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An Exceptional Conference

By Laura Ross

Confinement, quarantine, social distancing, furlough, innovation, activism, creativity, inclusion.

These ideas were explored and discussed during this year's ICSOM Conference. There was no big hotel conference meeting room, no talking face-to-face with colleagues from across the country, or catching up with old friends and meeting new ones for the first time; instead it was a screen with tiles of faces who talked about the issues confronting our orchestras during this time in history.



Robby Klein

We had planned to meet at the Wyndham Grand Pittsburgh Downtown hotel. The Pittsburgh Symphony would be preparing for a European tour and departing the day after the conference ended. Delegates and guests would have attended a pre-tour concert at Heinz Hall followed by a reception. Aside from beginning consideration of presentation topics, that is as far as conference planning had progressed by early March. Then on March 12–13, nearly every one of our orchestras' seasons was halted, initially for a few weeks, then months, and, in one case, for the entire following season.

The Governing Board began scheduling weekly meetings and—as the conference dates drew closer—came to the decision that the health and safety of Delegates, Local and AFM officers, and guests were far more important than hosting an in-person conference. By mid-May a board subcommittee had devised an outline for a three-day online conference that would cover issues currently confronting our musicians and institutions. It would also allow more ICSOM members to attend and discover for themselves some of the things ICSOM provides to our member orchestras other than the most visible manifestations of our organization: a newsletter, a membership directory, and settlement bulletins.

First though, ICSOM's bylaws had to be amended, because at no time in its 58-year history had anyone contemplated the possibility that an annual conference could not be held in person. To accomplish this, the Governing Board called a special Zoom meeting on June 22, during which Delegates consid-

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Concepts to Further Inclusivity

By Meredith Snow

We were incredibly fortunate to have guest panelists Anthony and Demarre McGill for the opening session of our 2020 conference, *Intersection of Music, Race, and Activism in Our Orchestras*. Anthony, principal clarinet with the New York Philharmonic, also serves as artistic director of the Music Advancement Program at Juilliard, is on the Board of Directors for both the League of American Orchestras and the Harmony Project and serves on the advisory council for the Inter-School Orchestras of New York. His older brother Demarre, principal flute of the Seattle Symphony Orchestra, is associate professor of flute at University of Cincinnati College-Conservatory of Music, and an artist-faculty member at the Aspen Music Festival and School. They have

both been extremely active in cultivating educational opportunities for young musicians in underserved communities and working towards racial equity within our orchestral institutions.

During the protests and civil unrest following the murder of George Floyd, Anthony posted his #taketwoknees video (<https://www.youtube.com/watch?v=wM1G-lti7Ns>), challenging fellow musicians to shine a light on racism by creating their own videos. His idea was a tribute to Colin Kaepernick's kneeling protests of police violence. In an interview with Tom Huizenga for NPR, Anthony said, "The issue got clouded and disregarded . . . because it was in the middle of a football game. And so I started writing about how people aren't allowed to protest . . . quietly or loudly or peacefully either. We should be able to . . . use our voices as musicians and artists, whatever our strengths are. We should be using those to express what's wrong so we can help make it right. We think we're helpless and that things are hopeless, but there are ways we can actually pass on positivity and righteousness and beauty and good....we can protest and it can be okay."

Demarre, in addition to posting his own #taketwoknees video (Note: see <https://www.youtube.com/watch?v=w5UYq50MxKk>), organized an "Arts March for Racial Justice and Equity" (<https://www.youtube.com/watch?v=Yc4-WeRN5jk>) in conjunction with the Seattle Symphony musicians union, Seattle Symphony and Opera Players Organization (SSOPO), calling on the arts community to speak out against racism and police

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Chairperson's Report

By Meredith Snow

Lessons for the 21st Century

We find ourselves in a very tight spot. I doubt there has ever been a time, since ICSOM was founded 58 years ago, that our orchestras have been in a more precarious situation. The coronavirus pandemic has stripped away our livelihoods and our way of life.



Diane Alarcon Photography

It has taken the lives of tens of thousands of Americans and it has devastated our economy. We are hanging on by our fingernails as our American democracy degenerates into autocracy.

It's hard to imagine that just four months ago we were performing concerts in our halls and practicing repertoire for the next week. Now we find ourselves exiled and isolated, locked out of our halls, trying to find ways to connect with our friends, our colleagues, our audiences, and our music.

But the virus has also, in its sudden, brutal devastation, shone a harsh and compelling light on the many social and economic disparities that exist in our country. The pandemic has forced us to stop. To stop our frenetic, distracted, rat race existence and really look at what we are doing—to clearly see the society we have created. The disproportionate deaths of people of color has made manifest the economic disparity, environmental racism, violence, and oppression that our capitalist economy has created and that our predominantly Black and Brown citizens suffer under every day.

We are experiencing an historic moment where hundreds of thousands of people across the globe are taking to the streets to demonstrate against that oppression. We are also experiencing a long overdue reckoning of our nation's history, begotten in genocide and slavery; the continuing legacy of that violence is dramatically on display in our streets today.

We are still grappling with the aftermath of that history. It remains largely unrecognized and tacitly accepted as elements of bias and racism within our society. It plays out in the social and economic oppression and exclusion of our Black and Brown citizens. There is a critical need in our nation for truth and reconciliation, for truth and justice, for truth and equality. But there can be none of these without the truth first.

The pandemic has revealed the terrible failure of our health care system and the failure of our government—its inability to care for our democracy and its citizens. Our hyper-individualist, rapacious, capitalist ideology has led us to trample our fellow human beings and to poison our planet. We are unwittingly coming closer every day to the precipice of that apocalyptic ideology. This is a moment for humanity to rethink its destiny. The curtain is torn away by this crisis and we have an opportunity to see where we are headed.

This is a moment for our nation to do better. It is a moment for us to do better.



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We will survive this crisis—our orchestras will survive if we stand together and defend them. In the book *On Tyranny: Twenty Lessons from the Twentieth Century*, author and Yale professor of history, Timothy Snyder, tells us how.

Lesson #2, Defend Institutions: “Institutions do not protect themselves. They fall, one after another, unless each is defended from the beginning. So chose an institution you care about—a court, a newspaper, a law, a labor union—and take its side.”

Your orchestra is your institution and the American Federation of Musicians is your labor union. We need every musician to take action now—speak up, speak out, connect with your donors and audience. Write to your congressional representatives. Help out in your community. Many of your orchestras already have social media accounts—use them to start a food drive in your neighborhood, to organize porch concerts, to raise money for a good cause. Be visible, do good.

Lesson #13, Practice Corporeal Politics: “POWER wants your body softening in a chair and your emotions dissipating on the screen. Get outside. Put your body in unfamiliar places with unfamiliar people. Make new friends and march with them.”

For now, let it be socially distanced or virtually—be safe! But none of us can afford to stand on the sidelines. We must act now to save ourselves and our orchestras. Contribute your voice to your orchestra and to your community. Stand up and stand out. Set a visible example in your community to preserve your orchestra for future generations.

This crisis will pass. Our orchestras will survive. We will survive because we have dedicated our entire lives to our music. We connect humans with their humanity. We ignite hearts, we unite spirits, we speak truth and beauty. And we know in every fiber of our being what is just and fair because we seek it every day in our art.

We have each given our lives to improving the lives of others: to our students, our colleagues, our audiences, and our orchestra. We will stand together and have each other's backs. We will find the path together, with our orchestras and with our communities—the path that heals our nation and restores our orchestras and the music we create.



President's Report

By Paul Austin

Safety First

A highlight of the 2020 ICSOM conference was the session *Health and Safety in the Workplace: Our New COVID-19 World*, led by three professionals, each of whom brought an important perspective to the conversation, and moderated by ICSOM counsel Kevin Case.

Thanks to ICSOM Treasurer Michael Moore, the Governing Board became aware of Dr. Carlos del Rio's work as a result of the presentation he gave last March to the musicians of the Atlanta Symphony Orchestra.



We are fortunate that del Rio accepted our invitation to be a panelist on this session of our conference regarding health and safety in the workplace. A professor and administrator at Emory University's School of Medicine, del Rio is a recognized authority on infectious diseases and frequently appears on CNN to give expert opinions on these matters.

Recently Kevin Case brought the reputable work of Dr. Adam T. Schwalje to the attention of ICSOM's Governing Board. His study "Wind Musicians' Risk Assessment in the Time of COVID-19" (co-authored by Dr. Henry T. Hoffman, dated June 10, 2020) is available at our website (<https://www.icsom.org/covid/docs/Wind-Musicians-Risk-Assessment-in-the-Time-of-COVID-19.pdf>). Being a wind player himself (Schwalje has a DMA in bassoon performance from the University of Cincinnati College-Conservatory of Music), he is acutely aware of the challenges faced by orchestral musicians as we seek answers regarding how to perform our jobs safely during COVID-19.

To complete the panel, ICSOM Chairperson Meredith Snow suggested the inclusion of Larry Rick, an infectious disease specialist with the United Nurses Association of CA/Union of Health Care Professionals. A physician assistant, Larry Rick has been a leader in infectious diseases at South Bay Kaiser Permanente for more than thirty years, specializing in the care of HIV, prevention of HIV and STDs, and all emerging infections including COVID-19. As an actively engaged union member and leader, Rick has assisted many local unions, including AFM Local 47, with the safety and protection of workers during our current global pandemic.

