**MEETING OF THE COUNCIL OF THE**

**OF THE PROBATE AND ESTATE PLANNING SECTION**

**OF THE STATE BAR OF MICHIGAN**

Saturday, October 9, 2021 @ 10:37 AM

At the Amway Grand Plaza

187 Monroe Avenue NW

Grand Rapids, Michigan 49503

and

Remote

**Minutes**

**I. Call to order and Welcome:** Chairperson David Skidmore called the meeting to order at 10:37 AM noting that the meeting was being recorded and that the resulting recording is to be deleted once the minutes of the meeting have been submitted by the Secretary and accepted by the Council.

**II. Attendees**

1. The following officers and members of the Council were “present” either in person at the Amway Grand Plaza in Grand Rapids or by remote *via* Zoom:
2. David L.J.M. Skidmore, Chairperson
3. James P. Spica, Vice Chairperson
4. Katie Lynwood, Secretary
5. Nathan R. Piwowarski, Treasurer
6. Neal Nusholtz
7. Richard C. Mills
8. Daniel S. Hilker
9. Warren H. Krueger, III
10. Robert B. Labe
11. Christine M. Savage
12. Angela M. Hentkowski
13. Kurt A. Olson
14. Nazneen Hasan
15. Andrew W. Mayoras
16. Rebecca K. Wrock
17. Kenneth Silver
18. Hon. Shauna L. Dunnings
19. Melisa M.W. Mysliwiec
20. James F. Anderton
21. It was noted that a quorum was “present.”
22. Others “present” either in person at the Amway Grand Plaza in Grand Rapids or by remote *via* Zoom:

David P. Lucas

Hon. Shauna L. Dunnings

Susan L. Chalgian

James Steward

**Hon. David M. Murkowski**

Daniel Borst

Nancy Little

David Lentz

Marguerite Munson Lentz

**Marlaine Teahan**

**Jeanne Murphy (ICLE)**

Neal Marchand

Robert Brower

Lorraine F. New

George W. Gregory

Becky Bechler (Public Affairs Associates)

Dawn Santamarina

Elizabeth S. Grazino

Jim Ryan (Public Affairs Associates)

Andrea Neighbors (Administrative Assistant)

**III. Excused Absences:** Mark E. Kellogg, Georgette E. David, **Sandra D. Glazier, and** David D. Sprague

**IV.** **Lobbyist’s Report (Public Affairs Associates)**: Becky Bechler reported that:

1. Remote witnessing and notarization may be a permanent fixture in our law. Drafts have been exchanged with The Michigan Credit Union League.
2. The ART drafts were received form the Legislative Services Bureau. Becky is trying to get the drafter to provide information so she can identify what changes were made to language that was provided. Ed Rivet offered to be of assistance since the bills that were introduced last session were opposed. Ed looked at the drafts, he made some suggestive changes. A Zoom session is in the works to go over his proposal or thoughts that might make it more amenable to the Right to Life of Michigan.
3. The Omnibus package (amending the Estate and Protected Individuals Code et al.) has been introduced. Rep. Filler has indicated that there will be a hearing this fall. and has been referred to the House Judiciary Committee.
4. There are two bills on the House floor second reading, 4618 and 4619 that relate to The Delaware-tax-trap-facility proposal (amending the Personal Property Trust Perpetuities Act), and The qualified-depositions-in-trust amendment to the Voidable Transaction Act. The speaker has been asked to move those off the house floor so they can get over to the Senate.
5. The vehicle TOD drafts have been exchanged and there may be some more technical changes to the drafts. Becky has requested to Sen. Barrett, that they begin to hold hearings to get it out of committee by November.

**V. Monthly Reports**

1. **Minutes of Prior Council Meeting:** Secretary Katie Lynwood reported:
2. The June 25, 2021, minutes needed some clarification. Katie relistened to the recording and revised the minutes. Katie communicated the changes to Jim Spica and Dan Hilker, and they agreed with the changes.

It was so moved to accept the June 25, 2021(Attachment 2 to the 9/25/2021 Council agenda) minutes by Katie Lynwood, and seconded by Dan Hilker, whereupon the corrected minutes were accepted without objection.

1. Immediate past Secretary Jim Spica asked for a motion to accept the minutes of the September Council meeting with a correction that Ken Silver be added as an attendee at the last meeting (Attachment 2 to the 9/25/2021 Council agenda).

It was so moved by Ken Silver, and seconded by Chris Savage, whereupon the corrected minutes were accepted without objection.

