Agendas and Attachments for

- Meeting of the Committee on Special Projects (CSP);
- Meeting of the Council of the Probate and Estate Planning Section

Monday, October 10, 2016
9:00 am
Grand Hotel
Mackinac Island
Probate and Estate Planning Section of the
State Bar of Michigan

Notice of Meetings

Meeting of the Section’s Committee on Special Projects (CSP)

And

Meeting of the Council of the Probate and Estate Planning Section

October 10, 2016
9:00 a.m.
Grand Hotel
Mackinac Island

The above stated meetings of the Section will be held at the Grand Hotel, Mackinac Island on Monday, October 10, 2016. The Section’s Committee on Special Projects (CSP) meeting will begin at 9:00 am, followed immediately by the meeting of the Council of the Section. If time allows and at the discretion of the Chair, we will work further on CSP materials after the Council of the Section meeting concludes.

Christopher Ballard, Secretary
Varnum LLP
300 N. 5th Ave Ste 230
Ann Arbor, Michigan 48104
Phone: (734) _______
Fax: (734) _______
Email: cballard@tyyni.net
Schedule and Location of Future Meetings

Probate and Estate Planning Section

Of the

State Bar of Michigan

Unless otherwise noted, CSP meetings are held at 9:00 a.m., immediately followed by the Council meeting for the Section at approximately 10:15 a.m., at the University Club, 3435 Forest Road, Lansing, Michigan 48910.

Meeting Schedule for 2016-2017

October 10, 2016 (Grand Hotel, Mackinac Island)

   November 5, 2016
   December 17, 2016
   January 14, 2017
   February 18, 2017
   March 18, 2017
   April 22, 2017
   June 24, 2017

September 9, 2017 (Annual Section Meeting)
CALL FOR MATERIALS
Council Meetings of the Probate and Estate Planning Section

Schedule of Dates for Materials for Committee on Special Projects

All materials are due on or before 5:00 p.m. of the Thursday falling 9 days before the next CSP meeting. CSP materials are to be sent to Geoffrey Vernon, Chair of CSP (gvernon@joslynvernon.com).

Schedule of dates for CSP materials, by 5:00 p.m.:

October 27, 2016 (for November meeting)
December 8, 2016
January 5, 2017
February 9, 2017
March 9, 2017
April 13, 2017
June 15, 2017
August 31, 2017 (for September meeting)

Schedule of Dates for Materials for Council Meeting

All materials are due on or before 5:00 p.m. of the Friday falling 8 days before the next Council meeting. Council materials are to be sent to Chris Ballard, Secretary (cballard@tyyni.net).

Schedule of dates for Council materials, by 5:00 p.m.:

October 28, 2016 (for November meeting)
December 9, 2016
January 6, 2017
February 10, 2017
March 10, 2017
April 14, 2017
June 16, 2017
September 1, 2017
## Officers for 2016-2017 Term

<table>
<thead>
<tr>
<th>Officer</th>
<th>Position</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chairperson</td>
<td>James B. Steward</td>
</tr>
<tr>
<td>Chairperson Elect</td>
<td>Marlaine C. Teahan</td>
</tr>
<tr>
<td>Vice Chairperson</td>
<td>Marguerite Munson Lentz</td>
</tr>
<tr>
<td>Secretary</td>
<td>Christopher A. Ballard</td>
</tr>
<tr>
<td>Treasurer</td>
<td>David P. Lucas</td>
</tr>
</tbody>
</table>

## Council Members for 2015-2016 Term

<table>
<thead>
<tr>
<th>Council Member</th>
<th>Year Elected to Current Term (partial, first or second full term)</th>
<th>Current Term expires</th>
<th>Eligible after Current Term?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bearup, George F.</td>
<td>2014 (2nd term)</td>
<td>2017</td>
<td>No</td>
</tr>
<tr>
<td>Jaconette, Hon Michael L.</td>
<td>2014 (1st term)</td>
<td>2017</td>
<td>Yes (1 term)</td>
</tr>
<tr>
<td>Kellogg, Mark E.</td>
<td>2014 (1st term)</td>
<td>2017</td>
<td>Yes (1 term)</td>
</tr>
<tr>
<td>Lichterman, Michael G.</td>
<td>2015 (1st partial term)</td>
<td>2017</td>
<td>Yes (2 terms)</td>
</tr>
<tr>
<td>Malviya, Raj A.</td>
<td>2014 (1st term)</td>
<td>2017</td>
<td>Yes (1 term)</td>
</tr>
<tr>
<td>Welber, Nancy H.</td>
<td>2014 (2nd term)</td>
<td>2017</td>
<td>No</td>
</tr>
<tr>
<td>Caldwell, Christopher J.</td>
<td>2015 (1st term)</td>
<td>2018</td>
<td>Yes (1 term)</td>
</tr>
<tr>
<td>Clark-Kreuer, Rhonda M.</td>
<td>2015 (2nd term)</td>
<td>2018</td>
<td>No</td>
</tr>
<tr>
<td>Goetsch, Kathleen M.</td>
<td>2015 (1st term)</td>
<td>2018</td>
<td>Yes (1 term)</td>
</tr>
<tr>
<td>Lynwood, Katie</td>
<td>2015 (1st term)</td>
<td>2018</td>
<td>Yes (1 term)</td>
</tr>
<tr>
<td>Mysliwiec, Melisa M.W.</td>
<td>2016 (1st partial term)</td>
<td>2018</td>
<td>Yes (2 terms)</td>
</tr>
<tr>
<td>Skidmore, David L.J.M.</td>
<td>2015 (2nd term)</td>
<td>2018</td>
<td>No</td>
</tr>
<tr>
<td>Labe, Robert C.</td>
<td>2016 (1st term)</td>
<td>2019</td>
<td>Yes (1 term)</td>
</tr>
<tr>
<td>Mills, Richard C.</td>
<td>2016 (1st full term)</td>
<td>2019</td>
<td>Yes (1 term)</td>
</tr>
<tr>
<td>New, Lorraine F.</td>
<td>2016 (2nd term)</td>
<td>2019</td>
<td>No</td>
</tr>
<tr>
<td>Piwowarski, Nathan R.</td>
<td>2016 (1st term)</td>
<td>2019</td>
<td>Yes (1 term)</td>
</tr>
<tr>
<td>Syed, Nazneen H.</td>
<td>2016 (1st term)</td>
<td>2019</td>
<td>Yes (1 term)</td>
</tr>
<tr>
<td>Vernon, Geoffrey R.</td>
<td>2016 (2nd term)</td>
<td>2019</td>
<td>No</td>
</tr>
</tbody>
</table>
Ex Officio Members

John E. Bos  
Robert D. Brower, Jr.  
Douglas G. Chalgian  
George W. Gregory  
Henry M. Grix  
Mark K. Harder  
Hon. Philip E. Harter  
Dirk C. Hoffius  
Brian V. Howe  
Shaheen I. Imami  
Stephen W. Jones  
Robert B. Joslyn  
James A. Kendall  
Kenneth E. Konop  
Nancy L. Little  
James H. LoPrete  
Richard C. Lowe  
John D. Mabley  
John H. Martin  
Michael J. McClory  
Douglas A. Mielock  
Amy N. Morrissey  
Patricia Gormely Prince  
Douglas J. Rasmussen  
Harold G. Schuitmaker  
John A. Scott  
Thomas F. Sweeney  
Fredric A. Sytsma  
Lauren M. Underwood  
W. Michael Van Haren  
Susan S. Westerman  
Everett R. Zack
Michael W. Irish Award

Mission: To honor a practitioner (supported by recommendations from his or her peers) whose contributions to the Probate and Estate Planning Section of the State Bar of Michigan and whose service to his or her community reflect the high standards of professionalism and selflessness exemplified by Michael W. Irish.

Recipients

1995  Joe C. Foster, Jr.
1996  John H. Martin
1997  Harold A. Draper
1998  Douglas J. Rasmussen
1999  James A. Kendall
2000  NO AWARD PRESENTED
2001  John E. Bos
2002  Everett R. Zack
2003  NO AWARD PRESENTED
2004  Brian V. Howe
2005  NO AWARD PRESENTED
2006  Hon. Phillip E. Harter
2007  George Cooney (April 3, 2007)
2008  Susan A. Westerman
2009  Russell M. Paquette (posthumously)
2010  Fredric A. Sytsma
2011  John A. Scott
2012  NO AWARD PRESENTED
2013  Michael J. McClory
2014  Sebastian V. Grassi, Jr.

The Michael W. Irish Award was first presented in 1995 in honor of the late Michael W. Irish. The award reflects the professionalism and community leadership of its namesake.
The George A. Cooney Society

**What:** This award is presented by the Institute of Continuing Legal Education and the Probate & Estate Planning Section of the State Bar of Michigan to a Michigan estate planning attorney for outstanding contributions to continuing legal education in Michigan.

**Who:** As of November 2015, there have been five recipients:

- John E. Bos (2007)
- Everett R. Zack (2009)
- John H. Martin (2011)
- John A. Scott (2013)
- Phillip E. Harter (2015)

**When:** This award is not necessarily given every year. So far we’ve given awards in 2007, 2009, 2011, 2013, and 2015.

**Where:** The award is presented at the Annual Probate & Estate Planning Institute. ICLE will invite the recipient to attend the Institute, and one of the Section officers will present the individual award at the start of the Institute.

**Why:** With George Cooney’s passing, the State Bar of Michigan lost one of its premier estate planning and elder law attorneys. The Section and ICLE have chosen to jointly create the George A. Cooney Society to recognize a select group of lawyers who epitomize George's dedication to his fellow attorneys and in recognition of his long-term, significant contributions to continuing legal education in Michigan.

**How:** ICLE will nominate candidates based upon the specific criteria contained in the Guidelines for Selection and will send a nominating letter to the Section for approval by the Executive Board. The Section’s leadership and at-large members may also recommend candidates to ICLE for consideration.

**Guidelines for Selection:**

- Significant CLE contributions to probate and estate planning over a substantial period of time.
- Outstanding quality of contributions.
- A wide range of contributions, e.g. multiple contributions for the following: speaker, author, editor, advisory board member, curriculum advisor, creating case study scenarios, preparing Top Tips, How-To Kits or other online resources, etc.
- Generous mentorship and assistance to colleagues with their probate and estate planning career development as well as activities and active involvement with the Probate & Estate Planning Section of the State Bar of Michigan.
Amicus Curiae Committee
Mission: To review requests made to the Section to file, and to identify cases in which the Section should file, amicus briefs in pending appeals and to engage and oversee the work of legal counsel retained by the Section to prepare and file its amicus briefs

David L.J.M. Skidmore, Chair
Andrew B. Mayoras
Kurt A. Olson
Patricia M. Ouellette
Nazneen H. Syed
Nancy H. Welber

Annual Meeting
Mission: To arrange the annual meeting at a time and place and with an agenda to accomplish all necessary and proper annual business of the Section

Marlaine C. Teahan

Artificial Reproductive Technology Ad Hoc Committee
Mission: To review the 2008 Uniform Probate Code Amendments for possible incorporation into EPIC with emphasis on protecting the rights of children conceived through assisted reproduction

Nancy H. Welber, Chair
Christopher A. Ballard
Edward Goldman
Robert M. O'Reilly
James P. Spica
Lawrence W. Waggoner

Awards Committee
Mission: To periodically award the Michael Irish Award to a deserving recipient and to consult with ICLE concerning periodic induction of members in the George A. Cooney Society

Amy N. Morrissey, Chair
Robert D. Brower, Jr.
George W. Gregory
Phillip E. Harter
Nancy L. Little

Budget Committee
Mission: To develop the annual budget and to alert the Council to revenue and spending trends

Christopher A. Ballard, Chair
Marguerite Munson Lentz, Chair
David P. Lucas

Bylaws Committee
Mission: To review the Section Bylaws and recommend changes to ensure compliance with State Bar requirements, best practices for similar organizations and assure conformity of the Bylaws to current practices and procedures of the Section and the Council

Nancy H. Welber, Chair
Christopher A. Ballard
John Roy Castillo
David P. Lucas
Charitable and Exempt Organization Committee
Mission: To educate the Section about charitable giving and exempt organizations and to make recommendations to the Section concerning Federal and State legislative developments and initiatives in the fields of charitable giving and exempt organizations

Christopher J. Caldwell, Chair
Christopher A. Ballard
Michael W. Bartnik
William R. Bloomfield
Robin D. Ferriby
Richard C. Mills

Citizens Outreach Committee
Mission: To provide for education of the public on matters related to probate, estate planning, and trust administration, including the publication of pamphlets and online guidance to the public, and coordinating the Section’s efforts to educate the public with the efforts of other organizations affiliated with the State Bar of Michigan

Melisa M. W. Mysliwiec, Chair
Kathleen M. Goetsch
Katie Lynwood
Michael J. McClory
Neal Nusholtz
Jessica M. Schilling
Rebecca A. Schnelz (Liaison to Solutions on Self-help Task Force)
Nicholas Vontroba
Nancy H. Welber

Committee on Special Projects
Mission: The Committee on Special Projects is a working committee of the whole of the Section that considers and studies in depth a limited number of topics and makes recommendations to the Council of the Section with respect to those matters considered by the Committee. The duties of the Chair include setting the agenda for each Committee Meeting, and in conjunction with the Chair of the Section, to coordinate with substantive Committee chairs the efficient use of time by the Committee

Geoffrey R. Vernon, Chair

Community Property Trusts Ad Hoc Committee
Mission: To review the statutes, case law, and legislative analysis of Michigan and other jurisdictions (including pending legislation) concerning community property trusts and, if advisable, to recommend changes to Michigan law in this area

Neal Nusholtz, Chair
George W. Gregory
Lorraine F. New
Nicholas A. Reister
Rebecca K. Wrock
Electronic Communications Committee
Mission: To oversee all forms of electronic communication with and among members of the Section, including communication via the Section’s web site, the Section listserv, and the ICLE Online Community site, to identify emerging technological trends of importance to the Section and its members, and to recommend to the council best practices to take advantage of technology in carrying out the section’s and Council’s mission and work.

