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

March 24, 2018
Lansing, Michigan

Minutes

1. Call to Order: The Chair of the Section, Marlaine C. Teahan, called the meeting to order at 10:22 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
      Christopher A. Ballard, Vice Chair
      David P. Lucas, Secretary
      Rhonda M. Clark-Kreuer
      Kathleen M. Goetsch
      Nazneen Hasan
      Angela M. Hentkowski
      Michael G. Lichterman
      Katie Lynwood
      Raj A. Malviya
      Richard C. Mills
      Lorraine F. New
      Kurt A. Olson
      Nathan R. Piwowarski
      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:

      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
   Michael J. McClory

d. The following liaisons to the Council were present:
   Daniel W. Borst
   Susan Chalgian
   Jeanne Murphy
   Patricia M. Ouellette

e. Others present:
   Aaron Bartell
   Becky Bechler
   Kim Browning
   Georgette David
   Mark DeLuca
   Dan Hilker
   Jim Hughesian
   David Kerr
   Ron Kneiser
   Adam C. Lowen
   Andy Mayoras
   Gabrielle McKee
   Neal Nusholtz
   Scott Robbins
   Mike Shelton
   Ken Silver

4. Minutes of February 17, 2018: Meeting of the Council: it was moved and seconded to approve the Minutes of the February 17, 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.

5. Chair's Report – Marlaine C. Teahan:
   a. The Chair requested that Mike McClory report on the bicycle ride event scheduled at the annual Probate Institute. Mr. McClory reported that the Cherry Capital Bicycle Club would host the event, and Ms. Teahan announced that the Council’s Hearts and Flowers Fund would contribute $200 to the Club to defray the cost of the event; Ms. Teahan will request that the Treasurer pay that amount from the Hearts and Flowers Fund.
   b. The Chair reviewed the Treasurer’s Report, which was included with the meeting materials. The Chair encouraged the timely submission of requests for reimbursement.
   c. The Chair reviewed the Chair’s Report which was included with the meeting agenda materials, including (i) the Modest Means SMB Workgroup, and the Chair requested that Georgette David describe the activity of the Workgroup; Ms. David discussed the activity of the Workgroup, asked for comments on the program--there was discussion regarding the program which Ms. David will take back to the Workgroup; (ii) legislative activity regarding HB 5075 and 5076, and noted that the Section has taken a public policy position on those Bills; Ms. Teahan reported on a productive Workgroup meeting, held by the bills’ sponsors, and requested that the Guardianship, Conservatorship, and End of Life Committee prepare a letter for her signature to send to the sponsors regarding these bills; (iii) the EPIC Q&A Panel, the Council officers are recommending that the Panel not take new questions and that the existing questions and answers would be available for use on the ICLE website; the Chair requested questions and comments about the discontinuance of the Panel; after a voice vote, the officers' recommendation was approved by the Council; the Chair and the Council expressed many thanks to Phil Harter for his many years of chairing the Panel; (iv) the Uniform Fiduciary Principal and Income Act Ad Hoc Committee, which Jim Spica will chair; the Chair requested that comments and questions be submitted to Mr. Spica or Gabrielle McKee; (v) the Chair has appointed John A. Hohman as the Section’s Liaison to the ADR Section; Judge Hohman (ret.) currently serves on the ADR Section's Council and served for several years as a Monroe County Probate Judge and then as the State Court Administrator for SCAO; (vi) the Chair will be appointing an ad hoc committee to address the issue of electronic wills.

6. Committee Reports

a. Committee on Special Projects (CSP) - Nathan Piwowarski: Mr. Piwowarski reported that the CSP discussed Draft 8 of a bill to amend 1991 PA 133, entitled “Recording Trust
Agreement or Certificate of Trust Existence and Authority, which Draft was included with the meeting materials. The Committee’s motion is:

The Probate and Estate Planning Section supports Draft 8 of a bill to amend 1991 PA 133, entitled “Recording Trust Agreement or Certificate of Trust Existence and Authority (with certain typographical changes); and empowers the Chair of the Section’s Legislative Development & Drafting Committee to consent to non-substantive modifications to the Draft.