1. **Chairperson’s Report:** Chairperson David Skidmore reported that:
2. The Chair’s dinner was the night prior, and he hopes a good time was had by all.
3. The State Bar has asked the Section for comments on a newly introduce HB 5368. The debate is over what personal information is public in court filings and what is going to be concealed from the public. This bill says that a parties name and date of birth would always be public information. The State Bar would like the Sections comments by November 8, 2021. David has referred this to the Legislation Monitoring & Analysis Committee to make a recommendation.
4. David welcomed the new council members Hon. Shauna Dunnings, Rebecca Wrock and Sandra Glazier.
5. **Treasure’s Report:** Nathan Piwowarski reported that:
6. The Budget Committee will be meeting to prepare the budget proposal for the current fiscal year.
7. Any request for reimbursement is due to Nathan within 45 days and the State Bar’s form must be used.
8. Hearts and Flowers is a separate account for condolences and other

recognition. The Treasurer generally calls for a donation to the Hearts and Flowers fund. Previously, the suggested donation was $35.00.

1. **Committee on Special Projects (CSP):** Committee Chair Melissa M.W. Mysliwiec reported that:
2. The Court Rules, Forms & Proceedings Committee took a straw poll regarding initial hearings and contested matters. A majority of those polled indicated interest in the committee exploring a proposal to amend the court rules to require that initial hearings be treated as a scheduling conference if the matter is contested.
3. CSP continued the in-depth review of the work product of Uniform Power of

Attorney Act Committee.

1. **Amicus Curiae Committee:**
2. Individuals (or their firms) who are involved in the JPMorgan Chase v. Winget case left the room and did not participate in the discussion nor the vote, as follows: Dan Hilker, Nazneen Hasan, David Skidmore, and Rebecca Wrock.

Andrew Mayoras summarized the committee’s memo regarding the Application for Amicus Brief - JPMorgan Chase v. Winget. After a long discussion, on behalf of the committee, Andy Mayoras motioned that the Probate Section refrain from filing an Amicus brief and in doing so deny the Amicus application that was submitted to the section. The Secretary recorded a vote of 16 in favor, 0 opposed, 4 not voting, and 3 abstaining. The Chair declared the motion carried.

1. Andrew Mayoras submitted a written report (Attachment 2 to the 9/17/2021 Council agenda).
2. **Bylaws Committee:** Nazneen Hasan reported:

The committee investigated whether council members who are serving as council for parties involved in requests for an amicus brief can be present when council is entertaining a request for filing an amicus brief. Specifically, the issue that arose is whether a council member interested in an amicus application should be able to address council before the vote on whether the section should file a brief. After discussion led by David Skidmore, it was determined by a consensus that any attorney interested in a request for an Amicus brief should not have the opportunity to advocate to the council as to whether the council should in fact file a brief or not. The bylaws committee along with the Amicus Committee will be working to establish a written policy.

1. **Legislation Monitoring and Analysis Committee:** Dan Hilker reported:

Dan Hilker on behalf of the Legislation Monitoring and Analysis Committee motioned to oppose HB 5118 with no explanation. The Secretary recorded a vote of 18 in favor, 0 opposed, 4 not voting, and 1 abstaining. The Chair declared the motion carried.

1. Dan Hilker on behalf of the Legislation Monitoring and Analysis Committee recommended the Section not take a position on HB 5117.
2. HB 4164 was opposed by the Section at the June 25, 2021, meeting. The State Bar of Michigan made this statement in regard to HB 4164 “support the concept of making court records available electronically to the public and encourage the legislator and courts to work together to devise a way to make records accessible to the public as it improves functioning of the courts and increases access to justice.” No motion was made by the Committee.
3. Dan Hilker on behalf of the Legislation Monitoring and Analysis Committee motioned to support SB 315 without explanation as written including the 65-year-old threshold. The Secretary recorded a vote of 12 in favor, 2 opposed, 6 not voting, and 3 abstaining. The Chair declared the motion carried.
4. **Section Journal:** Richard Mills reported:

That after 20 years, Nancy Little will be retiring from the managing editor of the Section Journal.

1. **Tax Committee:** J.V. Anderton:

Summarized the committee’s written report (Attachment 6 to the 10/9/2021 Council agenda).

**VI.** **Written Report Only:**

Guardianship, Conservatorship & End of Life Committee

**VII. Other Business:** No other business

**VIII. Adjournment:** There being no other business before the Council, the Chairperson declared the meeting adjourned at 12:28 PM.

Respectfully Submitted,

Katie Lynwood, Secretary

The next Council meeting will be held on Friday, November 12, 2021.