While all topics on the agenda for this year's ICSOM conference were relevant to our current time, this session on health and safety was of utmost importance to ICSOM orchestras—more than 200 people attended this session, an ICSOM record. Reports show that Americans are at an extremely high risk for COVID-19. While the United States makes up just 4% of the world's population, we currently have 428 COVID-19 deaths per million people (as compared to 4 deaths per million in New Zealand, and 5 deaths per million in Australia) (*Note: see the Guardian, July 24, 2020, <https://www.theguardian.com/world/live/2020/jul/24/coronavirus-live-news-us-cases-top-4m-as-who-chief-chides-pompeo-for-untrue-claims>*). As we have seen media coverage of non-US orchestras returning to work, and with the eagerness of ICSOM musicians to do the same, we must proceed with caution and act in an educated and informed way.

The panel stressed the challenge of protecting against infection, as the conference attendees were highly interested in how to return to work safely. It is notable that the homes of the professionals who appeared on this panel span the country (Georgia, Iowa, and California), which led to keen observations from their personal perspectives. The scientific evidence and facts brought by del Rio and Schwalje with the practical advice brought by Rick struck a fine balance for this 90-minute session.

While creating a vaccine for COVID-19 is a priority of the medical community, the panel noted that an effective treatment of the disease would be an acceptable alternative. They cited the example of HIV for which, after four decades, there is still no vaccine, yet AIDS is treatable and manageable to—>

day.

The panel also stressed the importance of educating the younger generation. Rick cited the example of young staff members at his hospital who had caught the virus through careless social interaction outside of work. The virus had not spread within the medical group only because of all the precautions that had been taken.

ICSOM musicians may have adult children who have returned home due to the crisis. It just takes one person placing themselves in an unsafe situation (not observing social distancing, for example) to contract the disease and not show symptoms yet unfortunately pass COVID-19 to a parent who plays in an orchestra (and who in turn could infect their colleagues).

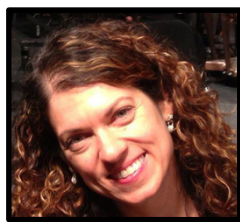
ICSOM is thankful that each presenter on this panel consented to having a video of this session available at our website, www.icsom.org. All ICSOM musicians are encouraged to take the time to view this important presentation with your families and loved ones.



Electronic Media for a “COVID Season”

By Rochelle Skolnick and Deborah Newmark

For good or ill, the use of electronic media has never been more central to our art than at the current moment. Streaming is a far from perfect way to consume music: even enjoyed through the finest playback equipment,



a streamed performance lacks the vitality and immediacy of being in the same shared acoustical space with the performers. But since mid-March, streaming has been our primary means of connection with audiences and donors. And streaming is almost certain to play

an essential part in the distribution and consumption of our work during the 2020–2021 season.

Recognizing that, the AFM collaborated closely with the rank and file members of the ICSOM and ROPA media committees to develop a framework for the streaming of content in the coming season. That framework waives traditional media payments but creates tiers providing generous amounts of free streaming in exchange for an employer’s commitment to maintain compensation and benefits to musicians at a given percentage of pre-COVID-19 levels. The framework incentivizes better treatment for musicians: a greater compensation commitment for 20–21 equals more minutes of free streaming.

Managers who have seen the framework love it—so much so that we sometimes ask ourselves if it is too generous. Managers of orchestras signed to the individual employer IMA have been quick to sign on to the side letter and are using it now to plan their seasons. Many managers of orchestras that are members of the EMA (the Symphony, Opera, and Ballet Employers’ Electronic Media Association, which is the multi-



employer group that bargains the IMA with the AFM) also love the framework and tell us they would like to sign on. But in a bizarre twist, the EMA is now prohibiting them from signing it and from bargaining directly with the AFM, giving them no viable alternative to the AFM framework and impeding bargaining over local agreements to cover the 20–21 season.

To understand how we got to this odd and frustrating state of affairs requires a look back at the way media agreements unfolded through the course of the pandemic. First, some basics: the AFM bargains the Integrated Media Agreement (IMA) with a multi-employer bargaining group—the aforementioned EMA. The EMA consists of over 100 symphony, opera, and ballet institutions in the United States. Not all ICSOM and ROPA orchestras are members of the EMA, and an orchestra need not join the EMA in order to become signatory to the IMA. The AFM maintains two versions of the IMA that contain virtually identical substantive terms: one for EMA employers and one for those who have chosen to remain independent. The subject of electronic media, with very limited exceptions, falls within AFM, rather than Local, jurisdiction and must be bargained by the Federation.

On March 9, as the pandemic erupted in the United States, we began a conversation with the EMA’s consultants, Joe Kluger and Michael Bronson, about what media accommodations we might make to allow orchestras to remain connected with their communities during a period when regular performance was compromised or impossible. On March 12, the AFM entered into a side letter with the EMA to allow an orchestra to stream one concert per week in exchange for a commitment to pay all musicians for all work scheduled as of the date of the agreement during the 30-day period after the launch of each stream. The streams were to be kept “behind a curtain” and made available only to ticket buyers, subscribers, and donors. The idea was to replicate, digitally, the weekly concert experience an audience would have had in the hall, but for COVID-19. An employer could only use the agreement if it was ratified by the musicians of the orchestra and any streamed content was to be approved by the OC. AFM International President Ray Hair signed the side letter on his way out the door of the AFM’s New York office, headed to the airport to fly home to Texas. Bill Thomas, then-Executive Director¹ of the New York Philharmonic and chair of the EMA’s negotiating committee, signed the agreement on behalf of the EMA.

On March 18, we revisited the side letter, expanding the range of archival content that could be accessed for streaming purposes, lengthening the period each stream could be available from 7 to 45 days, and creating “expanded volunteer promotional recording” opportunities. This document was also signed by Ray Hair and Bill Thomas, this time from their respective homes as the country engaged in a partial lockdown.

Two days later, the New York Philharmonic Orchestra Committee received a media proposal from Bill Thomas. The March 20 proposal sought virtually unlimited streaming of a vast swath of archival material with no media payments to musicians. To say it went far beyond the deal Thomas had signed with the AFM only two days earlier would be a gross understatement. Together with Fiona Simon (member of >

both the Phil OC and ICSOM media committee) Debbie Newmark set about analyzing the Phil's wish list of material to determine what variances would be necessary to give them what they wanted. After hours of work, we concluded that about two-thirds of what the Phil wanted could be done by granting minor variances, some of which were within the authority of the OC to grant. The Phil declared this insufficient and demanded complete acquiescence to its proposal—carte blanche to distribute not only the items on their wish list but anything else they later deemed desirable. And hanging over the musicians' heads was the Phil's threat to invoke Force Majeure, laying off the musicians and cancelling their health insurance.

We've talked to a lot of musicians in tough spots, but the musicians of the NY Phil, on those days in March, at the epicenter of the pandemic in the US, were staring down the barrel of a gun like perhaps no other musicians in our collective history. With the musicians (some in treatment for cancer, some pregnant, others vulnerable to severe complications from COVID-19) in an unfathomably precarious position, the AFM had little choice but to agree to the Phil's extortionate demands or risk the lives of the Phil musicians. The situation was further complicated by the fact that unlike in most cases where media is at issue, active negotiations almost completely bypassed the AFM, with the AFM asked to sign an agreement it had never seen just 90 minutes before it was due to be ratified by the musicians. The deal was inked on March 23, by Bill Thomas.

Later that same day, EMA consultant Joe Kluger proposed to us that the AFM agree to bargain side letters with any EMA member employer who wanted one, to cover the pandemic period. The EMA's stated concern was that some of its members would be unable to maintain the 100% compensation requirement built into the March 12/March 18 agreements but would still want media flexibility beyond that provided by the IMA itself. With some inkling of the economic challenges ahead, the AFM agreed to this request and collaborated with the EMA on guidance to its employer members about how to conduct such individual bargaining.² Over the next three months, we bargained dozens of side letters with EMA member orchestras. By agreement with the EMA, those were bilateral deals between the AFM and each individual employer; the EMA itself was party to none of the agreements.

In addition to the obvious challenges of bargaining media in a pandemic, the existence of the NY Phil deal created particular challenges for us as we bargained side letters with individual employers. Employers had heard about the Phil deal and viewed as a model what we saw conversely as a terrible aberration. Taking guidance from the EMA, employers tried to persuade musicians they needed completely free rein with media if the orchestra was to survive and then to deputize orchestra committees to argue the employer's case with us.

In the face of this assault by the employers, our concern was to preserve, as much as possible and for as long as possible, the musicians' compensation and the value of their recorded product. With ordinary performance impossible, we could foresee a time at which the musicians' chief stock in trade would be extant archival content and we urged musicians to resist the impulse to "trade away their seed corn" just as the crisis was beginning to unfold.

Each of the completed individual side letters required the employer to maintain CBA wages or some lesser compensation agreed upon by the musicians/local and the employer. In exchange, the employer got an amount of streaming that was identical to or, in some cases, a bit more generous than what was permitted by the original side letter/MOU. Where additional streaming rights were granted, it was to accommodate a particular project or specific plans the employer had to reach a particular segment of its audience. Ironically, many of the employers who argued most vociferously that they needed absolute freedom with media have used very little of the media flexibility they attained.

