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

January 16, 2016
Lansing, Michigan

Minutes

I. Call to Order

The Chair of the Section, Shaheen I. Imami, called the meeting to order at 10:25 a.m.

II. Attendance

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

Shaheen I. Imami
James B. Steward
Marlaine C. Teahan
Marguerite Munson Lentz
Christopher A. Ballard
George F. Bearup
Constance L. Brigman
Christopher J. Caldwell
Rhonda M. Clark-Kreuer
Kathleen M. Goetsch
Hon. Michael L. Jaconette
Mark E. Kellogg
Michael G. Lichterman
David P. Lucas
Katie Lynwood
Raj A. Malviya
Michele C. Marquardt
Richard C. Mills
Lorraine F. New
Geoffrey R. Vernon
Nancy H. Welber

A total of 21 council members and officers were present, representing a quorum.

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

David L.J.M. Skidmore
Susan M. Allan

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

None.
D. **The following ex-officio members of the Council were in attendance:**

George W. Gregory  
Mark K. Harder  
Phillip W. Harter  
Kenneth E. Konop  
Nancy L. Little  
Michael J. McClory

E. **Others in attendance:**

Jeanne Murphy  
Patricia M. Ouellette  
Steve Jones  
Sueanne T. Mitchell  
Neal Nusholtz  
James Spica  
Nathan Piwowarski  
Daniel S. Hilker  
J. David Kerr  
Susan Chalgian  
Joann Kline  
Rob Labe  
Jonathan Nahhat  
Georgette David  
John Roy Castillo  
Theresa Rose  
Nazneen Syed  
Scott Robbins

III. **Minutes of the December 19, 2015 Meeting of the Council**

The minutes of the December 19, 2015 Meeting of the Council were attached to the Agenda for this meeting posted on the Section’s web page prior to the meeting. Ms. Lentz noted a few typographical corrections and moved that the minutes be approved, as corrected. The motion was seconded. The motion was approved on a voice-vote with no nays and no abstentions.

IV. **Treasurer’s Report – Christopher Ballard**

The Treasurer’s Report was attached to the Agenda. Mr. Ballard reminded everyone that the mileage reimbursement rate for 2016 has been reduced to 54 cents a mile.

V. **Chairperson’s Report – Shaheen I. Imami**

Mr. Imami reported that:

- Copies of the public policy positions taken at the December meeting were attached to the Agenda.
- Senate hearings have been scheduled for January 19, 2016. Robert Tiplady will
testify at the hearing on the Qualified Dispositions in Trust Act and Mr. Imami will testify at the hearing on the probate appeals legislation.

- Attached to the Agenda was an engagement letter for the Section to hire Clark Hill to represent the Section with respect to a publication agreement with the State Bar concerning the brochures. Probate Council has already authorized payment for the legal representation. Mr. Imami moved to approve the engagement in accordance with the engagement agreement. Ms. Brigman seconded the motion. The motion was passed unanimously. The next step is to have the State Bar approve the contract.
- Mr. Imami would like to divide the work for the updating EPIC/MTC project among different committees so that one committee does not do all of the work.
- Mr. Imami alerted the Council to a recent published Court of Appeals case, *Mead v Barton (In re Schwein Estate)*, (January 12, 2016), which dealt with the claims period in which a personal representative may assert a claim arising before the decedent’s death against the estate.

VI. **Report of the Committee on Special Projects – David P. Lucas**

Mr. Lucas reported that CSP has three recommendations concerning the brochures:

1. The Citizens Outreach Committee should proceed with the preparation of the mock ups of the brochures for the Section’s web page.
2. The Committee will poll the Section for pre-orders for the brochures, to determine if there is enough interest to have the brochures printed using offset printing rather than on demand printing.
3. The brochures will not be posted as pdfs to the web page, as it would be too easy for them to be downloaded and copied, and the Section could lose its copyright.

Mr. Lucas moved that the Council adopt these three recommendations. The motion passed unanimously.

Mr. Lucas reported that discussion concerning the Artificial Reproductive Technology was continuing.

VII. **Standing Committee Reports**

A. **Internal Governance**

1. Budget – Marguerite Munson Lentz—no report.
3. Awards – Amy N. Morrissey—no report.
4. Planning – James B. Steward

Mr. Steward is looking at Mackinac Island for the chair’s dinner. He is thinking of having the dinner on Sunday evening and the meeting on Monday morning because of reduced costs and increased availability.

