

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

**January 17, 2015
Lansing, Michigan**

MINUTES

I. **Call to Order.** The Chair called the meeting of the Council of the Probate and Estate Planning Section to order at **10:20** a.m.

II. **Attendance.** Guests were introduced.

A total of **5** officers and **15** 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 15 members of the Council were in attendance:**

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

C. **The following 3 members were absent with excuse:**

Christopher A. Ballard	David L.J.M. Skidmore
Raj A. Malviya	

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

George W. Gregory	Phillip E. Harter
Mark K. Harder	

E. **The following guests were in attendance:**

Rebecca Bechler	Robert O'Reilly
Chris Cadwell	Kurt A. Olson
Georgette E. David	Julie Paquette
Kathleen Goetsch	Karen Peper
Raymond Harris	Nicholas A. Reister
J. David Kerr	Jessica M. Schilling
Michael G. Lichterman	Nazneen Syed
Katie Lynwood	Robert M. Taylor
Marta Manildi	Amy Tripp
Sueann Mitchell	Paul Vaidya
Jeanne Murphy	Joseph J. Viviano
Neal Nusholtz	Nicholas Vontroba

III. **Consent Agenda** – The Chair explained the concept of a consent agenda which will be used from time to time. By request, the Treasurer's Report was removed from the Consent Agenda and addressed separately. The **Minutes of the December 13, 2014 Council Meeting** were approved as submitted, without correction, by general consent.

IV. **Treasurer's Report – Marguerite Munson Lentz.** Ms. Lentz just received information from the State Bar of Michigan and prepared a report that was distributed to Council members. See **Attachment A**. After brief explanation by Ms. Lentz, the Treasurer's Report was approved without objection.

V. **Chairperson's Report – Amy N. Morrissey.** Ms. Morrissey welcomed those in attendance and reported on the following items:

- **ABLE Act** – Amy Tripp reported on the Act and provided a written report. **See Attachment B**. In December 2014, Congress passed and the President signed into law the Achieving a Better Life Experience Act (ABLE Act of 2014). The ABLE Act provides for special needs and those with disabilities to have tax-free savings accounts. The Act is an amendment to Section 529 of the Internal Revenue Code. These accounts are similar to 529 Plans in a number of ways, but are very different in others. Mr. Steward pointed out a few planning opportunities and pitfalls. Ms. Tripp indicates that there will be rules promulgated that will help us apply the Act. Mr. Gregory pointed out we will probably have two sets of regulations, from both Treasury and the Social Security Administration. In addition, there may be a need to coordinate a review of Michigan law in conjunction with ELDRS Section of the SBM.
- **Future of Legal Services in Michigan**, article by Janet Welch. **See Attachment C**. This article was published December 25, 2014 in various newspapers around the State. A forum was held with over 50 leaders in Michigan's legal community that to address the changes and challenges in the delivery of legal services in the future. Ms. Morrissey explained that one goal of the forum was to find innovations to bridge the gap between law school and the delivery of legal services and how to get legal services to those who cannot afford them. Some of the solutions included mobile apps, creating specialties within the SBM, establishing the limited licensing of non-lawyers to work in certain areas of law as other states have done, e.g., Washington. While State Bar Sections were not asked to participate in the forum, Ms. Morrissey did receive a survey that addressed her delivery of

legal services.

- Recent dialogue regarding the Section's listserv vs. SBM Connect discussion forum. More discussion will be held in the Electronic Communications Committee report.
- Community property trusts were established years ago in other states. Tennessee recently enacted enabling legislation. Ms. Morrissey established a Community Property Trust Ad Hoc Committee to be chaired by Neal Nusholtz. The ad hoc committee members will be included in the Committee List in next month's agenda.
- Email received from SCAO regarding a committee to be convened to review ADR rules. Our Section was invited to comment and communicate questions, recommendations regarding trial courts, and suggested ADR resources.

