

**Meeting of the Council of the
Probate and Estate Planning Section of the
State Bar of Michigan**

**November 17, 2018
East Lansing, Michigan**

Minutes

I. Call to Order

The Chair of the Council, Marguerite Munson Lentz, called the meeting to order at 10:15 a.m.

II. Introduction of Guests

- A. Meeting attendees introduced themselves.
- B. The following officers and members of the Council were present: Marguerite Munson Lentz, Chair; Christopher A. Ballard, Chair Elect; David L.J.M. Skidmore, Secretary; Mark E. Kellogg, Treasurer; Kathleen M. Goetsch; Michael G. Lichterman; Katie Lynwood; Raj A. Malviya; Richard C. Mills; Melisa M.W. Mysliwicz; Lorraine F. New; Kurt A. Olson; Nathan R. Piwowarski; James F. Anderton; and Neal Nusholtz. A total of 15 Council officers and members were present, constituting a quorum.
- C. The following ex officio members of the Council were present: George W. Gregory; and Douglas A. Mielock.
- D. The following liaisons to the Council were present: Jeanne Murphy (ICLE).
- E. Others present: Ken Silver; Robert Nemzin; Alex Mallory; Ryan Bourjaily; Aaron Bartell; Georgette E. David; Warren Krueger; Cynthia Andrews; Joe Weiler; and Ernschie Augustin.

III. Excused Absences

The following officers and members of the Council were absent: Christopher J. Caldwell; Angela M. Hentkowski; Hon. Michael L. Jaconette; Robert C. Labe; David P. Lucas; Andrew W. Mayoras; Christine M. Savage; and Nazneen S. Hasan.

IV. Lobbyist Report – Public Affairs Associates

Becky Bechler of Public Affairs Associates reported that (1) she is hopeful that HB 6129, 6130, and 6131, the divided and directed trusteeship bills, and HB 5362 and 5398, the certificate of trust bills, will be passed during the remaining days of the legislative session; (2) bills not passed this session will be re-introduced in January 2019; and (3) during the next legislative session both the House and Senate judiciary committees will have new chairs who have not been identified yet.

V. Monthly Reports

- A. Minutes of Prior Council Meeting (David L.J.M. Skidmore): It was moved and seconded to approve the Minutes of the October 13, 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.
- B. Treasurer's Report (Mark E. Kellogg): It was reported that the expense reimbursement form was included in the meeting agenda materials.
- C. Chair's Report (Marguerite Munson Lentz): It was reported that an updated list of chairs and members of the Council's committees, and an updated list of liaisons to the Council, were included in the meeting agenda materials. It was reported that Nancy Little sent the Chair a thank-you note for her receipt of the 2018 Michael Irish Award. It was reported that the tax and consumer law sections had asked permission to send their e-blasts to our section members at their expense. The Chair asked committee chairs to advise her informally whether additional members are needed on their respective committees, because attendees at the annual drafting seminar may be asked to express interest in serving on a committee.
- D. Committee on Special Projects (Katie Lynwood):

Katie Lynwood reported on the discussion at the Committee on Special Projects meeting.

The Committee made the following motion:

The Probate and Estate Planning Section supports amending the Michigan Court Rules to make clear that the limited scope representation rules apply to probate proceedings; amending MCR 5.117(B)(1) to provide: "In General. An attorney may appear generally by an act indicating that the attorney represents an interested person in the proceeding. A limited appearance may be made only BY AN ATTORNEY FOR AN INTERESTED PERSON IN A CIVIL ACTION OR A PROCEEDING as provided in MCR 2.117(B)(2)(c), EXCEPT THAT ANY REFERENCE TO PARTIES OF RECORD IN MCR 2.117(B)(2)(c) SHALL INSTEAD REFER TO INTERESTED PERSONS. An appearance by an attorney for an interested person is deemed an appearance by the interested person. Unless a particular rule indicates otherwise, any act required to be performed by an interested person may be performed by the attorney representing the interested person."; and amending MCR 5.117(C)(5) to provide: "Limited Scope Appearances. Notwithstanding other provisions in this section, limited appearances under MCR 2.117(B)(2)(c) may be terminated in accordance with MCR 2.117(C)(3), EXCEPT THAT ANY REFERENCE TO PARTIES OF RECORD IN MCR 2.117(B)(2)(c) SHALL INSTEAD REFER TO INTERESTED PERSONS."

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 15 in favor of the motion, 0 opposed to the motion, 0 abstaining, and 8 not voting (absent). The Chair declared the motion approved.

The Committee also made the following motion:

Unless the State Bar of Michigan takes a position on the legislation, the Probate and Estate Planning Section opposes Senate Bills 1182 and 1183 regarding assessing the prevailing party's attorney fees against the non-prevailing party in civil litigation.

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 15 in favor of the motion, 0 opposed to the motion, 0 abstaining, and 8 not voting (absent). The Chair declared the motion approved.

VI. Other Committees Presenting Oral Reports

A. Electronic Communications

Michael Lichterman reported regarding the transition of the former list serve to SBM Connect. It is possible for the former listserv to be archived on SBM Connect at a cost of \$500. The committee is also looking into options for remote attendance at Probate Council meetings.

B. State Bar & Section Journals Committee

Richard Mills reported that the trust and estate theme issue of the SBM Journal was published in November, and he thanked those who contributed articles.

C. Tax Committee

J.V. Anderton reported on a tax nugget, which was included with the meeting materials.

D. Budget Committee

David Skidmore reported that the Budget Committee will present a proposed budget for the next fiscal year, upon receipt of audited financials from the SBM.

VII. Other Committees Presenting Written Reports Only

The Chair stated that there were written reports from the following committees:

A. Legislative Development and Drafting Committee

B. Liaison to the Uniform Law Commission

VIII. Other Business

None.

IX. Adjournment

Seeing no other matters or business to be brought before the meeting, the Chair declared the meeting adjourned at 10:42 a.m.

Respectfully submitted,
David L.J.M. Skidmore, Secretary

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