Michael G. Lichterman, Chair
William J. Ard
Nancy L. Little
Amy N. Morrissey
Jeanne Murphy (Liaison to ICLE)
Neal Nusholtz
Michael L. Rutkowski

Ethics & Unauthorized Practice of Law Committee
Mission: To consider and recommend to the Council action with respect to the Michigan Rules of Professional Conduct and their interpretation, application, and amendment, including identifying the unauthorized practices of law, reporting of such practices to the appropriate authorities, and educating the public regarding the inherent problems relying on non-lawyers.

Katie Lynwood, Chair
William J. Ard
Raymond A. Harris
J. David Kerr
Robert M. Taylor
Amy Rombyer Tripp

Guardianship, Conservatorship, and End of Life Committee
Mission: To monitor the need for and make recommendations with respect to statutory and court rule changes in Michigan related to the areas of legally incapacitated individuals, guardianships, and conservatorships.

Rhonda M. Clark-Kreuer, Chair
Katie Lynwood, Vice Chair
William J. Ard
Michael W. Bartsik
Raymond A. Harris
Phillip E. Harter
Michael J. McClory
Kurt A. Olson
James B. Steward
Paul Vaidya

Insurance Legislation Ad Hoc Committee
Mission: To recommend new legislation related to insurability and the administration of irrevocable life insurance trusts.

Geoffrey R. Vernon, Chair
Stephen L. Elkins
James P. Spica
Joseph D. Weiler, Jr.
Legislation Analysis & Monitoring Committee
Mission: In cooperation with the Section’s lobbyist, to bring to the attention of the Council recent developments in the Michigan legislature and to further achievement of the Section’s legislative priorities, as well as to study legislation and recommend a course of action on legislation not otherwise assigned to a substantive committee of the Section

[vacant], Chair
Christopher A. Ballard
Ryan Bourjaily
Georgette E. David
Mark E. Kellogg
Michele C. Marquardt
Jonathon Nahhat

Legislation Development & Drafting Committee
Mission: To review, revise, communicate and recommend Michigan’s trusts and estates law with the goal of achieving and maintaining leadership in promulgating probate laws in changing times. May work alone or in conjunction with other substantive standing or ad hoc committees.

Nathan Piwowarski, Chair
Susan M. Allan
Howard H. Collens
Georgette David
Henry P. Lee
Marguerite Munson Lentz
Michael G. Lichterman
Sueann Mitchell
Kurt A. Olson
James P. Spica
Robert P. Tiplady, II
Geoffrey R. Vernon

Ad Hoc Legislative Drafting Committee
Mission: Draft proposal for forfeiture of gifts to lawyer who drafted the instrument:

Sueann Mitchell, Chair
George W. Gregory
David P. Lucas
Kurt A. Olsen

Litigation, Proceedings, and Forms Committee
Mission: To consider and recommend to the Council action with respect to contested and uncontested proceedings, the Michigan Court Rules, and published court forms, including the interpretation, use, and amendment of them

David L.J.M. Skidmore, Chair
James F. ("JV") Anderton
Constance L. Brigman (Liaison to SCAO for Guardianship, Conservatorship, and Protective Proceedings Workgroup)
Rhonda M. Clark-Kreuer
Phillip E. Harter
Michael D. Holmes
Shaheen I. Imami
Hon. Michael L. Jaconette
Hon. David M. Murkowski
Rebecca A. Schnelz (Liaison to SCAO for Mental Health/Commitment Workgroup and to Guardianship, Conservatorship, and Protective Proceedings Workgroup)
Membership Committee
Mission: To strengthen relations with Section members, encourage new membership, and promote awareness of and participation in Section activities

Joseph J. Viviano, Chair
David Borst
Ryan Bourjaily
Christopher J. Caldwell
Nicholas R. Dekker
Daniel A. Kosmowski
Raj A. Malviya
Robert O'Reilly
Nicholas A. Reister
Theresa Rose

Nominating Committee
Mission: To annually nominate candidates to stand for election as the officers of the Section and members of the Council

Thomas F. Sweeney, Chair
Amy N. Morrissey
Shaheen I. Imami

Planning Committee
Mission: To periodically review and update the Section’s Strategic Plan and to annually prepare and update the Council’s Biennial Plan of Work

Marlaine C. Teahan, Chair

Probate Institute
Mission: To consult with ICLE in the planning and execution of the Annual Probate and Estate Planning Institute

Marguerite Munson Lentz, Chair

Real Estate Committee
Mission: To recommend new legislation related to real estate matters of interest and concern to the Section and its members

Mark E. Kellogg, Chair
Jeffrey S. Ammon
William J. Ard
George F. Bearup
Stephen J. Dunn
David S. Fry
J. David Kerr
Michael G. Lichterman
David P. Lucas
Katie Lynwood
Douglas A. Mielock
Melisa M. W. Mysliwiec
James T. Ramer
James B. Steward

State Bar and Section Journals Committee
Mission: To oversee the publication of the Section’s Journal and periodic theme issues of the State Bar Journal that are dedicated to probate, estate planning, and trust administration

Richard C. Mills, Chair
Nancy L. Little, Managing Editor
Melisa M. W. Mysliwiec, Assoc. Editor

Tax Committee
Mission: To monitor developments concerning Federal and State transfer taxes and to recommend appropriate actions by the Section in response to developments or needs

Lorraine F. New, Chair
Robert B. Labe
Marguerite Munson Lentz
Raj A. Malviya
Nancy H. Welber
Alternative Dispute Resolution
Section Liaison

Milton L. Mack, Jr.

Business Law Section Liaison Mission: The liaison to the Business Law Section of the State Bar of Michigan is responsible for developing and maintaining bilateral communication between the Section and the Business Law Section on matters of mutual interest and concern

John R. Dresser

Elder Law and Disability Rights Section Liaison

Mission: The liaison to the Elder Law and Disability Rights Section of the State Bar of Michigan is responsible for developing and maintaining bilateral communication between the Section and the Elder Law Section on matters of mutual interest and concern

Amy Rombyer Tripp

Family Law Section Liaison

Mission: The liaison to the Family Law Section of the State Bar of Michigan is responsible for developing and maintaining bilateral communication between the Section and the Family Law Section on matters of mutual interest and concern

Patricia M. Ouellette

ICLE Liaison

Mission: The liaison to ICLE is responsible for developing and maintaining bilateral communication between the Section and the Institute for Continuing Legal Education

Jeanne Murphy

Law Schools Liaison

Mission: The Law Schools Liaison is responsible for developing and maintaining bilateral communication between the Section and the law schools located in the State of Michigan in matters of mutual interest and concern

William J. Ard

Michigan Bankers Association Liaison

Mission: The liaison to the Michigan Bankers Association is responsible for developing and maintaining bilateral communication between the Section and the Michigan Bankers Association in matters of mutual interest and concern

Susan M. Allan

Probate Judges Association Liaisons Mission: The liaisons to the MPJA are responsible for developing and maintaining bilateral communication between the Section and the MPJA on matters of mutual interest and concern

Hon. David M. Murkowski
Hon. Michael L. Jaconette
Probate Registers Liaison

Mission: The liaison to the Michigan Probate and Juvenile Registers Association is responsible for developing and maintaining bilateral communication between the Section and the Probate and Juvenile Registers Association on matters of mutual interest and concern

Rebecca A. Schnelz

SCAO Liaisons

Mission: The liaisons to SCAO are responsible for developing and maintaining communications between the Section and SCAO on matters of mutual interest and concern

Constance L. Brigman
( Guardianship, Conservatorship, and Protective Proceedings Workgroup)
Michele C. Marquardt
( Estates & Trusts Workgroup)
Rebecca A. Schnelz
( Mental Health/Commitment Workgroup and Guardianship, Conservatorship, and Protective Proceedings Workgroup)

Solutions on Self-help Task Force Liaison

Mission: The liaison to the Solutions on Self-help (SOS) Task force is responsible for maintaining bilateral communication between the Section and the Task Force

Kathleen M. Goetsch

State Bar Commissioner Liaison

Mission: The liaison to the State Bar is responsible for maintaining bilateral communication between the Section and the larger State Bar of Michigan, including the Board of Commissioners and staff of the State Bar

[vacant]

Taxation Section Liaison

Mission: The liaison to the Taxation Section of the State Bar of Michigan is responsible for developing and maintaining bilateral communication between the Section and the Taxation Section on matters of mutual interest and concern

George W. Gregory
<table>
<thead>
<tr>
<th>Action Pending</th>
<th>Statutory/Legislative</th>
<th>Court Rules, Procedures and Forms</th>
<th>Council Organization &amp; Internal Procedures</th>
<th>Professional Responsibility</th>
<th>Education &amp; Service to the Public &amp; Members</th>
</tr>
</thead>
</table>
| Priority Items | - Dower Repeal (SB 558, 559, and 560)  
- Probate Appeals statute (SB 633, 634)  
- Prop tax uncapping exempt. (HB 5140 etc)  
- Qualified Distributions in Trust (SB 597,598)  
- Tenants by Entirety Property bill  
- ILIT trustee exoneration bill (SB 1010)  
- Jajuga legislation override | - Probate Appeals Rules  
- SCAO Meetings*  
- New forms based on legislation | - who does the attorney for the fiduciary represent? | - Communications with members*  
- Social events for Section members  
- Liaise with local bar associations  
- Social media & website*  
- Brochures*  
- Annual Institute/ICLE seminars* | - Brochures State Bar Publication Agreement  
- Promotion of "Who Should I Trust?" Program* (or similar)  
- 57th Annual P&EP Institute |
| Secondary Priority | - Assisted Reproductive Technology  
- EPIC/MTC Updates  
- Guardian/Conservator Jurisdiction (SB 270)  
- Tenants by Entirety Property in Trust bill | - Review Ch. 5 of MCR for potential updates (incl. attorney representation, but not fiduciary exception) | - Amend bylaws to better coordinate transition of new officers/members | - Opportunities with ICLE  
- Journal Advertising | - |
| Priority To Be Determined | - Parental rights assignment criminalization  
- EPIC changes to reflect UPC updates  
- Dignified Death (Family Consent) Act  
- Directed/Separate Trustee Proposals  
- Further brochure updating  
- PRE after death & nursing home | - Estate Recovery | - Budget Reporting  
- State Bar of Michigan 21st Century Practice Task Force Report | - Probate Court Opinion Bank  
- Mentor program  
- Outreach to COA to stay apprised of pending appeals & need for involvement  
- Estate Recovery | - |

*ongoing
CSP MATERIALS
PROPOSED AMENDMENTS TO EPIC
BASED ON
UNIFORM PROBATE CODE 2008 & LATER REVISIONS

Table of Contents

ARTICLE I

GENERAL PROVISIONS, DEFINITIONS AND PROBATE JURISDICTION OF COURT

PART 2. DEFINITIONS

Section
1-201. General Definitions.

ARTICLE II

INTESTACY, WILLS, AND DONATIVE TRANSFERS

PART 1. INTESTATE SUCCESSION

Subpart 1. General Rules

Section
2-103. Share of Heirs Other than Surviving Spouse
2-104. Requirement of Survival by 120 Hours; Individual in Gestation.
2-108. [Reserved.]
2-114. Parent Barred from Inheriting in Certain Circumstances.

Subpart 2. Parent-Child Relationship

2-115. Definitions.
2-117. No Distinction Based on Marital Status; Child Born or Conceived During Marriage.
2-118. Adoptee and Adoptee’s Adoptive Parent or Parents.
2-119. Adoptee and Adoptee’s Genetic Parents.
2-120. Child Conceived by Assisted Reproduction Other Than Child Born to Gestational Carrier.
2-121. Child Born to Gestational Carrier.
2-122. Equitable Adoption.
PART 5. WILLS, WILL CONTRACTS, AND CUSTODY AND DEPOSIT OF WILLS

Section
2-502. Execution; Witnessed or Notarized Wills; Holographic Wills.
2-504. Self-proved Will.

PART 7. RULES OF CONSTRUCTION APPLICABLE TO WILLS AND OTHER GOVERNING INSTRUMENTS

Section
2-705. Class Gifts Construed to Accord with Intestate Succession; Exceptions.

PART 8. GENERAL PROVISIONS CONCERNING PROBATE AND NONPROBATE TRANSFERS

Section
2-805. Reformation to Correct Mistakes.
2-806. Modification to Achieve Transferor’s Tax Objectives.

