

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

November 22, 2008 10:00 a.m.  
University Club, East Lansing, Michigan

I. The meeting was called to order after a one hour meeting of the Committee on Special Projects, by Nancy L. Little at 10:00 a.m., at the University Club, East Lansing, Michigan.

II. A. **Council Members Excused:**

Harold Schuitmaker  
Shaheen Imami  
Patricia M. Ouellette

B. **Other Council Members Absent**

Robin D Ferriby

B. **Council Officers and Members Present:**

Nancy L. Little  
Douglas A. Chalgian  
George W. Gregory  
Mark K. Harder

Josh Ard  
Ellen Sugrue Hyman  
Marilyn A. Lankfer  
James B. Steward  
Robert P. Tiplady, II

Hon. Kathryn A. George  
Amy N. Morrissey  
Rebecca A. Schnelz  
Thomas F. Sweeney  
Marlaine Teahan  
Richard J. Siriani  
Robert M. Taylor

J. David Kerr  
Hon. David M. Murkowski

Susan M. Allan

**Ex-Officio Members of the Council**

Douglas A. Mielock

**C. Others Present:**

John Dresser	Ken Seavoy
Tess Sullivan	Rhonda Clark
Jill Goodell	Lorraine New
Carol Sewel	Kathleen Goetsch
Rick Mills	Emily Taylor
Constance L. Brigman	Amy Tripp
Rebecca Bechler	J. V. Anderton
Derek A. Walters	Kristin D. Arnett
Melisa Mysliwicz	James P. Spica
Hon. Phillip E. Harter	Jeanne Murphy

- III. **Introduction of Guests:** All attendees, including guests, introduced themselves.
- IV. **Secretary's Report:** The minutes of the November 1, 2008 meeting which were previously circulated were approved as corrected with the consent of all present upon a motion made by Mark Harder and seconded by Tom Sweeney.
- V. **Treasurer's Report:** Mark K. Harder reported that the State Bar was running late due to the closing of its books for the fiscal year, so he had no new information since the last report. He suggested that if people got reimbursement requests to him by Wednesday and if things went according to plan the State Bar would cut a check the following Friday. He reviewed purchasing procedures and that if the section could be billed, we could provide our tax identification number and avoid sales tax on many purchases. The State Bar tax identification number is 38-6006823. We need a member of the University Club to host our meetings at the University Club. Doug Chalgian has volunteered to do so. Doug stated that he did agree to do so with the understanding that the Section will pay for the meetings.
- VI. **Chairperson's Report:** Nancy Little pointed out that Jeanne Murphy of ICLE was present at the meeting. ICLE is presenting short PowerPoint presentations, often ten ideas in ten minutes. Jeanne presented them as a potential Section membership for those presentations the Section co-sponsors. ICLE is flexible on the ten ideas in ten minutes and is willing to take fewer. A general discussion of the on-line PowerPoint presentations followed. Potential topics included: Defending Your Fees in Probate Court; Identifying Vulnerable Adults; Transfer Taxes on Real Estate; Uncapping of Real Estate; and Medicaid. Some people volunteered and Jeanne Murphy noted their

names. Nancy discussed e-blasts as a Section benefit. The Section sent out last month's Tax Nugget as an e-blast. She has had positive feedback and no negative feedback.

VII. **Report of the Committee on Special Projects:** The Guardianship & Conservatorship Committee will work with the Jurisdiction Committee on Guardianship & Conservatorship issues which involve multiple states. The common areas of interest is how it works in other states and the NCCUSL Uniform Act and what would work best in Michigan. If anyone is interested in this area they should see Doug Chalgian or Constance L. Brigman. Robert Tiplady is looking into Unauthorized Practice of Law and Protective legislation. The Real Property liaison, is being asked to look into issues involving residential property and uncapping and the use of nominees by trustees as a reason to deny the personal residence property tax exemption. Although there is interest in a Statute of Repose, no one seems interested in working on it. The committee was still looking for volunteers to work on projects from last month's meeting, and although some emerged, more were needed.

