

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

April 16, 2011
University Club
Lansing, Michigan

Minutes

1. Call to Order

The Chair of the Section, Doug Chalgian called the meeting to order at 10:30 a.m.

2. Attendance

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

Doug Chalgian, Chair	Meg Lentz
George Gregory, Chair Elect	Hon. Darlene O'Brien
Mark Harder, Vice Chair	Patricia Ouellette
Tom Sweeney, Secretary	Rick Siriani
Susan Allan	James P. Spica
Josh Ard	James Steward
Constance Brigman	Bob Taylor
Ellen Sugrue Hyman	Marlaine Teahan
Shaheen Imami	
David Kerr	

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

Amy Morrissey, Treasurer
Robin Ferriby
Hon. David Murkowski
Rebecca Schnelz
Rob Tiplady

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

None

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

John Bos
Phillip Harter
Michael McClory
Harold Schuitmaker
Susan Westerman

E. Others in Attendance

J.V. Anderson	Frank Henke
John Arenz	Michael Lichterman
Christopher Ballard	Tom McKenney
Karl Barr	Rick Mills
Rebecca Belcher	Jeanne Murphy
Brittany Catterick	Lorraine New
Rhonda Clark	Sharri Phillips
Dan Cogan	Tess Sullivan
Keven DuComb	Amy Tripp
Stephan Dunn	Brittany Walker
Larry Ferguson	Derek A. Walters
Belinda Fitzpatrick	Nancy Welber
Kathleen Goetsch	Rachel Zapczynski

3. Internal Governance

A. Minutes of March 19, 2011 Meeting of the Council

Minutes of the March 19, 2011, meeting of the Council had been previously distributed with the Agenda for the meeting. Upon motion by Darlene O'Brien with support from George Gregory, the minutes were approved by a unanimous vote of 18 council members present.

B. Treasurer Report

Amy Morrissey's financial report through February 28, 2011 was distributed (**Attachment 1**). The report indicated that the fund balance as of the end of February, 2011 was approximately \$244,215.00.

C. Chairperson's Report

Doug Chalgian stated he had no report other than to indicate there would be reports from the Committee on Special Projects (CSP) and discussion of the current version of Senate Bill 92, a possible statute of repose, proposal of ICLE to host certain materials, trust decanting, jury trials, council email issues and a tax nugget.

D. Report of the Committee on Special Projects

Jim Steward and Rick Siriani reported on the CSP continuing review and discussion of the specialization pilot project. After discussion there was a straw vote of all present on a motion to accept the Committee's report and review the draft rules in subsequent sessions. The straw vote approved the motion by a vote of 20 in favor, 9 opposed and 5 abstaining. The chairs of the CSP were directed to bring to the CSP the draft rules for further review on a rule by rule basis.

E. Durable Power of Attorney

Meg Lentz and Dan Cogan reviewed the current status of Senate Bill 92. Following discussion, upon motion by Mark Harder, seconded by Josh Ard, and unanimously approved by all 18 council members present, the Council withdrew its prior opposition to SB 92, declined to support SB 92 in its present form and agreed to communicate its concerns regarding present SB 92 and to work with the legislature to address its concerns.

4. Reports of Ongoing Active Committees Involving Special Projects and Active Committees

A. Statute of Repose

Becky Belcher reported that Senator Schuitmaker was drafting a separate bill on this issue involving attorneys.

B. ICLE

Jeanne Murphy reported that ICLE was in the process of establishing the link for those Probate Journals which it had in digital form and for Judge Harter's Questions and Answers. It was reported that the written agreement incorporating the oral understandings was being prepared.

C. Decanting Irrevocable Trusts

Jim Spica reported that the legislative proposal being developed has two thrusts. The first would be declarative of current Michigan law. The second would be to improve the clarity of the law to permit the expanded use of special powers of appointment by either fiduciaries or non fiduciaries in certain circumstances. He also discussed possible safe harbors in the legislation. There was also discussion. No further action was taken at this time.

D. Council Member List

Josh Ard reported that all missing contact information for the Council Member list had been updated. Tom Sweeney suggested that in the future to a council member have the responsibility to provide this information to the webmaster. He suggested that the Council Secretary assume that responsibility.

E. Probate Appeals and Jury Trials

Shaheen Imami led a discussion of a proposal from the Committee on Model Civil Jury Instructions concerning a new Chapter 179 regarding trust contests. Upon motion by John Bos, seconded by Darlene O'Brien, the Council supported the proposed M. Civ JI Chapter 179 by a vote of 17 in favor none opposed and one abstention, one member having previously left the meeting.

F. Federal Estate Tax

Lorraine New passed out a report on new instructions to calculate gift tax amounts for federal transfer tax purposes, by transferees under the new reduced rates. (The report is attached to the minutes).

5. Other Business

None.

6. Adjournment

Upon motion duly made and seconded the meeting was adjourned at 11:40 a.m.

Respectfully submitted

Thomas F. Sweeney
Secretary