

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

Friday, February 13, 2026

Held remotely via Zoom

Minutes

I. Commencement (Nathan R. Piwowarski)

A. Call to Order and Welcome

Chairperson-Elect Richard C. Mills called the meeting of the Council of the Probate & Estate Planning Section of the State Bar of Michigan to order at 10:50 a.m. Chairperson-Elect Mills presided in Chairperson Nathan R. Piwowarski's absence.

B. Attendance

Chairperson-Elect Richard C. Mills conducted a roll call of Zoom participants in Secretary Melisa Mysliwiec's absence.

The following officers and members of the Council were present remotely via Zoom:

1. Richard C. Mills, Chairperson-Elect
2. Christine M. Savage, Vice Chairperson
3. Angela M. Hentkowski, Treasurer
4. J.V. Anderton
5. Ernschie Augustin
6. Daniel W. Borst
7. Patricia E. Davis
8. Sandra D. Glazier
9. Daniel S. Hilker
10. Warren H. Kreuger
11. Elizabeth Luckenbach
12. Kathleen A. Martone
13. Alexander S. Mallory
14. Hon. Sara A. Schimke
15. Michael D. Shelton
16. Joseph J. Viviano
17. David Sprague

Rollcall was not taken of others present remotely via Zoom.

C. Excused Absences

The following were noted as excused:

1. Chairperson, Nathan R. Piwowarski
 2. Secretary, Melisa M. W. Mysliwicz
 3. Susan L. Chalgian
 4. Georgette E. David
 5. Nicholas A. Reister
 6. Rebecca K. Wrock
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II. Monthly Reports

A. Lobbyist's Report (Public Affairs Associates)

A report was provided by Becky Bechler and Peter Langley. Becky and Representative Wozniak met with Representative Sarah Leitner, Chair of the House Judiciary Committee, and she is considering House Bills 4523 and 4408, the duties and powers of trustees and the powers of appointment act, which are both priorities of the Section. Becky and Pete will review the Section's public policy statement related to House Bills 4418 and 5833, and considering the substitute bills do not address the concerns raised by Counsel, talk with Representative Thompson to see if there is any room for changes.

B. Minutes of Prior Council Meetings (Melisa Mysliwicz)

The minutes of the prior Council meeting were presented for approval. Chairperson-Elect Mills moved for approval of the minutes, Vice Chairperson Christine M. Savage supported the motion, and the motion carried. The Minutes of the prior Council meeting were approved.

C. Chair's Report (Nathan Piwowarski)

No report due to Chair's excused absence.

D. Treasurer's Report (Angela Hentkowski)

Treasurer Hentkowski reported that she has not yet received the monthly statements from the State Bar of Michigan.

III. Committee Reports

A. Committee on Special Projects (Dan Hilker)

Mr. Hilker reported on the Committee's continued work reviewing the Undue Influence Committee's proposed statutory language addressing undue influence, including burden of proof provisions and definitions related to confidential and fiduciary relationships. The Council engaged in extensive discussion and determined the following by straw poll:

- The unanimous majority of CSP supports moving forward with an undue influence statute.
- A near unanimous majority of CSP supports the idea that the court should determine whether the presumption of undue influence has arisen, as opposed to the jury making this determination.
- A strong majority of CSP supports that the burden of proof should shift to the proponent of the instrument after the presumption of undue influence has arisen.

B. Amicus Curiae (Andy Mayoras)

Mr. Mayoras reported on the Supreme Court's invitation for the Section to submit an amicus brief in *In re Sherrod Estate*, addressing the standard for establishing a confidential or fiduciary relationship in undue influence cases. The Committee recommended that the Council authorize filing an amicus brief consistent with Section practice. Motion to authorize filing an amicus brief. A discussion followed. Mr. Mayoras then moved that the Section take a public policy position to authorize an amicus brief and advocate (1) that the Court of Appeals applied the wrong test for confidential fiduciary relationship and, citing to the Carmey footnote and other caselaw, applied the wrong analysis on that issue even though the outcome was not necessarily wrong, and (2) that in the event there is a finding of no confidential fiduciary relationship, that the matter be remanded to the probate court for determination of whether there is undue influence in the absence of the relationship. 14 voted in support, 2 abstentions, and 1 council member did not vote. The motion passed.