VI. Report of the Committee on Special Projects – Christopher A. Ballard, led by Ms. Morrissey.

There were no action items recommended to Council this month from the Committee on Special Projects (CSP). The focus of CSP was on Tenancy by the Entireties and Personal Property. See Memorandum prepared by Geoffrey R. Vernon, **See Attachment D.** At CSP, Ms. Lentz discussed several sections. We will return to this next month.

VII. Standing Committee Reports

A. Internal Governance

1. Budget – Marlaine C. Teahan. No report.
2. Bylaws – Nancy H. Welber. Our Section's new bylaws are now posted on our Section's website.
3. Awards – Douglas A. Mielock. No report. Ms. Morrissey noted that our Section's awards are now posted on our Section's website.
4. Planning – Shaheen I. Imami. Mr. Imami discussed the SBM regular annual meeting. He has reviewed several issues related to increasing participation electronically. The focus will be on communication among council members instead of on increasing attendance at Council meetings. Different apps were discussed including those used by the ABA, ACTEC, and the SBM. Discussed a possible future app for our Section's journal.
5. Nominating – George W. Gregory. The Nominating Committee consists of Mark Harder, George Gregory and Tom Sweeney. A call was made for those interested in serving on Council to convey that interest to the Nominating Committee. In addition, individuals can be recommended to the Nominating Committee by others.
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 reported that at the Annual Institute, our Section will have a booth staffed by the Membership Committee. Discussed materials to be provided and a possible raffle. Ms. New suggested that Section memberships can be given as raffle prizes. Discussion on sending an E-blast inviting Section members and maybe even State Bar members to the Probate Institute. Discussed Jeff Kirkey's annual survey and the possibility of adding questions related to Section membership. Jim Steward suggested that the Membership Committee look at how the opting out of Section membership works after a State Bar member has completed his or her first free year of Section membership.
3. State Bar and Section Journals – Richard C. Mills. Bar journal is on track. Section briefs in the SBM journal discussed. Information for the briefs must be submitted two months before publication. Ms. Morrissey said updates on our Section will be in the February 2015 SBM journal. A suggestion was made that in the E-blast for the Section's journal to include the table of contents with hotlinks to allow people to open each article for review or printing, as they wish. Also discussed an app for the Journal which may be able to provide a notice when a new journal is available.
4. Citizens Outreach – Constance L. Brigman reported on the brochures to be added to our website. By general consent, the brochures were approved. Later this year, they will be updated for more readability. Ms. Brigman suggested that our Section's website have both member-only content and content available to the public. Ms. Brigman suggested hotlinks in the tables of contents. Discussion on SEO, how to direct traffic to these brochures, adding last date of revision, and how to design brochures to minimize the amount of “clicks” needed to get to content being searched. Suggestions were made to the committee for improvements. Additional comments or suggestions should be directed to Connie Brigman.
5. Electronic Communications – William J. Ard. Discussion held on our Section's listserv and the State Bar's Connect discussion boards. Mr. Ard explained some of the administrative drawbacks of the listserv. The State Bar will be training Sections on its new website. Two officers, Ms. Teahan and Ms. Lentz, will attend this training in February. It was noted that having so many available forums lessen the Section's energy and focus; one forum might be best. For the near future, no changes will be made, information will be gathered, and this discussion will continue.
6. Membership – Raj A. Malviya, led by Nicholas A. Reister. The Committee is looking at discounts for the Annual Probate Institute in 2016 and beyond, a Friday night happy hour at this year's Institute, hosted at the Traverse City office of Smith Haughey Rice & Roegge, and meetings at Michigan law schools with 3Ls to explain benefits of Section membership and to encourage students to consider a future career in trusts and estates.

C. Legislation and Lobbying

1. Legislation – William J. Ard. Becky Bechler was present for most of the meeting but had to leave before her report. She will be moved up in the agenda for future meetings. Ms. Bechler provided a report to the Chair including the following legislative projects of Council that will be part of our legislative focus in 2015:
 - Fiduciary Access to Digital Assets Act – a meeting was held with Senator Rick Jones, Chair of the Senate Judiciary Committee on Jan. 14, 2015.
 - Probate appeals project – Representative Kesto will be the lead sponsor in the House.
 - Qualified disposition to trust act
2. Updating Michigan Law – Geoffrey R. Vernon. No further report other than the discussions held during the CSP.
3. Insurance Ad Hoc Committee – Geoffrey R. Vernon. Representative Leonard has taken over the House Insurance Committee.
4. Artificial Reproductive Technology Ad Hoc Committee – Nancy H. Welber. No report.

