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

June 16, 2018
Lansing, Michigan

Minutes

1. Call to Order: The Chair of the Section, Marlaine C. Teahan, called the meeting to order at 10:58 am.

2. Introduction of Guests and attendance.
   a. meeting attendees introduced themselves
   b. The following officers and members of the Council were present:

   Marlaine C. Teahan, Chair
   Marguerite Munson Lentz, Chair Elect
   David P. Lucas, Secretary
   Kathleen M. Goetsch
   Nazneen Hasan
   Angela M. Hentkowski
   Hon. Michael L. Jaconette
   Mark E. Kellogg
   Robert B. Labe
   Michael G. Lichterman
   Katie Lynwood
   Richard C. Mills
   Melisa M.W. Mysliwiec
   Lorraine F. New
   Kurt A. Olson
   Christine M. Savage
   A total of 16 Council officers and members were present, constituting a quorum

3. Absences
   a. The following members of the Council were absent with excuse:

   Christopher A. Ballard
   David L.J.M. Skidmore
   Christopher J. Caldwell

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b. The following officers and members of the Council were absent without excuse:
   none

c. The following ex-officio members of the Council were present:
   George W. Gregory
   Amy N. Morrissey

d. The following liaisons to the Council were present:
   Daniel W. Borst
   Susan Chalgian
   Jeanne Murphy
   James P. Spica

e. Others present:
   J.V. Anderton
   Cynthia S. Andrews
   Aaron Bartell
   Georgette David
   Mark DeLuca
   John T. McFarland
   Gabrielle McKee
   Neal Nusholtz
   Paul Vaidya
   Nancy H. Welber

4. Lobbyist Report, Public Affairs Associates: The Council’s lobbyists, Becky Bechler and Jim Ryan reported on the legislative activity that affects the Section, including the bills referred to in the meeting agenda, as well as HB 5546 (real property tax uncapping), a meeting with the banker’s association representatives scheduled for July 2018, and legislation relating to patient advocates.

5. Minutes of April 21, 2018 Meeting of the Council: it was moved and seconded to approve the Minutes of the April 21, 2018 meeting of the Council, as included in the meeting agenda materials and presented to the meeting. On voice vote, the Chair declared the motion approved.

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6. Treasurer’s Report: the Chair suspended the Agenda to refer to the Treasurer’s Report included with the Agenda supplemental materials (as posted on the website)

7. Chair’s Report – Marlaine C. Teahan: the Chair gave a report, including matters described in the Chair’s written report, which was included with the meeting materials:
   a. the suggestions from Section members for Council Action received by the Chair at the ICLE Probate and Estate Planning Institute (list included with the meeting materials); the Chair recommended various Council committees to handle the various suggestions
   b. the Section’s annual meeting will be held on September 8, 2018, at the University Club, in Lansing.
   c. the Chair stated that the Council’s ad hoc Committee on Electronic Wills needed more members, and invited contact with Doug Mielock or the Chair by individuals with an interest in so serving.

8. Committee Reports Requiring Votes
   a. Committee on Special Projects (CSP) - Katie Lynwood: Ms. Lynwood reported:
      i. that the CSP discussed a new legislative initiative relating to undisclosed trusts, as described in a Memorandum presented to the CSP, and included with the agenda materials for the CSP meeting. CSP’s motion is:

         The Probate and Estate Planning Section supports (i) a bill to amend 1998 PA 386, entitled “estates and protected individuals code” by adding new section 7409a (MCL 7409a), as presented to the Council by CSP; (ii) with the addition of the phrase “acting in a fiduciary capacity,” to proposed section 7409a(5)(e) immediately after the first use of the term “power holder” in such section; and (iii) with the authority of the CSP Chair to consent to non-substantive changes to such proposal on behalf of the Section

         The Chair stated that since this would be a public policy position of the Section, the vote of the Council would have to be recorded. Following discussion, the Chair called the question, and the Secretary recorded the vote of 16 in favor of the motion (including one vote that had been communicated to the Secretary in writing, 1 opposed to the motion, 0 abstain, and 6 not voting. The Chair declared the motion approved.

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Hon. Michael L. Jaconette, Council member, stated that he would present the Section’s public policy position to the Michigan Probate Judges Association, for discussion and comments by that Association.

ii. that the CSP discussed a report to CSP by Christine Savage, materials for which are included with the agenda materials for the CSP meeting.

iii. that the CSP discussed changing the CSP’s and the Council’s meeting days to Fridays. CSP recommended to the Council that the CSP and Council meetings remain on Saturday.

