

2008-2009 Annual Report of the  
Probate and Estate Planning Section of the State Bar of Michigan

***Mission Statement:***

The purpose of this Section shall be to enhance and improve the practice and administration of law pertaining to probate and estate planning by the study of statutes, cases, and procedures, by the consideration, drafting, and active support or opposition of proposed legislation; by the providing of advice to courts during the course of pending litigation; and by the sponsoring of meetings and institutes (together with publishing and disseminating pamphlets, brochures, a Journal of the Section and legal writings) as a means of educating members of the Bar and the public, all in connection with advancing the proper preparation of wills, trusts, tax returns, and other documents; the efficient administration of trusts as well as estates of decedents, minors, incompetents, and missing persons; and the advance planning for the orderly disposition of property, minimization of taxes, and well being of persons.

***Officers and Membership:***

Chairperson: Nancy L. Little

Chairperson Elect: Harold G. Schuitmaker

Vice Chairperson: Douglas G. Chalgian

Secretary: George W. Gregory

Treasurer: Mark K. Harder

Council Members: Susan M. Allan, W. Josh Ard, Robin D. Ferriby, Hon. Kathryn George, Ellen Sugrue Hyman, Shaheen I. Imami, J. David Kerr, Marilyn A. Lankfer, Amy N. Morrissey, Hon. David M. Murkowski, Patricia M. Ouellette, Rebecca A. Schnelz, Richard J. Siriani, James B. Steward, Thomas F. Sweeney, Robert M. Taylor, Marlaine C. Teahan, Robert P. Tiplady II.

***Meeting Dates:***

September 27, 2008

November 1, 2008

November 22, 2008

December 13, 2008

January 10, 2009

February 14, 2009

March 14, 2009

April 18, 2009

June 6, 2009

### **Events and Seminars:**

Highlights of the Probate and Estate Planning Section's 2008-2009 year include the following:

1. **Michigan Trust Code:** The Committee on Special Projects and the Council as a whole continued the work begun five years ago, finalizing a draft of the Michigan Trust Code in cooperation with the Michigan Probate Judges Association and the Michigan Bankers Association, and working to convert this draft into a bill for submission to the Michigan Legislature. This legislation was introduced as S.B. 383 through 387 and passed by the Senate. It is currently under consideration by the House. The Council's Michigan Trust Code Committee was most ably chaired by Mark K. Harder, and its members are: Daniel E. Cogan, Douglas G. Chalgian, David Kerr, John Dresser, Marilyn A. Lankfer, Douglas A. Mielock, Hon. David M. Murkowski, John Sharp, Robert Taylor, Robert P. Tiplady II, James Spica, Tess Sullivan, Marlaine C. Teahan, and Prof. Lawrence Waggoner.
2. **Forms and Court Rules:** The Forms and Court Rules Committee, chaired by Marlaine C. Teahan, has studied existing court rules and forms, and is formulating recommendations for changes and additions that are necessary to conform to the Michigan Trust Code. Other committee members are Douglas G. Chalgian, Hon. Philip Harter, Ellen Sugrue Hyman, Douglas A. Mielock, Mark R. Pasquali, and Harold Schuitmaker.
3. **Michigan Probate and Estate Planning Journal:** Under the direction of editor Nancy L. Little and assistant editor Melisa M.W. Mysliwiec, with assistance from the Institute of Continuing Legal Education, the Section kept to its regular schedule of publishing its Journal three times annually. The Journal is sent to all members of the Section. The Journal is intended to provide Section members with scholarly treatises, commentary on the state of the law, current developments, and useful practice tips and tools that will not only aid Section members in providing knowledgeable and efficient counsel to their clients but also serve as a continuation of Section members' ongoing legal education.

Additionally, an index of all past Journal articles, cross-referenced alphabetically as well as by topic, was posted to the Section's website.