As we bargained these deals with employers, we heard a common request that became an increasingly desperate plea: managers needed a media framework for the 20–21 season. They were trying to plan concerts. They wanted to sell subscriptions and tell patrons they could access a stream of a concert they could not attend in person. They needed to budget for what would likely be some extraordinary hybrid of in-person and digital events.

Initially, we resisted this plea. Getting each orchestra signed to its own side letter took time and there was immense pressure to get each deal done quickly. In April and May, it felt too soon to predict what would be needed in September, with the curve of the pandemic showing (short-lived) promise of flattening. But by May the flurry of initial side letter requests subsided (a little) and we began to engage the media committee in discussions about how to handle media for the coming season.

The committee spent many hours discussing how best to meet the anticipated media needs of the wide range of institutions that are signed to the IMA and their work deserves the highest commendation. One "must have" in this process was a document that would be adaptable to the widest possible range of circumstances. The result was the media tier framework, which provides some amount of free streaming content except in the most dire of situations, as where musicians have been furloughed without compensation or health insurance through a declaration of Force Majeure.

As the committee began its work, we received a letter from the EMA proposing to create a new multi-employer agreement for what the EMA described as "COVID-19 Phase II." In this letter, the EMA laid out a set of "guiding principles" for the "Phase II" agreement. Among them were these particularly stunning "principles":

- All electronic media agreement restrictions and payment requirements for electronic distribution of any archival and/or live performance capture should be suspended
- The agreement should not be contingent on the amount of compensation and benefits, if any, paid to musicians under the applicable CBA with the AFM Local

The EMA would have the AFM waive, on behalf of hundreds of out-of-work musicians, any and all payments for distribution of electronic media, whether archival or newly captured by musicians who were literally risking their lives to go to work. And they wanted us to do so without even the slightest suggestion that those musicians would, in return, receive any salary or benefits at all from their employers. The EMA's letter, which could only be read as a request to re-open »

the 2019–2022 Integrated Media Agreement, got a chilly reception from the media committee.

In subsequent phone conversations, Ray Hair informed Bill Thomas that while the AFM had no intention of re-opening the 2019–2022 Integrated Media Agreement, it was willing to listen to the EMA's specific requests for media in the 2020–2021 season and to give them due consideration. This is essentially the same approach every local is currently taking as employers seek mid-term accommodations for the 20–21 season. Thomas's response was that the EMA was unwilling to engage in any discussions without reopening the agreement.

About contract re-openers: An employer's request to re-open a CBA mid-term should be handled with care. Agreeing to re-open creates the possibility of bargaining on all terms of the contract and, if the parties reach impasse, implementation of an employer offer. Genuine impasse is nearly impossible to reach, but the better course is to avoid ever having to figure out whether you're at impasse or not. So we generally decline the request to re-open, agree to listen to the employer's concerns, trade "supposals," and memorialize whatever agreements we reach in a side letter to the CBA. The CBA itself remains unchanged except as specifically modified in the side letter. And if the parties can't reach agreement, we collectively shrug our shoulders and default to the terms of the still-intact and fully enforceable CBA.

We issued our invitation to the EMA to present its specific requests on May 27. By mid-June, the media committee had finished its work on the COVID-19 framework for 2020–2021 and it had been hammered into its side letter format.³ When the International Executive Board of the AFM gave the framework its blessing on June 18 we were still waiting to hear the EMA's specific requests, but given the EMA's insistence that discussions could only occur if we agreed to reopen the IMA, we were not holding our breath.

Before the ink was dry, we had our first customer for the 20–21 side letter: the Los Angeles Philharmonic. ICSOM media committee chair Peter Rofé was also working on negotiations for the LA Phil's 20–21 season and he believed the framework would appeal to his employer. As we ironed out the details of getting the LA Phil (an EMA member employer) signed, we began to circulate the deal to other employers as well. Because the framework was intended to function as an incentive to compensation for musicians in the 20–21 season ("keep paying musicians and get free media!") getting it into employers' hands as soon as possible was key. And in doing so, we were following through on the agreement we had made with the EMA to bargain individual side letters with employers during the pandemic period.

Unfortunately, the EMA had apparently changed its mind about that individual bargaining. On June 22, Bill Thomas wrote to express the EMA's displeasure upon receiving a copy of the side letter from one of its members, accusing the AFM of attempting to "impose a media agreement on an individual EMA member orchestra" and violating what it asserted was our duty to bargain in good faith with the EMA. Thomas's email also advised us the EMA was informing its members that "any amendments to the IMA must be approved by the EMA." In other words, the EMA was now prohibiting its

members from engaging in the same individual bargaining with the AFM that it had asked us for just three months earlier—and threatening the AFM with legal action if we continued to abide by that agreement.

Although the EMA has since tried to place a fig leaf over its actions by claiming there was no agreement between the AFM and the EMA to engage in individual employer bargaining, the documents tell a different story.⁴ In a June 23 email, Bill Thomas admitted the agreement, writing that "at the height of the crisis, the EMA did agree temporarily to permit its members to bargain individually with the AFM over COVID-19 related media matters." The problem, Thomas wrote, was that "the outcome of that process was not satisfactory" to the EMA. Which is an interesting complaint, given that in its individual COVID-19 side letters with EMA member employers the AFM did precisely what the EMA asked us to do on March 23: allow an orchestra that could not meet the 100% compensation requirement of the original March 12/March 18 agreements nonetheless to obtain some free streaming in excess of that allowed in the IMA proper.

No employer was turned away, no employer received less flexibility than that provided in the March 12/March 18 agreements. What we did not give those employers was carte blanche to stream unlimited content without any compensation—for media or otherwise—to musicians. And that, it turns out, is what they actually want.

On July 16, nearly two months after we invited the EMA to share with us its specific requests for media in the 20–21 season, the EMA finally sent a proposed side letter to the AFM. That proposal converts the "guiding principles" articulated in the EMA's May 12 letter into the form of an agreement. A few days later, the AFM met with the ICSOM and ROPA media committee to discuss the EMA's proposal. A subsequent communication from us to the EMA's lawyer summed up the reactions of the committee:

Setting aside various details of the proposal that are deeply problematic, the proposal is built on a foundation that is utterly repugnant to the AFM and the musicians we represent: complete abandonment of any commitment to compensate musicians while giving employers carte blanche to distribute media content gleaned from the musicians' creative work. The EMA's proposal openly contemplates that musicians may be called upon to produce content (only some of which is actually labeled "volunteer") for their employer even if that "employer" has completely stopped compensation and health insurance for musicians. The proposal would entitle this same "employer" to exploit unlimited amounts of existing content, without a penny paid to musicians. This total and complete decoupling of musician compensation from media rights is a radical departure from the principles that historically have undergirded our agreements and cannot form the basis of any agreement going forward.

We are not privy to the deliberations of the EMA or its individual employers. However, it is clear that Bill Thomas bargained a far richer deal for his own institution than he had bargained days before on behalf of the entire field, including institutions considered to be direct competitors of the NY Phil. If an EMA member believed that Thomas's actions >

thereby reflected a conflict of interest, then resolution of such a conflict and redemption of Thomas himself would require the EMA to obtain, on behalf of all 100+ EMA employers, a deal similar to the one the NY Phil wrestled from its musicians and the AFM. It is perhaps no coincidence that the EMA's current proposal attempts to do just that.

In the meantime, EMA employers have told us they want nothing more than to be able to use the framework we've developed but that they are "shackled," "handcuffed," or even "strangled" by the EMA's ban on their agreeing to the AFM's 20–21 COVID-19 side letter. Those employers are not without choices, however. As we know, one EMA member employer (the LA Phil) has signed the side letter framework, apparently after obtaining the blessing of the EMA. Presumably, other EMA employers could seek similar permission from EMA leadership.

The other option available to employers is to resign their membership in the EMA. Resignation from a multi-employer bargaining group is permissible at any time except during the period when bargaining for a new multi-employer CBA has begun. The IMA remains in effect until June 30, 2022, so there is no such bar here. As it does with any employer that otherwise satisfies the criteria to become signatory to the IMA (Local AFM symphonic CBA, tenured orchestra roster, orchestra committee), the AFM would offer any former EMA member employer the opportunity to sign on to the individual employer IMA,⁵ subject to ratification by the musicians of the bargaining unit.

The AFM has repeatedly called on the EMA to work together constructively to allow symphony, opera, and ballet institutions to creatively meet the challenges of the coming season while also promoting and protecting the well-being of the musicians. That call has thus far been met with bullying tactics aimed at extracting complete freedom to exploit musicians' creative work while providing those same musicians no assurance of compensation or health insurance. Your rank and file representatives on the media committee have ably represented you in demanding that any exploitation of media must be accompanied by a commitment to maintain some agreed-upon level of compensation and benefits pursuant to your local CBA, even if traditional media payments are waived. Our ability to hold that line will depend entirely on maintaining solidarity as orchestra musicians, united in our commitment to care for one another during this period of incomparable challenge.