ARTICLE III

PROBATE OF WILLS AND ADMINISTRATION

PART 4. FORMAL TESTACY AND APPOINTMENT PROCEEDINGS

Section
3-406. Formal Testacy Proceedings; Contested Cases.

ARTICLE VIII

EFFECTIVE DATE AND REPEALER

Section

Add new section MCL 700.1110 regarding notice and subsection to MCL 700.3715 and to 700.7821 regarding posthumous conception.
UNIFORM PROBATE CODE

ARTICLE I

GENERAL PROVISIONS, DEFINITIONS AND PROBATE JURISDICTION OF COURT

PART 2. DEFINITIONS

[AMEND MCL 700.1107 TO ADD DEFINITIONS OF “RECORD” AND “SIGN”:] GENERAL DEFINITIONS—RECORD THROUGH TRUSTEE. AS USED IN THIS ACT:

(a) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(f) “Sign” means, with present intent to authenticate or adopt a record other than a will:

(A) to execute or adopt a tangible symbol; or

(B) to attach to or logically associate with the record an electronic symbol, sound, or process.

EPIC Committee Comment

The Uniform Law Commission National Office confirmed to the EPIC Committee that the above definitions of “record” and “sign” are the definitions to be used in all relevant ULC statutes. Also, the definition of “sign” is based on both federal and uniform law.

The Federal Electronic Signatures in Global and National Commerce Act (2000), 15 U.S.C. ch. 96, states: “The term ‘electronic signature’ means an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record.”

The Unif. Electronic Transactions Act (1999) states: “‘Electronic signature’ means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.”
PART 5. WILLS, WILL CONTRACTS, AND CUSTODY AND DEPOSIT OF WILLS

UPC GENERAL COMMENT

Part 5 of Article II was retitled in 1990 to reflect the fact that it now includes the provisions on will contracts (pre-1990 Section 2-701) and on custody and deposit of wills (pre-1990 Sections 2-901 and 2-902).

Part 5 deals with capacity and formalities for execution and revocation of wills. The basic intent of the pre-1990 sections was to validate wills whenever possible. To that end, the minimum age for making wills was lowered to eighteen, formalities for a written and attested will were reduced, holographic wills written and signed by the testator were authorized, choice of law as to validity of execution was broadened, and revocation by operation of law was limited to divorce or annulment. In addition, the statute also provided for an optional method of execution with acknowledgment before a public officer (the self-proved will).

These measures have been retained, and the purpose of validating wills whenever possible has been strengthened by the addition of a new section, Section 2-503, which allows a will to be upheld despite a harmless error in its execution.
WITNESSED OR NOTARIZED WILLS; HOLOGRAPHIC WILLS.

(a) [Witnessed or Notarized Wills.] Except as otherwise provided in subsection (b) and in Sections 2-503, 2-506, and 2-513, a will must be:

(1) in writing;

(2) signed by the testator or in the testator’s name by some other individual in the testator’s conscious presence and by the testator’s direction; and

(3) either:

(A) signed by at least two individuals, each of whom signed within a reasonable time after the individual witnessed either the signing of the will as described in paragraph (2) or the testator’s acknowledgment of that signature or acknowledgement of the will; or

(B) acknowledged by the testator before a notary public or other individual authorized by law to take acknowledgements.

(b) [Holographic Wills.] A will that does not comply with subsection (a) is valid as a holographic will, whether or not witnessed, if the testator’s signature and the document’s material portions are in the testator’s handwriting.

(c) [Extrinsic Evidence.] Intent that a document constitute the testator’s will can be established by extrinsic evidence, including, for holographic wills, portions of the document that are not in the testator’s handwriting.
Subsection (a): Witnessed or Notarized Wills. Three formalities for execution of a witnessed or notarized will are imposed. Subsection (a)(1) requires the will to be in writing. Any reasonably permanent record is sufficient. See Restatement (Third) of Property: Wills and Other Donative Transfers § 3.1 cmt. i (1999).

Under subsection (a)(2), the testator must sign the will or some other individual must sign the testator’s name in the testator’s presence and by the testator’s direction. If the latter procedure is followed, and someone else signs the testator’s name, the so-called “conscious presence” test is codified, under which a signing is sufficient if it was done in the testator’s conscious presence, i.e., within the range of the testator’s senses such as hearing; the signing need not have occurred within the testator’s line of sight. For application of the “conscious-presence” test, see Restatement (Third) of Property: Wills and Other Donative Transfers § 3.1 cmt. n (1999); Cunningham v. Cunningham, 80 Minn. 180, 83 N.W. 58 (1900) (conscious-presence requirement held satisfied where “the signing was within the sound of the testator’s voice; he knew what was being done....”); Healy v. Bartless, 73 N.H. 110, 59 A. 617 (1904) (individuals are in the decedent’s conscious presence “whenever they are so near at hand that he is conscious of where they are and of what they are doing, through any of his senses, and where he can readily see them if he is so disposed.”); Demaris’ Estate, 166 Or. 36, 110 P.2d 571 (1941) ("[W]e do not believe that sight is the only test of presence. We are convinced that any of the senses that a testator possesses, which enable him to know whether another is near at hand and what he is doing, may be employed by him in determining whether [an individual is] in his [conscious] presence....").

Signing may be by mark, nickname, or initials, subject to the general rules relating to that which constitutes a “signature”. See Restatement (Third) of Property: Wills and Other Donative Transfers § 3.1 cmt. j (1999). There is no requirement that the testator “publish” the document as his or her will, or that he or she request the witnesses to sign, or that the witnesses sign in the presence of the testator or of each other. The testator may sign the will outside the presence of the witnesses, if he or she later acknowledges to the witnesses that the signature is his or hers (or that his or her name was signed by another) or that the document is his or her will. An acknowledgment need not be expressly stated, but can be inferred from the testator’s conduct. Norton v. Georgia Railroad Bank & Tr. Co., 248 Ga. 847, 285 S.E.2d 910 (1982).

There is no requirement that the testator’s signature be at the end of the will; thus, if the testator writes his or her name in the body of the will and intends it to be his or her signature, the statute is satisfied. See Restatement (Third) of Property: Wills and Other Donative Transfers § 3.1 cmts. j & k (1999).

Subsection (a)(3) requires that the will either be (A) signed by at least two individuals, each of whom witnessed at least one of the following: (i) the signing of the will; (ii) the testator’s acknowledgment of the signature; or (iii) the testator’s acknowledgment of the will; or (B) acknowledged by the testator before a notary public or other individual authorized by law to take acknowledgments. Subparagraph (B) was added in 2008 in order to recognize the validity of notarized wills.
Under subsection (a)(3)(A), the witnesses must sign as witnesses (see, e.g., Mossler v. Johnson, 565 S.W.2d 952 (Tex. Civ. App. 1978)), and must sign within a reasonable time after having witnessed the testator’s act of signing or acknowledgment. There is, however, no requirement that the witnesses sign before the testator’s death. In a particular case, the reasonable-time requirement could be satisfied even if the witnesses sign after the testator’s death.

Under subsection (a)(3)(B), a will, whether or not it is properly witnessed under subsection (a)(3)(A), can be acknowledged by the testator before a notary public or other individual authorized by law to take acknowledgments. Note that a signature guarantee is not an acknowledgment before a notary public or other person authorized by law to take acknowledgments. The signature guarantee program, which is regulated by federal law, is designed to facilitate transactions relating to securities. See 17 C.F.R. § 240.17Ad-15.

Allowing notarized wills as an optional method of execution addresses cases that have begun to emerge in which the supervising attorney, with the client and all witnesses present, circulates one or more estate-planning documents for signature, and fails to notice that the client or one of the witnesses has unintentionally neglected to sign one of the documents. See, e.g., Dalk v. Allen, 774 So.2d 787 (Fla. Dist. Ct. App. 2000); Sisson v. Park Street Baptist Church, 24 E.T.R.2d 18 (Ont. Gen. Div. 1998). This often, but not always, arises when the attorney prepares multiple estate-planning documents – a will, a durable power of attorney, a health-care power of attorney, and perhaps a revocable trust. It is common practice, and sometimes required by state law, that the documents other than the will be notarized. It would reduce confusion and chance for error if all of these documents could be executed with the same formality.

In addition, lay people (and, sad to say, some lawyers) think that a will is valid if notarized, which is not true under non-UPC law. See, e.g., Estate of Saueressig, 136 P.3d 201 (Cal. 2006). In re Estate of Hall, 51 P.3d 1134 (Mont. 2002), a notarized but otherwise unwitnessed will was upheld, but not under the pre-2008 version of Section 2-502, which did not authorize notarized wills. The will was upheld under the harmless-error rule of Section 2-503. There are also cases in which a testator went to his or her bank to get the will executed, and the bank’s notary notarized the document, mistakenly thinking that notarization made the will valid. Cf., e.g., Orrell v. Cochran, 695 S.W.2d 552 (Tex. 1985). Under non-UPC law, the will is usually held invalid in such cases, despite the lack of evidence raising any doubt that the will truly represented the decedent’s wishes.

Other uniform acts affecting property or person do not require either attesting witnesses or notarization. See, e.g., Uniform Trust Code Section 402(a)(2); Uniform Power of Attorney Act Section 105; Uniform Health-Care Decisions Act Section 2(f).

A will that does not meet the requirements of subsection (a) may be valid under subsection (b) as a holograph or under the harmless error rule of Section 2-503.

**Subsection (b): Holographic Wills.** This subsection authorizes holographic wills. On holographic wills, see Restatement (Third) of Property: Wills and Other Donative Transfers § 3.2 (1999). Subsection (b) enables a testator to write his or her own will in handwriting. There need be no witnesses. The only requirement is that the signature and the material portions of the
document be in the testator’s handwriting.

By requiring only the “material portions of the document” to be in the testator’s handwriting (rather than requiring, as some existing statutes do, that the will be “entirely” in the decedent’s handwriting), a holograph may be valid even though immaterial parts such as date or introductory wording are printed, typed, or stamped.

A valid holograph can also be executed on a printed will form if the material portions of the document are handwritten. The fact, for example, that the will form contains printed language such as “I give, devise, and bequeath to _______” does not disqualify the document as a holographic will, as long as the testator fills out the remaining portion of the dispositive provision in his or her own hand.

**Subsection (c): Extrinsic Evidence.** Under subsection (c), testamentary intent can be shown by extrinsic evidence, including for holographic wills the printed, typed, or stamped portions of the form or document. Handwritten alterations, if signed, of a validly executed nonhandwritten will can operate as a holographic codicil to the will. If necessary, the handwritten codicil can derive meaning, and hence validity as a holographic codicil, from nonhandwritten portions of the document. See Restatement (Third) of Property: Wills and Other Donative Transfers § 3.2 cmt. g (1999). This position intentionally contradicts Estate of Foxley, 575 N.W.2d 150 (Neb. 1998), a decision condemned in Reporter’s Note No. 4 to the Restatement as a decision that “reached a manifestly unjust result”.

**2008 Revisions.** In 2008, this section was amended by adding subsection (a)(3)(B). Subsection (a)(3)(B) and its rationale are discussed in Waggoner, The UPC Authorizes Notarized Wills, 34 ACTEC J. 58 (2008).

**Historical Note.** This Comment was revised in 2008.
[AMEND MCL 700.2504 TO READ.] SELF-PROVED WILL.

700.2504 Self-proved will.

(1) A will that is executed with attesting witnesses may be simultaneously executed, attested, and made self-proved by acknowledgment of the will by the testator and 2 witnesses' sworn statements, each made before an officer authorized to administer oaths under the laws of the state in which execution occurs and evidenced by the officer's certificate, in substantially the following form:

I, ________________________, the testator, sign my name to this document on __________, _____. I have taken an oath, administered by the officer whose signature and seal appear on this document, swearing that the statements in this document are true. I declare to that officer that this document is my will; that I sign it willingly or willingly direct another to sign for me; that I execute it as my voluntary act for the purposes expressed in this will; that I am 18 years of age or older and under no constraint or undue influence; and that I have sufficient mental capacity to make this will.

_________________________________
(Signature) Testator

We, ________________________ and ________________________, the witnesses, sign our names to this document and have taken an oath, administered by the officer whose signature and seal appear on this document, to swear that all of the following statements are true: the individual signing this document as the testator executes the document as his or her will, signs it willingly or willingly directs another to sign for him or her, and executes it as his or her voluntary act for the purposes expressed in this will; each of us, in the testator's presence, signs this will as witness to the testator's signing; and, to the best of our knowledge, the testator is 18 years of age or older, is under no constraint or undue influence, and has
sufficient mental capacity to make this will.

