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

November 15, 2014
Lansing, Michigan

Minutes

I. Call to Order – The meeting was called to order by the Chair at 10:18 a.m.

II. Attendance. Guests were introduced.

A total of 4 officers and 13 members of the Council were present, representing a quorum.

A. The following 4 officers of the Council were in attendance:

Amy N. Morrissey, Chair
James B. Steward, Vice-Chair
Marlaine C. Teahan, Secretary
Marguerite Munson Lentz, Treasurer

B. The following 13 members of the Council were in attendance:

Susan M. Allan
W. Josh Ard
Christopher A. Ballard
George F. Bearup
Constance L. Brigman
Hon. Michael L. Jaconette
Mark E. Kellogg
David P. Lucas
Raj A. Malviya
Richard C. Mills
Lorraine F. New
Patricia M. Ouellette
Geoffrey R. Vernon

C. The following 6 officers and members were absent with excuse:

Rhonda M. Clark-Kreuer
Shaheen I. Imami, Chair Elect
Michele C. Marquardt
David L.J.M. Skidmore
James P. Spica
Nancy H. Welber

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

Robert D. Brower, Jr.
George W. Gregory
Phillip E. Harter
Michael J. McClory
Susan S. Westerman

E. The following guests were in attendance:
III. Minutes of October 25, 2014, Meeting of the Council. There being no corrections, the minutes of the October 25, 2014 Council meeting were approved as submitted.

IV. Treasurer's Report – Marguerite Munson Lentz. Ms. Lentz provided comments regarding her written report which included a reimbursement form and new instructions from the State Bar of Michigan. By next month, Ms. Lentz hopes to receive the first reports of this new fiscal year from the State Bar of Michigan to provide monthly reports for October and November. The Treasurer's report is included each month, along with reimbursement form and instructions, as part of the Agenda.

V. Chairperson's Report – Amy N. Morrissey. Ms. Morrissey reported on the following:

- The committee chairs are personally calling the potential committee members. The committee roster is continually being updated as the list of committee members changes. The committee roster is attached each month as part of our Agenda.
- A memo was distributed to each of the committee chairs regarding the options for telephone conference calls for committee meetings. The two options are either using the SBM's conference call line or a free website for conference calls.
- Lunch is served following our Council meetings and all in attendance are invited to stay.

VI. Report of the Committee on Special Projects – Christopher A. Ballard. Mr. Ballard reported on the CSP meeting which discussed work of the Insurance Committee, Updating Michigan Law Committee (relative to proposed tenancy by the entireties statutes), and the Citizens Outreach Committee.

- Insurance Committee – Geoffrey Vernon led the discussion at CSP regarding proposed MCL 700.1513. More discussions will be held next month. Becky Bechler discussed getting a draft in to the Legislature this year of this proposed section. Later, if changes are needed, a Star Run would allow us to change the draft language. Also discussed was the exculpation of trustees of life insurance trusts from liabilities related to the administration of policies held in the trust. This discussion will also continue in the coming months. Materials on these issues were contained in the Agenda for this month.
- Citizens Outreach Committee – Connie Brigman led the discussion on the Section's brochures that are now online as part of our Section's website. Copies of the brochures that were drafted in 2011 were contained in the meeting's agenda. CSP recommended that Council remove the existing brochures on our Section's website, with the understanding that
the draft brochures in the agenda will be updated to current law by 12-31-14, with more complete revisions being completed in the coming year; and that an invitation be extended to the Elder Law and Disability Rights Section to take control of the content and posting of the Medicaid brochure. Council approved these recommendations by general consent.

VII. Committee Reports

A. Internal Governance

1. Budget – Marlaine C. Teahan reported for the Budget Committee that is made up of the past two Treasurers and the current Treasurer. The additional committee members are Ms. Lentz and Mr. Steward. Ms. Teahan discussed the proposed Budget for fiscal year 2014-2015. As part of the Agenda, the final Treasurer's report was provided as an aid in reviewing the Budget. After discussion of the bulleted items below, on motion by Ms. Teahan with support by Richard C. Mills, the Budget for 2014-2015 was unanimously approved.

