I. Call to Order

The Chair of the Section, Shaheen I. Imami, called the meeting to order at 10:01 a.m.

II. Attendance

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

Shaheen I. Imami
James B. Steward
Marlaine C. Teahan
Marguerite Munson Lentz
Christopher A. Ballard
Christopher J. Caldwell
Kathleen M. Goetsch
Hon. Michael L. Jaconette
Mark E. Kellogg
David P. Lucas
Katie Lynwood
Raj A. Malviya
Michaele Marquadt
Richard C. Mills
Lorraine F. New
David L.J.M. Skidmore
Geoffrey R. Vernon

A total of 17 council members and officers were present, representing a quorum.

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

Susan M. Allan
George F. Bearup
Constance L. Brigman
Rhonda Clark-Kreuer
Michael G. Lichterman
Nancy H. Welber

C. The following officers and members of Council were absent without excuse:
D. **The following ex-officio members of the Council were in attendance:**

John E. Bos  
Robert D. Brower, Jr.  
Douglas G. Chalgian  
George W. Gregory  
Mark K. Harder  
Kenneth E. Konop  
Harold Schuitmaker

E. **Others in attendance:**

Jeanne Murphy  
Neal Nusholtz  
James Spica  
Andrew Mayoras  
Mayra Rodriguez  
Dan Kosmowski  
Ken Grifka  
Rebecca Bechler  
Kurt A. Olson  
Tess Sullivan  
Robert O’Reilly  
Brad Martin  
Rob Labe  
Dean Patrick

III. **Minutes of the September 12, 2015 Meeting of the Council**

The minutes of the September 12, 2015 Meeting of the Council were included with the Agenda for the October meeting, which was posted on the Section’s webpage prior to the meeting. Ms. Lentz moved that the minutes be approved with two non-substantive changes. The motion was seconded. The motion was approved on a voice-vote with no nays and no abstentions. The amended minutes will be posted to the Section webpage on the State Bar website.

Ms. Lentz thanked Marlaine Teahan for the printed tent cards.

IV. **Treasurer’s Report – Christopher Ballard**

The income/expense report through August 2015 was included with the October agenda.

V. **Chairperson’s Report – Shaheen I. Imami**

Mr. Imami reported that:

- Gift of Life responded to the letter sent from Ms. Morrissey regarding proposed changes to the Peace of Mind registry. A copy of the response was included with
the October agenda.

- By electronic vote, the Council voted to file an amicus brief in *In re Cliffman* and a public policy position was filed, both of which were included with the October agenda.
- Public policy positions were filed with respect to SB 0270 and Treasury RAB 2015-XX, both of which were included with the October agenda.
- The contract with ICLE was signed and returned to us.
- There will be a Section orientation on October 15, 2015, and Marlaine Teahan will attend.
- The Michigan Court of Appeals issued its opinion in *In re Mardigian* that a violation of RPC 1.8(c) does not automatically void the applicable will or trust. Mr. Imami requested that the amicus committee review whether an amicus brief should be filed.

Mr. Imami requested that the Legislation Development & Drafting Committee review EPIC/MTC for any necessary or desirable changes. Anyone with suggested changes to EPIC/MTC should send them to Geoffrey Vernon, Chair of the committee. Mr. Imami requested that the Litigation, Proceedings, and Forms Committee review for any changes needed to the Michigan Court Rules. Anyone with suggested changes to the court rules should send them to David Skidmore, Chair of the committee.

VI. **Report of the Committee on Special Projects – David P. Lucas**

Mr. Lucas reported that the CSP reviewed a report from the Community Property Trusts Ad Hoc Committee and CSP voted to recommend that the Council support the proposed community property trust legislation. Mr. Lucas moved that the Council support the community property trust act. The Council approved the motion: 17 in favor, 0 opposed, and 0 abstentions. (A copy of the proposed legislation was included with the October agenda.)

Mr. Lucas also reported that CSP reviewed the latest draft from the Legislation Development & Drafting Committee concerning what kinds of property may be held as tenants by the entireties and vote to recommend that the Council support the proposed legislation. After discussion, Mr. Lucas moved that the Council approve the draft with changes suggested during the Council meeting and give Mr. Vernon the ability to make nonsubstantive changes. The Council approved the motion: 17 in favor, 0 opposed, and 0 abstentions. (A copy of the proposed legislation, as amended, will be included with the agenda for the November meeting.)

VII. **Standing Committee Reports**

A. **Internal Governance**

1. **Budget – Marguerite Munson Lentz**

   Ms. Lentz is waiting for final income/disbursement numbers for fiscal year ending September 30, 2015 and will present the budget for 2015-2016 at the November Council meeting.

