

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

October 9, 2010  
University Club  
Lansing, Michigan

**Minutes**

**1. Call to Order**

The Chair of the Section, Doug Chalgian called the meeting to order at 9:00 a.m.

**2. Attendance**

**A.** The following officers and members of the Council were in attendance:

Doug Chalgian, Chair	Shaheen Imami
George Gregory, Chair Elect	David Kerr
Mark Harder, Vice Chair	Meg Lentz
Tom Sweeney, Secretary	Patricia Oullette
Amy Morrissey, Treasurer	Rebecca Schmelz
Susan Allan	James P. Spica
Josh Ard	James Steward
Constance Brigman	Bob Taylor
Robin Ferriby	Marlaine Teahan
Ellen Sugrue Hyman	Rob Tiplady

**B.** The following officers and members of the Council were absent with excuse:

Hon. David Murkowski  
Hon. Darleen O'Brien  
Rick Siriani

**C.** The following officers and members were absent without excuse:

None

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

Hon. Phillip Harter  
Nancy Little  
John Martin  
Harold Schuitmaker

**E. Others in Attendance**

J.V. Anderson	Valerie Lafferty
John Arenz	Marilyn Lankfer
Christopher Ballard	Rick Mills
Karl Barr	Jeanne Murphy
Rhonda Clark	Lorraine New
Dan Cogan	Tess Sullivan
Keven DuComb	Amy Tripp
Belinda Fitzpatrick	Brittany Walker
Kathleen Goetsch	Derek A. Walters
Fred Hoops	Rachel Zapczynski

**3. Internal Governance**

**A. Minutes of September 11, 2010 Meeting of the Council**

Minutes of the September 11, 2010, meeting of the Council had been previously distributed with the Agenda for the meeting. Upon motion by Meg Lentz with support from Robin Ferriby, the minutes were approved by a unanimous vote of all 20 council members present.

**B. Treasurer Report**

Amy Morrissey distributed a financial report through August 31, 2010 (**Attachment 1**). Ms. Morrissey indicated that the fund balance as of the end of August, 2010 was approximately \$172,869. She also reported that because there are substantial expenditures in September which have not been officially reported to her yet, she estimates the fiscal year end budget as of September 30, 2010 will approximate \$145,000.

Amy Morrissey also reviewed the revised proposed budget circulated before the meeting. George Gregory requested an addition to the budget of \$2,500 for long range planning. It was pointed out that the State Bar had informal guidelines that a section's fund balance should not be less than six months (50%) of a year's projected expenditures or more than two years (200%) of a year's projected expenditures. As of the end of the fiscal year the fund balance approximated 125% of the year's expenditures.

Upon motion by Amy Morrissey, seconded by Mark Harder, a budget for the 2010-11 fiscal year of \$118,450 was approved including \$2,500 from the fund balance for long range planning and all other line items contained in the proposed revised budget as presented, by a unanimous vote of all twenty members present. Amy was requested to issue an approved budget for the next meeting.

### **C. Chairperson's Report**

Doug Chalgian advised that the June meeting would be held on June 11, 2011 because the originally scheduled later date conflicted with the Probate Institute. He also reported that he had modified the committee structure and had appointed chairs for most committees. He encouraged interested Section members to volunteer to serve on the committees. Doug also reported on several minor and major projects which he hoped the Council could pursue in the coming fiscal year. They included:

1. Determine whether or not to continue the Specialization pilot project for the State Bar.
2. Continue efforts to enact a Statute of Repose.
3. Commence an effort to update EPIC and MTC to bring Michigan into the forefront of states with the most current and flexible laws and procedures in those areas.
4. Complete an acceptable revision of law regarding foreign guardianships and end of life medical treatment authority.
5. Determine feasibility of clarifying the law on insurable interest. Also, clarify the areas of Trustee liability/responsibility with respect to insurance policies acquired and owned by irrevocable trusts.
6. Develop a proposal regarding decanting of irrevocable trusts.
7. Determine desirable and feasible improvements to Michigan's power of attorney statute focused on their use in an estate planning context as opposed to their use in closely held investment entities, bank financial and lending transactions and other commercial and real estate ventures.
8. Pursue clarification of Probate Appeals court rules and use of Jury Trials in Probate Court.
9. Provide Searching for Archived Probate Journals and Maintenance of Judge Harter's website.
10. Determine desirability of Transfer on Death Deed

### **D. Report of the Committee on Special Projects**

Jim Steward reported on the discussion lead by Doug Chalgian regarding his goals for the year. Other future discussion items mentioned included:

Suggestions for improved client service, including promoting continuing service to clients, information regarding health care options, client preservation of family

history and legacies, authority of trust protector over trust property, powers of appointment, and impact of new trends including ownership of law firms by non lawyers, among others.