The following items are helpful considerations relative to the Budget for Fiscal Year 2014-2015:

- While the Section's member count is not final with the State Bar yet, we maintained the same income level as budgeted for last year.

- The Probate Journal expense dropped by more than 50% to take account of the reduced costs by not printing the Journal. The amount of $12,225 includes 3 e-blasts out to section members alerting them of the new Journal.

- The Chairperson's dinner expense this year was higher than last year due to increased attendance. We were grateful to have 9 of the living 18 ex-Officios in attendance this year at the dinner. The wealth of knowledge passed along from prior Chairpersons is invaluable to our Section and the continued participation by our ex-Officios is a testament to their service to our Section.

- Travel increased slightly over the actual expenses of last year; however, last year our Upper Peninsula council member was unable to attend 2 meetings which artificially kept the expenses for last year down. To accommodate full attendance of our UP council member and possible increased travel for the Chairperson's dinner, we kept the budget the same even though last year's actual was lower. Note that with gas prices going down, it would not be a surprise for the IRS to drop the mileage rate for reimbursements.

- Meeting expenses were increased to accommodate increased attendance at our lunches in anticipation that our Membership Committee will be working overtime and to accommodate the lodging for the incoming Chair and Chair Elect at the SBM Leadership Conference.

- Long-range planning was held steady even though there were no expenses last year to allow for possible use by the Membership Committee and the Electronic Communications Committee.

- Support for the Annual Institute is held steady at $14,000; however, this line item will be handled differently in the coming year. ICLE will be handling all aspects of the Annual
Institute which will free up the officers from handling many administrative details surrounding the Institute.

- The Amicus Fund for fiscal year 2014-15 is as stated at the end of the Budget at $35,423.50 with a $10,000 carryover from last year.

- The Seminars line item is our Section's contribution to ICLE for the Experts in Estate Planning Series. This $4,000 helped pay part of the expenses for bringing Natalie Choate to Michigan to speak on Estate and Distribution Planning for Retirement Benefits on November 18, 2014. This seminar will be webcast and available on demand for 3 weeks.

- The Electronic Communications line item was increased from last year and includes teleconference charges which are expected to be higher this year as more Committee Chairs utilize the service, listserv expenses, e-blasts (other than the Journal), and other electronic communications with members.

- The "Other" line item was increased as it now includes postage charges as well as copying costs. From a prior vote of Council, this line item also includes $750 for the Young Lawyers' Summit.


3. Awards – Douglas A. Mielock – Ms. Morrissey reported that the George A. Cooney Society and the Michael W. Irish awards are now online at our Section's website. George Gregory reported on the giving of the award of the Michael W. Irish award to Sebastian Grassi. More details on this can be found in the October minutes.


B. Education and Advocacy Services for Section Members


2. Probate Institute – James B. Steward – a final schedule has been posted online at ICLE's website; registration has begun for the Annual Probate Institute.

3. State Bar and Section Journals – Mr. Mills reported that the next edition of the Section Journal will be coming out in December. New materials for the next journal are due in January. The State Bar Journal's Elder Law theme issue, published in November 2014, contained an article on Elder Law and Disability Rights that quoted J. David Kerr.
4. Citizens Outreach – Constance L. Brigman reported on her committee's membership: Katie Lynwood will be serving as vice chair and two new members, Jessica Joint and Nicholas Vontroba, have joined.

5. Electronic Communications – William J. Ard

It was reported by Mr. Gregory that in the State Bar's membership directory, at www.michbar.org, each attorney can add a photo to his or her bio page. It was also noted that the State Bar is in the process of adding new Section webpages.

6. Membership – Raj A. Malviya reported that the Membership committee will be meeting on a monthly basis. At this last month's meeting, the committee set initiatives for the coming year. A written report was provided in the agenda for this month's materials. Three ideas for increasing membership will be implemented this year including meeting with 3rd year law students to teach them about our Section and practice area; the committee will have a presence in the exhibition area at the Annual Institute in Traverse City and Plymouth; and the committee will attempt to provide Section information in the Annual Institute's opening remarks and at the meeting for young lawyers. Attorney Dan Kosmowski addressed the council to share that he is now attending council meetings because of a personal invitation. He shared that many of those who attend council meetings have a similar story. The committee will focus on personal connections to reach out to section members to both invite participation and to determine what Section members want most out of their Section membership and how the Section can help members in their estate planning practices. James B. Steward also pointed out the many benefits of section membership.