D. Ethics and Professional Standards

1. Ethics – David P. Lucas. No report.
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. Michigan has a new offer in compromise.
3. Charitable and Exempt Organization – Lorraine F. New. No report.
4. Guardianship, Conservatorship, and End of Life Committee – Rhonda M. Clark-Kreuer. No report.

**ATTACHMENT A, January 17, 2015
Treasurer's Report Dec-14**

**Beginning Fiscal Year
2014-2015**

FY to Date

General Fund	\$	186,741.33		\$	275,754.33		
Amicus Fund (reserve)	\$	35,423.50		\$	35,423.50		
Total fund	\$	222,164.83		\$	311,177.83		

		Dec-14		FY to Date Actual	Budget 2014-2015	Variance	Year to Date Percentage
Revenue	Subcategories						
Membership Dues		10,990.00	\$	110,425.00	\$ 115,000.00	(4,575.00)	96.02%
Publishing Agreements			\$	325.00	\$ 650.00	(325.00)	50.00%
Other			\$	-	\$ -	-	
Total Receipts		\$ 10,990.00	\$	110,750.00	\$ 115,650.00	(4,900.00)	95.76%
Disbursements							
Journal (1)			\$		\$ 12,225.00	(12,150.00)	0.61%
	E-blast	75.00	\$	75.00			
	ICLE (formatting)		\$	-			
Chairperson's Dinner(2)					\$ 7,000.00	(265.49)	96.21%
	Plaques		\$	132.50			
	Gavel	35.82	\$	103.76			
	Chair's Dinner--food		\$	6,198.25			
	Chair's Dinner-venue		\$	300.00			
Travel		376.06	\$	3,065.08	\$ 18,500.00	(15,434.92)	16.57%
Lobbying			\$	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			
	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	-	100.00%
Electronics communications (4)					\$ 2,825.00	(2,667.09)	5.59%
	List serve	75.00	\$	150.00			
	E-blast		\$	-			
	Telephone	7.91	\$	7.91			
Other(5)					\$ 1,100.00	(1,095.50)	0.4%
	Copying		\$	4.50			
	Postage		\$	-			
	Young Lawyer's Conference		\$	-			
Total Disbursements		\$ 569.79	\$	21,737.00	\$ 115,650.00	(93,913.00)	18.80%
Net Increase (Decrease)			\$	89,013.00	\$ -		

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

MEMORANDUM

TO: Probate and Estate Planning Council
FROM: Amy Tripp- Chalgian & Tripp Law Offices
RE: ABLE Act
DATE: January 17, 2015

THE ABLE ACT - SECTION 529 DISABILITY SAVINGS PLAN

In December of 2014, Congress passed, and the President signed into law, the Achieving a Better Life Experience Act (ABLE Act of 2014). The ABEL Act provides a new opportunity for qualified individuals with special needs and disabilities to have tax-free savings accounts that will support their health and independence while preserving the means-tested government benefits.

The ABLE Act amends Section 529 of the Internal Revenue Code. The new ABLE Accounts will be similar to 529 Plans in a number of ways, but very different in others. Here are some of the highlights:

- A person with a disability can only have an ABLE Account if they were severely disabled by age 26. Someone who was receiving Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI, or SSD) benefits by 26 will qualify. Others may qualify, will need to establish disability.
- Each person with a disability may have just one ABLE Account, and it must be set up in the state where the person with the disability resides.
- Contributions to an ABLE Account may not exceed \$14,000 in a given year. That's total contributions — if the person with a disability puts in, say, \$4,000, then other family members may not contribute more than \$10,000. That figure is indexed to the maximum annual gift tax exclusion amount.
- The maximum size of an ABLE Account will be set by state law. The maximum size to maintain eligibility for SSI is \$100,000. The beneficiary will continue to be eligible for Medicaid.