_________________________________
(Signature) Witness

_________________________________
(Signature) Witness

The State of ________________________________
County of ___________________________________
Sworn to and signed in my presence by ____________, the
testator, and sworn to and signed in my presence by
__________ and ____________, witnesses, on
____________, __________.
month/day year

____________________________________
(SEAL) Signed

____________________________________
(official capacity of officer)

(2) An attested will may be made self-proved at any time after its execution
by the acknowledgment of the will by the testator and the sworn statements of the
witnesses to the will, each made before an officer authorized to administer oaths
under the laws of the state in which the acknowledgment occurs and evidenced by
the officer's certificate, under the official seal, attached or annexed to the will in
substantially the following form:

The State of ________________________________
County of _________________________________
We, ________________, ________________, and
______________, the testator and the witnesses,
respectively, whose names are signed to the attached will,
sign this document and have taken an oath, administered by the
officer whose signature and seal appear on this document, to
swear that all of the following statements are true: the
individual signing this document as the will's testator
executed the will as his or her will, signed it willingly or
willingly directed another to sign for him or her, and executed
it as his or her voluntary act for the purposes expressed in the will; each witness, in the testator's presence, signed the will as witness to the testator's signing; and, to the best of the witnesses' knowledge, the testator, at the time of the will's execution, was 18 years of age or older, was under no constraint or undue influence, and had sufficient mental capacity to make this will.

_________________________________
(Signature) Testator

_________________________________
(Signature) Witness

_________________________________
(Signature) Witness
Sworn to and signed in my presence by ___________ , the testator, and sworn to and signed in my presence by ___________ and ___________ , witnesses, on ___________ , ___________ .
month/day year

____________________________________
(SEAL) Signed

____________________________________
(official capacity of officer)

(3) A codicil to a will that is executed with attesting witnesses may be simultaneously executed and attested, and both the codicil and the original will made self-proved, by acknowledgment of the codicil by the testator and by witnesses' sworn statements, each made before an officer authorized to administer oaths under the laws of the state in which execution occurs and evidenced by the officer's certificate, in substantially the following form:

I, _____________ , the testator, sign my name to this document on ___________ , __________ . I have taken an oath, administered by the officer whose signature and seal appear on this document, swearing that the statements in this document are true. I declare to that officer that this document is a
codicil to my will; that I sign it willingly or willingly
direct another to sign for me; that I execute it as my
voluntary act for the purposes expressed in this codicil; and
that I am 18 years of age or older, and under no constraint or
undue influence; and that I have sufficient mental capacity to
make this codicil.
_________________________________
(Signature) Testator

We, _______________ and _______________, the witnesses,
sign our names to this document and have taken an oath,
administered by the officer whose signature and seal appear on
this document, to swear that all of the following statements
are true: the individual signing this document as the testator
executes the document as a codicil to his or her will, signs it
willingly or willingly directs another to sign for him or her,
and executes it as his or her voluntary act for the purposes
expressed in this codicil; each of us, in the testator's
presence, signs this codicil as witness to the testator's
signing; and, to the best of our knowledge, the testator is
18 years of age or older, is under no constraint or undue
influence, and has sufficient mental capacity to make
this codicil.
_________________________________
(Signature) Witness
_________________________________
(Signature) Witness

The State of ________________________________
County of ___________________________________
Sworn to and signed in my presence by ____________, the
testator, and sworn to and signed in my presence by
_________________ and ________________, witnesses, on
____________, __________.
month/day year
(SEAL) Signed

(official capacity of officer)

(4) If necessary to prove the will's due execution, a signature affixed to a self-proving sworn statement attached to a will is considered a signature affixed to the will.

(5) Instead of the testator and witnesses each making a sworn statement before an officer authorized to administer oaths as prescribed in subsections (1) to (3), a will or codicil may be made self-proved by a written statement that is not a sworn statement. This statement shall state, or incorporate by reference to an attestation clause, the facts regarding the testator and the formalities observed at the signing of the will or codicil as prescribed in subsections (1) to (3). The testator and witnesses shall sign the statement, which must include its execution date and must begin with substantially the following language: "I certify (or declare) under penalty for perjury under the law of the state of Michigan that...".

UPC Comment

A self-proved will may be admitted to probate as provided in Sections 3-303, 3-405, and 3-406 without the testimony of any attesting witness, but otherwise it is treated no differently from a will not self-proved. Thus, a self-proved will may be contested (except in regard to questions of proper execution), revoked, or amended by a codicil in exactly the same fashion as a will not self-proved. The procedural advantage of a self-proved will is limited to formal testacy proceedings because Section 3-303, which deals with informal probate, dispenses with the necessity of testimony of witnesses even though the instrument is not self-proved under this section.

Subsection (c) was added in 1990 to counteract an unfortunate judicial interpretation of similar self-proving will provisions in a few states, under which a signature on the self-proving affidavit was held not to constitute a signature on the will, resulting in invalidity of the will in cases in which the testator or witnesses got confused and only signed on the self-proving affidavit. See Mann, Self-proving Affidavits and Formalism in Wills Adjudication, 63 Wash. U. L.Q. 39 (1985); Estate of Ricketts, 773 P.2d 93 (Wash. Ct. App. 1989).

2008 Revision. Section 2-502(a) was amended in 2008 to add an optional method of execution by having a will notarized rather than witnessed by two attesting witnesses. The amendment to Section 2-502 necessitated amending this section so that it only applies to a will that is executed with attesting witnesses.

Historical Note. This Comment was revised in 2008.
Part 8 contains five general provisions that cut across probate and nonprobate transfers. Part 8 previously contained a sixth provision, Section 2-801, which dealt with disclaimers. Section 2-801 was replaced in 2002 by the Uniform Disclaimer of Property Interests Act, which is incorporated into the Code as Part 11 of Article 2 (Sections 2-1101 to 2-1117). To avoid renumbering the other sections in this part, Section 2-801 is reserved for possible future use.

Section 2-802 deals with the effect of divorce and separation on the right to elect against a will, exempt property and allowances, and an intestate share.

Section 2-803 spells out the legal consequence of intentional and felonious killing on the right of the killer to take as heir under wills and revocable inter-vivos transfers, such as revocable trusts and life-insurance beneficiary designations.

Section 2-804 deals with the consequences of a divorce on the right of the former spouse (and relatives of the former spouse) to take under wills and revocable inter-vivos transfers, such as revocable trusts and life-insurance beneficiary designations.

Sections 2-805 and 2-806, added in 2008, bring the reformation provisions in the Uniform Trust Code into the UPC.

**Application to Pre-Existing Governing Instruments.** Under Section 8-101(b), for decedents dying after the effective date of enactment, the provisions of this Code apply to governing instruments executed prior to as well as on or after the effective date of enactment. The Joint Editorial Board for the Uniform Probate Code has issued a statement concerning the constitutionality under the Contracts Clause of this feature of the Code. The statement, titled “Joint Editorial Board Statement Regarding the Constitutionality of Changes in Default Rules as Applied to Pre-Existing Documents”, can be found at 17 ACTEC Notes 184 (1991) or can be obtained from the Uniform Law Commission, www.uniformlaws.org.

**Historical Note.** This General Comment was revised in 1993, 2002, and 2008.

**2002 Amendment Relating to Disclaimers.** In 2002, the Code’s former disclaimer provision (Section 2-801) was replaced by the Uniform Disclaimer of Property Interests Act, which is incorporated into the Code as Part 11 of Article 2 (Sections 2-1101 to 2-1117). The statutory references in this Comment to former Section 2-801 have been replaced by appropriate references to Part 11. Updating these statutory references has not changed the substance of this Comment.
[ADD AS MCL 700.2810.] REFORMATION TO CORRECT MISTAKES. The court may reform the terms of a governing instrument, even if unambiguous, to conform the terms to the transferor’s intention if it is proved by clear and convincing evidence that both the transferor’s intent and the terms of the governing instrument were affected by a mistake of fact or law, whether in expression or inducement.

UPC Comment

Added in 2008, Section 2-805 is based on Section 415 of the Uniform Trust Code, which in turn was based on Section 12.1 of the Restatement (Third) of Property: Wills and Other Donative Transfers (2003).

Section 2-805 is broader in scope than Section 415 of the Uniform Trust Code because Section 2-805 applies but is not limited to trusts.

Section 12.1, and hence Section 2-805, is explained and illustrated in the Comments to Section 12.1 of the Restatement and also, in the case of a trust, in the Comment to Section 415 of the Uniform Trust Code.

2010 Amendment. This section was revised by technical amendment in 2010. The amendment better conforms the language of the section to the language of the Restatement (Third) of Property provision on which the section is based.
[ADD AS MCL 700.2811.] MODIFICATION TO ACHIEVE TRANSFEROR’S TAX OBJECTIVES. To achieve the transferor’s tax objectives, the court may modify the terms of a governing instrument in a manner that is not contrary to the transferor’s probable intention. The court may provide that the modification has retroactive effect.

UPC Comment

Added in 2008, Section 2-806 is based on Section 416 of the Uniform Trust Code, which in turn was based on Section 12.2 of the Restatement (Third) of Property: Wills and Other Donative Transfers (2003).

Section 2-806 is broader in scope than Section 416 of the Uniform Trust Code because Section 2-806 applies but is not limited to trusts.

Section 12.2, and hence Section 2-806, is explained and illustrated in the Comments to Section 12.2 of the Restatement and also, in the case of a trust, in the Comment to Section 416 of the Uniform Trust Code.
ARTICLE III

PROBATE OF WILLS AND ADMINISTRATION

PART 4. FORMAL TESTACY AND APPOINTMENT PROCEEDINGS

[AMEND MCL 700.3406 TO READ.] FORMAL TESTACY PROCEEDINGS; CONTESTED CASES. In a contested case in which the proper execution of a will is at issue, the following rules apply:

(1) If the will is self-proved pursuant to Section 2-504, the will satisfies the requirements for execution without the testimony of any attesting witness, upon filing the will and the acknowledgment and affidavits annexed or attached to it, unless there is evidence of fraud or forgery affecting the acknowledgment or affidavit.

(2) If the will is notarized pursuant to Section 2-502(a)(3)(B), but not self-proved, there is a rebuttable presumption that the will satisfies the requirements for execution upon filing the will.

(3) If the will is witnessed pursuant to Section 2-502(a)(3)(A), but not notarized or self-proved, the testimony of at least one of the attesting witnesses is required to establish proper execution if the witness is within this state, competent, and able to testify. Proper execution may be established by other evidence, including an affidavit of an attesting witness. An attestation clause that is signed by the attesting witnesses raises a rebuttable presumption that the events recited in the clause occurred.

UPC Comment

2008 Revisions. This section, which applies in a contested case in which the proper execution of a will is at issue, was substantially revised and clarified in 2008.

Self-Proved Wills: Paragraph (1) provides that a will that is self-proved pursuant to Section 2-504 satisfies the requirements for execution without the testimony of any attesting witness, upon filing the will and the acknowledgment and affidavits annexed or attached to it, unless there is evidence of fraud or forgery affecting the acknowledgment or affidavit.
Paragraph (1) does not preclude evidence of undue influence, lack of testamentary capacity, revocation or any relevant evidence that the testator was unaware of the contents of the document.

**Notarized Wills:** Paragraph (2) provides that if the will is notarized pursuant to Section 2-502(a)(3)(B), but not self-proved, there is a rebuttable presumption that the will satisfies the requirements for execution upon filing the will.

**Witnessed Wills:** Paragraph (3) provides that if the will is witnessed pursuant to Section 2-502(a)(3)(A), but not notarized or self-proved, the testimony of at least one of the attesting witnesses is required to establish proper execution if the witness is within this state, competent, and able to testify. Proper execution may be established by other evidence, including an affidavit of an attesting witness. An attestation clause that is signed by the attesting witnesses raises a rebuttable presumption that the events recited in the clause occurred. For further explanation of the effect of an attestation clause, see Restatement (Third) of Property: Wills and Other Donative Transfers § 3.1 cmt. q (1999).

**Historical Note.** This Comment was revised in 2008.
END OF
CSP MATERIALS
MEETING OF THE COUNCIL OF THE
PROBATE AND ESTATE PLANNING SECTION
OF
THE STATE BAR OF MICHIGAN

October 10, 2016
Mackinac Island, Michigan

Agenda

I. Call to Order
II. Excused Absences
III. Introduction of Guests
IV. Minutes of September 10, 2016, Meeting of the Council
   See Attachment 1
V. Treasurer's Report – David P. Lucas
   See Attachment 2
VI. Chairperson's Report – James B. Steward
   See Attachment 3 –
   •
   •
   •
VII. Report of the Committee on Special Projects – Geoffrey R. Vernon
VIII. Report of Standing Committees
   A. Internal Governance
      1. Budget – Christopher A. Ballard
   See Attachment 4
      2. Bylaws – Nancy H. Welber
      3. Awards – Amy N. Morrissey
      4. Planning – Marlaine C. Teahan
      5. Nominating – Thomas F. Sweeney
6. Annual Meeting – Marlaine C. Teahan

B. Legislation and Lobbying

1. Legislative Analysis and Monitoring Committee – [vacant]
2. Legislation Development & Drafting Committee – Nathan Piwowarski
3. Ad-Hoc Legislation Drafting Committee – Sueann Mitchell
4. Insurance Legislation Ad Hoc Committee – Geoffrey R. Vernon
5. Artificial Reproductive Technology Ad Hoc Committee – Nancy H. Welber

C. Education and Advocacy Services for Section Members

1. Amicus Curiae – David L. Skidmore
2. Probate Institute – Marguerite Munson Lentz
3. State Bar and Section Journals – Richard C. Mills
4. Citizens Outreach – Melisa M.W. Mysliwiec
5. Electronic Communications – Michael G. Lichterman

D. Ethics and Professional Standards

1. Ethics & Unauthorized Practice of Law– Katie Lynwood

E. Administration of Justice


F. Areas of Practice

1. Real Estate – Mark E. Kellogg
2. Tax Committee – Lorraine F. New
3. Charitable and Exempt Organization – Christopher J. Caldwell
4. Guardianship, Conservatorship, and End of Life Committee – Rhonda M. Clark-Kreuer

IX. Other Reports

A. Liaisons

1. Alternative Dispute Resolution Section Liaison – Milton J. Mack, Jr.
2. Business Law Section Liaison – John R. Dresser
3. Elder Law and Disability Rights Section Liaison – Amy Rombyer Tripp
4. Family Law Section Liaison – Patricia M. Ouellette
5. ICLE Liaison – Jeanne Murphy
6. Law Schools Liaison – William J. Ard
7. Michigan Bankers Association Liaison – Susan M. Allan
9. Probate Registers Liaison – Rebecca A. Schnelz
10. SCAO Liaisons – Constance L. Brigman, Michele C. Marquardt, Rebecca A. Schnelz
11. Solutions on Self-Help Task Force Liaison – Kathleen M. Goetsch
12. State Bar Liaison – [vacant]
13. Taxation Section Liaison – George W. Gregory

X. Other Business
XI. Hot Topics
XII. Adjournment
Attachment 1
MEETING OF THE COUNCIL OF THE
PROBATE AND ESTATE PLANNING SECTION
OF
THE STATE BAR OF MICHIGAN

September 10, 2016
Lansing, Michigan

Minutes

I. Call to Order

The Chair of the Section, James Steward, called the meeting to order at 10:29 a.m.