Notes: Rochelle Skolnick is the AFM's Director of Symphonic Services and Special Counsel. Deborah Newmark is Director of Symphonic Electronic Media for the AFM.

1. Bill Thomas's current title is "David Geffen Hall Project Executive."

2. That guidance, from the EMA, began with this statement:

We are aware that many EMA members have been unable to use the COVID-19 IMA Side Letter to release additional electronic media content, due to the parameters of paragraph 5 (which requires Employers to continue full payment to all musicians for at least 30 days following each release of material). The AFM continues to prioritize continued compensation for musi-

cians but has now indicated willingness to negotiate a separate Side Letter with any EMA Employer that wants to release more content than is allowed under the basic IMA, but is not able to comply with the uniform terms and conditions of the updated EMA-AFM IMA Side Letter.

3. A copy of the side letter is available in the SSD Resource Center (<https://members.afm.org/member/page/id/10633>).

4. The entire correspondence between the AFM and the EMA, along with a copy of the 20–21 COVID-19 media side letter, is available in the Coronavirus Resources section of the SSD Resource Center on the AFM website. These materials can be found in a subfolder entitled "COVID-19 Electronic Media/EMA IMA".

5. A copy of the individual employer IMA is also available in the SSD Resource Center.

Orchestral Safety Plans: A First Look

By Kevin Case

ICSOM musicians are beginning to return to their halls to make music. While that is a welcome development in many ways, any return to work at this point must be accompanied by a comprehensive safety plan. Such plans are challenging to create, given the many unanswered questions about COVID-19 and the risks it poses in our unique workplaces. Nonetheless, in several ICSOM orchestras, safety plans have been carefully crafted and agreed upon in collaborative efforts between managements and musicians. This article will discuss key points of those plans.

Please note that this article is not intended as a comprehensive list of safety protocols, nor is it a recommendation of particular protocols to follow. It is not a template. Rather, it is a synthesis of common elements of the first safety plans we've seen among ICSOM orchestras.

Also remember that every orchestra is different. Each safety plan must be tailored to the specific needs of each contemplated performance by a particular orchestra, in each particular venue. There is no one-size-fits-all plan.

Further, while this article uses several current safety plans as sources, the plans themselves cannot be provided; they should be kept confidential to avoid possible liability issues.

I. Personnel

Although not part of a safety plan in and of itself, a threshold issue is the question of which musicians can be required to come to work. ICSOM and the AFM have consistently urged that any return-to-work agreement permit any musician in an at-risk category—or one who shares a household with someone in an at-risk category—to stay home, without penalty. Such musicians should simply be excused and should not be required to take sick leave or any other form of leave.

The results thus far have been mixed. Some orchestras have agreed to designate services as strictly voluntary. That is not difficult when small groups are used, which is most of >



Mia Klemm

what we've seen thus far. But even in contemplation of larger forces, at least one employer has agreed that musicians may request to opt out if they or a member of their immediate household are in an at-risk category.

Unfortunately, at least one orchestra that scheduled services with a large group of musicians required them to use sick leave if they had safety concerns. That is a troubling development and should not be emulated by any other orchestra. It also raises serious questions of age and disability discrimination which will need to be addressed on a case-by-case basis, should other orchestras (unwisely) follow suit.

In a new wrinkle, the Centers for Disease Control and Prevention (CDC) recently updated its definition of what it means to be at heightened risk from COVID-19. See <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-increased-risk.html>. Previously, the guidance was simple: over 65, or with underlying health conditions. Now, however, the CDC has changed the age component to a sliding scale:

As you get older, your risk for severe illness from COVID-19 increases. For example, people in their 50s are at higher risk for severe illness than people in their 40s. Similarly, people in their 60s or 70s are, in general, at higher risk for severe illness than people in their 50s. The greatest risk for severe illness from COVID-19 is among those aged 85 or older.

The CDC unhelpfully concludes that "older adults" should "take steps to protect themselves from getting COVID-19," including by "limit[ing] your interactions with other people as much as possible."

Regarding underlying health conditions, regardless of age, the CDC now splits that into two categories: people who "are" at increased risk, and people who "might" be at increased risk. The "are" conditions are:

- Chronic kidney disease
- COPD (chronic obstructive pulmonary disease)
- Immunocompromised state (weakened immune system) from solid organ transplant
- Obesity (body mass index [BMI] of 30 or higher)
- Serious heart conditions, such as heart failure, coronary artery disease, or cardiomyopathies
- Sickle cell disease
- Type 2 diabetes mellitus

The "might" conditions are:

- Asthma (moderate to severe)
- Cerebrovascular disease (affects blood vessels and blood supply to the brain)
- Cystic fibrosis
- Hypertension or high blood pressure
- Immunocompromised state (weakened immune system) from blood or bone marrow transplant, immune deficiencies, HIV, use of corticosteroids, or use of other immune weakening medicines
- Neurologic conditions, such as dementia
- Liver disease
- Pregnancy
- Pulmonary fibrosis (having damaged or scarred lung tissues)
- Smoking
- Thalassemia (a type of blood disorder)

- Type 1 diabetes mellitus

It is difficult to see how employers and employees can rely on this new guidance to make decisions about coming to work. What's the proper age cutoff—50? 60? Do we allow people with underlying conditions in the "are at increased risk" category to stay home, but require those in the "might be at increased risk" to come to work? These questions have no easy answer.

In the absence of clear guidance, we may have to rely on a more subjective standard: a musician with a reasonable belief that they are at increased risk from COVID-19, in light of guidance from the CDC and state or local health authorities, is permitted to stay home without penalty. Although that may frustrate employers, orchestra committees and managements are increasingly discussing alternative types of "work" that may be performed by those who do not feel safe coming to the hall to perform in groups. Example of some activities under consideration are:

- Solo performances recorded at home or other mutually agreeable location
- Educational initiatives (e.g., online master classes, lessons)
- Donor/patron outreach activities (e.g., interviews, "ask a musician")
- Social media content created at home (even non-musical content)

If the parties agree that such work will be expected or required, care must be taken to ensure it is a temporary solution that does not change the expected duties and responsibilities of an orchestra musician; and, whatever the activity, there ideally should be some nexus to musical duties. (For example, stuffing envelopes for the marketing department would lack that nexus.)

II. Components of Safety Plans

Safety protocols generally fall into four categories: health screening, personal protective equipment (PPE), distancing, and facility operation. Health screening is intended to prevent carriers of the coronavirus from entering the workplace at all; protocols in the other three categories are intended to mitigate the risks because screening will never be 100% effective. Elements of orchestral safety plans in each category are discussed below.

A. Health Screening

Health screening has three components: temperature checks, health questionnaires, and COVID-19 testing. The first two have become fairly standard; the testing component is still a work in progress. Screening is done at the musicians' entrance to the hall, so those who are unable to pass the screening criteria are prevented from entering the building.

Temperature checks. Touchless thermometers are used to check each musician's temperature every time they arrive at the hall. If the temperature reads above a certain limit—typically 100.4 degrees Fahrenheit—the musician is instructed to return home, self-quarantine, and contact their physician.

Health Questionnaire. These typically ask a musician whether they have had symptoms of COVID-19 in the past 24 hours (listing the symptoms as defined by the CDC); whether »

they have tested positive for COVID-19 in the past 14 days; whether they've had close contact (i.e., in the same household or in a caregiving capacity) with someone who has been diagnosed with COVID-19 or visibly showing symptoms; or whether they have recently traveled to an area with a high infection rate. If the answer to any question is "yes," the musician is instructed to go home.

When the musician can return varies. In some orchestras, a musician who has reported COVID-19 symptoms cannot return until they are free of any signs of fever and all other symptoms for at least 72 hours, without the use of fever-reducing or other symptom-altering medicines (e.g., Tylenol or cough suppressants) and at least 10 days have passed since the symptoms first appeared. Others also ask a musician to stay away for 14 days if they have traveled from an area with a high infection rate or have had close contact with a carrier. Plans do not appear to address the question of when and how a musician who received a positive test in the past but was asymptomatic can return, but guidance from local and state health authorities might provide the answer.

COVID-19 Testing. It is beyond egregious that six months after COVID-19 first appeared, the United States still has no robust and reliable testing system. Tests are not widely available and are of varying accuracy, comfort, and speed of results. This is a particular problem because so many virus carriers are asymptomatic, meaning that temperature checks and questionnaires alone cannot sufficiently mitigate the risk of the virus entering the workplace.

Nonetheless, some orchestras have been able to incorporate testing as part of the screening process. One orchestra's plan calls for testing musicians each day they arrive at the hall for services. Because rapid-response tests are not yet widely available and their accuracy has not been verified, musicians instead are instructed to come to the hall the day before each day of services for a nasal-swab test—thus ensuring they will always have a test result within a 24-hour window of services. This has been successfully implemented already for a number of services. Another orchestra's plan calls for testing upon the first return to work and then at "regular intervals" thereafter. All testing is performed by a medical professional.

Although the use of testing by some orchestras should prove that it is possible everywhere, it may be that other orchestras do not have the capability or resources. Whether that is a deal-breaker will be up to orchestra committees and Locals to decide; but if testing is not part of the plan, then the other categories of safety protocols (PPE, distancing, and facility operation) become much more significant.