The following motion was made by Ms. Mysliwiec from the floor and seconded by Ms. Hentkowsi:

To change the regularly-scheduled meeting days of meetings of the CSP and Council from Saturday to Friday

A requested amendment to the motion was not accepted. Following discussion, the Chair called the question. The Chair stated that this would not be a public policy position of the Section, but the Chair ordered a show of hands vote on the motion. The Secretary recorded the vote of 12 in favor of the motion (including 4 votes that had been communicated to the Secretary in writing), 6 opposed to the motion, 3 abstain, and 2 not voting. The Chair declared the motion approved.

b. Nominating Committee - Amy Morrissey: Ms. Morrissey presented the report of the Nominating Committee, included with the meeting materials. The Chair called for nominations from the floor, and none were offered. The Chair stated that the nominations would be voted upon at the Section’s annual meeting on September 8, 2018 and announced that nominations were closed.

c. Electronic Communications Committee - Mike Lichterman: Mr. Lichterman presented the report of the Electronic Communications Committee, included with the meeting materials. Mr. Lichterman stated that the Section’s budget does not provide for payment to the State Bar for the preservation of the Section’s mailing list archives. The Committee’s motion is:

The Probate and Estate Planning Section’s 2017 - 2018 budget is amended to include and authorize payment of payment of up to $500.00 to the State Bar of Michigan for the importation of the

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Section’s mailing list archive into the State Bar of Michigan’s SBM Connect.

Following discussion, on voice vote, the Chair declared the motion approved.

d.  Membership Committee - Rob Labe:  Mr. Labe referred to the Committee’s report, included with the meeting materials.

The following motion was made by Mr. Gregory from the floor and seconded by Ms. Teahan:

The Probate and Estate Planning Section’s 2017 - 2018 budget is amended to include and authorize payment of up to $5,000.00 to ICLE to sponsor a networking lunch at the 2019 Drafting Estate Planning Documents seminar in Plymouth.

Following discussion, on voice vote, the Chair declared the motion approved.

9.  Oral Committee Reports (No Vote Required):  the Chair noted the several reports that were included with the meeting materials.

   a.  Real Estate Committee - Mark Kellogg:  Mr. Kellogg referred to the Committee Chair’s Memorandum included with the meeting materials, and made some remarks about the Committee’s activity with respect to the Breakey case and SB 540.  Regarding HB 4905, Mr. Kellogg reported that the phrase “is not occupied” was deleted from the bill, but the Council’s recommendation that the phrase “is not leased” was not deleted from the bill; Mr. Kellogg reported that he would contact the Council’s Legislation Development and Drafting Committee, to inquire whether that Committee would propose further action to the Council.

   b.  Amicus Committee - Andy Mayoras

      i.  The Chair referred to a Memorandum from David L.J.M. Skidmore, on behalf of the Committee, included with the Supplement to the meeting materials.

      ii.  The Chair referred to an Application for Consideration, presented to the Committee by David L.J.M. Skidmore, in litigation captioned Faupel v. Giffin, which Application is included with the meeting materials.  Kurt Olson stated that Mr. Skidmore, a member and Chair of the Committee, recused himself from consideration of the Application, since Mr. Skidmore was the applicant.  Mr. Olson stated that the Committee did not feel that the matter was ripe for action

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by the Council, and the Committee recommends that the Council take no action at this time. The Committee’s motion is:

The Probate and Estate Planning Section does not authorize an amicus filing, as of the date of adoption of this resolution, as described in the Application for Consideration dated May 22, 2018, regarding the Faupel matter, in the form presented to the Council.

Following discussion, on voice vote with one abstention, the Chair declared the motion approved and asked Mr. Olson to inform the applicant that his application was denied.

c. Court Rules, Forms & Proceedings Committee ADR Summit - Andy Mayoras: Mr. Mayoras referred to the Committee’s memo and Report included with the meeting materials.

10. Other Business

a. The Chair referred the Council to the “save the date” Memorandum from Meg Lentz (the Chair Elect)

There was no other business offered or requested.

11. Adjournment: seeing no other matters or business to be brought before the meeting, the Chair declared the meeting adjourned at 12:05 pm.

Respectfully submitted,
David P. Lucas, Secretary

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