4. **Relations with the State Bar:** The Council formed this new committee in 2008, chaired by Thomas F. Sweeney, to work with the State Bar's new initiative, *A Lawyer Helps*. Tom and his committee (John R. Dresser, Michael J. McClory, Amy Morrissey, and Derek Walters) studied ways in which the Probate and Estate Planning Section could provide service to the public, and developed a series of articles on guardianship issues for publication. The Committee plans to

continue its work with the development of additional articles and other ideas for service to the public.

- 5. *Perpetuities Reform:*** The Council supported the extension of the Personal Property Trust Perpetuities Act to include real property in order to promote parity between personal and real property, and to prevent the inadvertent imposition of a federal generation-skipping transfer tax.
- 6. *Pamphlets:*** The Council's Pamphlets Committee, consisting of Chair Ellen Sugrue Hyman and William J. Ard, Kathy Goetsch, Mark R. Pasquali, Rebecca A. Schnelz, and James B. Steward continued to work on updating pamphlets that the Council has developed for its members' use.
- 7. *Transfer Tax:*** The Council continued to monitor the status of the federal estate tax. The Transfer Tax Committee, consisting of Chair Thomas F. Sweeney, George W. Gregory, Marguerite Munson Lentz, Lorraine New, Patricia M. Ouellette and Christine M. Savage, also continued to provide regular and timely "tax nuggets" for Section members, which are published in the Journal and also included in Section e-blasts.
- 8. *Legislation:*** The Council took public policy positions on the following issues:

  - a.** The Council adopted a public policy position in support of the reenactment of the state death tax credit.
  - b.** The Council supported HB4180, which would permit an individual to appoint a representative with authority to make the individual's funeral arrangements.
  - c.** The Council opposed HB4331 relating to powers of attorney, which would require, among other things, all adults over 60 to register their powers of attorney with the probate court.
  - d.** The Council supported HB4505 and HB4578, which would allow an individual to designate a person to make decisions regarding the individual's funeral, burial, or cremation, and would require that any instructions given by the individual be followed.
  - e.** The Council supported SB0411 and SB04112, which would create a new uniform prudent management of institutional funds act.
- 9. *Guardianships and Conservatorships.*** Constance Brigman and her committee of Kristen D. Arnett, Rhonda M. Clark-Kreuer, Hon. David M. Murkowski, Rebecca A. Schnelz, and Amy Rombyer-Tripp worked with an Ad Hoc Committee chaired by Douglas G. Chalgian to study jurisdiction issues involving guardianships and conservatorships, including the transfer of such proceedings from state to state.
- 10. *Probate and Estate Planning Certificate Program:*** In 2003, the Probate and Estate Planning Certificate Program was initiated in cooperation with the Institute of Continuing Legal Education. Participation continues to exceed initial

expectations. The Certificate Program involves a series of educational courses which must be completed within a three-year period.

**11. List Serve:** Our Section continued its list serve, which has been in place for several years and provides an efficient method by which Section members may share information on trusts and estates issues.

**12. Michael Irish Award:** The Council selected Susan S. Westerman as the recipient of the Michael Irish Award, an award given to a probate and estate practitioner who is recognized not only for excellence in the area of probate and estate planning, but also for contributions to the practice through lecturing, writing, and other service to the Section.

**13. Participation and Responding to Section Needs:** The Probate Council strives to respond to the needs of our Section, and to improve the Probate and Estate Planning practices in Michigan. We welcome and encourage participation in the Council and any of its 29 committees. In addition to our standing committees, we maintain liaisons with the Business Law Section, the Elder Law Section, the Michigan Probate Judges Association, the Real Property Section, the Tax Law Section, the Michigan Bankers Association, the SCAO Forms Committee, the State Bar, and law schools. We established a special Section Committee this year, chaired by Robert Tiplady II, to study ways in which we can coordinate activities with other sections of the Bar for the good of our members and the general public. The Section meets monthly, except for July and August, and meetings are open to all interested persons. The Committee on Special Projects begins its meetings at 9:00am, followed by the general Council meeting at 10:00am. Most meetings are held at the University Club in East Lansing. A full meeting schedule is published in the Michigan Probate & Estate Planning Journal and is also posted on our Section's website.

You may contact the Chairperson of our Section, Nancy L. Little, at:

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