Legal Issues. The U.S. Equal Employment Opportunity Commission (EEOC) has issued guidance regarding the compatibility of the above screening procedures with the ADA and other laws protecting employees. That guidance permits employers to require temperature checks and health questionnaires as a condition for entering the workplace, so long as the information is kept confidential and stored in a separate medical file (not a personnel file). Employers also may require a fitness-for-duty note from a doctor before letting an employee back into the workplace if they were previously sent home for COVID-related reasons.

Regarding COVID testing, the EEOC guidance permits em-

ployers to require testing for the virus as a condition of coming to work, but only if the tests are "accurate and reliable." However, the guidance does not yet permit employers to require antibody testing, which has not yet been proven reliable.

B. PPE

PPE is the least difficult component to implement in a safety plan. Essentially it consists of masks and ubiquitous hand sanitizer. Masks should be worn at all times and should be provided if the employee does not bring their own. For hand sanitizer, the CDC recommends that it be alcohol based and at least 60% ethanol or 70% isopropanol. Most employers are setting up numerous hand sanitizer "stations" throughout the workplace.

Some current orchestra safety plans require face coverings to be worn at all times, except for wind and brass musicians when they are playing their instruments. (More on the winds/brass issue below.) Such musicians are then required to place the mask over their mouth and nose prior to leaving their seat. One orchestra provides a "mask holder" on the music stand.

In some orchestras, however, strings and percussion also are permitted to remove their masks while performing, evidently for comfort or aesthetic reasons. It should be noted that that practice does not conform to CDC recommendations and may violate local or state health ordinances requiring masks at all times.

The use of gloves has largely fallen out of favor, due to risks of cross contamination. Therefore, a musician arriving at the hall with gloves will typically be required to throw them away before entering. Musicians are instead encouraged to engage in frequent hand washing and the use of hand sanitizer rather than use gloves.

One exception may be for music librarians handling parts. For example, one safety plan requires librarians to don fresh gloves when putting out music on a table outside the library for colleagues to pick up. (Safety protocols for music librarians are quite specialized and will need to be determined on a case-by-case basis.)

C. Distancing

The goal is simple in theory: ensure that while at the hall, at least six feet of distance can be maintained at all times between musicians not of the same household. In practice, however, it can be challenging.

We still do not have definitive answers to the question of transmission of coronavirus from wind and brass instruments. There is growing consensus that the issue is aerosol production, not airflow. (Videos and studies floating around on the Internet purport to show little airflow from wind and brass instruments and therefore conclude the risk is slight; such studies should not be relied upon by anyone.) Until we have scientific consensus with respect to aerosol transmission—there are many studies in the works—six feet is not enough, and it appears that current orchestral safety plans try to account for that. Wind and brass musicians typically are separated by greater distances on stage (up to 12 feet), and Plexiglas shields are interspersed among them and between >>

them and other musicians.

Further, to dispose of condensation accumulated during playing, receptacles are placed beside the musician's chair, or, in one case, an absorbent pad is used. Letting it drip on the floor is prohibited. A receptacle will be removed by the cleaning crew; in the case of a pad, the musician is responsible for it.

Again, however, there remain questions regarding whether even the enhanced distancing and shielding effectively minimizes the risk of transmission from wind and brass instruments. Aerosolization can occur in a number of ways besides simply playing, or draining condensation—for instance, forcefully blowing to remove water from a keyhole or spit valve, crowing a reed, or buzzing on a mouthpiece. (There is an excellent overview of these questions in a paper by Adam T Schwalje MD, DMA, and Henry T Hoffman MD, "Wind Musicians' Risk Assessment in the Time of COVID-19," <https://medicine.uiowa.edu/iowaprotocols/wind-instrument-aerosol-covid-era-covid-19-and-horns-trumpets-trombones-euphoniums-tubas-recorders>.) Hopefully we will have answers soon; but in the meantime, orchestras seem to be doing the best they can to simply separate wind and brass musicians as much as possible.

Otherwise the stage plots seem fairly standardized: strings are distanced at least six feet apart, one on a stand, with no sharing of music. Notably, every safety plan I've seen thus far has a detailed stage map attached.

Safety plans must also address the route from the entrance to the hall (or even the parking garage) to the stage, to ensure the ability to distance at all times. Often musicians are given their own individual, staggered arrival and departure times to limit contact with other musicians. Musicians are directed to a specific point of entry for health screening. Once inside, they are directed to designated uncasing areas—for example, a case table that is assigned to each musician by name, with all tables spaced far apart. Pathways are marked by tape and/or signs. Guests and visitors are not allowed.

In one plan, once unpacked, musicians must go to directly and immediately to the stage; no lingering or warming up backstage is permitted. Each side of the stage is designated for either entry or exit. Musicians carry their own music on and off stage, along with all other equipment or personal possessions.

Most plans require musicians to arrive in concert attire, thus eliminating the need for a dressing room or locker room. That further helps ensure distancing by limiting the area of the building a musician must utilize and reducing the chances of musicians gathering and/or touching more surfaces. One plan did provide a changing room but limited it to one musician at a time.

For similar reasons, break rooms, orchestra lounges, green rooms, and kitchens are typically off limits. Musicians are expected to bring their own refreshments that do not require refrigeration. Coffee/tea service is eliminated. Water is handled differently among orchestras—some require musicians to bring their own, others provide bottled water (handled by staff with gloves), and at least one is installing touchless water dispensers backstage.

To ensure the ability to distance while moving about the building, aside from closing off rooms, most safety plans re-

strict the number of persons on an elevator to one or two, mark staircases as either up or down, and mark hallways one way where feasible. Some call for removing doors or propping them open when musicians are in the building.

Restrooms are an area of particular concern. Aside from physical modifications (discussed below), most safety plans restrict the number of musicians who can use restrooms at any one time, for example by implementing a one-at-a-time rule or by taping off every other sink, urinal, or stall. Musicians are instructed to keep their masks on in the restroom and, of course, wash hands thoroughly.

D. Facilities Operation

In addition to the operational procedures discussed above, some orchestra safety plans call for significant changes to the building itself. For example, one orchestra is knocking down backstage walls and removing equipment, in order to create additional space for proper social distancing. Outer doors are converted to additional musician entrances to alleviate crowding. Some orchestras also are planning to install touchless soap dispensers, toilets, and sinks in all bathrooms, while removing hot air dryers.

Thorough cleaning is a given. Safety plans typically call for cleaning of all backstage and onstage surfaces before and between every service, either with liquid cleaner, UV-C sanitizing light wands, or electrostatic sprayers (the method is typically specified in the plan). Daily cleaning of all touch surfaces in the building is often required. Whatever the method, there are specific cleaning protocols laid out in every plan.

Air filtration is emerging as an important issue. The latest research seems to suggest that COVID-19 is spread most easily through aerosol transmission, which elevates the importance of effective air circulation and cleaning. To that end, orchestra safety plans often promise an upgrade of the building's HVAC system. How effective that upgrade may be is open to question. According to science, only a true HEPA filter can remove coronavirus from the air. That is not feasible for many systems, however. The type of filter, the amount of outside air coming into the system, room size, and air circulation all must be thoroughly studied and discussed. I suspect this will be an area of increased focus in safety planning in all workplaces.

III. Summary

Because our understanding of COVID-19 is constantly evolving, because the future course of the pandemic is unknown, because the response from our civil authorities has often been inadequate, and because the guidance from agencies that we should be able to rely on (e.g., OSHA, the DOL, the CDC) has frequently been unhelpful, it is impossible to standardize any kind of workplace safety plan. Things may change quickly. Safety protocols that are not even on our radar yet may end up being critical. The above elements of orchestras' safety plans are generally well thought out, but they should be viewed as a starting point only. Keep in mind that health risks can be mitigated, but not eliminated.

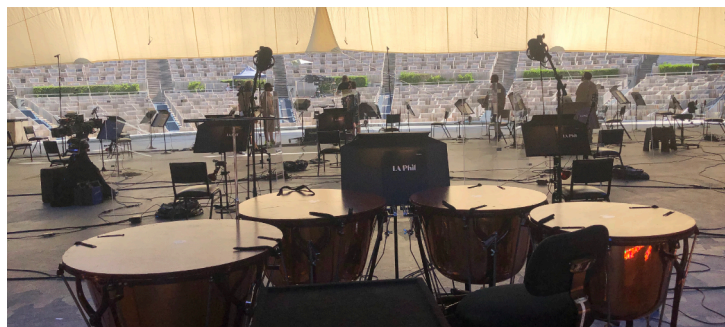
Finally, when working through these challenging issues, always remember a few key points: safety protocols are a mandatory subject of bargaining and must be developed in »

collaboration with orchestra committees and Locals; it is always the employer who is responsible for providing a safe workplace; our decisions should be based on the best available science; and when in doubt, err on the side of safety. No performance is worth risking your life, or the life of a loved one.

Note: the author is ICSOM counsel.

