

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

March 19, 2011  
University Club  
Lansing, Michigan

**Minutes**

**1. Call to Order**

The Chair of the Section, Doug Chalgian called the meeting to order at 10:30 a.m.

**2. Attendance**

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

Doug Chalgian, Chair	Meg Lentz
George Gregory, Chair Elect	Hon. David Murkowski
Mark Harder, Vice Chair	Hon. Darlene O'Brien
Amy Morrissey, Treasurer	Patricia Ouellette
Susan Allan	Rebecca Schnelz
Constance Brigman	James Steward
Robin Ferriby	Bob Taylor
Ellen Sugrue Hyman	Marlaine Teahan
Shaheen Imami	Rob Tiplady
David Kerr	

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

Tom Sweeney  
Josh Ard  
Richard Siriani  
Jim Spica

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

None

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

Phillip Harter	Mike McClory
John Bos	Doug Mielock
Robert Brower	

**E. Others in Attendance**

Kristen Arnett	Mary Hineker
Christopher Ballard	Marilyn Lankfer
Karl Barr	Michael Lichterman
Stephen Brey	David Lucas
Rebecca Bechler	Tom McKenney
Brittany Catterick	Rick Mills
Rhonda Clark Kreuer	Jeanne Murphy
Dan Cogan	Robert Nemzin
Stephen Dunn	Lorraine New
Belinda Fitzpatrick	Sharri Rolland Phillips
Kathleen Goetsch	Tracy Sonneborn
Jill Goodell	Melinda Valena Sheets
Timothy Goodnow	

**3. Internal Governance**

**A. Minutes of January 15, 2011 and February 19, 2011 Meetings of the Council**

Minutes of the February 19, 2011 and Revised Minutes of the January 15, 2011, meetings of the Council had been previously distributed with the Agenda for the meeting. Upon motion by Meg Lentz with support from Amy Morrissey, the minutes were approved by a unanimous vote of all 19 council members present.

**B. Treasurer Report**

Amy Morrissey distributed a financial report through January 31, 2011 (**Attachment 1**). Ms. Morrissey indicated that the fund balance as of the end of January, 2011 was approximately \$245,263.

**C. Chairperson's Report**

Doug Chalgian reported that a letter regarding possible problems related to proposed MCR 5.208 regarding notice to creditors was being sent to Justice Young. He also reported that representatives of the ad hoc committee reviewing MRPC 1.15A had received an initial response from Janet Welch of the State Bar who reported that the State Bar Ethics Committee was reviewing the possibility of clarifying opinions. She suggested a meeting later this spring after the Ethics Committee meets.

Doug Chalgian also indicated that among the subjects on the agenda were the following:

1. Committee on Special Projects report
2. Senate Bill 192 (Inventory Fee)
3. Tax Nugget

4. Jury Instruction Developments
5. Possible modification to MCL 700.2723
6. Charitable Planning matters
7. MCR 5.801 (Appeals)
8. Guardianship and Conservatorship Committee report

**D. Report of the Committee on Special Projects**

Jim Steward reported on the CSP discussion on specialization. Jim Steward also reported on proposed SB 92 regarding modification of the Durable Power of Attorney statute. Upon motion duly made by Jim Steward and seconded by Meg Lentz the Council approved a resolution opposing SB 92 in its present form by a vote of 17, in favor, none opposed and 2 abstaining. The Committee also reported on SB 4382. It was the consensus of the Council that Meg Lentz would inquire through the Council's lobbyist about the status of this bill.

There was also a discussion regarding the Klooster decision of the Michigan Supreme Court and a suggestion for an article for the section journal.

**4. Reports of Ongoing Active Committees Involving Special Projects and Active Committees**

**A. Legislation and Special Projects**

Amy Morrissey reported on SB 192 (Inventory Fee) which would reduce the fee base by eliminating any unpaid mortgage balance. Judge Murkowski reported that the Probate Judges Association will oppose the bill. Upon motion made by Amy Morrissey and seconded by Meg Lentz, the Council supported SB 192 by a vote of 15 in favor and 3 opposed (Ellen Sugrue Hyman left the meeting before the vote)

There was a discussion regarding the possible reduction by the legislature of 30 to 40 judicial seats (there are presently 12 open seats) either by attrition or shortening terms based on lower seniority. A reduction would likely include probate judgeships.

**B. Statute of Repose**

Amy Morrissey reported that she, Becky Bechler and George Gregory met with Senator Tanya Schuitmaker about the Statute of Repose. Senator Schuitmaker suggested that due to opposition to the existing bill for architects we would be better off with our own bill. Amy gave Senator Schuitmaker the bill drafted by John Bos and John Scott and previously approved by the Council. In addition SB 192 was discussed with Senator Schuitmaker at the same meeting and probable Section support was predicted as the Section has previously supported the same concept.

**C. Guardianships and Conservators**

Becky Bechler reported that there had been no movement on the foreign guardianships bill since budget matters were the present primary focus in the legislature. She reported that a proposal for end of life legislation has no sponsor. Becky also reported that Judge Mack has proposed a change in the law to permit a guardian to recommend a mental health commitment.

**D. Probate Appeals and Jury Trials**

Shaheen Imami reported on proposed jury instructions he stated that Judge Murkowski had compared the proposal to the statute. Shaheen indicated he would be reviewing citations and authorities. Mark Harder, Jim Steward and Doug Mielock offered additional comments.

Marlaine Teahan reported that the Michigan Judges Association was reviewing the Council's proposed court rule on appeals.

**E. Ad Hoc Committee of Estate Tax**

Meg Lentz reported on the proposed modification to MCL 700.2723. Meg Lentz motioned and ex-officio John Bos supported Council approval of the proposed language. The motion was defeated with 7 in favor, 9 opposed and 1 abstention. Upon motion by Mark Harder seconded by Rob Tiplady, the ad hoc committee was asked to draft a new proposal after reviewing the Virginia and Florida post December 17, 2010, revisions.

**F. ICLE**

There was further discussion regarding the ICLE proposal for administering and hosting the new Probate and Estate Planning website. George Gregory and Mary Hineker reviewed the outline provided to the Council. Upon motion by David Kerr, supported by Meg Lentz, the Council authorized, by a unanimous vote of all 18 members still present, the payment of \$2,500.00 to ICLE based on the March 9, 2011 proposal, provided that the Section retain ownership of the intellectual property rights of the content and that the Council officers are authorized to enter into a written agreement with ICLE based on the proposal and this resolution. On motion by George Gregory, supported by Judge Murkowski and unanimously approved by all 18 members still present, the Council granted access at no charge to the new website to all Probate Judges and Probate Registers who are not section members.

**5. Reports of Other Committees As Requested in Advance**

**1. Tax Nugget**

Lorraine New reported that the IRS recent rescission of some private letter rulings creates uncertainty. She also reported that tax payers were now entitled to make one extension before making a gift or estate tax QTIP filing.

**2. Charitable Matters**

Robert Ferriby reported on a federal bill proposing a flat 1.3% excise tax on charitable organizations in order to reduce other excise taxes. The proposal is revenue neutral. He also reported on a proposed bill to extend and liberalize IRA rollovers to charities and to authorize private foundations to invest in domestic hedge funds. Finally, he reported non-profit employment (excluding governmental) now total 8.6% of all employment and that in Michigan, the charitable solicitation authorization has been changed from a license to a registration

**7. Adjournment**

Upon motion made by George Gregory and supported by Mark Harder, the meeting adjourned at 12:00 p.m.

Respectfully submitted

Thomas F. Sweeney, Secretary (based on notes by George W. Gregory)