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

December 13, 2014
Lansing, Michigan

MINUTES

I. Call to Order. The Chair called the meeting to order at 10:17 a.m.

II. Attendance. Guests were introduced.

A total of **5** officers and **17** members of the Council were present, representing a quorum.

A. The following 5 officers of the Council were in attendance:

Amy N. Morrissey, Chair
Shaheen I. Imami, Chair Elect
James B. Steward, Vice-Chair
Marlaine C. Teahan, Secretary
Marguerite Munson Lentz, Treasurer

B. The following 17 members of the Council were in attendance:

Susan M. Allan
W. Josh Ard
Christopher A. Ballard
George F. Bearup
Constance L. Brigman
Mark E. Kellogg
Rhonda M. Clark-Kreuer
David P. Lucas
Raj A. Malviya
Michele C. Marquardt
Richard C. Mills
Lorraine F. New
Patricia M. Ouellette
David L.J.M. Skidmore
James P. Spica
Nancy H. Welber
Geoffrey R. Vernon

C. No officers or members were absent without excuse. The following member was absent with excuse:

Hon. Michael L. Jaconette

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

George W. Gregory
Michael J. McClory
Thomas F. Sweeney

E. The following guests were in attendance:

Rebecca Bechler
Ryan Bourjaily
Julie Paquette
Nathan R. Piwowarski

Daniel Cogan	Nicholas A. Reister
Kathleen Goetsch	Jessica Schilling
J. David Kerr	Justine M. Sylvester
Robert Labe	Paul Vaidya
Michael G. Lichterman	Joseph J. Viviano
Sueann Mitchell	Nicholas Vontroba
Neal Nusholtz	

III. **Consent Agenda –** The Chair explained the concept of a consent agenda; this concept will ask those present if anyone wants to remove an item from the consent agenda. To remove an item from the consent agenda, any Council member may request an item be removed from the consent agenda. If an item is removed, it will be taken up separately after the remaining items on the consent agenda are voted on as a whole.

A. **Minutes of November 15, 2014,** Meeting of the Council minutes approved as submitted without objection. The November 15, 2014 minutes are posted on the Section's webpage at the State Bar of Michigan. http://michbar.org/probate/minutes.cfm

B. **Treasurer's Report** – Marguerite Munson Lentz received information from the State Bar of Michigan on December 11, 2014 and prepared a report that was distributed to Council members. After explanation by Ms. Lentz, the Treasurer's Report was approved without objection. The Treasurer's report is found on the Section's webpage as part of the Agenda materials. http://michbar.org/probate/pdfs/agenda12-13-14.pdf – Attachment 2. In addition, the Treasurer's written report and an excel spreadsheet of the latest financials can be found at Attachment A.

IV. **Chairperson's Report –** Amy N. Morrissey welcomed those in attendance. Ms. Morrissey informed Council members that in the future, as time allows, we will return to the Committee on Special Projects agenda after the completion of the Council Agenda. This procedure will allow us to address Committee on Special Projects issues more quickly.

V. **Report of the Committee on Special Projects (CSP) – Christopher A. Ballard.** Mr. Ballard reported on the following items that were discussed at the meeting of the Committee on Special Projects:

- Proposed legislation related to exculpation of trustees of trusts holding life insurance policies; and

- Proposed legislation for tenancy by the entireties protection for all assets of married individuals and for trusts of married individuals with such protection continuing after the death of the first spouse. After the completion of the regular Council meeting Agenda, we returned to discuss many issues related to changes in Michigan's tenancy by the entireties law. The discussion included a high level view and a detailed view of several issues. We will continue to discuss tenancy by the entireties legislation at future meetings of the Committee on Special Projects.

- CSP did not have recommendations to Council requiring a vote of the Council.

VI. **Standing Committee Reports**

A. **Internal Governance**

1. Budget – Marlaine C. Teahan – No Report

2. Bylaws – Nancy H. Welber reported that our amended Bylaws were approved by the Board of Commissioners at their November 21, 2014 meeting. Our new bylaws are on the Section website at http://michbar.org/probate/pdfs/bylaws.pdf

3. Awards – Douglas A. Mielock – No Report

4. Planning – Shaheen I. Imami reported that meeting dates for 2015-16 were selected and reserved.

5. Nominating – George W. Gregory – No Report

6. Annual Meeting – Shaheen I. Imami – No Report

B. Education and Advocacy Services for Section Members

1. Amicus Curiae – David L. Skidmore – No Report

2. Probate Institute – James B. Steward updated Council on registrations for this year's Annual Probate Institute with ICLE; we are ahead of last year with the number of registrations at this time of year. Marketing materials will be sent out in January.

3. State Bar and Section Journals – Richard C. Mills reported that the most recent Journal was published this past week. Articles for the next Journal will be due January 1, 2015.