VIII. **Standing Committee Reports –**

A. **Internal Governance**

1. **Budget** – George W. Gregory, chair, reported there was no report.
2. **Bylaws** – Marilyn Lankfer, chair, reported there was no report.
3. **Michael Irish Award** – Nancy Little reported that it had been awarded to Susan S. Westerman at the Council's dinner on October 31, 2008, and that Susan S. Westerman was surprised and touched at the time and has since sent a nice thank-you note.
4. **Long-Range Planning** – Douglas G. Chalgian reported there was no report.
5. **Nominations** – Michael J. McClory, chair: No report received.
6. **Relations with the State Bar** – Thomas F. Sweeney, chair reported that the State Bar has charged all Sections to (1) promote and publicize actions that attorneys in each Section undertake for the citizenship and large, and (2) provide assistance to legislators. Ellen Sugrue Hyman called him about pointing out the Pamphlets on Guardianships & Conservatorships. The Pamphlets Committee is considering an expansion of their scope. Tom suggested the media as a way to gain publicity. He is considering a series of articles on a particular subject. The first is an alternative to guardianships.

George Gregory suggested that this be coordinated with the Elder Law and Disability Rights Section. Tom thought he would start with an article on personal care. Nancy Little noted that the State Bar will assist with publicity. Judge Phillip Harter stated that he would be willing to post articles sponsored by the Section on his web site. Others mentioned the use of the Section website. Tom explained that he would like to start with a local chain and then take it to other publications and then post it after no more publications were interested. He might give credit to one or more of the publications. The Council then discussed ways of the Section establishing a web site for the public, and ways of getting out the word about such a web site.

7. **Annual Meeting** – Harold Schuitmaker, chair: No report received.

**B. Education & Advocacy Services for Section Members**

1. **Amicus Curiae** – Ellen Sugrue Hyman, chair reported that Douglas G. Chalgian has a hearing on an out of state guardianship in Oakland County Circuit Court. This is an appeal from the Oakland County Probate Court. Ellen also reported that Tracy L. Sonneborn, an Assistant Attorney General of the Michigan Attorney General's Office is pursuing a case of a third party beneficiary in Macomb County Probate Court where a care-giver allegedly had an improper influence on an estate plan.
2. **Continuing Education & Annual Probate Institute** – Douglas G. Chalgian, chair reported that he had a solid program and was working with a number of sponsors. He was having some difficulty with the Dennis Museum, and unless it is resolved soon he will look into alternative sites. Greenleaf would be sponsoring the speakers dinner again this year.
3. **Section Journal** - Nancy L. Little, chair reported that at the moment the electronic delivery is the only way it is provided to members of the Section who have only been admitted to practice in Michigan for less than six years. She has asked the State Bar if there is a way to have people opt out of hard copy when they pay their dues, but has not received a response. She is considering moving to a decade of practice. The next issue will come out by the end of the year.
4. **State Bar Journal** – Amy M. Morrissey, chair reported there was no report.

5. **Pamphlets** - Ellen Sugrue Hyman, chair asked for feedback about the pamphlets. A discussion of expanding them to PowerPoint followed. Responding to a suggestion, Ellen stated she would check with the State Bar if we can track requests and/or downloads. A discussion about making them more available to the public followed including making them available on web sites such as Judge Phillip Harter's Calhoun County web site.
6. **Electronic Communication** – William “Josh” Ard, chair, discussed the cost of e-blasts and alternative methods of getting the same results.

C. **Legislation and Lobbying**

1. **Legislation** - Harold Schuitmaker was excused, but at his request George Gregory reported that Harold and George thought that SB 1599 (a copy is attached) was probably dead on arrival. A discussion of the Power of Attorney Act followed. The Section does not like the current bill, and would prefer nothing. We thought it was dead for the year. Rebecca Bechler of Public Affairs Associates, the Section's lobbyist, responded to an inquiry that anything can happen in the lame duck session.
2. **Power of Attorney** – Daniel P. Marsh, chair: No report received.
3. **Michigan Trust Code** - Mark K. Harder, chair, reported that Tonya Schuitmaker unexpectedly introduced the blueback copies of the Michigan Trust Code. We had discussed introducing it this session in order to see if groups were interested that we did not anticipate. Judge David Murkowski indicated that a Committee of the Michigan Probate Judges' Association has met and narrowed their issues down to the following sections of the proposed Trust Code: 108, 111, 601, 604, 809, and 1004. He was not comfortable sharing the Judges Association's Committee's concerns until the Board of the Michigan Probate Judges' Association meets. The Board might have fewer or more concerns, and the Board speaks for the Association. He hopes to have a response by the December 13<sup>th</sup> meeting of the Council. A discussion of the bluebacks followed. Many questions were asked as to what happened, why it happened, the impact on other interested parties and the reactions of other interested parties. The Michigan Trust Code Committee has sent comments to the Legislative Service Bureau on what is now House Bills 6716 through 6720. Deadlines and procedural mechanics for submitting additional comments or changes were discussed. The Council in the past had authorized the MTC Committee to approve non-substantive changes. However, we expect substantive suggestions from the Michigan Probate