Newslets

On August 1, around 30 musicians from the Los Angeles Philharmonic returned to the outdoor stage of the Hollywood Bowl for the first time since the pandemic's shutdowns, to rehearse for the capture of product to be released under the new COVID-19 side letter to the IMA. Even though the Hollywood Bowl remains closed, the services were able to take place under the Reopening Protocol for Music, Television and Film Production Agreement:



Camille Avellano

Appendix J issued by the Los Angeles County Public Health Department. The string players were masked and sitting at least six feet apart, while the wind players were 12 feet apart and surrounded by plexiglass. Under these rather unusual conditions, the orchestra performed a program that included Beethoven Symphony #7, with Gustavo Dudamel conducting. The challenges of playing "together" while physically distanced were formidable, reported violinist Camille Avellano, "especially in passages where we are accustomed to reacting to what we hear, such as in the symphony's Scherzo movement. The size of the stage at the Bowl is ideal for social distancing, but also creates a considerable acoustic time lag, which is difficult to ignore. However, the sheer joy of making music as an orchestra far outweighs these concerns; we are enjoying being with our colleagues and experiencing a modicum of normality in these dystopian times."

Orchestras of Note and Innovation

Twelve orchestras made presentations at the 2020 conference about ways they are adapting to the COVID-19 environment. Here are more details on two of those.

#WeWillMetAgain

By Javier Gándara and Stephanie Mortimore

On March 12, in response to the public health emergency, the Met canceled all performances and rehearsals through March 31. Soon after, they announced the cancellation of our entire season as well as the furlough of most employees, including the orchestra, the chorus, and all stage workers.

Like most of our colleagues in NY and around the country, we started thinking of ways we could maintain contact with our audience and the communities we serve. The major difference between us and almost everyone else is that most other administrations worked with their musicians to maintain this presence as an institution while we were left alone in our efforts. The extent to which the Met has washed its hands of us became crystal clear after several of our attempts to collaborate with management were rejected. Among other things, these attempts included a proposed season of chamber music that our Artistic Advisory Committee put together with the help of our music director and presented to our general manager. It was rejected with complete disinterest bordering on hostility, making it clear that it was the Met's priority to avoid any activity that could lead to the orchestra being put back on the payroll.

Almost immediately after we stopped working, a small group of musicians, headed by violinist Miran Kim, came up with a beautiful campaign, appropriately named #MusicConnectsUs. Moving videos of our musicians, some performing with family members, were shared on social media. As weeks passed, more musicians joined these efforts and a larger social media subcommittee was formed. We were extremely fortunate to have had fundraising and public relations professionals offer and donate their services. Deborah Crocker of Grounded Consulting, who is also the sister of one of our first violinists, and Elizabeth Bowman of Bowman Media, who is also the wife of one of our concertmasters, were instrumental in shaping our current fundraising campaign and social media presence, called #WeWillMetAgain. We believe it perfectly represents our efforts to keep our orchestra together and maintain our audience's hope and optimism for a return to the Met when it becomes possible.

When, in the wake of George Floyd's horrific murder, national attention turned to the systematic marginalization and abuse directed at the black community, our communications team, with important assistance from trombonist Weston Sprott, crafted a statement to express our outrage. Weston, who is also head of the Pre-college division at Juilliard, has been instrumental in helping that institution implement meaningful efforts toward equity, diversity, inclusion, and belonging. Similarly, the goal of our statement was to force the Met to adopt a series of measures, at all levels of the institution. We believe our statement was directly responsible for pushing the Met into action because the day after we released our statement, they announced, for the first time, a series of specific measures they are taking to achieve that goal.

The orchestra has also decided that we need to begin to take matters into our own hands rather than to simply wait for the Met as an institution to make change. We have started an ongoing partnership with a school in East Harlem, The Renaissance School of the Arts. Six of our musicians recently gave masterclasses there and we are in discussions with the school about helping them create a strings program.

We also have many other exciting educational projects in the works:

- We have formed a partnership with the online music lessons company, LessonFace. Beginning in August, our musicians will donate two masterclasses a month for >>

which the orchestra will receive compensation. We are also partnering with LessonFace to produce classes that will be available in public libraries throughout the country. A variety of classes will be geared to both children and adults.

- We have organized a series of brass masterclasses for a Brazilian music school founded by the instrument case maker, Marcus Bonna. One of our bass players will even serve as Portuguese translator.
- We are in the middle of a ten-part masterclass series with Festival Napa Valley in memory of Joel Revzen, a beloved Met assistant conductor and founding music director for the Festival who tragically passed away from COVID-19 at the end of May.
- We are exploring the usage of a digital music platform that will allow us to present chamber music concerts for which we intend to sell tickets, as well as to charge a small fee for the playback of our masterclasses.

Note: Javier Gándara is the ICSOM delegate for the MET Orchestra, and Stephanie Mortimore is a member of that orchestra.

San Francisco Ballet: From Our Hearts and Homes

By Joe Brown


The San Francisco Ballet's last public performance was March 6, as we were the first major city to have restrictions placed on public gatherings. Immediately after learning this, we started an orchestra sub-committee for outreach and media and hit the ground running. We knew we wanted to stay connected with our audience, so with this in mind, we started our first video series: "From Our Hearts and Homes." These were short videos, about a minute long, profiling each member of the orchestra. They were shot on cell phones and produced by the musicians. Each participant shared something personal about how the pandemic was affecting them and played a short excerpt on their instruments. We released these videos each morning and I think they achieved their intended goal of connecting with our audience in a personal way.

I have to say, we are very lucky at San Francisco Ballet to have a collaborative working relationship throughout the whole company, including dancers, management, and staff. This has been the case in the past, but I believe the pandemic has brought us closer together as an organization.

At the beginning of our closure, we held three content meetings per week with musicians, dancers, and staff, some of which included our Executive Director, Artistic Director, and Music Director. We feel fortunate that our leaders demonstrate a willingness to be creative and think outside the box during this time. This collaborative partnership resulted in a number of interesting projects.

One of these projects of which we are particularly proud is titled *A Little Beauty*. Fifty-seven orchestra musicians and twenty-seven dancers recorded videos of themselves playing or dancing the waltz from Tchaikovsky's *Sleeping Beauty* from their homes. Our music director, Martin West, edited and mixed the audio, and two musicians, José González

Granero and Craig Reiss, edited the video. The end result, featuring both the musicians and the dancers, represents a very creative and endearing portrayal of this work. This project has currently received over seventy thousand views on our social media platforms and has helped raise awareness for SF Ballet's Critical Relief Fund, a targeted support effort for the workforce of the company.

We plan to put out new video content throughout the year. Please visit our Facebook (@sanfranciscoballetorchestra), Instagram (@sfballetorch), and Twitter (@SFBalletOrch) pages as well as our website, SanFranciscoBalletOrchestra.org, for more upcoming projects! 

Note: Joe Brown is ICSOM delegate for the San Francisco Ballet Orchestra.

Adopted Resolutions of the 2020 Conference

Statement of Condemnation Regarding Musician Furloughs

Submitted by the ICSOM Governing Board

Whereas, The COVID-19 pandemic has created significant economic challenges for ICSOM orchestras; and

Whereas, The vast majority of ICSOM orchestras have responded to those challenges not by laying off or furloughing musicians, but instead by continuing to pay salary in full or in part and maintaining health insurance and other benefits for their musicians; and

Whereas, A handful of ICSOM orchestras, including the Metropolitan Opera, the Indianapolis Symphony Orchestra, and the Nashville Symphony, have chosen a different path and have furloughed their musicians; and

Whereas, Of the employers who have furloughed musicians, only one, the Indianapolis Symphony Orchestra, has terminated the musicians' health insurance; and

Whereas, Cutting off health insurance during a pandemic is a particularly cruel and despicable action; and

Whereas, An orchestra cannot be saved by abandoning the musicians it comprises; therefore, be it

Resolved, That the Officers and Delegates to the 2020 ICSOM Conference condemn all orchestral employers who, contrary to the vast majority of their peers, have furloughed or plan to furlough musicians during the COVID-19 pandemic; and, be it further

Resolved, That ICSOM condemns in particular the management of the Indianapolis Symphony Orchestra for terminating the health insurance benefits of its musicians; and, be it further

Resolved, That ICSOM urges all orchestral employers to recognize that the health of their organizations cannot be separated from the health of their musicians, to negotiate in good faith with their musicians to find ways to ensure their well-being in this time of crisis, and to reject any approach that prioritizes the future prospects of the organization over its musicians, without whom the organization cannot exist.