Further discussion was had on ICLE's registration form for the Annual Institute. A suggestion was made that the form should be clearer relative to pricing and possible discounts. It was suggested that the committee look into the scholarship programs offered at the Solo and Small Firm Institute so that we can investigate similar scholarships options for young lawyers to get a discount to our Annual Institute. Mr. Mills will pass along scholarship information that he is aware of to Mr. Malviya.

Discussion continued relative to membership in the Section for new bar members. Currently, we believe that membership in the Section is free to a new bar member but that the member would have to opt in and choose to be a Section member. It was not clear if this free membership lasts for one or two years.

C. Legislation and Lobbying

1. Legislation – William J. Ard. Becky Bechler of Public Affairs Associates gave a legislative report on the election. Our various legislative initiatives were discussed including digital assets, probate appeals, SB 1102 (which might move quickly), and domestic asset protection. There are several large pieces of legislation that have the focus of the Legislature. These issues may push out of focus the small legislation until next year. Anything not to the Governor by December 31 will have to be reintroduced next year. Ms. Bechler discussed that getting our proposed legislation to her by mid-December is important to get "in line" for next year's introduced legislation.
2. Updating Michigan Law – Geoffrey R. Vernon reported that the domestic asset protection legislation needs a sponsor. His committee has new members and participation is very good. The weekly meeting are interesting with new ideas being regularly discussed.

3. Insurance Ad Hoc Committee – Geoffrey R. Vernon. No further report other than what was already discussed at the Committee on Special Projects.


D. Ethics and Professional Standards

1. Ethics – David P. Lucas had no report; however, Mr. Ard, a committee member, reported that a new SBM ethics opinion may soon be released involving a personal injury matter and a contingency/hourly basis fee agreement. The issues involve the death of the client and how the attorney can be paid after the client dies. The attorney may stand in line with other unsecured creditors. CAUTION: Since this opinion is not yet issued, this summary may not reflect the actual ethics opinion.

2. Unauthorized Practice of Law & Multidisciplinary Practice – Patricia M. Ouellette – Committee will be meeting soon.


E. Administration of Justice

1. Court Rules, Procedures and Forms – Michele C. Marquardt – no report.

2. Fiduciary Exception to Attorney Client Privilege Ad Hoc Committee – George F. Bearup – no report.

F. Areas of Practice


2. Transfer Tax Committee – Lorraine F. New discussed the Tax Nugget which was provided as part of the Agenda. Revenue Procedure 2014-61 provided updated gift and estate tax numbers for 2015. Portability returns can be filed until 12-31-14 for those dying after 12/31/10 and up to and including 12/31/13.


G. Liaisons

1. Alternative Dispute Resolution Section Liaison – vacant/no report.
3. Elder Law and Disability Rights Section Liaison – Amy R. Tripp – no report.
5. ICLE Liaison – Jeanne Murphy – no report.
11. SCAO Liaisons – Constance L. Brigman, Michele C. Marquardt, Rebecca A. Schnelz – no report.
14. Taxation Section Liaison – George W. Gregory reported on the November 2014 meeting of the Taxation Section’s Trust and Estate Committee. 12-11-14 is the next meeting of the committee. The annual Tax Conference will be held on May 21 and 22, 2015.

VIII. **Other Business**  The Secretary will send out a call for materials on November 26, 2014 reminding Council members to provide materials for the December meeting by 5 p.m. on December 4th. Committee on Special Project materials should be sent to Chris Ballard and Council meeting materials to Marlaine Teahan. The next meeting is on December 13, 2014.

IX. **Hot Topics** – none.

X. **Adjournment**  The Chair adjourned the meeting at 11:32 a.m.