**E. Long Range Planning**

George Gregory reported that to provide guidance on the Section's long range planning, he wanted to obtain substantial data so that any recommendations are data driven. This includes State Bar data, attorney surveys and other sources. He noted that section memberships had declined by one-third over several years.

**F. Election of Secretary**

On motion by Doug Mielock, seconded by George Gregory, Tom Sweeney was unanimously elected secretary by all 20 members present to fill the vacancy caused by Marilyn Lankfer's resignation.

**4. Reports of Ongoing Special Projects and Active Committees**

**A. Legislation - No Report**

**B. Specializations and Certifications – No Report**

**C. Statute of Repose – No Report**

**D. Updating Michigan Law**

Shaheen Imami and Rob Tiplady as co-chairs will determine whether committee will need more than one sub-group.

**E. Decanting Irrevocable Trusts – No Report**

**F. Insurance Issues**

There was a discussion to include Trustee liability/responsibility issues regarding management of irrevocable trusts owning life insurance, in addition to exploring feasibility of clarifying requirements for determining insurable interests.

**G. Transfer on Death Deed – No Report**

**H. Guardianship/Conservatorship Matters**

There was discussion regarding the effort to clarify status of foreign guardians in Michigan.

**I. Power of Attorney**

There was discussion regarding current legislation and appointment of a smaller committee to address the complex issues.

**J. Appeals and Jury Trials – No Report**

**K. Service to Members – No Report**

**L. ICLE**

There was a discussion regarding searching archived Probate Journals and maintenance of Judge Harter's website.

**5. Reports of Other Committees Made As Required**

**A. Service to Members**

**1. Annual Probate Institute**

Mark Harder reported on the six tracks for the 2011 Institute including, Michigan Trust Code, Cottages, Law Practice Management, Guardianship and Conservatorship, Advance Planning and Family Business.

The dates are May 19-21, 2011 at the Grand Traverse Resort and June 17-18, 2011 at the Inn at St. Johns.

**2. Section Journal**

There was discussion regarding whether to expand the use of the electronic version beyond those attorneys admitted to practice after January 1, 1990, as well as the merits of electronic vs. hard copy versions.

**3. Pamphlets**

Ellen Sugrue Hyman requested assistance in drafting a revocable trust pamphlet.

**4. State Bar Journal – No Report**

**5. List Serve/Electronic Communications – No Report**

**6. Annual Meeting – No Report**

**B. Reports of other Committees, If Any**

**1. Court Rules and Forms – No Report**

**2. Amicus – No Report**

**3. Transfer Tax - No Report**

**4. Charitable Giving - No Report**

5. **Elder Law - No Report**
6. **Unauthorized Practice - No Report**
7. **Practice Management - No Report**
8. **Probate Judges - No Report**
9. **Probate Registers - No Report**
10. **State Bar - No Report**
11. **Ethics - No Report**
12. **Michael Irish Award**

Marilyn Lankfer reported for Brian Howe that Fred Sytsma had received this year's award.

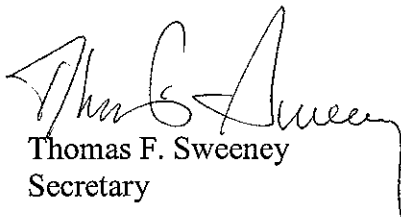
13. **Tax Law Section Liaison - No Report**
14. **Family Law Section Liaison - No Report**
15. **Business Law Section Liaison - No Report**
16. **Bank Contact - No Report**
17. **Law School Contact - No Report**

6. **Other Business** There was none.

7. **Adjournment**

There being no further business, the Council meeting was adjourned at 11:20 a.m.

Respectfully submitted

  
Thomas F. Sweeney  
Secretary