Judges' Association. Mark Harder asked for the officers to approve substantive changes if the situation warrants. A motion was made by Mark Harder and seconded by Douglas Mielock and subsequently amended with their consent during the extensive discussion which followed. Judge Murkowski asked about dates and mechanics and compared them with the Michigan Probate Judges' Association meeting dates and the schedule of the Council and the needs of the Legislative Service Bureau. A motion to table the resolution failed. It was upon the unanimous vote of the Council:

RESOLVED: The Officers of the Council may approve substantive changes to the Michigan Trust Code after the December 13, 2008 meeting.

FURTHER RESOLVED: No changes shall be made by the Officers prior to the December 13, 2008 meeting and any changes made after the December 13, 2008 meeting shall be reported to all of the Council Members on the Council listserv as soon as they are made and shall be placed on the agenda of the next meeting of the Council.

Mark Harder circulated a two page summary of the Michigan Trust Code. A lengthier version is on the Section website at [http://michbar.org/probate/pdfs/MTCstatusreport\\_0906.pdf](http://michbar.org/probate/pdfs/MTCstatusreport_0906.pdf). Mark Harder asked all present to support and to get the public to support the Michigan Trust Code.

In response to inquiries to Rebecca Bechler, she responded that there was no reason to expect hearings this year. Nancy Little expressed regret that the bills were introduced in a way which might make other groups nervous about our intentions. We do want input from the Probate Judges Association and the Michigan Bankers Association. She volunteered to provide a speaker for the Judges. She also asked those present to support the Michigan Trust Code.

There was a discussion about following up with Representative Tonya Schuitmaker. It was decided that Rebecca Bechler, our lobbyist would do so.

#### D. **Ethics, Professionalism and Standards**

1. **Ethics** – J. David Kerr, chair, reported that there was no report.
2. **Unauthorized Practice & Multidisciplinary Practice** – Robert Taylor, chair, reported that there was no report.

3. **Specialization and Certification** – James B. Steward, chair, reported that there was no report.
4. **Practice Management** – Patricia M. Ouellette, chair, indicated that there was no report.

E. **Administration of Justice**

1. **Contested and Uncontested Probate Proceedings** - Shaheen I. Imami, co-chair, was excused and Douglas G. Chalgian, co-chair, reported there was no report.
2. **Uniformity of Practice** – Derek A. Walters, chair, reported that there was no report.

F. **Practice Issues, Related Areas & Liaisons**

1. **Charitable Giving/Exempt Organizations** - Robin D. Ferriby, chair: No report received.
2. **Transfer Tax** –Thomas F. Sweeney, chair, indicated that Stephen Leimberg’s listserv had an article written by Howard Zaritsky which indicated that last month’s Tax Nugget missed that Barak Obama’s proposal in the estate tax credit equivalent would be adjusted for cost of living.
3. **Guardianships and Conservatorships** – Constance Brigman, chair, submitted a written report. It is attached.
4. **Business Law and Business Law Section Liaison** - John R. Dresser, chair, reported that the new chair of the Business Law Section organized a committee on sustainability issues and how sustainability could help Michigan businesses. The Business Law Section will work with other organizations, such as the Michigan Association of CPAs, and present a program on sustainability in March or April. Governor Granholm is interested. The Environmental Law Section is going to create a separate committee on sustainability to help Michigan businesses. Topics include suppliers trading in carbon credits. Nancy Little asked that John draft a blurb for our Section Journal.
5. **Court Rules and Forms** – Marlaine Teahan, chair, reported that she had no report.

6. **Elder Law/Elder Law and Disability Rights Section Liaison** – Amy Tripp, chair, reported that the Uniform Guardianship Committee was discussed at the Elder Law and Disability Rights Section Council. They saw no reason to create a separate committee as the Probate and Estate Planning Section Committee on this topic has two members who are very active in Elder Law and Disability Rights and her presence at our meetings as Liaison will keep the Elder Law and Disability Rights Section informed. The Estate Recovery Bill is a hot topic at their Section. The Federal government has rejected Michigan’s law. They think nothing will be done until Barak Obama is sworn in, and then they do not know what will happen. Nancy Little asked about the disability group from the State Bar and provided information about it. Amy said she would look into it.
7. **Family Law/Family Law Section Liaison** - Patricia M. Ouellette indicated that she had no report.
8. **Real Property Law/Real Property Section Liaison** – Daniel P, Marsh. No report submitted.
9. **Taxation Section Liaison** – Lorraine F. New, chair, reported that the Taxation Section Committee Meetings are primarily continuing education sessions. They are not on that Section’s web site, and one needs to join both the Taxation Section and the relevant Committee to learn about them.
10. **State Bar Liaison** – Richard Siriani reported that he had no report
11. **Trust/Michigan Bankers Association Liaison** – Susan Allan indicated that she had no report.
12. **Michigan Probate Judges** - Hon. Kathryn A. George indicated that she had no report.