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, 0 opposed to the motion, 0 abstain, and 7 not voting. The Chair declared the motion approved.

Mr. Piwowarski also reported on the status of the EPIC Omnibus proposed legislation, and highlighted (i) the Committee’s discussion on SB 905; (ii) that Rep. Elder will sponsor such legislation; (iii) the Committee’s discussions regarding the definition of “record” and “signed”; (iv) the Committee’s discussions regarding an attorney-in-fact’s ability to establish a trust for the principal; (v) small estates; and (vi) who is a “qualified trust beneficiary” under the Michigan Trust Code.

b. Premarital Agreements Committee - Christine Savage: Ms. Savage reported that the Committee has reviewed the Uniform Premarital and Marital Agreements Act and HB 4751, which were included with the meeting materials, Ms. Savage also noted that A Brief Analysis of Michigan Law in the Aftermath of the Allard Decision and the Uniform Premarital and Marital Agreement Act was included with the meeting materials. Ms. Savage led a discussion regarding premarital agreements. Following discussion, the Chair requested that the Committee present its recommendations for Michigan's response to the UPMAA during the Committee on Special Projects at the Council’s June, 2018 meeting.

c. Outreach Committee - Kathleen M. Goetsch: Ms. Goetsch discussed the report of the Committee which was included with the meeting materials. Following discussion, and on recommendation of the Committee, the Chair stated that the remaining pamphlets could be taken to the annual ICLE Probate Institute for distribution without charge; without objection from the Council, the Chair asked the Committee to develop a plan for free distribution, and execute such plan.
d. Tax Committee - Mike Shelton: Mr. Shelton gave the report of the Committee, including HB 5443, repealing the Michigan Estate Tax. Following discussion, the Chair stated that the Council would take a “wait and see” approach to the legislation.

e. Electronic Communications Committee - Mike Lichterman: Mr. Lichterman reported that Section members were notified in February and in March that the listserv was being terminated, and that Section communications would be moving to SBM Connect. Mr. Lichterman reported that, in response to his invitation to Section members for questions and comments, he had received very few comments, most of which related to how to use SBM Connect. Two issues have yet to be resolved: (i) how can the listserv archive be moved to SBM Connect; and (ii) how to allow communication for Section members who have not authorized the State Bar to make their email addresses public; the Committee is working on these issues, as well as further publicizing the move to SBM Connect, and education for members on how to use SBM Connect. At the May Probate Institute in Acme Mr. Lichterman will provide an educational presentation on how to use SBM Connect. Ms. Teahan will provide the same presentation at the June Probate Institute in Plymouth.

f. Guardianship, Conservatorship, and End of Life Committee - Rhonda Clark-Kreuer: Ms. Clark-Kreuer updated the Council on the status of SB 713 (regarding visitation of vulnerable adults). The Committee continues to address this matter, and Ms. Clark-Kreuer referred to materials authored by Josh Ard which were posted to SBM Connect. The Chair stated that the Section has taken a public policy position on SB 713, and that the Section’s public policy position should be highlighted to the Elder Law Section and the Michigan Probate Judges Association.

7. Written Reports Without Oral Presentation - The Chair noted the several reports that were included with the agenda materials.

8. Other Business

a. The Chair described the upcoming ADR Summit, and reported that Andy Mayoras will attend on behalf of the Section.

b. Mr. McClory reported on the status of the e-filing project, including that (i) there will be one portal for all e-filing; (ii) e-filing will be introduced in groups of counties; and (iii) the input of the various e-filing user groups (such as probate practitioners) will be sought, but the project is not ready to solicit such input yet.
There was no other business offered or requested.

9. Adjournment: seeing no other matters or business to be brought before the meeting, the Chair declared the meeting adjourned at 11:50 am.

Respectfully submitted,
David P. Lucas, Secretary