

**MEETING OF THE COUNCIL OF THE
PROBATE & ESTATE PLANNING SECTION OF THE
STATE BAR OF MICHIGAN**

Friday, January 19, 2024

Minutes

I. Commencement (James P. Spica)

A. Call to Order and Welcome

Chairperson Spica called the meeting to order at 9:00 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.

B. Zoom Roll Call

James P. Spica, Angela Hentkowski, Christine Savage, Daniel W. Borst, David Sprague, Kathleen Cieslik, Kathleen Goetsch, Sandra Glazier, Melisa M.W. Mysliwicz, Hon. Michael McClory, Michael Lichterman, Michael Shelton, Nicholas A. Reister, Patrica Davis, Ponce Clay, Rachael Sedlacek (ICLE), Alexander S. Mallory, Neal Nusholtz, Rebecca Wrock, Nathan Piwowarski, Rebecca Bechler (Public Affairs Associates), Elizabeth McLachlan, Georgette David, James F. Anderton, V., Ryan Buck, Mark E. Kellogg, Andrew Mayoras, James Steward, Jim Ryan (Public Affairs Associates), and Andrea Neighbors (administrative assistant)

C. Confirmation of In-Person Attendees

Katie Lynwood, Richard C. Mills, Daniel Hilker, Susan L. Chalgian, Ernschie Augustin, and David P. Lucas.

D. Excused Absences

Warren Krueger and Kenneth Silver

II. Monthly Reports

A. Lobbyist's Report (Public Affairs Associates)

- i. Pete Langley is a new addition to the PAA team
- ii. Senator Chang has indicated that she will be bringing up the EPIC omnibus package on 2/1/24.
- iii. The Uniform Power of Attorney package is now law.

- iv. The Powers of Appointment Act/USRAP technical amendments HB 4863 and 4864 are on the house floor. They move from second to third reading. They did not get voted on this week.
- v. Senator Chang and Becky Beckler had a conversation regarding the Guardianship Reform Package.
- B. Minutes of Prior Council Meeting – December (Richard Mills) – **Attachment 1**. Rick Mills motioned, and Katie Lynwood supported accepting the December minutes as drafted. Motion carried.
- C. Chair's Report (Jim Spica) – Mr. Spica reported that on December 21, 2023, the Court of Appeals, in an unpublished opinion, decided on Scott v. Sprague. Mr. Spica referred the case to the Legislation Development and Drafting committee.
- D. Treasurer's Report (Christine Savage)
Ms. Savage reported that the financial reports should be finalized by the State Bar in February.

III Committee Reports

- A. Committee on Special Projects (Mysliwicz): No report.
- B. Amicus Curiae (Mayoras): No report.
- C. Annual Meeting (Spica): No report.
- D. Awards (Kellogg): No report.
- E. Budget (Mills): No report.
- F. Bylaws (Lucas): Mr. Lucas reported that the Bylaws committee will be looking at the section pertaining to public policy positions.
- G. Charitable and Exempt Organizations (Wrock/Mills). Ms. Wrock reported that the next committee meeting is on January 26th at 10:00 AM if anyone would like to join the committee.
- H. Citizens Outreach (Goetsch): Ms. Goetsch reported that the sections' brochures on the Uniform Powers of Attorney Act are being updated.
- I. Court Rules, Forms, and Proceedings (David): No report.
- J. Electronic Communications (Hentkowski): No report.
- K. Ethics and Unauthorized Practice of Law (Mallory): Mr. Mallory invited members to join the committee.

- L. Guardianship, Conservatorship, and End of Life (Glazier): Ms. Glazier reported that the committee met with Senator Chang, Hon. Mack, and Hon. McClory regarding the Guardianship Reform package. The committee will be working on a redline strikeout on HB 4909, 4910, 4911, 4912, and 5047 per Senator Chang's request.
- M. Legislation Development and Drafting (Mills/Tiplady): No report. Andy Mayoras made a referral regarding the statute of limitations on irrevocable trusts and cited *Dive v. Zimmerman*.
- N. Legislation Monitoring and Analysis (Shelton). No report. Mr. Spica requested a report from the committee regarding SB 678-681.
- O. Legislative Testimony (Mysliwicz): No report.
- P. Membership (Hentkowski): No report.
- Q. Nominating (Lucas): Mr. Lucas reported that the Nominating committee will take up its work later in the year. Part of the Nominating committee's consideration is participation in meetings and committees of the council.
- R. Planning (Spica). Mr. Spica proposed luncheons either quarterly, monthly, or other. Any opinions should be directed to Mr. Spica or Ms. Lynwood.
- S. Probate Institute (Piwowarski): No report.
- T. Real Estate (Hentkowski): No report.
- U. State Bar and Section Journals (Mysliwicz): Ms. Mysliwicz reported that the journal has been drafted and will be out soon.
- V. Tax (Anderton): Mr. Nusholtz reported that the report is attachment 3 of the January meeting materials. He pointed out key paragraphs for powers of attorney.
- W. Assisted Reproductive Technology (Welber): No report.
- X. Electronic Wills (Cieslik): The committee will be meeting on October 16, 2023 at 12:00PM if anyone would like to attend the meeting.
- Y. Fiduciary Exception to the Attorney-Client Privilege (Krueger): no report
- Z. Nonbanking Entity Trust Powers (Spica): Mr. Spica reported that the office of banking has not yet produced the line by line evaluation of the drafted proposal.
- AA. Premarital Agreements (Savage): No report.

- BB. Uniform Community Property Disposition at Death Act (Spica): Mr. Spica reported that the committee met and approved the uniform act for development in the form that is adoptable in Michigan and the committee is waiting for the chair to produce a draft.
 - CC. Undue Influence (Silver): Mr. Mayoras reported that the committee circulated a draft to Judiciary members for feedback based on comments from previous CSP meetings. Once feedback has been received, the committee will either meet again or bring the information straight to CSP.
 - DD. Uniform Fiduciary Income and Principal Act (Spica): The UNITRUST act has been drafted by LSB and developed by the fiduciary income and principle act committee.
 - EE. Uniform Partition of Heirs Property Act (Spica): On Wednesday, Mr. Spica testified with Prof. Thomas Mitchell, the ULC reporter for the Uniform Partition of Heirs Property Act in the house judiciary. House bill 4924 is being sponsored by Rep. Dievendorf. The Probate and Estate Planning section took a public policy position on this bill last year.
 - FF. Uniform Power of Attorney Act (Savage/Spica). No report.
 - GG. Various Issues Involving Death and Divorce (Borst/Blume): Mr. Borst reported that the committee sent some conclusions to Hon. Dunnings for her to share with a group of judges for their responses.
- III. Good of the Order
Dan Hilker lead a discussion regarding requesting publications of nonpublished court of appeals opinions.
- IV. Adjournment of Regular Meeting at 10:41 p.m.

Respectfully Submitted,

Richard C. Mills, Secretary

The next Council meeting will be held on Friday, February 16, 2024.