COUNCIL OF THE
PROBATE AND ESTATE PLANNING SECTION
OF THE
STATE BAR OF MICHIGAN

April 14, 2012
University Club
Lansing, Michigan

Minutes

1. Call to Order

The Chair of the Section, George Gregory called the meeting to order at 10:40 a.m.

2. Attendance

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

George Gregory, Chair    David Kerr
Mark Harder, Chair Elect  Darlene A. O’Brien
Tom Sweeney, Vice Chair   Pat Ouellette
Amy Morrissey, Secretary  Jim Spica
Josh Ard                 Jim Steward
Chris Ballard            Ellen Sugrue-Hyman
George Bearup            Marlaie Teahan
Constance Brigman        Nancy Welber

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

Shaheen Imami            Hon. David Murkowski
Marguerite Lentz         Chris Ballard
Rebecca Schnelz          Rob Tiplady
Susan Allan              

C. The following officers and members were absent without excuse:

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

Phillip E. Harter        Michael S. McClory
E. Others in Attendance

<table>
<thead>
<tr>
<th>Name</th>
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<tbody>
<tr>
<td>J.V. Anderton</td>
<td>Katie Lynwood</td>
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<td>Michael W. Bartnik</td>
<td>Rick Mills</td>
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<td>Rebecca Bechler</td>
<td>Jeanne Murphy</td>
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<td>Brittany Catterick</td>
<td>Melisa Mysliwiec</td>
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<td>Rhonda M. Clark</td>
<td>Lorraine New</td>
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<td>Keven DuComb</td>
<td>Neal Nusholtz</td>
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<td>Kathleen Goetsch</td>
<td>Shari L. Rolland Phillips</td>
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<td>Carol M. Hogan</td>
<td>Jason A. Switzer</td>
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<td>Michael Lichterman</td>
<td>Mieke V. Weissert</td>
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<td>David P. Lucas</td>
<td>Janet Welch</td>
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3. Internal Governance

A. Minutes of March 17, 2012 Meeting of the Council

Minutes of the March 17, 2012, meeting of the Council had been previously distributed for the meeting. Upon motion by David Kerr with support from Hon. Darlene O’Brien, the minutes were approved.

B. Treasurer Report

The financial report through February 29, 2012 was previously distributed with the Agenda for the meeting (Attachment 1). No report was given.

C. Chairperson’s Report

George Gregory reported as follows:

- Marlaine Teahan has been appointed as Co-Chair of the Committee on Special Projects.
- Kathleen Goetsch will be attending the 3rd Annual Justice Initiatives Summit – Solutions on Self Help on April 16 in place of Rebecca Schnelz.
- Trusts and Estates publication is offering subscriptions for $129.00.
- A renewal agreement was signed with ICLE to continue ICLE services in connection with production of the Section Journal.
- The Elder Law Section Unauthorized Practice of Law Committee has been educating the public on what’s bad about trust mills. The Elder Law Section requested that Mr. Gregory ask our Section for volunteers from various geographic locations to speak on this topic. George Bearup, David Kerr, Nancy Welber, Michael Bartnik and Jim Steward volunteered to assist.
- The cost of the State Bar Leadership Forum is not currently in our Section budget for 2011-12. Mr. Gregory moved that a total of $2,600 be allocated to cover the cost of expenditures of registration, lodging, meals and transportation for the Chair-Elect and Vice-Chair of the Section to attend the Bar Leadership Conference on Mackinac Island this summer. Mark
Harter supported the motion. The motion was carried by unanimous approval of Council members present.

Janet Welch, Executive Director of the State Bar of Michigan, standing in for Gregory Conyers, Director of Diversity and Inclusion at SBM, spoke at the meeting about diversity and inclusion efforts of the SBM and how the sections can improve efforts to be more inclusive. One suggestion is to devote attention to minority groups in the path to leadership. Individually, we can go to State Bar of Michigan website and look at the pledge as to diversity and sign on to that. As leaders in the Section, we can look for opportunities to mentor and welcome minority members to engage in our activities. We need to explore ways to encourage people who are busy with their practice and identify people who wish to become involved in Section leadership.

Janet Welch noted that she appreciated the opportunity to have a conversation at the March Section meeting about self-help solutions and online documents. In response, Ms. Welch reviewed online content at the SBM website. Problematic documents were taken down, temporarily. One of the forms on the Elder Law Section page was the Patient Advocate Designation which was developed in 1991; Ms. Welch noted that the Michigan State Medical Society has distributed over 4 million copies of this form. When the forms were taken down from the Elder Law Section webpage, over 34,000 links to the forms were discovered.