- When the ABLE beneficiary dies, remaining assets in the account go to the state Medicaid program which provided benefits during life (after payment of other pending bills, and limited to the amount the Medicaid program actually paid for the beneficiary's care).
- As long as the ABLE Account funds are used to pay for "qualified disability expenses," there will be no income taxation on the interest or gain in value of the ABLE assets, and the expenditure will not be counted as income to the beneficiary.
- "Qualified Disability Expenses" will need to be defined. The law does say, though, that the categories for "qualified" expenditures will include "education, housing, transportation, employment training and support, assistive technology and personal support services, health, prevention and wellness, financial management and administrative services, legal fees, expenses for oversight and monitoring, funeral and burial expenses".

The major advantage to this Account is that the money in the Account is not a countable asset and, thus, allows the person with a disability to maintain eligibility for government benefits. These accounts can be very helpful for persons with disabilities. It would allow them to save funds that exceed the maximum resource limits of \$2,000.

An ABLE account is more like a first party special needs trust (a "Medicaid payback trust"), and would likely have more applications in situations where the person with a disability has their own resources that need to be protected. Because of the payback requirement, planners would not normally recommend these accounts where they are to be funded by someone other than the person with the disability. Accordingly, these accounts would not typically be considered a substitute for a third party discretionary special needs trust.

Accounts cannot yet be set up in Michigan until the legislature passes enabling legislation.

Person's who have a guardian are currently required to petition the Probate Court for permission to fund a Self-Settled Special Needs Trust and Pooled Account Trust which can be costly for small amounts of excess resources. However, if the legislation allows the guardian to establish and fund an ABLE account this could result in a significant savings and maximize the benefit of this special account.

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Posted December 25, 2014

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Janet Welch on the Future of Legal Services in Michigan

By Steve Thorpe

Legal News

More than 50 leaders of Michigan's legal community, including the president of the State Bar of Michigan, the president of the American Bar Association and the chief justice of the Michigan Supreme Court, convened recently to discuss the future of legal services in Michigan. Also attending were law school deans and past presidents of the ABA and the State Bar, the directors of Michigan's attorney discipline agencies, the Michigan State Bar Foundation and the Institute for Continuing Legal Education. Janet Welch is executive director of the State Bar of Michigan.

Thorpe: Tell us about the gathering and its goals.

Welch: The name of the forum was "The Future of Legal Services: Changes and Challenges in the Delivery of Legal Services." Michigan is poised to be a leader because the major institutions responsible for the quality of legal services in Michigan the Michigan Supreme Court, the State Bar of Michigan, the Michigan State Bar Foundation, the Attorney Grievance Commission, the Attorney Discipline Board, and the Institute for Continuing Legal Education have all been or are emerging as national leaders on many of the critical issues affecting the delivery of legal services in the 21st century. On top of that, Michigan's law schools collectively present a composite picture of the challenges and opportunities facing legal education today. The goal of the day was to put together leading thinkers from all of these institutions and begin to formulate a blueprint for the future.

In our plenary session, we heard the president of the American Bar Association, William Hubbard, speak of why the legal profession is at an "inflection point." Despite attorneys' very generous pro bono efforts and financial contributions to access to justice for the poor, Hubbard said that 80 percent of people who are poor, and many others of moderate means, do not get the civil legal assistance they need, and the United States ranks just 27th in the civil justice category among 99 countries in the World Justice Project's 2014 Rule of Law index. Justice Bridget McCormack followed with an optimistic note, underscoring the progress Michigan has made using technology to promote greater accountability within Michigan's court system, including the use of pioneering mobile apps to make interactions with the court more convenient. Seven experts then offered a lightning round describing the major issues

in four categories:

- The Future for Today's and Tomorrow's Lawyers, led by Paula Littlewood, Washington State Bar Association, and Candace Crowley, State Bar of Michigan
- Public Access to the Courts/Access to Justice, led by Linda Rexer, Michigan State Bar Foundation, and Prof. Daniel Linna, Jr., MSU College of Law
- Economic Viability of Today's Law Firm Model, led by Prof. Renee Newman Knake, MSU College of Law
- The Changing Demographics and Economics of the Profession, led by Dennis W. Archer, Dickinson Wright PLLC, and Anne Vrooman, State Bar of Michigan.