**IX. Other Business:**

The consensus was to continue with e-blasts, although Nancy Little was in favor of Josh Ard verifying we had a better way to do so.

**X. Hot Topics:**

No one brought up any hot topics at the appropriate time.

Nancy Little reminded everyone that the next meeting would be at the State Bar Offices, 306 Townsend Street, Lansing.

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

Respectfully submitted,

George W. Gregory, Secretary

# SENATE BILL No. 1599

November 6, 2008, Introduced by Senator VAN WOERKOM and referred to the Committee on Judiciary.

A bill to amend 1998 PA 386, entitled  
"Estates and protected individuals code,"  
(MCL 700.1101 to 700.8102) by adding section 3210.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

SEC. 3210. (1) AN INDIVIDUAL MAY, IN A WRITING SIGNED AND DATED BY THE INDIVIDUAL, DIRECT THE FUNERAL ARRANGEMENTS TO BE PROVIDED AFTER HIS OR HER DEATH AND THE HANDLING AND DISPOSITION OF HIS OR HER REMAINS. THE PERSON WHO HAS THE RIGHTS AND POWERS TO MAKE DECISIONS REGARDING THE FUNERAL ARRANGEMENTS AND THE HANDLING AND DISPOSITION OF THE REMAINS UNDER SECTIONS 3206 TO 3208 SHALL MATERIALLY FOLLOW THE DIRECTIONS TO THE EXTENT ALLOWED BY LAW, IF BOTH OF THE FOLLOWING REQUIREMENTS ARE MET:

(A) THE DIRECTIONS ARE SUFFICIENTLY CLEAR, COMPLETE, AND DETAILED SO AS TO NOT PRESENT ANY MATERIAL AMBIGUITY.

# SUMMARY OF KEY POINTS CONCERNING THE MICHIGAN TRUST CODE

PREPARED BY THE MICHIGAN TRUST CODE COMMITTEE

FALL 2008

## Background

The MTC drafting effort was led by Probate & Estate Planning Section of the State Bar of Michigan and Michigan Bankers Association Trust Counsel Committee

The MTC is the end product of a painstaking, comprehensive 5 year drafting process with representation from diverse constituencies

## The Michigan Trust Code provides important benefits to Michigan's citizens

- ***Provides certainty***
  - Many questions currently are unanswered because of sparse case law and incomplete and antiquated statutes
  - The Michigan Trust Code will become part of the enacting legislation for EPIC, thereby providing a single source for answers to questions involving estates and trusts and the settlement of decedent's estates.
- ***Modernizes the law of trusts***
- ***Provides uniformity with the laws of other states***
  - Based on the Uniform Trust Code ("UTC")
  - Twenty states (including Ohio, Florida, and Arizona) and the District of Columbia have enacted the UTC or a variation of it.
  - Enacting legislation is currently pending in Connecticut, Massachusetts, and Oklahoma.
- ***Creates a level economic playing field for Michigan banks***
  - Michigan residents are free to appoint persons and institutions in UTC states such as Ohio, Florida, and Arizona as trustees of their trusts and to subject the trusts to the laws of the states where the trustees are located.
  - When they do so, however, they remove the administration and the management of these trusts to these other jurisdictions.
  - The MTC neutralizes the attraction of other states as places to domicile trusts, thereby retaining the management and administration of these trusts, and the jobs this work brings.

## The MTC preserves well established Michigan law

- 30 provisions are essentially consistent with either existing Michigan common law or current statutes.
- 48 sections involve modification of sections of the UTC or adding sections so the MTC more closely follows existing Michigan law

- 34 sections represent common sense “gap fillers” that are consistent with the law or practice in Michigan today
- Only 3 provisions represent significant departures from current law (see below).