II. Attendance

A. The following officers and members of Council were in attendance:

James B. Steward
Marlaine C. Teahan
Marguerite Munson Lentz
Christopher A. Ballard
George F. Bearup
Constance L. Brigman
Christopher J. Caldwell
Rhonda M. Clark-Kreuer
Mark E. Kellogg
Michael G. Lichterman
David P. Lucas
Raj A. Malviya
Richard C. Mills
Lorraine F. New
Geoffrey R. Vernon

A total of 15 council members and officers were present, representing a quorum.

B. The following officers and members of Council were absent with excuse:

Susan M. Allan
Kathleen M. Goetsch
Hon. Michael L. Jaconette
Katie Lynwood
Michele C. Marquardt
David L.J.M. Skidmore
Nancy H. Welber

C. The following officers and members of Council were absent without excuse:
None.

D. The following ex-officio members of the Council were in attendance:

George W. Gregory
Phillip E. Harter
Nancy L. Little
Douglas A. Mielock

E. Others in attendance:

W. Josh Ard
John R. Dresser
Jeanne Murphy
Patricia Ouellette
Ryan Bourjaily
Melisa Mysliwiec
Nathan Piwowarski
Kurt A. Olson
Rob Labe
Justine M. Sylvester
Christine Savage
Jessica Schilling Brigman
Neal Nusholtz
Rose Scheid
James P. Spica
Sueann T. Mitchell

III. Minutes of the June 4, 2016 Meeting of the Council

The minutes of the June 4, 2016, Meeting of the Council were attached to the combined Agenda for this meeting posted on the Section’s web page prior to the meeting. Ms. Lentz moved that the minutes be approved. The motion was seconded. The motion was approved on a voice-vote with no nays and no abstentions.

IV. Treasurer’s Report – Christopher Ballard

Mr. Ballard’s Treasurer’s Report was attached to the combined Agenda. He reported that the Section currently has a surplus. The fund balance as of August 31, 2016, is approximately $235,000, of which $75,000 is held in the amicus fund.

V. Chairperson’s Report – James Steward

- Mr. Steward submitted a written report, which was attached to the combined Agenda. He reported that the officers are in the process of revising the biennial plan. A draft of the biennial plan was attached to Mr. Steward’s report. If anyone has suggested changes to the biennial plan, please let one of the officers know.
Mr. Steward hopes to have the revised biennial plan for the October meeting.

- Mr. Steward’s report also included a list of proposed changes to EPIC/MTC. If anyone wants to help, please contact Geoffrey Vernon or any of the officers. If anyone has suggestions for changes to the list, please let Mr. Vernon or any of the officers know.

- Mr. Steward received a request from the Michigan Young Lawyers Section for the Probate Section to act as an additional sponsor for ABA Young Lawyers conference in Detroit. Raj Malviya explained that the Michigan Young Lawyers Section is helping with the ABA Young Lawyers Conference. The ABA Young Lawyers section have four conferences a year. Their conference in Detroit will be held October 20-26, 2016 at the Book Cadillac. After discussion, Mr. Malviya moved to have the Council approve an expenditure, from the Membership Committee’s budget, of a minimum of $250 and up to a maximum of $1500, in the discretion of the committee, for the Probate and Estate Planning Section to be a sponsor of the ABA Young Lawyers Conference in Detroit. The motion was seconded. The motion was approved on a voice vote, with no nays or abstentions.

- Mr. Steward is restructuring the Council’s committees. If anyone wants to be on a committee, or switch committees, please tell one of the officers.

- The October meeting will be held on Mackinac Island at the Grand Hotel. The Chair’s Dinner will be Sunday Oct 9th, and the CSP and Council meetings will be held on Monday Oct 10th. A reminder email will be sent. All outgoing members of the Council are also invited to attend.

- Mr. Steward reminded everyone that the Section has a lobbyist. The lobbyist’s report on lobbying activities was attached to the combined Agenda.

VI. Report of the Committee on Special Projects – David P. Lucas

Mr. Lucas reported on two recommendations from CSP to the Council.

CSP recommended that the Council support HB 5638 and HB 5704 as modified by the Committee on Legislation Development and Drafting, with one additional language modification made at CSP (changing the phrase “less than $10” to “$10 or less”), and that the Council authorize the Committee make further non substantive changes. Mr. Lucas moved that the Council adopt CSP’s recommendation. The motion was approved by the Council unanimously with 15 voting yes, and no nays and no abstentions.

CSP recommended that Council approve the changes to EPIC proposed by the Assisted Reproductive Technology Ad Hoc committee dealing with assisted reproductive technology, including the notice provisions. These provisions were in the CSP materials attached to the combined Agenda, except that this motion did not include proposed changes to conform Michigan law to Sections 1-201, 2-502, 2-504, 2-805, 2-806, and 3-406 of the 2008 version of
the UPC. The excluded provisions will be presented to the Council for approval at a later time. Mr. Lucas moved that the Council adopt CSP’s recommendation. The motion was approved by the Council unanimously with 15 voting yes, and no nays and no abstentions.

VII. **Standing Committee Reports**

A. **Internal Governance**

1. Budget – Marguerite Munson Lentz

Ms. Lentz reported that the Budget Committee will be meeting next week to begin work on the budget for the upcoming fiscal year.


3. Awards – Amy N. Morrissey—no report.


5. Nominating – Mark K. Harder—no report.


Mr. Steward reported that the next annual meeting will be September 9th, 2017.

Ms. Teahan is investigating two different venues for the October 2017 Chair’s Dinner: Broad Art Museum (on the MSU campus) and the Michigan Historical Museum. The caterer will be Copper Kettle Catering. The October 2017 Probate Council Meeting will be at the University Club.

B. **Legislation and Lobbying**

1. Legislative Analysis and Monitoring Committee – Michele C. Marquardt—no report.

2. Legislation Development & Drafting Committee – Geoffrey R. Vernon

Mr. Vernon requested that persons working on parts of the EPIC/MTC changes to send him their proposed language changes. He thanked Mr. George Bearup for submitting his portion.

Mr. Vernon gave a status report on the Committee’s proposal to modernize the definition of tenancy by entirety property. There has been significant opposition from representatives of the bankers who are concerned about their ability to collect unsecured debts.

The tenancy by entirety trust proposed legislation has been on hold.

There will be another hearing on the proposal for qualified dispositions in trust act. Mr. Robert Tiplady will testify.
Representative Lucido asked Mr. Vernon whether the Committee or the Section would support his proposed substitute for HB 5310. The issue as described by Representative Lucido is this: elderly parent who is not yet incompetent lives with one child. That one child is restricting the other children’s ability to see the parent. Representative Lucido wanted a procedure to require the host child to permit visitation by the other children without a guardianship proceeding being started, similar to grandparent visitation rights. Mr. Vernon asked whether the Council should review and possibly redraft this legislation. Nathan Piwowarski presented information to the Council about his analysis of case law which may already provide an adequate remedy. (See Attachment A to these minutes.) The Council discussed whether to pursue this. Suggestions were made to discuss the issue with Family Law Section, Elder Law Section, and the Probate Judges Association. Another suggestion was made to check other state’s laws (Wisconsin or Minnesota may have a similar law.) Patricia Ouellette will raise this issue at the Family Law Section’s meeting.

3. Insurance Legislation Ad Hoc Committee – Geoffrey R. Vernon

Mr. Vernon reported that representative of the insurance industry have raised objections to the ILIT exculpation proposal. The insurance industry representatives object to banks as trustees also being exculpated. There will be another meeting to discuss this issue.

4. Artificial Reproductive Technology Ad Hoc Committee – Nancy H. Welber

No additional report.

C. Education and Advocacy Services for Section Members


2. Probate Institute – Marlaine C. Teahan

Ms. Teahan reported that the 2016 Annual Probate Institute was well attended. Ms. Lentz reported that the 2017 Annual Probate Institute will be held May 17-20, 2017 in Acme and June 16-17, 2017 in Plymouth. Ms. Lentz has met with Jeanne Murphy and Jeff Kirkey to begin the process of planning the speakers and schedule.

Ms. Teahan reported that the officers decided to have microphones and power strips at the monthly meetings. She thanked Mr. Bearup for the suggestion of the microphones. The University Club did not supply those for the September meeting, so she will pursue that for future meetings.

3. State Bar and Section Journals – Richard C. Mills

Nancy Little gave the report. The current issue of the Probate Journal was sent by eblast the day before the Council meeting. She thanked all of the contributors and encouraged all to read the issue. Ms. Little requested that an updated Committee list be sent to her for inclusion in an upcoming issue. She also suggested including a column in each Journal on what is being discussed at CSP. She will discuss this with the CSP chair.
4. Citizens Outreach – Constance L. Brigman

Ms. Brigman is organizing efforts to sell the remaining brochures. Brochures were sold at the Annual Probate Institute in Acme and in Plymouth, and she will be selling brochures at the Elder Law Institute. In addition, brochures were sold during the Council meeting. Mr. Steward reported that the Committee is still working on the publication agreement with the State Bar.


6. Membership – Raj A. Malviya

Mr. Malviya’s written report was attached to the combined Agenda. He congratulated his Committee for good year. The Committee was in charge of social events in Acme and Plymouth, which they intend to continue next year. Members of the Committee were also present at the Young Lawyers Summit that was held in Novi on June 3-4.

Mr. Malviya thanked Ms. Brigman and the Citizens Outreach Committee for their helpful collaboration at the Annual Probate Institute. Selling the brochures helped to increase interest in the Section’s table.

D. Ethics and Professional Standards


E. Administration of Justice


Mr. Steward raised the issue about clarifying who the attorney for a fiduciary represents. Mr. Vernon will make sure that a legislative change is on the list of EPIC/MTC changes.

Ms. Teahan reported that the probate appeals project is almost completed. There were three bills, all tie-barred. Two have been enacted. The third bill (HB 5503) has passed both Houses and is waiting for submission to the Governor. She also reported that proposed conforming changes to court rules have been drafted, but the general counsel for the Supreme Court did not want to schedule a review until the third bill is enacted.

F. Areas of Practice

1. Real Estate – Mark E. Kellogg

Mr. Kellogg reported that the Committee suggested a counter proposal to the Treasury’s proposal concerning HB 5141, but has not yet heard a response.

2. Transfer Tax Committee – Lorraine F. New

Mr. Malviya gave the report. He discussed aspects of the recently issued proposed Treasury Regulations dealing with Section 2704 of the Internal Revenue Code. His written report,
including his top ten take-aways, was included with the combined Agenda.


VIII. **Other Reports**

A. **Liaisons**


3. Elder Law and Disability Rights Section Liaison – Amy Rombyer Tripp

Mr. Steward reported that the Elder Law Section was meeting at the same time as the Council’s meeting. He also reported that the legislature is moving forward with the POST legislation.

4. Family Law Section Liaison – Patricia M. Ouellette—no report.

5. ICLE Liaison – Jeann Murphy—no report.


10. SCAO Liaisons – Constance L. Brigman, Michele C. Marquardt, Rebecca A. Schnelz—no report.


12. State Bar Liaison –

Ms. Teahan reported that Mr. Siriani informed her that he is not the Section’s liaison to the State Bar.

13. Taxation Section Liaison – George W. Gregory

Mr. Gregory suggested that Section members with tax controversies might consider using the Michigan Court of Claims as an alternate venue from the Michigan Tax Tribunal.
IX. **Other Business**

Mr. Vernon requested that the Chair appoint a liaison to the Real Estate Section to coordinate some of our legislative projects.