4. Citizens Outreach – Constance L. Brigman reported that the Elder Law Section is willing to take over the Medicaid brochure. Council's brochure on the Patient's Guide to Health-care Decision Making has a pending copyright application that Tom Sweeney filed. Ms. Brigman discussed copyrighting the brochures that were recently updated by the Citizens Outreach committee. Information was provided on the procedure to be followed in updating the brochures. The brochures were distributed by email just prior to the Council meeting and handed out to all in attendance. Any comments should be directed to Ms. Brigman relative to typos or corrections that should be made prior to the brochures being posted onto the Section's website. These materials are posted as part of the Agenda for the January 17, 2015 meeting.

5. Electronic Communications – William J. Ard – No Report

6. Membership – Raj A. Malviya discussed the Membership Committee's written report. The Membership Committee has been meeting monthly and is making excellent progress on several initiatives for this year, including meeting with third year law students at area law schools and

having a visible presence at the upcoming annual Probate Institutes. The goals of these initiatives are to promote our practice area among law students and to promote the benefits of membership in the Probate and Estate Planning Section of the State Bar of Michigan. The written report is at Attachment 3 of http://michbar.org/probate/pdfs/agenda12-13-14.pdf

C. **Legislation and Lobbying**

1. Legislation – William J. Ard

   Ms. Bechler from Public Affairs Associates was present and addressed Council on the current status of the Legislature after the recent November 2014 election. She discussed pending bills that will be addressed in the lame duck session. A timeline was presented for our proposed legislation concerning digital assets and probate appeals. A complete list of the pending bills that Public Affairs Associates is watching for Probate Council can be reviewed at http://michbar.org/probate/pdfs/agenda12-13-14.pdf at Attachment 4.

2. Updating Michigan Law – Geoffrey R. Vernon reported on the work of his committee on various issues including digital assets, tenants by entireties, and irrevocable life insurance trusts. The Committee is actively seeking other areas of Michigan law to review and possibly update, as needed. If there is an area that needs addressing, contact Mr. Vernon at gvernon@joslynvernon.com.

3. Insurance Ad Hoc Committee – Geoffrey R. Vernon – No Report

4. Artificial Reproductive Technology Ad Hoc Committee – Nancy H. Welber reported that the committee will soon bring proposed legislation to CSP regarding artificial reproductive technology as changes to EPIC will be needed. The committee is very fortunate to have Professor Lawrence W. Waggoner of the University of Michigan Law School on the committee; his help and experience are invaluable.

D. **Ethics and Professional Standards**

1. Ethics – David P. Lucas discussed an upcoming ethics opinion which will be added to an upcoming agenda, once issued.

2. Unauthorized Practice of Law & Multidisciplinary Practice – Patricia M. Ouellette – No Report

3. Specialization and Certification Ad Hoc Committee – James B. Steward – No Report

E. Administration of Justice

1. Court Rules, Procedures and Forms – Michele C. Marquardt – No Report

2. Fiduciary Exception to Attorney Client Privilege Ad Hoc Committee – George F. Bearup – No Report

F. Areas of Practice

1. Real Estate – George F. Bearup – No Report

2. Transfer Tax Committee – Lorraine F. New – The committee recently added a new member - Rob Labe. Ms. New discussed that the IRS mileage rate for 2015 will be $0.575. She reported that the proposed Revenue Administrative Bulletin (RAB) that we discussed last month will be rewritten relative to taxing of out-of-state beneficiaries of trusts. Another version of the RAB is anticipated; once revised, we will again review and discuss. In 2015, the State will offer a new offer in compromise form. Do not use the old form as it will cause delay (beyond current delays). Remember to get your PTIN renewed. Ms. New updated us on certain changes in staffing at the IRS.

3. Charitable and Exempt Organization – Lorraine F. New – the committee is reviewing the model act and has plans to revise the current law instead of going along with the model act. Ms. New will bring more information for review in the spring at CSP.

4. Guardianship, Conservatorship, and End of Life Committee – Rhonda M. Clark-Kreuer reported on the committee's work reviewing SB 1102 which would prohibit appointment of a guardian serving in another state who has abused, exploited, or neglected a legally incapacitated individual.

G. **Liaisons**

1. Alternative Dispute Resolution Section Liaison – VACANT

2. Business Law Section Liaison – John R. Dresser – No Report

3. Elder Law and Disability Rights Section Liaison – Amy R. Tripp – No Report

4. Family Law Section Liaison – Patricia M. Ouellette reported that she will review the tenancy by the entireties proposals, as they develop, with the Family Law Section.