**The MTC makes important changes to the UTC to preserve longstanding Michigan law**

- Provisions for giving notice of the existence of trusts and accountings to beneficiaries follow current EPIC provisions, not the UTC.
- Preserves voluntary trust registration.
- Provisions dealing with the rights of creditors of trust beneficiaries follow current Michigan law and the Restatement (Second) of the Law of Trusts and rejects most of UTC Article 5.
- Preserves existing law permitting a decedent’s creditors to bring claims against the decedent’s revocable living trust when no probate proceeding exists or the probate estate is inadequate.
- EPIC provisions dealing with environmental matters, tax matters, and payment provisions have each been retained.
- Preserves longstanding Michigan law with respect to recovery of attorneys fees by trustees and beneficiaries

**The MTC makes few significant changes to Michigan law**

- Settlers of charitable trusts will have standing to enforce the terms of the trusts.
- Standard of capacity to create revocable trusts will be that required to make a Will, thereby using a consistent standard for the two instruments most commonly used to pass property at death.
- Trusts established after the effective date of the Code will be presumed to be revocable unless they state they are irrevocable.

**The MTC fills important gaps in current law**

- EPIC rules related to ademption, exoneration, and penalty or “no contest” provisions that are applicable to Wills will apply to trusts.
- Representation provisions found in EPIC sections 1209 and 1403 have been extended to nonjudicial settings.
- Provides a statutory basis to terminate small or uneconomic trusts.
- Provides a statute of limitations for challenges to the validity of revocable trusts used as Will substitutes.
- Fills numerous gaps in current law related to accepting or declining trusteeships, filling vacancies, resignation, and removal of trustees.
- Provides comprehensive rules related to the duty of loyalty of trustees.
- Provides rules to govern trust protectors.
- Authorizes and validates the use of certificates of trust beyond the area of real estate transactions.

Smith v Khoury 481 87114 519

By Candace Crowley

This issue of Connections marks the first communication to new leaders of the 133 affinity bar associations and the 39 State Bar sections working to improve the administration of justice in Michigan during the 2008-2009 Bar leadership year. Welcome aboard, new leaders, and a warm hello to those of you who remain at the head of your organization!

Connections is meant to improve communications among all of us so we can learn from each other, use our resources most effectively, ask for help from each other, and find allies to enlist in common goals. The pictures are meant to help us visualize your activities and stimulate thinking as to whether a featured event is something your audience is ready for. "Out and About" showcases your programs and introduces your leaders—we are always looking for information, so send us ideas to include in upcoming issues.

One of the most important messages from the State Bar is that we are here to support your work and to help you succeed. We can assist you in finding partners, developing materials, or strategizing policy work. Our presidents are always open to supporting your events, and this year is no exception. Ed Pappas is a friendly but competitive person and is eager to attend more events than any of his predecessors. Please invite him to join you at a meeting, discussion, or celebration. I can help you with his calendar, so give me a shout. Most of all, let me know how the State Bar can help you with your work this year.

### Looking for Interested Attorneys to Participate in Court Access Survey

The Justice Initiatives Committee and its disabilities work group are looking for attorneys who are willing to participate in a survey to determine the accessibility of courts for persons with disabilities. A note to this effect was sent to section leaders earlier this year, but the work group is still looking for two populations: (1) attorneys who have represented clients with disabilities and (2) attorneys who would voluntarily identify themselves as people with a disability that requires

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accommodation. Those who are identified should be willing to participate in a survey to identify barriers/challenges/issues.

If you or your members can help identify attorneys within these populations, the disabilities work group would be very appreciative. Please contact Katy Conklin,

As we know from the section chair orientation on October 2, much energy, sharing of ideas, and potential policy and program partnerships can be realized through healthy sharing of information with each other. A section chair and co-chair listserv has been set up for the purpose of continuing conversations, posting inquiries about section activities and interest in policy or program partnerships, and sharing information about key section events. You can access the listserv by typing \_\_\_\_\_ in the address line of your e-mail screen. We encourage section leaders to use the listserv.

One way the State Bar keeps connected with the work of the sections is through in-person reports to the Board of Commissioners. A calendar of Board meetings is included with this issue of Connections. Please let Candace Crowley know if you would like to make a brief presentation to the Board and keep your section's challenges and accomplishments in front of Bar leadership.

Each section has a Board of Commissioner liaison appointed to keep communication lines open and to assist sections in achieving their goals. A list of 2008-2009 liaisons is available on the State Bar website. Please include your liaison on your listservs and newsletter mailing lists, and be sure to send notices of council meetings to your liaison. Your work is important to key strategic decisions made by the Board; having an informed liaison will help those decisions be responsive to section interests.

