut, as part of the first Spring for Music Festival, and a string of Grammy-nominated recordings on the PentaTone label that followed as a consequence.

"Carlos Kalmar is an absolute force of nature in the conducting world, and a 'musician's musician' to us in the Oregon Symphony," said Orchestra Committee Chair Peter Frajola. "From his incredibly well-informed Viennese musical upbringing to constantly learning about and synthesizing every other culture he visits, from his own highly artistic and musical instincts to nurturing all of ours on stage with him, Carlos is always sure of what he wants and makes us sound and play at an incomparably high level."

Kalmar will continue in his roles as artistic director and principal conductor of the Grant Park Music Festival.

New Milwaukee Hall Named

The Milwaukee Symphony announced that it has received a \$52 million naming-rights gift, and the building housing its new concert hall will be called the Bradley Symphony Center, in honor of Harry and Peg Bradley.

The building, formerly the Warner Grand Theater, is currently undergoing extensive renovations and is expected to open in fall 2020 before the beginning of the orchestra's 2020–2021 season (Note: See "Newslets" in the March 2017 issue). The hall itself will be dubbed Allen-Bradley Hall, »



MSO musicians Lijia Phang and Alex Ayers perform at the Bradley Symphony Center naming ceremony

named for the company that Harry Bradley founded with his brother Lynde.

A large portion of the gift, \$20 million, is from the charitable foundation that the brothers created, the Lynde and Harry Bradley Foundation. The remainder is from two of the Bradley grandchildren, David Uihlein (with his wife Julia Uihlein) and Lynde Uihlein, and the Jane Bradley Pettit Foundation (founded by the mother of Lynde and David Uihlein).

"The MSO musicians are very grateful to David and Julia Uihlein and the Bradley Foundation for their generosity in making the renovation of the Warner Grand Theatre possible. The new hall will be transformative for both our artistic endeavors and our financial health," said Rudi Heinrich, chair of the Players' Council.

Free Streaming

The Philadelphia Orchestra announced in February that it would begin offering free on-demand streaming of many of its concerts.

The orchestra launched its first streaming service in 2016, calling it Orchestra on Demand. Later, it was rebranded to Listen on Demand, while access to the service continued to require a donation to the orchestra or the purchase of a ticket to a concert. Now access is being provided to anyone, as one aspect of a re-launch of the orchestra's website.

"This is all about engaging our audience in as many ways as possible and as meaningfully as possible," said orchestra

president and CEO Matías Tarnopolsky, as quoted in the *Philadelphia Inquirer*. "The more you burnish the brand of the Philadelphia Orchestra by sharing the art that the orchestra and Yannick and others make on stage, the more you hopefully increase ticket sales and philanthropy, too."

Features of the new service include a PDF of the program book for each concert and a clickable track listing (by work, not by movement). The service currently offers some of the concerts from the 2018–2019 season, and the orchestra plans to post more in the near future. The number of performances ultimately available through the new Listen on Demand service is potentially hundreds culled from several decades, Tarnopolsky said.



Brave New COVID-19 World (continued)

cial position. We will survive this by pulling together, sharing information, and staying in touch. As we distance ourselves physically, we must stand together metaphorically. ICSOM, our Locals, and the AFM will be here to assist in any way we can. What can you do to help the other members of your orchestra, including your subs and extras (who will likely be even harder hit than your tenured colleagues)?

We are in uncharted waters, and there is much to be concerned about—not least of which is the health of all our members and their family and friends. By working together, we can overcome this challenge.



SYMPHONY AND OPERA MUSICIANS
INTERNATIONAL CONFERENCE OF

ICSM
International Conference of
Symphony and Opera Musicians
Peter de Boer, Editor
431 N Kenmore St
Arlington, VA 22201

ADDRESS SERVICE REQUESTED