From these topics the forum attendees chose the most important issues and then brainstormed ideas and strategies for tackling those issues. Among the top challenges identified by those at the forum were using technology and innovation to increase efficiencies and value in the legal system, creating an ethical and quality system so that self-represented people can get help from a lawyer where and when needed, bridging the gap between law school and legal practice, and regulating and supporting the legal services delivery system in a way that allows more people and businesses to have access. Some of the many innovations reported by the work groups included developing more online apps like a mobile app being used to resolve traffic tickets, adopting a broader limited scope "unbundled" representation rule, creating more certificate of specialty practice area programs and considering the limited licensing of non-lawyers to provide legal services in certain practice areas.

Chief Justice Robert P. Young, Jr., the forum's lunchtime speaker, emphasized the Supreme Court's commitment to driving Michigan's court system to improve service to the public, and recognized the State Bar for helping to spur change through its 2011 Judicial Crossroads Task Force Report.

"When it comes to Crossroads, our message is simple: promises made, promises kept," Chief Justice Young said.

The Chief Justice challenged attendees to focus on the problem of newly licensed attorneys being insufficiently ready to serve clients, particularly as solo practitioners, a challenge SBM President Thomas C. Rombach hopes to begin to answer through a newly formed SBM Law School to Practice Committee.

Thorpe: You have been quoted saying "New technologies combined with economic and demographic changes are transforming the marketplace for legal services." What are some of these technologies?

Welch: In my view, the biggest driver for change right now is the rise of the Internet as the foremost tool the public uses to research legal issues, decide whether to contact a lawyer and figure out which lawyer to choose. The Internet opens up new opportunities for lawyers to market their services and their value more effectively, but it also presents big risks to both the public and the profession. At the same time, there are new cost-saving apps arriving every day to make lawyers' work more efficient and effective, the acquisition of legal services more informed and interaction with lawyers, courts and the justice system more convenient. There is astonishing software available for time management, discovery, trial management and billing there is hardly a process in the delivery of legal services for which helpful technology is not already available. The choices can be intimidating and bewildering. Bar associations need to learn how to help lawyers navigate this new world ethically and successfully.

Thorpe: Tell us about the State Bar's new 21st Century Lawyer committee.

Welch: President Rombach conceived of this new entity as a vehicle for envisioning how the State Bar should tackle the urgent new job of helping our members navigate the emerging legal marketplace and then provide advice to the State Bar leadership on strategies and direction. Its co-chairs, Past Presidents Julie Fershtman and Bruce Courtade, both have active practices and both pushed the State Bar to improve the Bar's practice-oriented services to our members and thus increase our value to the public. There is no work more urgent, and I commend President Rombach for his leadership in this initiative and for recruiting Julie and Bruce to co-chair it.

Thorpe: How does the work of the state bar on this topic dovetail with similar efforts at the national level?

Welch: The State Bar's forum was coordinated with the American Bar Association's Commission on the Future of Legal Services, formed under ABA President William Hubbard. The Commission's reporter is Prof. Renee Knake, co-director of Michigan State University College of Law's Kelley Institute of Ethics and the Legal Profession. The Commission is encouraging grass roots meetings around the country, and will study the results to formulate its recommendations to the ABA.

Thorpe: The State Bar of Michigan Judicial Crossroads Task Force issued a report in 2011 that suggested some changes currently underway to streamline and modernize Michigan's court system. Would you describe those for us?

