MINUTES OF THE MEETING OF THE COUNCIL
OF THE PROBATE AND ESTATE PLANNING SECTION

November 11, 2006    10:30 a.m.
University Club, East Lansing, Michigan

I. The meeting was called to order by the chair, Douglas A. Mielock, at 10:30 a.m.


B. Council Officers and Members Present:
   Douglas A. Mielock   Harold G. Schuitmaker
   Nancy L. Little     George A. Cooney, Jr.
   Daniel E. Cogan     Amy N. Morrissey
   John R. Dresser     Richard J. Siriani
   George W. Gregory   James B. Steward
   Mark K. Harder      Thomas F. Sweeney
   Ellen Sugrue Hyman  Marlaine C. Teahan
   Shaheen I. Imami    Joan C. Von Handorf


III. Introduction of Guests: All attendees, including guests, introduced themselves.

IV. Secretary’s Report: The minutes of the October 21, 2006 meeting were approved.


VI. Chairperson’s Report: Douglas Mielock introduced Catherine O’Connor and Victoria Kremski, from the State Bar, and they led a lively information and discussion session concerning the unauthorized practice of law (“UPL”). It is noted that the Probate Section is concerned about UPL with trust mills, etc. and that such practices are doing harm to the general public. The purpose of
trying to stop the trust mills is not to better attorneys’ pockets but to help the public. Michigan does not have a criminal penalty for UPL, but only civil penalties. Please refer to the attached information on UPL.

Douglas Mielock reported on Senate Bill 1396 (Notice to Credit Reporting Agencies) and after discussion, a motion was made by Harold Schuitmaker to oppose this legislation. Although the intent is good it creates more problems than it solves. The motion was seconded by George Cooney. Vote: Council members 16 yes, none against, four absent. Motion carried

Senate Bill 1272 (Criminal background checks for Guardians and Conservators) was discussed and the Council was in general agreement with the position of the State Bar to oppose, in principal.

Senate Bill 1266 (Licensed Attorneys as Notaries) was discussed. The Board of Commissioners of the State Bar unanimously voted to support, in principal, this bill, which would automatically make licensed attorneys Notary Publics.

VII. Report of the Committee on Special Projects: Mark Harder reported that Sections 401 - 409 of the proposed Michigan Trust Code were approved by the CSP. Mark Harder moved to accept the report and it was seconded by Daniel Cogan. Vote: unanimous. Motion carried

VIII. Standing Committee Reports

A. Internal Governance

1. Budget - Harold Schuitmaker, chair: No further report
2. Bylaws - Marilyn K. Lankfer, chair: No report
3. Michael Irish Sward - Brian V. Howe, chair: No report
4. Long-Range Planning - Lauren M. Underwood, chair: No report
5. Nominations - Henry M. Grix, chair: No report
6. Relations with the State Bar - John R. Dresser, chair: It was announced that Janet Welch is the interim State Bar Director, and all insurance programs are being reviewed.

B. Education & Advocacy Services for Section Members
1. **Amicus Curiae** - *Mark K. Harder, chair*: No report

2. **Continuing Education & Annual Probate Institute** - *Nancy L. Little, chair*: An Agenda for the Annual Probate Institute was handed out.

3. **Section Journal** - *Nancy L. Little, chair*: No further report

4. **State Bar Journal** - *Sebastian V. Grassi, Jr., chair*: No report

5. **Pamphlets** - *Ellen Sugrue Hyman, chair*: Pamphlets are being reviewed.


7. **Committee on Special Projects** - *George W. Gregory and Doug G. Chalgian, co-chairs*: No further report

C. **Legislation and Lobbying**

1. **Legislation** - *Harold Schuitmaker and John R. Dresser, co-chairs*: The Chairman appointed a committee consisting of Douglas A. Mielock, James B. Steward, Sebastian V. Grassi, Jr., and Douglas Stein to make a recommendation as to the Section’s position on the proposed legislation to abolish the Rule Against Perpetuities.

2. **Michigan Trust Code** - *Mark K. Harder, chair*: Mark Harder states that he is e-mailing the Michigan Trust Code proposals. The next meeting will be at 8:30 a.m. and Sections 412 - 417 will be discussed.

3. **Statute of Repose** - *John A. Scott*: Becky Beckler, from Public Affairs Association, has contacted John Scott concerning attaching the Probate Council’s version of the Statute of Repose to the pending legislation for a Statute of Repose for Engineers and Land Surveyors (House Bill 6437). A motion was made by Harold Schuitmaker, and seconded by George Gregory, to add attorneys to the bill and that the Probate Council’s latest wording for its’ Statute of Repose, incorporating the concept that the last date of representation begins the Statute of Repose and not the date of discovery, be attached to House Bill 6437. The motion was carried unanimously.
D. Ethics, Professionalism and Standards

1. **Ethics** - *Marilyn A. Lankfer, chair*: No report

2. **Unauthorized Practice & Multidisciplinary Practice** - *Thomas F. Sweeney, chair*: No further report

3. **Specialization and Certification** - *Shaheen I. Imami and Richard A. Shapack, co-chairs*: No report


E. Administration of Justice

1. **Contested and Uncontested Probate Proceedings** - *Amy N. Morrissey, chair*: Amy Morrissey passed out documents concerning MCL 600.871 and Court Rule MCR 5.307 relating to inventory fees. It was recommended that the Court Rule be changed to conform with the Oakland County case. There was further discussion to add language to the Statute to further define value and secured interests. This was sent back to the Committee for further review.

2. **Uniformity of Practice** - *Sebastian V. Grassi, Jr. and Joan Von Handorf, co-chairs*: The survey results were to be discussed with the Committee at lunch.

F. Practice Issues, Related Areas & Liaisons

1. **Charitable Giving/Exempt Organizations** - *Robin D. Ferriby, chair*: No report

2. **Estate Gift Tax** - *George W. Gregory, chair*: No report


5. **Business Law and Business Section Liaison** - *John R. Dresser, chair*: John Dresser mentioned that the first annual Family Business Institute was very well attended.

6. **Court Rules and Forms** - *Harold Schuitmaker and Joan Von Handorf, co-chairs*: No report
7. **Elder Law/Elder Law Section Liaison** - *Josh Ard*: No report

8. **Family Law/Family Law Section Liaison** - *Patricia M. Ouellette*: Pat Ouellette stated that the Section was opposed to the bill to eliminate dower, and that any new bill should be gender neutral. It was discussed that possibly a Constitutional amendment would be needed to eliminate dower. It was proposed that we work more closely with the Family Law Section.


10. **Tax Section Liaison** - *Shirley A. Kaigler*: No report

11. **State Bar Liaison** - *Francine Cullari*: No report

12. **Trust/Michigan Bankers Association Liaison** - *Daniel E. Cogan*: No report

13. **Michigan Probate Judges** - No report

** IX. Other Business:** None

** X. Hot Topics:** None

** XI. Adjournment** - the meeting was adjourned at 12:00 noon.

Respectfully submitted,

Harold Schuitmaker
NEXT MEETING

Saturday, January 20, 2007

University Club
East Lansing, Michigan

MEETING OF
COMMITTEE ON SPECIAL PROJECTS AT 8:30 A.M.

COUNCIL MEETING AT 10:30 A.M.