Like many State Bar sections, the Taxation Section has a robust scholarship and grant award program that recognizes the work of individuals and programs whose accomplishments follow the goals of the section. Earlier this year, the section identified seven programs and 17 individuals whose exemplary work was rewarded with a financial stipend. Five of the grants were awarded to programs that are part of the Access to Justice program, and those awards were directed through the ATJ Fund. Kudos to the Taxation Section for using the ATJ Fund to make its grants. For more information on how to use the ATJ Fund, contact Linda Rexer at \_\_\_\_\_, (517) 346-6401.

The Michigan Lawyers Auxiliary and the Public Outreach Committee of the State Bar announce the availability of an updated *live and the law* booklet for young people in Michigan. Janet Welch's foreword explains that "The State Bar of Michigan offers this booklet to help you be aware of your rights and responsibilities under the law and to be a responsible citizen of Michigan and the United States. It

# Guardianship and Conservatorship Committee

CONSTANCE BRIGMAN, CHAIR  
TEL 616.538.7970 FAX 616.582.5927

connie@brigmanlaw.com

## REPORT FOR NOV. 22, 2008 MEETING OF Probate Council and Special Projects Committee

In addition to myself, the Guardianship and Conservatorship Committee has the following members:

Kristen D. Arnett ([kris.arnett@fosterzack.com](mailto:kris.arnett@fosterzack.com))

Rhonda M. Clark-Kreuer ([clarkkreuer@gmail.com](mailto:clarkkreuer@gmail.com))

Hon. David M. Murkowski ([david.murkowski@kentcountymi.gov](mailto:david.murkowski@kentcountymi.gov))

Rebecca A. Schnelz ([schnelzr@oakgov.com](mailto:schnelzr@oakgov.com))

Amy Tripp ([tripp@mielderlaw.com](mailto:tripp@mielderlaw.com))

1. The Guardianship and Conservatorship Committee's mission is to identify and participate in arriving at practical solutions to perceived and actual abuses under current law and court rule. Increasingly, incapacitated adults have contacts with more than one state. A person may be domiciled in one state but physically present in another.
2. The Committee on Special Projects may undertake a project regarding recommending legislation that pertains to venue of a guardianship or conservatorship. That project will overlap with the mission of the Guardianship and Conservatorship Committee.
3. The Guardianship and Conservatorship Committee has before it the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act. The UAGPPJA deals only with jurisdiction of adult guardianships relating to multiple jurisdiction, transfer, and out of state recognition. It has been endorsed by the National Guardianship Foundation, the National College of Probate Judges, and the American Bar Association.
4. The Guardianship and Conservatorship Committee asks for the Council's authorization to review the UAGPPJA and to form a recommendation for the Council and the Committee on Special Projects. A summary of the key parts of the UAGPPJA follows:

Home state. The state in which the person was physically present for at least 6 consecutive months immediately before commencing the proceeding.

Significant connection state. The state in which the person has a significant connection other than mere physical presence, and where substantial evidence concerning the person is available. Some of the factors that may be considered in deciding whether the person has a significant connection include:

Location of their family and others required to be given notice.

Length of time the person was physically present in the state (at any time).

Location of the person's property.

Other ties to the state such as voting registration, filing of state or local tax returns, vehicle registration, driver's license, social relationships, and receipt of services.

Jurisdiction for the protective proceeding is determined using a three-level priority: (1) the home state, (2) the significant-connection state, and (3) other jurisdictions. Here is how it works:

The home state has primary jurisdiction to appoint a guardian or conservator or to enter another protective order. This priority continues for up to six months following a move to another state.

The significant-connection state has jurisdiction if: (1) the person has not had a home state within the past six months (2) the home state declined jurisdiction, or (3) no proceeding has been commenced in the home state or another significant connection state, no objection to the court's jurisdiction has been filed, and the court concludes that it is the most appropriate forum.

Other jurisdictions. A court in another state has jurisdiction only if the home state and all significant states have declined jurisdiction or the person does not have a home state or significant connection state.

NOTE: These are general principles. If a person is physically present in a state and there is an emergency, then the local court can appoint a guardian. A court in a state where the person has real or tangible personal property can appoint a conservator or issue another protective order with respect to that property. Lastly, a court without jurisdiction as above may consider a petition to accept the transfer of an already existing guardianship or conservatorship from another state.

