

**MINUTES OF THE JOINT MEETING OF THE COUNCIL
OF THE PROBATE AND ESTATE PLANNING SECTION AND COMMITTEE ON
SPECIAL PROJECTS**

**December 8, 2007 8:30 a.m.
University Club, East Lansing, Michigan**

- I. The joint meeting of the Probate and Estate Planning Council and Committee on Special Projects was called to order at 8:30 a.m. by chair, Lauren M. Underwood.

II. **A. Council Members Excused:**

B. Council Officers and Members Present:

Lauren M. Underwood	Douglas G. Chalgian
Harold Schuitmaker	George W. Gregory

W. Josh Ard	Rebecca A. Schnelz
John R. Dresser	Richard J. Siriani
Mark K. Harder	James B. Steward
Ellen Sugrue Hyman	Thomas F. Sweeney
Marilyn A. Lankfer	Marlaine C. Teahan
Amy N. Morrissey	Joan C. VonHandorf

C. Others Present:

Susan M. Allen	Michael S. McClory
Becky Bechler	Melisa Mysliwicz
Connie Brigman	Lorraine F. New
Sam Carpenter	Patricia M. Quelette
Hon. Phillip E. Harter	Valerie L. Rice
Stan Jones	Jill Schwab
Mark E. Kellogg	Pamela J. Sisson
J. David Kerr	Amy R. Tripp
Dan Marsh	Derek A. Walters

- III. **Introduction of Guests:** All attendees, including guests, introduced themselves.

- IV. **Secretary's Report:** No Report.

- V. **Treasurer's Report:** No Report.

- VI. Chairperson's Report:** Lauren Underwood invited people to participate in a Committee being formed with representatives of both the Probate Section and the ADR Section to look at the possibility of specialized mediation in probate matters.

Lauren Underwood also lead a discussion regarding problems that are being experienced with financial planners demanding complete copies of trusts and not accepting certificates of trust to open accounts.

VII Report of the Committee on Special Projects:

Richard J. Siriani provided an update on the Specialization Committee work.

Daniel P. Marsh provided a report on the Uniform Power of Attorney Act Committee. He indicated that legislation is potentially moving on this matter and he hopes the Committee will have a report for the Council at the January meeting.

VIII. Standing Committee Reports

A. Internal Governance

1. **Budget** – *George W. Gregory., chair.* No report.
2. **Bylaws** - *Marilyn K. Lankfer, chair.* No report.
3. **Michael Irish Award** - *Brian V. Howe, chair.* No report.
4. **Long-Range Planning** - *Lauren M. Underwood, chair.* No report.
5. **Nominations** - *Henry M. Grix, chair.* No report.
6. **Relations with the State Bar** - *John R. Dresser, chair.* No report.
7. **Annual Meeting** - *Lauren M. Underwood, chair.* No report.

B. Education & Advocacy Services for Section Members

1. **Amicus Curiae** - *Mark K. Harder, chair.* No report.
2. **Continuing Education & Annual Probate Institute** - *Nancy L. Little, chair.* No report.

3. **Section Journal** - *Nancy L. Little, chair*. No report.
4. **State Bar Journal** - *Sebastian V. Grassi, Jr., chair*. No report.
5. **Pamphlets** - *Ellen Sugrue Hyman, chair*. No report.
6. **Electronic Communication** - *John R. Dresser, chair*. No report
7. **Committee on Special Projects** – *Amy N. Morrissey/Richard J. Siriani, Co-Chairs*

C. **Legislation and Lobbying**

1. **Legislation** - *Harold Schuitmaker and John R. Dresser, co-chairs*:
2. **Michigan Trust Code** - *Mark K. Harder, chair*. Mark K. Harder began his discussion on sections of the Michigan Trust Code. Mr. Harder began with Section 102 (see attached exhibits):

Section 102 – Section 102 was approved as presented by the Committee on a motion by Mark K. Harder, supported by George W. Gregory.

Section 107- Section 107 was approved as recommended by the Committee with one modification to the language in Section (a) to change the word “terms” to “terms of the trust”. Motion by Mark K. Harder and seconded by Lauren M. Underwood.

Section 109 – Section 109 was approved in the form recommended by the Committee on a motion by Mark K. Harder and seconded by Marilyn A. Lankfer.

Section 111 – Section 111 was approved in the form submitted by the Committee with a modification to Section 4(c) in which the words “necessary and desirable” were removed. Approved on a motion by Mark K. Harder and seconded by Marilyn A. Lankfer.

A motion to amend Section 111 to change part 5 was made by James B. Steward with support from Thomas F. Sweeney but that motion failed.

Section 301 – Section 301 was approved in the form submitted by the Committee on a motion by Mark K. Harder and seconded by Lauren M. Underwood.

Section 303 – Section 303 was approved in the form recommended by the Committee with the change that the word “limited” was removed from Section (c) on a motion by Mark K. Harder and seconded by Marilyn A. Lankfer.