X. **Hot Topics**

XI. **Adjournment**

The meeting was adjourned by Chairperson James Steward at 11:59.
ATTACHMENT A
Attachment 2
1. **Budget.** A proposed 2016-2017 budget is included with this Report.

2. **Financial statements.** The Section’s (unaudited) financial statement for the eleven-month period ended August 31, 2016 is included with this Report.

3. **Hearts and Flowers Fund.** The balance in the Hearts and Flowers Fund is $608.71, which is historically low. The Hearts and Flowers Fund is used, for example, to send flowers in remembrance of births and deaths of individuals who have some relationship to the Council. In years past, the Council has requested that Council members contribute $35 each year to the Fund. Please consider doing so, to replenish the Fund.

4. **Section Expense Reimbursement Form.** Council members must use the State Bar’s Section Expense Reimbursement Form to request reimbursement. For the form and instructions, use www.michbar.org/sections/home, and scroll down to Section Leadership, and then Section Treasurer Information and click on Expense Reimbursement Form. A copy of the Form is also included with this report. Please carefully complete the Form before submitting it; Forms not fully completed cannot be processed.

5. **Submitting expense reimbursement requests.** Council members may submit a completed Section Expense Reimbursement Form to me, in person, by email (dlucas@vcflaw.com), by fax, or by mail. All of my contact information follows.

6. **Mileage reimbursement rate.** The IRS business mileage reimbursement rate for 2016 is $0.54 per mile. If you are eligible for reimbursement for your mileage for Probate Council business, you must use this rate, on the Section Expense Reimbursement Form.

7. **Timely submission of reimbursement requests.** The State Bar’s policy is to reject any expense reimbursement requests for expenses more than 45 days old. Please submit expense reimbursement requests timely.

8. **Section expenses.** If you would like the Section to pay an expense (meetings, etc.), please contact me before incurring the expense. No Council or Section member is authorized to sign any agreement on behalf of the Council or the State Bar.

David P. Lucas  
Treasurer, Probate and Estate Planning Section

**Treasurer contact information:**

David P. Lucas  
Vandervoort, Christ & Fisher P.C.  
70 Michigan Avenue W., Suite 450  
Battle Creek, Michigan 49017  
voice: 269-965-7000  
fax: 269-965-0646  
email: dlucaas@vcflaw.com
<table>
<thead>
<tr>
<th>Period</th>
<th>Revenue</th>
<th>Expenses</th>
<th>Net Income</th>
</tr>
</thead>
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<tr>
<td>2013</td>
<td>$ 450,000</td>
<td>$ 300,000</td>
<td>$ 150,000</td>
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<tr>
<td>2014</td>
<td>$ 500,000</td>
<td>$ 350,000</td>
<td>$ 150,000</td>
</tr>
<tr>
<td>2015</td>
<td>$ 600,000</td>
<td>$ 400,000</td>
<td>$ 200,000</td>
</tr>
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</table>

The Treasurer's Report (cont.)

(5) Includes expenses for travel, meals, and lodging for staff and volunteers in attendance at the annual Leadership Conference on Education Issues.

(6) Includes transportation for travel to and from the conference.

The Treasurer's Report

Page 2
### Treasurer's Report

**State Bar of Michigan**  
**Probate and Estate Planning Section**  
**For the Eleven Months Ending August 31, 2016**

<table>
<thead>
<tr>
<th>Revenue:</th>
<th>Current Activity August 2016</th>
<th>Year To Date August 2016</th>
<th>Year to Date August 2015</th>
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<tbody>
<tr>
<td>1-7-99-775-1050 Probate/Estate Planning Dues</td>
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<td>1-7-99-775-1470 Publishing Agreement Account</td>
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<td>1-7-99-775-1755 Pamphlet Sales Revenue</td>
<td>1,640.17</td>
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<tr>
<td><strong>Total Revenue</strong></td>
<td><strong>1,640.17</strong></td>
<td><strong>119,091.82</strong></td>
<td><strong>116,465.00</strong></td>
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<table>
<thead>
<tr>
<th>Expenses:</th>
<th>Current Activity August 2016</th>
<th>Year To Date August 2016</th>
<th>Year to Date August 2015</th>
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<tr>
<td>1-9-99-775-1127 Multi-Section Lobbying Group</td>
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<td>825.00</td>
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<td>1-9-99-775-1283 Seminars</td>
<td>23,325.00</td>
<td>9,000.00</td>
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<td>1-9-99-775-1297 Annual Meeting Expenses</td>
<td>281.19</td>
<td>10,278.86</td>
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<td>1-9-99-775-1458 Speaker Expenses</td>
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<td>1-9-99-775-1493 Travel</td>
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<td>1-9-99-775-1528 Telephone</td>
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<td>240.85</td>
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<td>1-9-99-775-1798 Pamphlets</td>
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<td>1-9-99-775-1822 Litigation-Aamicus Curiae Brief</td>
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<td>1-9-99-775-1826 Copying</td>
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<td>1-9-99-775-1833 Newsletter</td>
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<td>1-9-99-775-1961 Printing</td>
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<td>1-9-99-775-1987 Miscellaneous</td>
<td>300.00</td>
<td>1,611.70</td>
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<tr>
<td><strong>Total Expenses</strong></td>
<td><strong>2,972.20</strong></td>
<td><strong>112,747.93</strong></td>
<td><strong>96,376.12</strong></td>
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**Net Income**  
(1,332.03) 
6,343.89 
20,088.88

**Beginning Fund Balance:**  
1-5-00-775-0001 Fund Bal-Probate/Estate Plan  
228,702.77  
222,164.63

**Total Beginning Fund Balance**  
228,702.77  
222,164.63

**Ending Fund Balance**  
235,046.66  
242,253.71
Treasurer’s Report

Section 1: Introduction

The Treasurer’s Report is prepared to provide a clear and comprehensive overview of the financial status and performance of the organization. This report includes detailed information on the revenue, expenses, and financial transactions during the reporting period. The Treasurer’s Report is an essential document for stakeholders, including board members, donors, and other interested parties, to understand the financial health of the organization.

Section 2: Revenue Sources

1. Membership Fees
   Revenue from membership fees is a significant source of income for the organization. Memberships provide benefits and services to subscribers, and the fees collected help support the organization’s operations and programs.

2. Event Sponsorship
   Event sponsorships are another important source of revenue. Sponsors provide financial support for events organized by the organization, which helps cover the costs associated with hosting these events.

3. Fundraising Events
   Fundraising events, such as galas, auctions, and charity concerts, are crucial for generating income. These events not only raise funds but also increase the organization’s visibility and engagement.

Section 3: Expenses

1. Operational Expenses
   Operational expenses include salaries, utilities, and office supplies. These expenses are essential for the day-to-day functioning of the organization.

2. Program Expenses
   Program expenses cover the costs associated with delivering programs and services to members and the general public. This includes staffing, facilities, and materials.

3. Administrative Expenses
   Administrative expenses are incurred in managing the organization’s operations, such as accounting, legal, and human resources.

Section 4: Financial Projections

- Revenue Projections
- Expense Projections

Section 5: Conclusion

The Treasurer’s Report provides a transparent view of the organization’s financial situation. It is a valuable tool for stakeholders to make informed decisions and ensure the financial sustainability of the organization.
CHAIR REPORT
for
MEETING OF THE COUNCIL OF THE PROBATE AND ESTATE PLANNING SECTION
October 10, 2016

A.  2016 ICLE Publishing Agreement Extension for Probate Sourcebook and the Estate and Protected Individuals Code with Reporters Commentary

The first agreement covering the EPIC Commentary was signed in 1999 by ICLE, John Martin, and the Probate and Estate Planning Section. That Agreement was renewed in 2004, and in 2009, the Probate & Estate Planning Section, along with John Martin and Mark Harder, entered into a new Publishing Agreement with ICLE covering the payments to be made pertaining to the ongoing work by John Martin and Mark Harder for updating their Commentary for EPIC and the Michigan Trust Code (MTC). [The 2009 Publishing Agreement is attached as Chair Report Attachment A-1.] The Section is a party to the Agreement because the Section receives a portion (10%) of the “honorarium” being paid (the 2009 agreement was originally structured as a royalty payment, but that structure was changed in the 2013 extension to an honorarium payment structure). The amount of the honorarium is fixed at $6,500 per year, and therefore Section receives $650 a year (paid in two installments). [The 2013 Publishing Agreement Extension is attached as Chair Report Attachment A-2.]

The 2013 Publishing Agreement Extension covered the period from April 1, 2013, through March 31, 2016, and is therefore up for renewal again this year (for an additional 3 years). The 2016 Publishing Agreement Extension will be effective April 1, 2016, through March 31, 2019. Mark Harder has reviewed the proposed agreement and advises that from his and John Martin’s perspective, it is fine as proposed. [The proposed 2016 Publishing Agreement Extension is attached as Chair Report Attachment A-3]. Council needs to approve the 2016 Publishing Agreement Extension as attached and authorize the Chair to sign on behalf of the Section.

B. Proposed amendment of MCR 9.115.

The Michigan Supreme Court has proposed an amendment of MCR 9.115. The proposed amendment of MCR 9.115(F)(5) would clarify that a hearing panel shall be authorized to allow parties to submit an amended stipulation. If a hearing panel rejects an amended stipulation, the matter would be referred to a different hearing panel to conduct a hearing. This proposed language was submitted jointly by the Attorney Grievance Commission and Attorney Discipline Board. The Administrative Order which contains the proposed changes is attached as Chair Report Attachment B.

The State Bar advises that is may adopt a position on this matter, and asks that if we wish to submit comments for consideration by the Board of Commissioners, that we do so by November 4, 2016.
C. Committees Listing.

The listing of the Section’s Committees, as of this writing, is included with the Meeting Materials. However, at present, we do not have a chair for the Legislation Analysis & Monitoring Committee, so if any of the current members of that committee are willing to become the Chair, please let me know. Also, if you are not listed on a committee that you would like to serve on, or conversely, if you are listed on a committee that you do not wish to serve on, please contact me. The listing of liaisons is not quite final; for example, we do not currently have a State Bar Commissioner Liaison.

James B. Steward
Chair
Publishing Agreement
Michigan Trust Code and EPIC Commentary

This Agreement is dated \( \text{\textbullet\textbullet\textbullet\textbullet\textbullet} \), 2009, and is made by and among MARK K. HARDER ("Mark Harder"), of Holland, Michigan; JOHN H. MARTIN ("John Martin"), of Spring Lake, Michigan; THE REGENTS OF THE UNIVERSITY OF MICHIGAN ON BEHALF OF THE INSTITUTE OF CONTINUING LEGAL EDUCATION, of Ann Arbor, Michigan ("ICLE"); and the PROBATE AND ESTATE PLANNING SECTION OF THE STATE BAR OF MICHIGAN (the "Section"), for the publication of the official drafters' commentary to the Michigan Trust Code (the "MTC") and the Estates and Protected Individuals Code ("EPIC").

Background

A. John Martin, ICLE, and the Section are parties to two previous Agreements dated November 24, 1999, and May 4, 2004, for publication of the EPIC Commentary (the "EPIC Agreements"). Under those Agreements, John Martin has drafted and updates the commentary to EPIC (the "EPIC Commentary").

B. ICLE is the exclusive publisher of the EPIC Commentary. The EPIC Commentary is published in the print and online editions of the Michigan Probate Sourcebook (the "Probate Sourcebook"), the Estates and Protected Individuals Code with Reporter's Commentary (the "EPIC Paperback"), and as part of the ICLE Online Library (the "Online Library"), a subscription to online books that includes the Probate Sourcebook.

C. The Section has drafted, approved and supported the enactment of the MTC. The major provisions of the MTC will replace one article of EPIC. The effective date for the MTC is April 1, 2010.

D. ICLE desires to incorporate Commentary regarding the MTC (the "MTC Commentary") into the Probate Sourcebook, the EPIC Paperback, and the Online Library, and suitable successor publications to them.

E. John Martin wishes to continue to author the EPIC Commentary for a time and then transition authorship of the EPIC Commentary to Mark Harder.

F. Mark Harder desires to author the MTC Commentary and succeed to the authorship of the EPIC Commentary.

G. The parties intend to publish an updated EPIC Commentary and the MTC Commentary on or about March 1, 2010 and subsequent updated editions of the EPIC Commentary and MTC Commentary on or about April 1, 2011 and 2012. Royalties as provided in this Agreement will be paid for sales of the EPIC Commentary and the MTC Commentary for the periods March 1, 2010 through March 31, 2011, April 1, 2011 through March 31, 2012, and April 1, 2012 through March 31, 2013.
The parties agree:

1. Except for the obligation to pay royalties for sales of the current edition of the EPIC Commentary prior to the date of the publication of the MTC Commentary, the obligations of the parties to perform under the EPIC Agreements are terminated.