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Inclusivity Resolution

Submitted by the ICSOM Governing Board and members of the ICSOM DEI Forum – Alberto Suarez (Kansas City), Stephanie McNab (San Francisco Opera), Rufus Olivier Jr. (San Francisco Ballet & Opera), Weston Sprott (Metropolitan Opera), Judy Dines (Houston) & John Lofton (LA Phil)

Whereas, The recent violent deaths of George Floyd, Breonna Taylor, Elijah McClain, Ahmaud Arbery, and too many other people of color, which inspired protesters across the world to demand justice and equality, have awakened our consciousness to the long-standing, systemic racial discrimi- ➤

nation and inequities in our society that also exist in our orchestral institutions; and

Whereas, Our orchestras have not met the call for greater diversity, as is demonstrated by the disproportionately low percentage of ICSOM musicians who are Black (1.8%) or Latinx (2.4%), despite decades of efforts to rectify this inequity; and

Whereas, Building and maintaining a vibrant, civically engaged institution that can advance the experience of orchestral music within our communities demands a commitment to racial equity; and

Whereas, To ignore that commitment perpetuates a status quo of inequity, which then creates a barrier to the very artistic vibrancy and civic engagement that is our mission as orchestral musicians; therefore, be it

Resolved, That the Officers and Delegates to the 2020 ICSOM Conference call on all ICSOM musicians to advance a deeper understanding of the racial inequities that exist within our orchestras, and, be it further

Resolved, That ICSOM recognizes the acute need for sustained and meaningful action to redress entrenched systemic discrimination towards people of color, which has resulted in their significant underrepresentation in all positions within our orchestral institutions; and, be it further

Resolved, That ICSOM acknowledges the many forms of discrimination in addition to race and ethnicity discrimination, including but not limited to discrimination on the basis of age, sex, religion, disability, national origin, sexual orientation, gender identity, or socio-economic status, against which we must also be vigilant; and, be it further

Resolved, That ICSOM must redouble its efforts to increase the diversity of our orchestral institutions, to work with managements and boards to build institutions that reflect the vast heterogeneity of American society, and to take immediate action towards righting these inequities in order to better reach and serve all members of our communities.

+ + +

Honoring Herman Benson

Submitted by Helen Reich (Milwaukee) on behalf of Robert Levine, President, Local 8 AFM and ICSOM Chairperson Emeritus & by Debbie Brooks (Fort Worth)

Whereas, Herman Benson died on July 2, 2020 at the age of 105; and

Whereas, Benson was the founder of the Association for Union Democracy in 1969 and edited its influential newsletter, Union Democracy Review, for decades; and

Whereas, Benson was the co-drafter of the Landrum-Griffin Act, also known as the “Bill of Rights for union members,” which was enacted by Congress and signed into law in 1959; and

Whereas, Ken Paff of Teamsters for a Democratic Union, who spoke at the 1998 Unity Conference, described him as “a one-man army in the union democracy movement”; and

Whereas, Benson spoke to the 1987 ICSOM Conference, describing the formation of ICSOM as “a unique example of unionists using their rights within a democratic organization” that “in some other unions... would have been squelched, with the perpetrators being blacklisted, fined, expelled, or worse”; and

Whereas, Benson was a staunch supporter and friend of ICSOM and its efforts over the decades to make the AFM more responsive to the needs of symphony musicians; therefore, be it

Resolved, That the Delegates to the 2020 ICSOM Conference honor Herman Benson’s memory and express their profound gratitude for his help and inspiration both to ICSOM and to all those who believe in union democracy.



Concepts to Further Inclusivity (continued)

brutality and sending the message that black lives matter. “The racial issues that have always existed, but have received recent headline-grabbing attention, have inspired an urgency amongst many people to do whatever they can to fix the prob-

lem that has plagued this nation since its inception,” he said. “Fortunately, there are a lot of people trying to figure out how to finally right the wrongs that have been so ingrained in the fabric of this country.”

Both Anthony and Demarre began our discussion by emphasizing how critical early education and access to classical music are to increasing diversity within the field. If there is no realistic hope for young people of color to pursue a career in music, or the necessary economic support to do so, the pool of talent from which we are able to draw for our auditions will not be sufficient. They also spoke about the isolation of being the sole and only principal of color in their respective orchestras. We need to integrate our musicians more fully both as an example to our communities and for the well-being of our own members.


Needless to say, discussions surrounding our audition and tenure processes, which have produced little success in increasing the number of people of color onstage, have come to the fore in these past months. The dialogue about what changes we may need to consider is both necessary and long overdue. However, the McGill brothers, along with Weston Sprott, trombonist with the MET Orchestra and Dean of the Preparatory Division at the Juilliard School, have offered Ten DEI Action Items for Professional Orchestras that can be implemented without changes to our collective bargaining agreements. They simply require the will and monetary commitment to put them into action.

- In order to fully understand how our audition process is functioning we need to collect hard numbers on who is applying, auditioning, and being hired/tenured. The National Alliance for Audition Support (NAAS) Orchestra Advisory Group is creating a form to collect and centralize this data. The form should be available this fall, initially to the 71 NAAS Partner orchestras (19 of which are ICSOM orchestras), and will then be disseminated more widely. (*Note: see www.sphinxmusic.org/national-alliance-for-audition-support*)
- Strive to program each season so that 25–30% of the repertoire was written by living composers, 15–25% was written by women composers, and 15–25% was written by composers from underrepresented heritages. These numbers assume overlap between these categories. (www.composerdiversity.com/programming)
- Commit to hiring people of color in upper management. The vision and resolve to make changes in our orchestras must come from the top down as well as the bottom up.
- Commit to hiring soloists, conductors, and substitute/extra musicians of color.
- Partner with Black for-profit and non-profit businesses, especially Black-run arts non-profits.
- Implicit bias training is a must for ALL employees and new hires. You don’t know you have a blind spot in your rear-view mirror unless someone teaches you how to recognize it and comprehend what you’re not seeing. Everyone needs the training: administration, musicians, ushers, etc.
- Perform a culture audit of the entire organization. The League of American Orchestras offers grants for audits and training through the Catalyst Fund (americanorchestra- >

s.org).

- Does the mission statement of your orchestra mention a commitment to diversity? Adjust it to include serving and engaging with communities of color.
- Adjust your job postings to convey to applicants that your organization is committed to inclusivity.
- Create a budget specifically for DEI initiatives. If money is not earmarked solely for that purpose, it will most certainly be spent elsewhere and those initiatives will not come to fruition.

All these concepts could be implemented simply by agreeing to do so and putting aside the necessary financing, if any. We are in a unique moment in our history as a nation and within our orchestral field.

As Demarre said, there is a sense of urgency to right the historic wrongs of socio-economic exclusion and racism in our society. We have a moral imperative as a country and within the microcosm of our orchestral industry to address these injustices. 

Note: the author is ICSOM chairperson.

An Exceptional Conference (continued)

ered an emergency resolution that would grant current and future Governing Boards the ability and flexibility to plan a conference online, should something similar prohibit future in-person ICSOM conferences. The changes, which were overwhelmingly adopted, allow the board flexibility with the agenda, and the ability to move approved conference locations, should it become necessary. Elections were also permitted to be suspended for one year, which meant all two-year terms were extended to three years (the Department of Labor (DOL) limits union terms for bodies like ICSOM to no more than four years before an election is required). An alternate proposal to make temporary changes rather than adding new bylaws was also submitted, but was not addressed due to adoption of the original proposal.

While some Delegates expressed concern about site selection and election changes, the Governing Board and Counsel explained the thought process that led to the proposed amendment. There was a potential \$40,000 hotel cancellation fee that could be alleviated by shifting the conference location to 2021; there was limited time to assemble a conference agenda; and union elections held using an online platform such as Election Buddy are still not approved by the DOL because of concerns about the possibility of someone being able to connect the identity of a voter with their vote, and the difficulty of providing candidates the right to observe all phases of the counting and tallying process.

So, with three weeks to prepare an entire conference online, the Board went to work. I immediately opened the conference registration link and requested written reports from Delegates about their orchestra's status; they were requested to substitute for a delegate's ability to find out the status of other orchestras. These reports were compiled and were made available, along with other written reports (replacing verbal conference reports), presentation links, and supporting documents, to conference attendees on the ICSOM website through a private link.

Member at Large Keith Carrick was the master of Zoom and hosted all the conference sessions, being ably assisted by fellow MALs Dan Sweeley, Micah Howard, and Greg Mulligan, who also served as moderators/assistants collecting comments and questions for the various presentations. *Senza Sordino* Editor Peter de Boor helped the many people likely to be unfamiliar with our acronym-filled world, by using the chat feature to identify terms and people during various presentations.

Some presentations incorporated ideas generated at the Town Hall meeting that followed the June 22 Special Meeting, such as a panel of medical professionals to discuss health and safety issues, and an exploration of the ways our musicians are promoting themselves during this time. ICSOM President Paul Austin identified and worked with 12 different orchestras to present this year's version of *Orchestras of Note* on the final day of the conference, this time entitled ***Orchestras of Note and Innovation: Creative Projects by Musicians' Associations of ICSOM Orchestras during the COVID-19 Pandemic***. Rochester Philharmonic Orchestra's Stephen Laifer addressed their radio broadcast Facebook project; Charlotte Symphony Orchestra's Bob Rydel introduced the "Charlotte Symphony al fresco" project; San Diego Symphony Orchestra's P.J. Cinque talked about their "AMA-440" Instagram series; St. Louis Symphony Orchestra's Amanda Stewart spoke about launching their social media platforms; Fort Worth Symphony Orchestra's Debbie Brooks talked about their May 6th "thank you" YouTube video; Dallas Symphony Orchestra's David Matthews gave details about an upcoming "Project Unity: November 11th benefit"; National Symphony Orchestra's Alex Jacobsen covered their "Friendship Place: June 28th chamber music benefit concert"; Jacksonville Symphony Orchestra's Anthony Anurca related details about participating in Feeding Northeast Florida; Metropolitan Opera Orchestra's Javier Gándara spoke about their fundraising campaign #WeWillMetAgain; New York City Ballet Orchestra's Ian Sullivan introduced their video series "Meet the Musicians of NYCB's Orchestra"; San Francisco Ballet Orchestra's Joe Brown talked about their video mini-series "5 Little Questions" and "What's in my Bag?"; and Indianapolis Symphony Orchestra's Mike Muszynski outlined their musicians association platform of events and posts, assembled as they prepared for upcoming—now current—bargaining. Both the Zoom presentation and links provided by most of the orchestras are available on the ICSOM website's 2020 conference page. (*Note: See "Orchestras of Note and Innovation" on page 11 for more detail about some of these presentations.*)

ICSOM Counsel Kevin Case worked with Larry Rick, a physician assistant and infectious disease specialist who advises Local 47 AFM, Dr. Carlos del Rio, Professor of Global Health & Epidemiology at Emory University and a board member of the Atlanta Symphony, and Dr. Adam T. Schwalje, a resident physician and research fellow in Otolaryngology, a bassoonist, and co-author of "Wind Musicians' Risk Assessment in the Time of COVID-19", to present ***Health and Safety in the Workplace: Our New COVID-19 World***. Their discussion and question-and-answer session covered many of the concerns musicians are dealing with right now as >>

we all wait for further information and clarification about how this virus is spread. We are grateful that Mr. Rick and Drs. Del Rio and Schwalje have given their approval so that ICSOM members can view this presentation on the ICSOM website's 2020 conference page.