A motion by James B. Steward with support by Douglas G. Chalgian to modify Section (a) to include the language “having authority to act” failed.

Section 304 – Section 304 was approved in the form recommended by the Committee on a motion by Mark K. Harder and seconded by John R. Dresser.

Section 305 – Section 305 was approved in the form recommended by the Committee on a motion by Mark K. Harder and seconded by Marilyn A. Lankfer with the modification of the word “the” added before the words “general benefit”.

Section 1403 – Section 1403 was approved in the form recommended by the Committee on a motion by Mark K. Harder and seconded by Marilyn A. Lankfer with the removal of the word “limited” from Section b(ii).

Section 701 – Section 701 was approved in the form recommended by the Committee on a motion by Mark K. Harder and seconded by Marilyn A. Lankfer but modified by a motion by Douglas G. Chalgian and seconded by George W. Gregory to include a new provision (3)c which states, “inspect or investigate trust property to determine potential liability under other law or for any other purpose”.

Section 702 – Section 702 was adopted in the form recommended by the Committee on a motion by Mark K. Harder, seconded by Lauren M. Underwood.

Section 802 – Section 802 was approved in the form recommended by the Committee with a motion by Mark K. Harder, seconded by Marilyn K. Lankfer.

Section 201 – Section 201 was approved in the form recommended by the Committee with the removal of the words

“will or” from provision (3)e and the addition of the word “or” at the end of paragraph (3)g. In addition, the section was modified on a motion by James B. Steward and seconded by George W. Gregory to remove the word “properly” from paragraph (1).

Section 202 – Section 202 was approved in the form recommended by the Committee on a motion by Mark K. Harder, seconded by Lauren M. Underwood.

Section 203 – Section 203 was approved in the form recommended by the Committee on a motion by Mark K. Harder, seconded by Marilyn A. Lankfer.

Section 204 – Section 204 was approved in the form recommended by the Committee on a motion by Mark K. Harder, seconded by Lauren M. Underwood.

Section 205 – Section 205 was approved in the form recommended by the Committee. Two motions to amend the Section as recommended by the Committee failed. The first motion that failed would have modified paragraph (1) to add interested persons as having standing to register a trust. That motion was made by George W. Gregory and seconded by James B. Steward. The second motion to fail was made by James B. Steward with support from Harold Schuitmaker which would have altered the definition of a principle place of administration.

Sections 206, 207, 208 – Sections 206, 207 and 208 were all approved in one motion by Mark K. Harder and seconded by Lauren M. Underwood in the forms recommended by the Committee. A motion to modify Section 208 made by James B. Steward with support by George W. Gregory failed.

3. **Statute of Repose** - *John A. Scott*: No report

D. Ethics, Professionalism and Standards

1. **Ethics** - *Marilyn A. Lankfer, chair*: No report
2. **Unauthorized Practice & Multidisciplinary Practice** - *Thomas F. Sweeney, chair*: No report
3. **Specialization and Certification** - *Shaheen I. Imami and Richard A. Shapack, co-chairs*: No report.

4. **Practice Management** - *Richard J. Siriani, chair*. No report.

E. Administration of Justice

1. **Contested and Uncontested Probate Proceedings** – *Amy N. Morrissey, chair*. No report.
2. **Uniformity of Practice** - *Sebastian V. Grassi, Jr. and Joan Von Handorf, co-chairs*: No report.

F. Practice Issues, Related Areas & Liaisons

1. **Charitable Giving/Exempt Organizations** - *Robin D. Ferriby, chair*.
2. **Estate Gift Tax** - *George W. Gregory, chair*. No report.
3. **Real Property Tax Issues** - *George W. Gregory, chair*.
4. **Guardianships and Conservatorships** - *Douglas G. Chalgian, chair*. No report.
5. **Business Law and Business Section Liaison** - *John R. Dresser, chair* : No report.
6. **Court Rules and Forms** - *Harold Schuitmaker and Joan Von Handorf, co-chairs*: No report.
7. **Elder Law/Elder Law Section Liaison** - *Josh Ard*: No report.
8. **Family Law/Family Law Section Liaison** - *Patricia M. Ouellette*: No report.
9. **Real Property Law/Real Property Section Liaison** - *Richard Shapack*: No report.
10. **Tax Section Liaison** – *Lorraine F. New* : No report.
11. **State Bar Liaison** - *Francine Cullari*: No report.
12. **Trust/Michigan Bankers Association Liaison** - *Daniel E. Cogan*: No report.
13. **Michigan Probate Judges** – No report.

IX. Other Business:

X. Hot Topics:

XI. Adjournment – The Joint Meeting of the Probate and Estate Planning Council and Committee on Special Projects was adjourned at 11:30 a.m.

Respectfully submitted,

Douglas G. Chalgian