Transfers to another state require orders from the transferring state and the receiving state. The transferring court must find that the person will move permanently to another state, that adequate arrangements have been made for the person or their property in the receiving state, and that the receiving state will accept the case. The transferring state will not dismiss their case until an order from the receiving state has been filed. The receiving state must give deference to the transferring court's finding of incapacity and its selection of the guardian or conservator.

A guardian or conservator may register their orders in other states. Registration authorizes the guardian or conservator to exercise all powers enumerated in the order except as prohibited by the laws of the registration state.

SUMMARY: The UAGPPJA helps to resolve issues concerning original jurisdiction, registration, transfer and out-of-state enforcement. This summary is a synopsis of a summary prepared by the NCCUSL.

Constance Brigman, Chair

**From:** NGA Executive Director [ngaexecutivedirector@guardianship.org]

**Sent:** 11/08/2008 7:51 PM

**To:** Nancy Little; Doug Chalgian; George W. Gregory

**Cc:** Amy Morrissey; Siriani, Richard J.; NGA Executive Director

**Subject:** Re: UAGPPJA MI Drafts

Hello, everyone. I am responding from my National Guardianship Association email address.

I would be very happy to assist with moving the Uniform Act forward in Michigan. Please let me know how I can help.

Additionally, I can connect the Committee with a network of national leaders who can promote passage, including the appropriate people at the Uniform Law Commission.

Terry Hammond  
Executive Director  
National Guardianship Association

----- Original Message -----

**From:** Nancy Little

**To:** Doug Chalgian ; George W. Gregory

**Cc:** Amy Morrissey ; Siriani, Richard J. ; Terry W. Hammond

**Sent:** Monday, November 03, 2008 3:12 PM

**Subject:** RE: UAGPPJA MI Drafts

Yes, his information is:

Terry Hammond, Executive Director of the National Guardianship Association,  
[ngaexecutivedirector@guardianship.org](mailto:ngaexecutivedirector@guardianship.org)  
2207 Hancock Drive, Austin, TX 78756, Phone: 512-459-3000. Here is a link to the  
homepage: <http://www.guardianship.org>

Terry's address at his law office is 1020 Montana Avenue, El Paso, TX 79902; telephone  
915-534-7000, Fax 915-534-7672.

We also sent this info to the Guardianship and Conservatorship Committee

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**From:** Doug Chalgian [mailto:chalgian@mielderlaw.com]

**Sent:** Sunday, November 02, 2008 9:22 AM

**To:** George W. Gregory; Nancy Little

**Cc:** Amy Morrissey; Siriani, Richard J.

**Subject:** UAGPPJA MI Drafts

If you would like to attach these bills - now that the council has officially taken up a review.

I am not sure at this time whether there will be anything to report from the committee at the next council or csp meeting - but maybe.

Nancy - if you have contact information for the person at the National Guardianship Assoc., that would be great.

## 2008-2009 Committee Assignments

### **INTERNAL GOVERNANCE:**

Nancy L. Little, Chair  
Harold Schuitmaker, Chair-Elect  
Douglas G. Chalgian, Vice-Chair  
George W. Gregory, Secretary  
Mark K. Harder, Treasurer

### **Budget:**

George W. Gregory, Chair  
Nancy L. Little  
Mark Harder

### **Bylaws:**

Marilyn A. Lankfer, Chair  
Robert P. Tiplady

### **Michael W. Irish Award:**

Brian V. Howe, Chair  
Hon. Philip Harter  
Marilyn A. Lankfer

### **Long-Range Planning:**

Douglas G. Chalgian, Co-chair  
Lauren M. Underwood, Co-chair

### **Nominations:**

Michael McClory, Chair  
Douglas A. Mielock  
Lauren M. Underwood

### **Relations with State Bar:**

In addition to maintaining relations with the State Bar, this committee will work with the State Bar to develop a plan for our Section on the following issues: (1) civic education, (2) marketing/press releases, (3) working with the State Bar on its new initiative to publicize the good deeds of lawyers to the general public.