D. Standing Committee Reports

1. Committee on Special Projects

A modified version of Michigan Court Rule 5.801 was circulated at the meeting. See Exhibit A to the Minutes. Marlaine Teahan moved to approve the circulated modified version of Michigan Court Rule 5.801, with the exception of subsection (D), the "savings clause", which the Rules subcommittee on the probate court rules project will review for clarification and make a recommendation to Council. A hand vote of Council members present was taken: 15 in support; 0 opposed; 0 abstaining; 8 absent from vote. There was discussion concerning the "laundry list" of appealable matters in MCR 5.801 and the guidance it provides to the courts and practitioners and it was agreed that it would be acceptable that the list would be added back in, as modified.

Marlaine Teahan moved to support HB 5427 in principle. George Gregory supported the motion. A hand vote of Council members present was taken: 15 in support; 0 opposed; 0 abstaining; 8 absent from vote. HB 5427 seeks to unify Michigan law with Federal bankruptcy law concerning exemptions. This law would extend protections to inherited IRAs.
2. Probate Institute

Jeanne Murphy reported that there are 430 registrants to date, in the two locations combined, for the Annual Probate & Estate Planning Institute.

3. ListServ

Josh Ard reported that there is a Committee of the SBM that is looking at drafting a policy as to what should be on the Section web pages.

4. Ethics

David Kerr reported that changes to SBM Rule 2 have been proposed. The proposed rules changes concern confidentiality and payment issues, so changes to the Rule could require written fee agreements concerning everything that we do. Further, reporting requirements are being extended concerning candor toward the tribunal. Josh Ard, Rob Tiplady and David Kerr will direct any questions to the Ethics Committee of SBM.

5. Court Rules/Forms

Marlaine Teahan reported on the handout ADM 2006-47. There are many changes being proposed regarding administration and procedures. There are at least three rules that we as a Section may want to comment on before the comment deadline, which is September 1, 2012, for all rules except Rule 1.109(D). Many comments have been posted online. The proposed rules are intended, among other things, to make paperless transition easier.

E. Ad Hoc Committees

1. Online Guidance for Non-Lawyers

There will be a meeting of the SBM Representative Assembly on April 21, 2012, which will include discussion on the definition of the practice of law. Linda Rexer will be in attendance and able to speak about the Solutions on Self Help Task Force in relation to this topic.

2. Power of Attorney

Rebecca Bechler of Public Affairs Associates reported that SB 92 is still in the House but is expected out soon.

3. Statute of Repose

Rebecca Bechler reported that the draft legislation approved by Council at the previous meeting will be introduced in Michigan Legislature soon.
4. Guardianships, Conservatorships and End of Life

Connie Brigman reported that the foreign guardianship transfer legislation is still in House Judiciary Committee.

Ms. Brigman’s discussion at CSP on the family consent law, Attachment 4 of the materials, is incorporated by reference. She will continue discussions with Right to Life to find common ground.

5. Estate Recovery from a Probate & Estate Planning Perspective

It was reported that there is currently only one Assistant Attorney General filing claims on estate recovery.

F. Specialty Areas and Liaisons

1. ICLE

Jeanne Murphy distributed a mock-up of the Section webpages to be housed on the ICLE website. The pages were designed using Web 2.0. Links on the site will not be underlined but can be clicked on when hovering over certain words. ICLE expects the website to be live in June. It will be updated using ICLE tools. Ms. Murphy said that comments will be made at the Annual Probate & Estate Planning Institute about the new website. On the website, there will be a method of emailing the Section Journal editor and the EPIC panel.

Janet Welch conveyed some of the SBM concerns with the new Section website. The site must meet stylistic guidelines of SBM (check with Nancy Brown). She asked how the distinction between the SBM and ICLE will be made.

Section members present at the meeting noted that having ICLE maintaining the website is important to keeping the materials on Section website current.

2. Elder Law/Liaison to Elder Law Section

Amy Tripp’s written report noted that the Elder Law Section is formulating a committee to look at its section webpage content.

G. Adjournment

There being no other business brought before the Council, Mr. Gregory moved to adjourn; Amy Morrissey supported. The meeting was adjourned at 11:55 a.m.

Respectfully submitted,

Amy Morrissey
Secretary