Welch: As Chief Justice Young observed at the forum, the work of the Future of Legal Services Forum and the Judicial Crossroads Task Force are connected in important ways. The Task Force's 2011 report contributed to a number of the transformational and cost-saving changes now underway in Michigan's court system. Included among these reforms:

- Three out of four Michigan counties have concurrent jurisdiction plans to make better use of resources and improve efficiency;
- A needs-based, phased elimination of 40 judgeships is expected to save the state \$167 million;
- 174 problem-solving courts (mental health, drug and sobriety) are reaching 97 percent of Michigan's population, dramatically reducing recidivism;
- Court accountability has measurably increased: the performance of every Michigan court is measured and the results on timeliness and clearance rates are posted online;
- The state is implementing new language access court rules that provide much greater access to justice for the growing number of people who have limited English proficiency.

The forum has opened a new chapter in the work started by the Task Force, focusing on how the profession can better serve the legal needs of the public.

Thorpe: What's next for the effort?

Welch: The conversation will continue more intensely within the Board of Commissioners, the State Bar Representative Assembly and the 21st Century Practice work. We hope that the forum's attendees will take the questions, ideas and enthusiasm generated within the forum back into the legal community so that Michigan can continue to be at the forefront of shaping the future of the delivery of legal services.

Published: Thu, Dec 25, 2014

Comments

No comments

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ATTACHMENT D, January 17, 2014 Minutes

MEMORANDUM

TO: Updating Michigan Law Committee
FROM: Geoffrey R. Vernon
RE: Tenancy by the Entireties and Personal Property
DATE: 01/10/15

1. Twenty-two states allow tenancy by the entireties ownership, twelve of which allow personal property to be held as tenants by the entireties.
2. MCL 557.151 was enacted in 1927. It states:

"All bonds, certificates of stock, mortgages, promissory notes, debentures, or other evidences of indebtedness hereafter made payable to persons who are husband and wife, or made payable to them as endorsees or assignees, or otherwise, shall be held by such husband and wife in joint tenancy unless otherwise therein expressly provided, in the same manner and subject to the same restrictions, consequences and conditions as are incident to the ownership of real estate held jointly by husband and wife under the laws of this state, with full right of ownership by survivorship in case of the death of either."

Pursuant to the explicit language of the statute, it has been permissible in Michigan for spouses to own certain types of personal property in the same manner as real estate (i.e., certain types of personal property may be owned as tenants by the entirety). Several court cases in Michigan have addressed whether certain types of personal property are included in the above terms:

- Bank deposits are not "other evidences of indebtedness" so they may not be held as tenants by the entirety. *McMahon v. Holland*, 260 Mich. 246 (1932).
American Nat'l Bank & Trust Co v. Modderman, 37 Mich. App. 639 (1972).
- A check payable to a husband and wife creates an entireties interest. *Theisen v. Theisen*, 27 Mich. App. 356 (1970).
- A tax refund payable to husband and wife is not "other evidences of indebtedness" so was not held by the spouses as tenants by the entirety. *Jahn v. Regan*, 584 F. Supp. 399 (E.D. Mich. 1984).
- An H&R Block investment account owned by husband and wife was owned as tenancy by the entirety because any distributions from the account must have

been issued to husband and wife in the form of a check. *Shapiro v. Nicoloff*, Case No. 01-CV-71591-DT (E.D. Mich. 9/25/01) (unpublished).

- Securities accounts owned by husband and wife as "JTWROS" were tenancy by the entirety property. *Zavradinos v. JTRB Inc. et al*, 482 Mich. 858 (2008).
- A cash management account was not held as tenants by the entirety because the spouses were not married at the time they opened the account. *In re Musilli*, Case No. 06-55963-R, (Bankr. E.D. Mich. 2006).

3. The Michigan Limited Liability Company Act provides, at MCL 450.4504(1), that a membership interest in an LLC (which may own all types of personal property) can be held by spouses as tenants by the entirety, as follows -

"A membership interest is personal property and may be held in any manner in which personal property may be held. A husband and wife may hold a membership interest in joint tenancy in the same manner and subject to the same restrictions, consequences, and conditions that apply to the ownership of real estate held jointly by a husband and wife under the laws of this state, with full right of ownership by survivorship in case of the death of either."