

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

Friday, December 15, 2023

Minutes

I. Commencement (James P. Spica)

A. Call to Order and Welcome

Chairperson Jim Spica called the meeting to order at 10:31 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

Kenneth Silver, Daniel W. Borst, Sandra Glazier, David Lentz, Margaret Munson Lentz, Patrica Davis, Rachael Sedlacek (ICLE), Alexander S. Mallory, Hon. Shauna Dunning, Nathan Piwowarski, Rebecca Bechler (Public Affairs Associates), Elizabeth McLachlan, James F. Anderton, V., Shenique Moss, Ryan Buck, Mark E. Kellogg, Andrew Mayoras, James Steward, Jim Ryan (Public Affairs Associates), Jeff Kirkey (ICLE), and Andrea Neighbors (administrative assistant)

C. Confirmation of In-Person Attendees

James P. Spica, Katie Lynwood, Richard C. Mills, Christine Savage, Daniel Hilker, Susan L. Chalgian, Ernschie Augustin, Warren H. Krueger, III, Rebecca Wrock, Michael Shelton, Kathleen Cieslik, Melisa M.W. Mysliwicz, David P. Lucas, Neal Nusholtz, David Sprague, Michael Lichterman, Aaron Shuman, Chris Moraitis, and Rosemary Buhl

D. Excused Absences

Georgette David and Angela Hentkowski

II. Monthly Reports

A. Lobbyist's Report (Public Affairs Associates)

- i. The Uniform Power of Attorney package was completed and signed by the Governor. See 2023 Public Acts 187-189.

- ii. The EPIC Omnibus package is in the Senate Committee on Judiciary Civil Rights and Public Safety. Ms. Bechler is hopeful that it will get out of committee in late January. Senator Chang has the requested (of the LSB) Jim Spica's one-word amendment to section 7409 of HB 4416.
 - iii. The Powers of Appointment Act/USRAP technical amendment bills (HBs 4863/4864) are on the House floor.
 - iv. The Unitrust act, HB 5110, has been introduced. It has been referred to the House Judiciary Committee.
 - v. The Guardianship reform package is in the Senate. We have requested a meeting with Senator Chang.
- B. Minutes of Prior Council Meetings –
November (Nathan Piwowarski) – **Attachment 1**. David Sprague motioned, and Chris Savage supported accepting the November minutes with the revision. Motion carried.
- C. Chair's Report (Jim Spica) – Jim Spica requested that in order to expedite the roll call of the committees during monthly meetings, committee chairs (or their express delegates) confine themselves fairly strictly to reports on what their committees have done lately or are about to meet and do.
- D. Chair Elect Report (Katie Lynwood): No report.
- E. Treasurer's Report (Christine Savage)
If you would like to donate to the Hearts and Flowers account, please send a check to Christine Savage, payable to the Lowe Law Firm, PC. Please write on the memo line of the check "Hearts and Flowers". A suggested donation is \$35.00.

III Committee Reports

- A. Committee on Special Projects (Mysliwicz)
- CSP had a lengthy discussion related to the presumption of undue influence in Michigan and what it should be if a statutory framework is pursued legislatively. A straw poll was taken as to whether CSP supports shifting the burden of proof to the proponent of the document in question if the presumption of undue influence is found to exist. Thirteen of those present were in favor of doing so, seven voted No, and six abstained.