C. Annual Meeting (Nathan Piwowarski)

No report due to Chair's excused absence.

D. Awards (Katie Lynwood)

No Report.

E. Budget (Melisa Mysliwec)

No Report.

F. Bylaws (David Lucas)

The group has convened, prepared a draft report, and anticipates presenting it at March's Council meeting.

G. Charitable and Exempt Organizations (Rick Mills for Rebecca Wrock)

The committee is meeting biweekly and nearing completion. Leadership is engaging key stakeholders to seek support for a proposal that may include fee increases to fund additional AG involvement in probate matters protecting charitable gifts.

H. Citizens Outreach (Kathleen Goetsch)

No Report.

I. Court Rules, Forms, and Proceedings (Patricia Davis & Georgette David)

No report.

J. Electronic Communications (Susan Chalgian)

No report.

K. Ethics and Unauthorized Practice of Law (Alex Mallory)

No report.

L. Guardianship, Conservatorship, and End of Life (Sandra Glazier)

Ms. Glazier requested that her Committee's materials from the January meeting be included with March's agenda.

M. Legislation Development and Drafting (Rob Tiplady & Rick Mills)

No report.

N. Legislation Monitoring and Analysis (Mike Shelton)

No report.

O. Legislative Testimony (Dan Hilker)

No further report.

P. Membership (Ernschie Augustin)

No report.

Q. Nominating (Mark Kellogg)

No report.

R. Planning (Nathan Piwowarski)

No report.

S. Probate Institute (Chris Savage)

The Institute schedule is finalized, the seminar lineup is set, and registration is now open.

T. Real Estate (Angela Hentkowski)

Angela Hentkowski reminded Council of the new FinCEN residential real estate reporting rule taking effect March 1, noting that certain transfers of residential property to legal entities or non-exempt trusts will require reporting by attorneys, with significant penalties for noncompliance. She encouraged members to review the rule and seek additional training.

U. State Bar and Section Journals (Melisa Mysliwiec)

No Report.

V. Tax (J. V. Anderton)

Report provided. Discussion only.

W. Assisted Reproductive Technology (Nancy Welber)

No report.

X. Electronic Wills (Kathleen Martone)

No report.

Y. Fiduciary Exception to the Attorney-Client Privilege (Warren Krueger)

No report.

Z. Nonbanking Entity Trust Powers (Jim Spica & Rob Tiplady)

Report provided. Discussion only.

AA. Premarital Agreements (Chris Savage)

No report.

BB. Trust Accounts (Elizabeth Luckenbach)

Liz Luckenbach reported on legislative outreach regarding House Bill 6011, including a January 14 meeting with Representative Wozniak's Legislative Director and stakeholders. A red-lined version of the bill was provided to Patricia Herndon, with follow-up communications in late January and early February. Further status updates are pending.

CC. Uniform Community Property Disposition at Death Act (James Spica)

No report.

DD. Uniform Guardian, Conservatorship, and Protective Arrangements Act

No report from Chair; brief update provided by Ms. Martone.

EE. Undue Influence (Ken Silver)

Report and discussion as part of Special Projects report. No separate action taken.

FF. Uniform Fiduciary Income and Principal Act (James Spica)

No report.

GG. Various Issues Involving Death and Divorce (Dan Borst & Sean Blume)

No report.

IV. Good of the Order

General discussion. No formal action taken.

V. Adjournment

There being no further business, Chairperson Elect Mills adjourned the regular Council meeting at 12:06 p.m.

Respectfully submitted,

Melisa M. W. Mysliwiec, Secretary
Probate & Estate Planning Section Council
State Bar of Michigan