ICSOM Chairperson Meredith Snow worked with Anthony McGill, principal clarinet with the New York Philharmonic, and his brother Demarre McGill, principal flute with the Seattle Symphony, to talk about their experiences and recent participation in #taketwoknees on social media, in a presentation entitled ***Intersection of Music, Race and Activism in our Orchestras***. Demarre McGill also outlined ten points he presented to Seattle Symphony management to address diversity, equity, and inclusion (DEI) within the entire institution. Links to Anthony and Demarre McGill's #taketwoknees social media posts, YouTube video of a Seattle Arts March by Demarre and his colleagues, and the 10 DEI recommendations are all available on the ICSOM website's 2020 conference page. (Note: See "*Concepts to Further Inclusivity*" on page 1.)

AFM-SSD Director Rochelle Skolnick and Symphonic Electronic Media Director Debbie Newmark spoke about how they have been approaching ***Electronic Media in Today's Virtual Environment***. The two related the yeoman's work they have been performing since mid-March, working with numerous orchestras—following an agreement with the Employers' Electronic Media Association (EMA)—to explore how the IMA and these new media terms could be used. Skolnick and Newmark have also worked closely with the ICSOM Electronic Media Committee (EMC), ROPA Committee, AFM President Ray Hair, and Local officers who participated in the previous IMA negotiations during this period. ICSOM's EMC is chaired by Peter Rofé (Los Angeles Philharmonic), and includes Fiona Simon (New York Philharmonic), Dan Bauch (Boston Symphony), Laura Ross (Nashville Symphony), Paul Frankenfeld (Cincinnati Symphony), Peter de Boer (Kennedy Center Opera House Orchestra), ICSOM Chairperson Meredith Snow (Los Angeles Philharmonic), and ICSOM President Paul Austin (Grand Rapids Symphony), with ICSOM Counsel Kevin Case serving as an advisor; former EMC chair Brian Rood (Kansas City Symphony) also participated in a number of discussions. (Note: See "*Electronic Media for a 'COVID Season'*" on page 4.)

Kevin Case gave an important and helpful presentation about ***Strategic Bargaining for the 2020–21 Season and Beyond***. He addressed issues being raised at the bargaining table and in discussions, and suggested approaches to take during those talks, as orchestras explore how to proceed with the upcoming season.

There was an update from the AFM-EPF outlining the cuts proposed by the Trustees in the pending Multiemployer Pension Reform Act (MPRA) application submitted to the Treasury Department on December 30, 2019. This was followed by a presentation by Naomi Frisch, an Associate with Illinois Advocates and ROPA board member, who, along with Kevin Case, discussed ***Sick Leave Application and the Law in Today's Environment***. This presentation explored how various provisions for leave under less recent federal legislation (such as the Family and Medical Leave Act (FMLA) and

the Americans with Disabilities Act (ADA)) have been affected and modified by recent COVID-inspired laws, such as the Coronavirus Aid, Relief, and Economic Security (CARES) Act and the Families First Coronavirus Response Act (FFCRA).

There were addresses throughout the conference by ICSOM Chairperson Meredith Snow, ICSOM President Paul Austin, AFM President Ray Hair, and presidents from the Theater Musicians Association (TMA) – Anthony D'Amico, Recording Musicians Association (RMA) – Marc Sazer, Regional Orchestra Players' Association (ROPA) – John Michael Smith, and Organization of Canadian Musicians (OCSM/OMOSC) – Robert Fraser.

Snow spoke about the difficulties we are facing and how the virus has cast a harsh light on inequities, especially with regard to our Black and Brown citizens. She urged us to do better and to embrace truth as we confront the issues we are dealing with today. She urged us to rethink our destiny but to also remember that we will come out of this stronger, because we won't give up and because music is our mission. Austin addressed the ways our institutions have dealt with their musicians, both bad—as exemplified by the treatment of musicians in the Metropolitan Opera Orchestra, Nashville Symphony, and Indianapolis Symphony Orchestra—and good. Austin shared a shining example of the latter in the comments by his own orchestra's manager, who said, "We will not be taking the easy way out by furloughing musicians." He also promoted ICSOM's Phone2Action campaign to support further assistance through the Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act, currently under consideration by the Senate.

D'Amico spoke about the decimation of the theater industry and the Broadway League's refusal to continue health benefits or wages, adding that the enhanced unemployment benefit has been a great boon to theater musicians. Sazer pointed out that with orchestra musicians streaming content, we have all become recording musicians. He said the RMA and AFM have continued bargaining national agreements and some session work has begun again. Smith shared how ROPA orchestras dealt with their shutdowns, praised the work being done addressing electronic media use, and encouraged diversity and welcoming all different cultures into our communities. Fraser spoke about the Canadian government's response to the COVID-19 crisis, the dual employment classification in Canadian orchestras (employee versus independent contractor), and the economic impact on Canadian orchestras.

President Hair commended SSD for their work during the crisis, and empathized with musicians' desire to reconnect with their colleagues and audiences. He spoke about labor economics in bargaining, the AFM's role in enabling freelance employees to receive unemployment benefits for the first time, and the anticipated hardball tactics employers are likely to use when negotiations begin. He believes COVID will not lead to a shortage of workers, but of jobs—with more than 50 million currently unemployed workers. He mourned the loss of smaller businesses that have been unable to continue, while huge companies grow bigger. He classified local employers into three categories—those looking to protect the in- ➤

tegrity of their institutions and employees by raising and deploying capital, those with little creativity who refuse to take risks or care for their musicians, and "vulture capitalists" who care only about preserving capital and who believe musicians are disposable and replaceable. This last group, he said, believes the administration is the actual institution. He reminded us that unions exist because we needed an organized way to respond to employers; solidarity occurs when an organization is unified, speaking with one voice, and its representatives represent the entire orchestra's best interests rather than advancing their personal agendas. This is a difficult moment and fear is prevalent, but it won't stop us; we will adapt and continue to perform and thrive.

Three resolutions were submitted and unanimously adopted—two were submitted by the Governing Board; Milwaukee Symphony Delegate Helen Reich submitted the other resolution, on behalf of her colleague, ICSOM Chairperson Emeritus Robert Levine, with Fort Worth Delegate Debbie Brooks. These resolutions can be found on page 12.

Each conference ends with Good & Welfare and Closing Remarks. These are mine:

Martha Warrington, who designed our ICSOM website, is retiring from the Oregon Symphony, but continues her work with ICSOM gratis. I am so grateful for all her work these past two months, from setting up registration, to building a much more elaborate website for conference information than in previous years, to moving information and posting presentation videos on the website after the conference ended.

Every member of the Governing Board and Counsel stepped up in ways they had never been called to do before. I know that every one of my colleagues is dedicated and focused on trying to do whatever we can for our orchestras and our industry—including continuing weekly meetings, and hosting additional Town Hall and breakout sessions for delegates and others—until we meet at the other end of this crisis.

I offer advice to anyone sending out 350+ emails numerous times during a short period of time—your email address could be marked as spam. After being removed from mailing lists and changing my password halfway through the conference, I share this experience with you. I hope there won't be future consequences after sending those links every day...

And finally, this conference allowed more than 200 ICSOM members—in addition to the Delegates, Local officers, AFM officers and staff, and presenters, totaling more than 350 registered participants—to attend and view portions of the ICSOM conference that would not have been available to them otherwise. ICSOM serves more than 4,000 members in 52 member orchestras; the annual conference travels from city to city, hosted by member orchestras each summer, in order to bring the conference to our musicians. It is what brought me first to ROPA in 1988 as a host orchestra, and it continues to each year with ICSOM. I hope more of you will attend these conferences, and that we can find new ways to share ICSOM with our entire membership. Maybe we'll see some of you in Pittsburgh August 11–14, 2021.

Note: the author is ICSOM secretary



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INTERNATIONAL CONFERENCE OF
SYMPHONY AND OPERA MUSICIANS