5. ICLE Liaison – Jeanne Murphy – No Report

6. Law Schools Liaison – William J. Ard – No Report

7. Michigan Bankers Association Liaison – Susan M. Allan – No Report

8. Michigan Probate Judges Association Liaisons – Hon. Judge David M. Murkowski, Hon. Michael L. Jaconette – No Report

9. Probate Registers Liaison – Rebecca A. Schnelz – No Report

10. SCAO Liaisons – Constance L. Brigman, Michele C. Marquardt, Rebecca A. Schnelz – No Report

11. Solutions on Self-Help Task Force Liaison – Rebecca A. Schnelz – No Report

12. State Bar Liaison – Richard J. Siriani – No Report

13. Taxation Section Liaison – George W. Gregory reported on the Taxation Section's annual tax conference on May 21, 2015. He also discussed the State Bar of Michigan's new website as well as the fact that Michigan has a new offer in compromise program taking effect in January, 2015.

VII. **Other Business –** None.

VIII. **Hot Topics –** Mike McClory updated us on new procedures at Wayne County Probate Court. If you have a petition with all waivers/consents signed, go to the Judge's office for the Order to be signed; there is no longer a need to wait in line to see an analyst for these types of matters. Mr. McClory is open to receive emails for further discussions on the changes being made at the Wayne County Probate Court.

IX. **Adjournment – 11:50 a.m.**

The regular meeting of the Council was adjourned by the Chair at 11:12 a.m. The Chair then returned the floor to Mr. Vernon to continue with the CSP agenda. Mr. Vernon led a lively discussion on the tenancy by the entireties property issues previously discussed.

The Chair closed the meeting at 11:50 a.m.

A luncheon for all those in attendance wishing to stay followed the meeting.

Attachment A

Probate Council **Treasurer's Report** **October/November 2014**

	Beginning Fiscal Year 2014-2015				FY to Date			
General Fund	$ 186,741.33				$ 265,334.12			
Amicus Fund (reserve)	$ 35,423.50				$ 35,423.50			
Total fund	$ 222,164.83				$ 300,757.62			

Revenue	Subcategories	Paid in last fiscal year but booked in this fiscal year	Oct-14	Nov-14	FY to Date Actual	Budget 2014-2015	Variance	Year to Date Percentage
Membership Dues			$ 61,075.00	$ 38,360.00	$ 99,435.00	$ 115,000.00	(15,565.00)	86.47%
Publishing Agreements			$ 325.00		$ 325.00	$ 650.00	(325.00)	50.00%
Other					$ -	$ -	-	
Total Receipts		**$ -**	**$ 61,400.00**	**$ 38,360.00**	**$ 99,760.00**	**$ 115,650.00**	(15,890.00)	86.26%
Disbursements								
Journal (1)						$ 12,225.00	(12,225.00)	0.00%
	E-blast				$ -			
	ICLE (formatting)				$ -			
Chairperson's Dinner(2)						$ 7,000.00	(301.31)	95.70%
	Plaques			$ 132.50	$ 132.50			
	Gavel			$ 67.94	$ 67.94			
	Chair's Dinner--food	$ 2,326.50	$ 3,871.75		$ 6,198.25			
	Chair's Dinner-venue	$ 300.00			$ 300.00			
Travel			$ 1,057.67	$ 1,631.35	$ 2,689.02	$ 18,500.00	(15,810.98)	14.54%
Lobbying			$ 2,500.00	$ 5,000.00	$ 7,500.00	$ 30,000.00	(22,500.00)	25.00%
Meetings(3)						$ 15,000.00	(14,800.00)	1.33%
	Mtg with Chair's Dinner	$ 200.00			$ 200.00			
	Monthly				$ -			
	Officers conference (including travel)				$ -			
Long-range Planning					$ -	$ 1,000.00	(1,000.00)	0.00%
Support for Annual Institute						$ 14,000.00	(14,000.00)	0.00%
	Contribution to institute				$ -			
	Speaker's Dinner				$ -			
Amicus Briefs					$ -	$ 10,000.00	(10,000.00)	0.00%
Seminars			$ 4,000.00		$ 4,000.00	$ 4,000.00	-	100.00%
Electronics communications (4)						$ 2,825.00	(2,750.00)	2.65%
	List serve			$ 75.00	$ 75.00			
	E-blast				$ -			
	Telephone				$ -			
Other(5)						$ 1,100.00	(1,095.50)	0.4%
	Copying		$ 4.50		$ 4.50			
	Postage				$ -			
	Young Lawyer's Conference				$ -		-	
Total Disbursements		**$ 2,826.50**	**$ 11,433.92**	**$ 6,906.79**	**$ 21,167.21**	**$ 115,650.00**	(94,482.79)	**18.30%**
Net Increase (Decrease)					$ 78,592.79	$ -		

Footnotes

(1)Includes e-blast for the Journal

(2)Includes plaques for outgoing Chair and Council Members

(3)includes October meeting in connection with Chair's Dinner and SBM Leadership Conference expenses for incoming Chair and Chair Elect

(4)includes ListServ, telephone, e-blast & other electronic communications

(5)includes copying costs and $750 for Young Lawyers' Conference

December 15, 2014