5. Nominating – Mark K. Harder
Mr. Harder requested that suggestions be sent to him, Amy Morrissey, or Thomas Sweeney.


B. Legislation and Lobbying

1. Legislative Analysis and Monitoring Committee – Michele C. Marquardt—no report.

2. Legislation Development & Drafting Committee – Geoffrey R. Vernon

Mr. Vernon reported that the committee is developing a list of proposed EPIC/MTC revisions. Please give any suggestions to Mr. Vernon. Next month, Mr. Vernon will present the list.

Mr. Vernon further reported that a Senate Judiciary Committee hearing on the Qualified Disposition In Trust Act is scheduled for January 19, 2016. Mr. Tiplady will testify. Probate Council had previously authorized the committee to make nonsubstantive changes to the act. Nonsubstantive changes were made and a substitute SB 597 was finalized on January 15, 2016.

A Senate Judiciary Hearing should be scheduled soon on the Fiduciary Access to Digital Assets Act. Howard Collens will testify.

The bills eliminating dower passed the Senate and were assigned to the House Judiciary Committee.

Mr. Vernon led the Council in a discussion whether EPIC/MTC should be revised to provide for a forfeiture if a lawyer drafts a will, trust, or other document for a client (other than a close family member), and the document benefits the lawyer or lawyer’s family. After a spirited discussion, a straw poll was taken. The vote was divided. Mr. Imami requested that Mr. Vernon’s committee continue with drafting potential language.

3. Insurance Legislation Ad Hoc Committee – Geoffrey R. Vernon

Mr. Vernon reported that the Committee does not yet have a sponsor for the ILIT trustee exoneration legislation.

4. Artificial Reproductive Technology Ad Hoc Committee – Nancy H. Welber

The discussion is continuing.

C. Education and Advocacy Services for Section Members


2. Probate Institute – Marlaine C. Teahan

Ms. Teahan reported that a copy of the brochure for the Institute was attached to the Agenda. So far, 72 have registered, up from 34 the same time last year. Only 8 have registered
so far for the add-on seminar being presented by Steve Gorin.

3. State Bar and Section Journals – Richard C. Mills

Ms. Nancy Little reported that the next issue of the Probate Journal is on track. She requested suggestions for article topics.

4. Citizens Outreach – Constance L. Brigman

Ms. Brigman reported she hopes to have the web versions of the brochures posted during February and for print versions ready in March.


6. Membership – Raj A. Malviya

Mr. Malviya reported that his committee drafted a letter to send by email to new lawyers. A copy was attached to the Agenda. If anyone has suggested changes, please send them to Mr. Malviya.

The committee is also planning social events this year. One event will be in conjunction with the Annual Probate Institute in Acme. The Committee would also like to do a joint event with Oakland County Bar or Washtenaw County Bar. Another possible idea is a social event at the Annual Probate Institute in Plymouth.

The Committee is continuing its visits with the law schools. If anyone wants to help, please contact Mr. Malviya.

D. Ethics and Professional Standards


E. Administration of Justice


Mr. Imami reported that he received SCAO forms that he will forward to Council.

F. Areas of Practice

1. Real Estate – Mark E. Kellogg

Mr. Kellogg reported that HB 4930 is now 2015 PA 243. Mr. Kellogg reported that HB 5139, which clarifies the ability to create unequal joint interests, was introduced.

2. Transfer Tax Committee – Lorraine F. New

Ms. New reported that she attended the Heckerling conference. No big news from the conference.


VIII. Other Reports

G. Liaisons


3. Elder Law and Disability Rights Section Liaison – Amy Rombyer Tripp

Mr. Steward reported on a case involving a designation of patient advocate, *Estate of Margaret Marie Roush*. An application for leave to appeal to the Michigan Supreme Court was filed. Mr. Steward filed an amicus brief on behalf of the Elder Law and Disability Rights Section.

4. Family Law Section Liaison – Patricia M. Ouellette—no report.

5. ICLE Liaison – Jeanne Murphy

Ms. Murphy reported that 64 have registered for the Drafting Estate Planning seminar in Grand Rapids. For the repeat seminar in Plymouth, 200 people have registered.

Ms. Murphy also reported that Lynn Chard is retiring from ICLE.


9. Probate Registers Liaison – Rebecca A. Schnelz

Mr. McClory reported on the progress of implementation of e-filing. Still in the planning stage.

10. SCAO Liaisons – Constance L. Brigman, Michele C. Marquardt, Rebecca A. Schnelz—no report.


13. Taxation Section Liaison – George W. Gregory—no report.

IX. Other Business
X. **Hot Topics**

XI. **Adjournment**

The meeting was adjourned by Chairperson Shaheen I. Imami at 11:24 pm.