2. Subject to ICLE’s continuing rights to publish commentary after termination of this Agreement, this Agreement will continue until the earlier of (a) March 31, 2013 or (b) the termination of this Agreement pursuant to section 3 or 4 below. During the term,

   A. EPIC Commentary will be written and published on an annual basis and royalties will be paid, and

   B. MTC Commentary will be written and published on an annual basis and royalties will be paid.

3. Mark Harder commits to prepare the MTC Commentary for publication on or about March 1, 2010, and John Martin commits to update the EPIC Commentary for that 2010 publication. After the 2010 publication, either Mark Harder or John Martin or both can terminate this Agreement as to his participation with 30 days’ notice to the other parties. If John Martin terminates this Agreement as to his participation, then Mark Harder will succeed him with respect to the EPIC Commentary as provided below. If Mark Harder terminates this Agreement as to his participation, the Section and ICLE will agree on a suitable replacement(s) to author the EPIC Commentary and/or the MTC Commentary. Upon termination the parties’ obligations to one another shall end, except that termination of the Agreement shall not eliminate ICLE’s obligation to pay royalties for a period of one year following the publication of the most recent edition of the EPIC Commentary and/or MTC Commentary.

The EPIC Commentary

4. Unless this Agreement is otherwise terminated, John Martin will provide an annual review and update of the EPIC Commentary each year through 2012. The annual reviews and updates of the EPIC Commentary shall be provided on a schedule to be agreed with ICLE. If John Martin elects not to continue to update the EPIC Commentary, Mark Harder will produce the annual reviews and updates.

5. For as long as John Martin is the author of the EPIC Commentary, on any publication of the EPIC Commentary, he will be credited as “Reporter for the EPIC Drafting Committee, Probate and Estate Planning Section, State Bar of Michigan.” If Mark Harder takes over the updating of the EPIC Commentary, the Commentary authors will be credited as “John H. Martin and Mark K. Harder,
Reporters for the EPIC and MTC Drafting Committees, Probate and Estate Planning Section, State Bar of Michigan.”

The MTC Commentary

6. Mark Harder will be the author of the MTC Commentary. As such, he will provide ICLE with a complete manuscript for the MTC commentary in electronic form. The MTC Commentary will be similar in form and depth of information to the existing EPIC Commentary.

7. On any publication of the MTC Commentary, Mark Harder will be credited as “Reporter for the Michigan Trust Code Drafting Committee, Probate and Estate Planning Section, State Bar of Michigan.”

8. In addition to the authorship of the MTC Commentary, Mark Harder will provide two annual reviews and updates of the MTC Commentary. In the event of major mid-year changes such as amendments to the statute, Mark Harder will also provide revised commentary sections.

General provisions

9. John Martin and Mark Harder (“Authors”) will agree between themselves which sections of the proposed commentaries are considered MTC Commentary and which are considered EPIC Commentary.

10. For the publication in 2010, John Martin will provide an update of the EPIC Commentary in November 2009, and Mark Harder will provide the complete initial MTC Commentary in October 2009, with earlier submission of portions of the MTC Commentary. The parties will agree on the most accurate research cutoff date for that publication. In subsequent years, the parties will agree on a revised schedule for submissions.

11. Copyright and grant of license

A. Each Author will hold copyright jointly with the Section in any Commentary authored by him. By signing this agreement, each Author agrees to assign and does assign to himself and the Section as joint owners all right, title and interest throughout the world in the copyright in each Commentary. ICLE will register these copyrights. Each Author represents to ICLE that he is the sole author and owner of the material in the Commentary he submits to ICLE, and that the exercise of the license rights under this Agreement does not infringe on the rights of any third parties.

B. Mark Harder, John Martin, and the Section each grant ICLE an exclusive, irrevocable, perpetual, worldwide license to publish, reproduce in copies, distribute copies, display and create derivative works based on the MTC and EPIC Commentaries, subject to the royalty obligation specified in this Agreement. This license includes the right to publish the MTC and EPIC
Commentaries in all mediums and formats now known or later developed. However, each Author, and the Section, retains a nonexclusive license to publish and distribute limited portions of the MTC and EPIC Commentary in connection with client development activities, scholarly articles, and Section pamphlets. Authors and/or the Section will notify ICLE of any publication and will credit ICLE as the exclusive publisher of the complete Commentaries.

12. Mark Harder, John Martin, and the Section will refrain from editing, preparing or publishing any similar work which may injure or interfere with sales of ICLE publications containing the Commentaries. This obligation does not bar Authors from speaking to organizations, clients or potential clients whose membership is comprised principally of non-lawyers, or authoring seminar outlines or other materials for use in connection with these speaking engagements. This obligation also does not bar Authors or the Section from publishing articles regarding selected aspects of either EPIC or the MTC in the *Michigan Probate & Estate Planning Journal* published by the State Bar of Michigan Probate and Estate Planning Section or in other non-commercial, bar or scholarly publications.

13. Royalties (before publication of the MTC Commentary). ICLE will pay the following royalties on sales of works that do not include the MTC Commentary:

A. 10% of amounts received on sales to new purchasers of the *EPIC Paperback*.

B. 5% of amounts received on sales to new purchasers of the *Probate Sourcebook* (print or online editions), as well as 5% of amounts received (from new sales and renewals) on account of usage of the *Probate Sourcebook* as part of the Online Library (calculated based on usage of this online book as a percentage of total usage of the Online Library during the royalty period).

C. No royalties will be paid on sales of print supplements to the *Probate Sourcebook*, renewals of subscriptions to that book in online format, and new editions of the *EPIC Paperback* sold to prior owners at a discount.

D. ICLE guarantees a royalty payment of at least $2,500 per year.

E. ICLE will pay the Section and the Author directly in the following percentages:

<table>
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<tr>
<th>Section</th>
<th>10%</th>
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<tr>
<td>Authors</td>
<td>90%</td>
</tr>
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</table>

F. No royalty will be paid on any print or online books used by Publisher for review or promotional purposes or distributed on a complimentary basis. Accrued royalties will be paid to the Author twice yearly for all sales that take place between the following two periods: (a) April 1 through September 30 and (b) October 1 through March 31. The Publisher will process and
14. Royalties (after publication of the MTC Commentary). Starting with the publication of the MTC Commentary, ICLE will pay the following royalties:

A. 15% of amounts received on sales to new purchasers of the EPIC Paperback.

B. 10% of amounts received on sales to new purchasers of the Probate Sourcebook (print or online editions), as well as 10% of amounts received (from new sales and renewals) on account of usage of the Probate Sourcebook as part of the Online Library.

C. For sales during the first 12 months after publication of the MTC Commentary, royalties will also be paid on sales of print supplements to the Probate Sourcebook, renewals of online subscriptions to that book, and new editions of the EPIC Paperback sold to prior owners at a discount. After the first 12 months, no royalties will be paid on these sales, but only on the other sales listed above.

D. ICLE guarantees a royalty payment of at least $15,000 for the initial edition of the MTC Commentary, and $5,000 for each updated edition thereafter.

E. These royalties are the entire royalties to be paid and supersede any obligations under section 15 above.

F. ICLE will pay the Section and the Authors directly in the following percentages:

<table>
<thead>
<tr>
<th>Section</th>
<th>10%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Authors</td>
<td>90%</td>
</tr>
</tbody>
</table>

As between John Martin and Mark Harder, royalties shall be divided as they shall agree and direct ICLE in writing.

G. No royalty will be paid on any print or online books used by Publisher for review or promotional purposes or distributed on a complimentary basis. Accrued royalties will be paid to the Author twice yearly for all sales that take place between two periods: (a) April 1 through September 30 and (b) October 1 through March 31. The Publisher will process and distribute the royalty payments to the Authors within 45 days from the closing date of the appropriate sales period.

15. The specified royalty amounts remain in force for sales through the anniversary of the publication of the second review and update of the MTC Commentary. After that time, the parties may renew or otherwise amend the provisions of this Agreement and agree on any revisions to this royalty obligation. The parties
agree they will bargain in good faith and ICLE agrees it will not unreasonably refuse to pay royalties. If the parties are unable to agree, ICLE retains the right to publish the existing EPIC and MTC Commentary without a royalty obligation.

16. ICLE will edit, cite-check, typeset, and publish both the EPIC and MTC Commentaries, with all cost and expense of those tasks borne solely by ICLE.

17. Unless otherwise agreed with the Section and the Authors, ICLE commits to publish the EPIC and MTC Commentaries in the EPIC Paperback and the Probate Sourcebook or similar successor publications. ICLE will publish the EPIC Paperback in print during the term of this Agreement. ICLE will publish the Probate Sourcebook in print as well as online format for at least the first year after the MTC is effective, and will be published at least online thereafter. In accordance with its customary practices, ICLE will use its best efforts to market and distribute these publications. Decisions concerning the style of publications including the Commentaries, the number of copies to be printed, price, distribution, and advertising are the sole prerogative of ICLE.

18. If ICLE materially breaches this Agreement, its license to publish Commentaries shall terminate after written notice from the Section and a reasonable opportunity to cure the breach. Should ICLE declare bankruptcy or be placed in receivership, its license to publish the Commentaries shall terminate at the discretion of the Section. If either Author does not deliver materials in a manner that complies with this Agreement, ICLE may give that Author written notice and may terminate the Agreement as to that Author after a reasonable opportunity to cure. In that case, ICLE shall consult with the Section and they will agree on a suitable replacement.

19. ICLE shall not assign or transfer its rights under this Agreement without the prior written consent of Section.

20. All notices required or permitted under this Agreement shall be in writing, sent by U.S. mail, to the addresses below (or to such other address as the addressee has previously indicated in writing to the other parties):

If to Mark Harder:

c/o Warner Norcross & Judd LLP
85 East 8th Street, Suite 310
Holland, Michigan 49424

If to John Martin:

18911 North Fruitport Road
Spring Lake, Michigan 49456
If to ICLE:

Attention: Publications Director
Institute of Continuing Legal Education
1020 Greene Street
Ann Arbor, MI 48109

If to the Section:

Chairperson, Council of the Probate and Estate Planning Section
State Bar of Michigan
306 Townsend Street
Lansing, Michigan 48933

21. Amendments to this Agreement must be in writing and signed by the parties.

22. This agreement shall be governed by the laws of the state of Michigan. If any provision is found unenforceable, the remaining provisions shall be fully effective.
Signed as of the date set forth above

Mark K. Harder

John H. Martin

THE REGENTS OF THE UNIVERSITY OF MICHIGAN ON BEHALF OF THE INSTITUTE OF CONTINUING LEGAL EDUCATION

By Paul LaBute, Senior Procurement Agent

PROBATE AND ESTATE PLANNING SECTION, STATE BAR OF MICHIGAN

By Nancy Little, Chairperson
Publishing Agreement Extension
Michigan Trust Code and EPIC Commentary

This Agreement is made by and among MARK K. HARDER ("Mark Harder"), of Holland, Michigan; JOHN H. MARTIN ("John Martin"), of Spring Lake, Michigan; THE REGENTS OF THE UNIVERSITY OF MICHIGAN ON BEHALF OF THE INSTITUTE OF CONTINUING LEGAL EDUCATION, of Ann Arbor, Michigan ("ICLE"); and the PROBATE AND ESTATE PLANNING SECTION OF THE STATE BAR OF MICHIGAN (the "Section"), for the publication of the official drafters’ commentary to the Michigan Trust Code (the "MTC") and the Estates and Protected Individuals Code ("EPIC”).

Background

a. The parties are party to an agreement dated July 1, 2009 (the “2009 Agreement”) for publication of the drafters’ commentary to EPIC and the MTC (the “Commentary”). The term of that agreement extended through March 31, 2013.

b. Under the 2009 Agreement, John Martin is the author of the EPIC Commentary, and Mark Harder is the author of the MTC Commentary.

c. ICLE has the exclusive right to publish the Commentary. The Commentary is included in two books published by ICLE, the Probate Sourcebook (print and online editions), and the Estates and Protected Individuals Code with Reporters’ Commentary (print only). The Probate Sourcebook has been included in the ICLE Online Library. The most recent edition of the Commentary was published approximately February 2013.

d. Under the 2009 Agreement, Mark Harder, John Martin, and the Section were guaranteed a total payment by ICLE of $5,000 per year in royalty payments.

e. The parties desire to extend and modify the current arrangement. Modifications are desirable for simplicity and because ICLE has replaced the Online Library with a larger combined subscription, the Premium Partnership, which includes diverse online resources as well as online books.

The parties agree:

1. John Martin and Mark Harder will prepare and deliver to ICLE, as before, an annual update to the Commentary. Unless terminated earlier as permitted under the terms of the 2009 Agreement as extended by this Extension, the parties anticipate updated editions of the Commentary will be published on or about March 1, 2014, March 1, 2015, and March 1, 2016.

2. ICLE will pay an honorarium of $6,500 per year for preparation of each edition of the Commentary, beginning with the edition published in February 2013. This honorarium is in lieu of all royalties specified in the 2009 Agreement. References to royalties in the 2009 Agreement shall be interpreted to mean the honorarium provided for in this Extension.

3. ICLE will pay the honorarium as follows:
a. Half the honorarium will be paid every 6 months, with payments made in September and March.

b. Each payment will be divided as follows: 90 percent to the two authors and 10 percent to the Section. As between John Martin and Mark Harder, payments shall be divided as they agree and direct ICLE in writing.

c. The first payment under the new arrangement will be made in October 2013 and is in lieu of all royalties for the period April 1, 2013 through August 31, 2013.

4. Upon termination the parties' obligations to one another shall end, except that termination of the Agreement shall not eliminate ICLE's obligation to pay the honorarium for a period of one year following the publication of the most update of the Commentary.