Thomas F. Sweeney, Chair  
John R. Dresser  
Michael J. McClory  
Amy Morrissey  
Derek A. Walters

**Annual September Meeting:**

Harold Schuitmaker, Chair

**EDUCATIONAL AND ADVOCACY SERVICES FOR SECTION MEMBERS**

**Amicus Curiae:**

Ellen Sugrue-Hyman, Chair

Melisa M. W. Mysliwiec

Derek A. Walters

**Continuing Education and Annual Probate Seminar:**

Douglas G. Chalgian, Chair

**Pamphlets**

Ellen Sugrue-Hyman, Chair

Rebecca A. Schnelz

James B. Steward

Marlaine C. Teahan

**Section Journal:**

Nancy L. Little, Chair

Melisa M. W. Mysliwiec

**State Bar Journal:**

Amy M. Morrissey, Chair

**Technology and Electronic Communication:**

William J. Ard, Chair

John R. Dresser

Marlaine C. Teahan

**LEGISLATION AND LOBBYING**

**Legislation**

John R. Dresser, Co-chair

Harold Schuitmaker, Co-chair

William J. Ard

George W. Gregory

Mark Kellogg

**Uniform Power of Attorney Act:**

Daniel P. Marsh, Chair

Susan Allen

William J. Ard  
Kristen Arnett  
Douglas G. Chalgian  
Daniel E. Cogan  
Kristen R. Gross  
Liam K. Healy  
James Lampertiuies  
Michele Marquardt  
Sanford J. Mall  
Deb Mitton  
Wendy M. Parr  
Ellen Sugrue- Hyman  
Derek A. Walters

**Michigan Trust Code:**

Mark K. Harder, Chair  
Daniel E. Cogan  
Douglas G. Chalgian  
David Kerr  
John Dresser  
Marilyn A. Lankfer  
Douglas A. Mielock  
Hon. David M. Murkowski  
John Sharp  
Bob Taylor  
Robert P. Tiplady  
James Spica  
Tess Sullivan  
Marlaine C. Teahan  
Prof. Lawrence Waggoner

**PROFESSIONALISM AND STANDARDS**

**Ethics:**

David Kerr, Chair  
Marilyn A. Lankfer

**Unauthorized Practice and Multidisciplinary Practice:**

Bob Taylor, Chair  
Shaheen I. Imami  
Patricia Ouellette  
Amy Tripp

**Specialization and Certification:**

James B. Steward, Chair  
William J. Ard  
George W. Gregory  
Wendy Parr

**Practice Management:**

Patricia M. Ouellette, Chair

**ADMINISTRATION OF JUSTICE**

**Contested and Uncontested Probate Proceedings:**

Shaheen I. Imami and Douglas G. Chalgian, co-chairs  
Kristen D. Arnett  
Hon. Kathryn A. George  
Rebecca A. Schnelz  
Lauren M. Underwood

**Uniformity of Practice:**

Derek A. Walters, Chair  
Rhonda M. Clark-Kreuer  
Cindy Rude

**PRACTICE ISSUES, RELATED AREAS AND LIAISONS**

**Committee on Special Projects:**

Amy M. Morrissey and Richard J. Siriani, co-chairs

**Charitable Giving/Exempt Organizations:**

Robin D. Ferriby, Chair  
Mark Kellogg  
Daniel P. Marsh  
Tracy Sonneborn  
Marlaine C. Teahan

**Transfer Tax:**

Thomas F. Sweeney, Chair  
George W. Gregory  
Marguerite Munson Lentz

Lorraine New  
Patricia M. Ouellette  
Christine M. Savage

**Guardianship and Conservatorship:**

Constance Brigman, Chair  
Kristen D. Arnett  
Rhonda M. Clark-Kreuer  
Hon. David M. Murkowski  
Rebecca A. Schnelz  
Amy Rombyer-Tripp

**Business Law and Business Law Section Liaison:**

John R. Dresser, Chair  
Daniel P. Marsh

**Elder Law and Liaison to Elder Law Section:**

Amy R. Tripp, Chair  
William J. Ard  
Melisa M. W. Mysliwicz

**Family Law and Liaison to Family Law Section:**

Patricia M. Ouellette, Chair

**Probate Judge's Association Liaison:**

Hon. Philip Harter  
Hon. Kathryn A. George  
Hon. Darlene A. O'Brien

**Real Property Law and Liaison to Real Property Law Section:**

Daniel P. Marsh

**State Bar Section to Section Action Team Liaison:**

Robert P. Tiplady, Chair

**Tax and Tax Section Liaison:**

Lorraine New, Chair

**Trust Institutions and Liaison with Michigan Bankers Association:**

Susan Allen, Chair  
Tess Sullivan

**Court Rules Committee:**

**Liaison to SCAO Forms Committee:**

Marlaine C. Teahan, Chair

Douglas G. Chalgian

Hon. Philip Harter

Ellen Sugrue-Hyman

Douglas A. Mielock

Mark R. Pasquali

Harold Schuitmaker

**Liaison to the State Bar:**

Richard J. Siriani

**Law School Liaison:**

William J. Ard