- B. Amicus Curiae (Mayoras): Andy Mayoras asked whether the Council needs to take a new public policy position to submit a supplemental amicus brief in the Bazakis matter since there was a change in the underlying probate case which may render the appeal moot. It was decided that a new public policy position is not need for a supplement amicus submission in this case.
- C. Annual Meeting (Spica): No report.
- D. Awards (Kellogg): No report.
- E. Budget (Mills): No report.
- F. Bylaws (Lucas): No report.
- G. Charitable and Exempt Organizations (Wrock): Rebecca Wrock reported that the next committee meeting is on January 12. The committee will continue to discuss its legislative proposal.
- H. Citizens Outreach (Goetsch): No report.
- I. Court Rules, Forms, and Proceedings (Hentkowski): No report.
- J. Electronic Communications (Hentkowski): No report.
- K. Ethics and Unauthorized Practice of Law (Mallory): Alex invited those interested to join the committee.
- L. Guardianship, Conservatorship, and End of Life (Glazier): The guardianship bills were passed out of the House. Jim Spica has appointed as small working group to meet with Sen. Chang to discuss changes that the Section would like to see made to bills before they pass in the Senate.
- M. Legislation Development and Drafting (Mills/Tiplady): No report.
- N. Legislation Monitoring and Analysis (Shelton). Mike Shelton reported that the Secretary of State will now be issuing electronic vehicle titles.
- O. Legislative Testimony (Mysliwicz): No report.
- P. Membership (Hentkowski): Suzie Chalgian motioned to approve a hospitality suite at Traverse Resort for the welcoming party that the section hosts during the ICLE seminar with a budget up to \$2,500.00. The motion carried.
- Q. Nominating (Lucas): Mr. Lucas reported that the Nominating Committee will take up its work later in the year.

- R. Planning (Spica). Jim Spica indicated that the holiday luncheon to follow the instant Council meeting was something of a pilot: the question whether luncheons to follow future Council meetings, whether quarterly, monthly, or just occasionally, will be brought up for discussion later.
- S. Probate Institute (Piwowarski): Nathan Piwowarski reported that there are already 20 registrants, 14 in Acme and 6 in Novi. There are 2 add-on registrants for the seminar with Liz Arias. The first marketing information went out on Wednesday. Nathan enjoys working with Jeff. Nathan made a motion for the section's usual sponsorship of \$17,000, which Rick Mills seconded. The motion carried.
- T. Real Estate (Hentkowski): No report.
- U. State Bar and Section Journals (Mysliwicz): Ms. Mysliwicz reported that the journal is scheduled to come out the first or second week of January. She called for articles for the spring journal.
- V. Tax (Anderton): The report is Attachment 2 to the December meeting materials. Mr. Anderton pointed out key numbers. The unified credit moves to \$13.61 Million, and the annual exclusion goes to \$18,000.
- W. Assisted Reproductive Technology (Welber): No report.
- III. Electronic Wills (Cieslik): The Committee is meeting regularly. The committee is looking at what other states that have legislated in this area have done for authentication components.
- IV. Fiduciary Exception to the Attorney-Client Privilege (Krueger): No report.
- V. Nonbanking Entity Trust Powers (Spica): Jim Spica reported that the committee is waiting for a reaction from a group of regulators in Lansing in the Department of Banking who wanted to make redline suggestions.
- VI. Premarital Agreements (Savage): The Family Law Section is planning to prepare a version of the Uniform Premarital Agreement Act. The committee is looking to possibly work with the Family Law Section.
- VII. Uniform Community Property Disposition at Death Act (Spica): No Report.
- VIII. Undue Influence (Silver): No report.

- IX. Uniform Fiduciary Income and Principal Act (Spica): Jim Spica reported that the Unitrust Act, which is the committee's version of article 3 of the Uniform Fiduciary Income and Principal Act, is now enrolled HB 5110.
- X. Uniform Partition of Heirs Property Act (Spica): Jim Spica reported that the legislative proposal for the adoption of this act in Michigan, HB 4924, will go over into the next legislative term.
- XI. Uniform Power of Attorney Act (Savage). Christine Savage expressed gratitude to the committee members for their work. Since the committee's work is completed with the enactment of 2023 Public Acts 187-189, Ms. Savage asked Mr. Spica to disband the committee. Whereupon that request was granted.
- XII. Various Issues Involving Death and Divorce (Borst/Blume): The committee met last month and gave their conclusions to Judge Dunnings who is going to get a reaction to them from a group of judges that she is meeting with this month.
- XIII. Good of the Order: None.
- XIV. The regular meeting was adjourned at 11:33 p.m.

Respectfully Submitted,

Richard C. Mills, Secretary

The next Council meeting will be held on Friday, January 19, 2023.