5. This Agreement modifies the 2009 Agreement and is effective as of April 1, 2013. It extends through March 31, 2016, except for rights of termination as described in section 3 of the 2009 Agreement and subject to section 6 below. All other provisions of the 2009 Agreement remain in effect.

6. If, during the term of this Extension, new legislation is enacted that significantly amends EPIC or the MTC (at least similar to the size and scope of the MTC) and which results in major revisions to the Commentary, the parties agree to renegotiate the terms of the 2009 Agreement, as modified by this Extension.

Accepted and agreed:

Mark K. Harder

John H. Martin

THE REGENTS OF THE UNIVERSITY OF MICHIGAN ON BEHALF OF THE INSTITUTE OF CONTINUING LEGAL EDUCATION

By __________________________

PROBATE AND ESTATE PLANNING SECTION, STATE BAR OF MICHIGAN

By __________________________

Thomas W. Sweeney, Chairperson
a. Half the honorarium will be paid every 6 months, with payments made in September and March.

b. Each payment will be divided as follows: 90 percent to the two authors and 10 percent to the Section. As between John Martin and Mark Harder, payments shall be divided as they agree and direct ICLE in writing.

c. The first payment under the new arrangement will be made in October 2013 and is in lieu of all royalties for the period April 1, 2013 through August 31, 2013.

4. Upon termination, the parties' obligations to one another shall end, except that termination of the Agreement shall not eliminate ICLE's obligation to pay the honorarium for a period of one year following the publication of the most recent update of the Commentary.

5. This Agreement modifies the 2009 Agreement and is effective as of April 1, 2013. It extends through March 31, 2016, except for rights of termination as described in section 3 of the 2009 Agreement and subject to section 6 below. All other provisions of the 2009 Agreement remain in effect.

6. If, during the term of this Extension, new legislation is enacted that significantly amends EPIC or the MTC (at least similar to the size and scope of the MTC) and which results in major revisions to the Commentary, the parties agree to renegotiate the terms of the 2009 Agreement, as modified by this Extension.

Accepted and agreed:

Mark K. Harder

John H. Martin

THE REGENTS OF THE UNIVERSITY OF MICHIGAN ON BEHALF OF THE INSTITUTE OF CONTINUING LEGAL EDUCATION

By

PROBATE AND ESTATE PLANNING SECTION, STATE BAR OF MICHIGAN

By Thomas W. Sweeney, Chairperson
a. Half the honorarium will be paid every 6 months, with payments made in September and March.

b. Each payment will be divided as follows: 90 percent to the two authors and 10 percent to the Section. As between John Martin and Mark Harder, payments shall be divided as they agree and direct ICLE in writing.

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5. This Agreement modifies the 2009 Agreement and is effective as of April 1, 2013. It extends through March 31, 2016, except for rights of termination as described in section 3 of the 2009 Agreement and subject to section 6 below. All other provisions of the 2009 Agreement remain in effect.

6. If, during the term of this Extension, new legislation is enacted that significantly amends EPIC or the MTC (at least similar to the size and scope of the MTC) and which results in major revisions to the Commentary, the parties agree to renegotiate the terms of the 2009 Agreement, as modified by this Extension.

Accepted and agreed:

Mark K. Harder

John H. Martin

THE REGENTS OF THE UNIVERSITY OF MICHIGAN ON BEHALF OF THE INSTITUTE OF CONTINUING LEGAL EDUCATION

By __________________________

PROBATE AND ESTATE PLANNING SECTION, STATE BAR OF MICHIGAN

By __________________________

Thomas W. Sweeney, Chairperson
Publishing Agreement Extension
Michigan Trust Code and EPIC Commentary

This Agreement is made by and among MARK K. HARDER (Mark Harder), of Holland, Michigan; JOHN H. MARTIN (John Martin), of Spring Lake, Michigan; THE REGENTS OF THE UNIVERSITY OF MICHIGAN ON BEHALF OF THE INSTITUTE OF CONTINUING LEGAL EDUCATION, of Ann Arbor, Michigan (ICLE); and the PROBATE AND ESTATE PLANNING SECTION OF THE STATE BAR OF MICHIGAN (the Section), for the publication of the official drafters' commentary to the Michigan Trust Code (the MTC) and the Estates and Protected Individuals Code (EPIC).

Background:

a. The parties are party to an agreement dated July 1, 2009 (the 2009 Agreement), and a Publishing Agreement Extension made effective April 1, 2013 (the 2013 Extension) for publication of the drafters' commentary to EPIC and the MTC (the Commentary). The term of 2013 Extension ended March 31, 2016.

b. Under the 2009 Agreement and the 2013 Extension, John Martin is the author of the EPIC Commentary, and Mark Harder is the author of the MTC Commentary.

c. ICLE has the exclusive right to publish the Commentary. The Commentary is included in two books published by ICLE, the Probate Sourcebook (print and online editions), and the Estates and Protected Individuals Code with Reporters' Commentary (print only). The Probate Sourcebook is included in the ICLE Premium Partnership. The most recent edition of the Commentary was published in February 2016.

The parties agree:

1. John Martin and Mark Harder will prepare and deliver to ICLE, as before, an annual update to the Commentary. Unless terminated earlier as permitted under the terms of the 2009 Agreement as extended, the parties anticipate updated editions of the Commentary will be published in 2017, 2018, and 2019.

2. ICLE will pay an honorarium of $6,500 per year for preparation of each edition of the Commentary, beginning with the edition published in February 2017. This honorarium is in lieu of all royalties specified in the 2009 Agreement. References to royalties in the 2009 Agreement shall be interpreted to mean the honorarium provided for in this Extension.

3. ICLE will pay the honorarium as follows:
   a. Half the honorarium will be paid every 6 months, with payments made in September and March.
   b. Each payment will be divided as follows: 90 percent to the two authors and 10 percent to the Section. As between John Martin and Mark Harder, payments shall be divided as they agree and direct ICLE in writing.

4. Upon termination, the parties' obligations to one another shall end, except that termination of the Agreement shall not eliminate ICLE's obligation to pay the honorarium for a period of one year following the publication of the most recent update of the Commentary.
5. This Agreement modifies the 2009 Agreement and the 2013 Extension and is effective as of April 1, 2016. It extends through March 31, 2019, except for rights of termination as described in section 3 of the 2009 Agreement and subject to section 6 below. All other provisions of the 2009 Agreement remain in effect.

6. If, during the term of this Extension, new legislation is enacted that significantly amends EPIC or the MTC (at least similar to the size and scope of the MTC) and which results in major revisions to the Commentary, the parties agree to renegotiate the terms of the 2009 Agreement, as modified by this Extension.

Accepted and agreed:

Date: _______________    ____________________________________
Mark K. Harder

Date: _______________    ____________________________________
John H. Martin

PROBATE AND ESTATE PLANNING SECTION,
STATE BAR OF MICHIGAN

Date: _______________    ____________________________________
James B. Steward, Chair

REGENTS OF THE UNIVERSITY OF MICHIGAN
ON BEHALF OF THE INSTITUTE OF CONTINUING
LEGAL EDUCATION

Date: _______________    ____________________________________
James B. Steward, Chair
On order of the Court, this is to advise that the Court is considering an amendment of Rule 9.115 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter also will be considered at a public hearing. The notices and agendas for public hearings are posted at Administrative Matters & Court Rules page.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions to the text are indicated in underlining and deleted text is shown by strikeover.]

Rule 9.115 Hearing Panel Procedure

(A)-(E)[Unchanged.]

(F) Prehearing Procedure.

(1)-(4)[Unchanged.]

(5) Discipline by Consent.

(a) In exchange for a stated form of discipline and on the condition that the plea or admission is accepted by the commission and the hearing panel, a respondent may offer to

(i) plead no contest or to admit all essential or some of the facts and misconduct alleged contained in the complaint or any of its allegations otherwise agreed to by the parties or
(ii) stipulate to facts and misconduct in a proceeding filed under subchapter 9.100 not initiated by a formal complaint.

in exchange for a stated form of discipline and on the condition that the plea or admission and discipline agreed on is accepted by the commission and the hearing panel. The respondent's offer shall first be submitted to the commission. If the offer is accepted by an agreement is reached with the commission, the administrator and the respondent shall prepare and file with the board and the hearing panel a stipulation for a consent order of discipline that includes all prior discipline, admonishments, and contractual probations, if any, and file the stipulation with the hearing panel. At the time of filing, the administrator shall serve a copy of the stipulation upon the complainant.

(b) The stipulation shall include:

(i) admissions, which may be contained in an answer to the complaint, or a plea of no contest to facts sufficient to enable the hearing panel to determine the nature of the misconduct and conclude that the discipline proposed is appropriate in light of the identified misconduct;

(ii) citation to the applicable American Bar Association Standards for Imposing Lawyer Sanctions; and

(iii) disclosure of prior discipline.

If the stipulation contains any nonpublic information, it shall be filed in camera. Admonishments and contractual probations shall be filed separately and kept confidential until the hearing panel accepts the stipulation under this rule. At the time of the filing, the administrator shall serve a copy of the proposed stipulation upon the complainant. If the hearing panel approves the stipulation, it shall enter a final order of discipline. If not approved, the offer is deemed withdrawn and statements or stipulations made in connection with the offer are inadmissible in disciplinary proceedings against the respondent and not binding on the respondent or the administrator. If the stipulation is not approved, the matter must then be referred for hearing to a hearing panel other than the one that passed on the proposed discipline.

(c) Upon the filing of a stipulation for a consent order of discipline, the hearing panel may:
(i) approve the stipulation and file a report and enter a final order of discipline; or

(ii) communicate with the administrator and the respondent about any concerns it may have regarding the stipulation. Before rejecting a stipulation, a hearing panel shall advise the parties that it is considering rejecting a stipulation and the basis for the rejection. The hearing panel shall provide an opportunity, at a status conference or comparable proceeding, for the parties to offer additional information in support of the stipulation.

(d) If a hearing panel rejects a stipulation, the hearing panel shall advise the parties in writing of its reason or reasons for rejecting the stipulation and allow the parties an opportunity to submit an amended stipulation.

(e) If a hearing panel rejects an amended stipulation, or if no amended stipulation is filed within 21 days after rejection of the initial stipulation, the matter shall be reassigned to a different hearing panel. Upon reassignment to a different hearing panel,

(i) the stipulation and any amended stipulation shall be deemed withdrawn,

(ii) statements and stipulations made in connection with the stipulation and any amended stipulation shall be inadmissible in disciplinary proceedings against the respondent and not binding on either party, and

(iii) the newly assigned hearing panel shall conduct a hearing.

(G)-(M) [Unchanged.]
Staff Comment: The proposed amendment of MCR 9.115(F)(5) would clarify that a hearing panel shall be authorized to allow parties to submit an amended stipulation. If a hearing panel rejects an amended stipulation, the matter would be referred to a different hearing panel to conduct a hearing. This proposed language was submitted jointly by the Attorney Grievance Commission and Attorney Discipline Board.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be sent to the Office of Administrative Counsel in writing or electronically by January 1, 2017, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2016-24. Your comments and the comments of others will be posted under the chapter affected by this proposal at Proposed & Recently Adopted Orders on Admin Matters page.
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<td>ranting</td>
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<tr>
<td>Other (4)</td>
<td>$500</td>
<td>$137</td>
<td>$300</td>
<td>$236</td>
<td>$100</td>
<td>$600</td>
<td>$1,000</td>
<td>$213</td>
<td>$1,000</td>
<td>$138</td>
<td>$400</td>
<td>$76</td>
<td>$325</td>
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<tr>
<td>Total Disbursements</td>
<td>$121,050</td>
<td>$88,605</td>
<td>$118,250</td>
<td>$102,527</td>
<td>$119,850</td>
<td>$112,484</td>
<td>$121,750</td>
<td>$100,456</td>
<td>$115,650</td>
<td>$109,927</td>
<td>$123,825</td>
<td>$122,076</td>
<td>$115,650</td>
</tr>
</tbody>
</table>

(1) includes eblasts for Journal
(2) includes registration fees, travel, meals, and lodging for Chair-Elect and Vice-Chair to attend the annual Leadership Conference on Mackinac Island.
(3) includes teleconference charges, listserve, e-blast, and other electronic communications to members
(4) includes postage and $750 to support the Young Lawyers Conference

The total fund balance at the end of fiscal year 2015-2016 is:

- General Fund beginning of 2015-16: $193,454.27
- Amicus Fund beginning of 2015-16: $35,248.50
- Total Beginning Fund: $228,702.77

Less disbursements:
- Plus receipts: $119,091.82
- Less disbursements: $(122,076.87) includes disbursements from Amicus Fund

- General Fund end of 2015-16: $150,469.22
- Amicus Fund end of 2015-16: $75,248.50
- Total Ending Fund: $225,717.72

Computation of Amicus Fund end of fiscal year 2015-16 is:

- Amicus Fund beginning 2015-16: $35,248.50
- Plus budget from 2015-2016: $0
- Plus Transfer from General to Amicus: $40,000
- Less disbursements 2015-16: $(10,000.00)
- Amicus Fund close of 2015-16: $75,248.50