2. **Bylaws – Nancy H. Welber – No report.**

3. **Awards – Amy N. Morrissey – No report.**


B. Legislation and Lobbying

1. Legislation Analysis and Monitoring Committee – Michele C. Marquardt

Ms. Marquardt reported that SB 551, which would allow a person to designate a representative regarding the person’s funeral, was recently introduced. After discussion, John Bos moved to support the bill in principal, which was seconded. The Council voted in favor of supporting the bill in principal: 17 in favor, 0 opposed, 0 abstentions.

2. Legislation Development & Drafting Committee – Geoffrey R. Vernon

Mr. Vernon delivered the report. The most recent version of the digital assets proposed legislation was included with the October agenda. The committee was hopeful that Rep. Forlini would introduce that version soon. The committee was also hopeful that the Qualified Dispositions in Trust Act would be introduced by Sen. Schuitmaker soon.

The committee reviewed and proposed changes to draft legislation to eliminate dower. The bills were introduced as SB 558, 559, and 560. Marked up drafts were included with the October agenda. Mr. Vernon moved that the Council support these bills and Mr. Imami stated that an electronic vote would be taken within the next few days. The report of the electronic vote will be included with the November agenda.

Ms. Teahan reported that work on a bill to modify probate appeals is progressing and she hopes to have legislation introduced soon.

3. Insurance Legislation Ad Hoc Committee – Geoffrey R. Vernon

Mr. Vernon reported that work on legislation to provide exoneration for trustees of irrevocable life insurance trusts is continuing. The Michigan Bankers Association recommended changes which were not substantive. Mr. Vernon moved for permission to make non-substantive changes to the proposed legislation. The motion was passed by the Council by vote voice, with no nays and no abstentions.

4. Artificial Reproductive Technology Ad Hoc Committee – Nancy H. Welber – No report.

C. Education and Advocacy Services for Section Members

1. Amicus Curiae – David L. Skidmore

Previously, the Council approved a motion to file an amicus brief in In re Cliffman. A copy of the amicus brief that was filed was included with the October agenda.

Kurt Olsen presented the report of the committee with respect to Perry v Cotton as Mr. Skidmore was recused. (In addition, Mark Harder recused himself.) Mr. Olsen moved that the
Section file an amicus brief taking the position that, based on MCR 5.117(A), the attorney for the fiduciary represents the fiduciary, not any beneficiary of the estate or the estate. The motion was approved: 16 in favor, 0 opposed, 1 abstention (recused).

Mr. Andrew Mayoras volunteered to write the amicus brief. A motion was made and approved by voice vote with no nays (and one recusal) to hire Mr. Mayoras to write the amicus brief. A motion was made to authorize $10,000 for preparation of this amicus brief. This motion was also approved by voice vote with no nays (and one recusal).


3. State Bar and Section Journals – Richard C. Mills

Mr. Mills reported that the committee is working on a copyright license agreement.


6. Membership – Raj A. Malviya

Mr. Malviya reported that for 2013-14, there were 3481 section members. For the 2014-15 year, there were 3762 section members.

D. Ethics and Professional Standards

1. Ethics & Unauthorized Practice of Law – Katie Lynwood

Ms. Lynwood reported on In re Mardigian.

E. Administration of Justice


F. Areas of Practice

1. Real Estate – Mark E. Kellogg

Mr. Kellogg gave a status report on HB bill 4645 (uncapping with respect to transfers to and from limited liability companies). The Treasury Department is opposed to this bill.

HB 4930 (dealing with Lady Bird deeds) was just introduced. Mr. Kellogg did not request any action from Council.

2. Transfer Tax Committee – Lorraine F. New

Ms. New reported on Steinberg v Commissioner, dealing with gift taxes on a net gift. The Tax nugget was included with the October agenda.


VIII. **Other Reports**

G. **Liaisons**

1. Alternative Dispute Resolution Section Liaison – Milton L. Mack, Jr. – No report.


3. Elder Law and Disability Rights Section Liaison – Amy R. Tripp

Mr. Douglas Chalgian reported that Elder Law Institute was successful, with over 240 attending.

4. Family Law Section Liaison – Patricia M. Ouellette – No report.

5. ICLE Liaison – Jeanne Murphy

Ms. Murphy reported that usage on website is down. There is no link from the Section’s webpage on the State Bar web site to the Probate Journal on the ICLE website. Ms. Murphy will follow up with Ms. Lentz about approaching the State Bar for a link.


10. SCAO Liaisons – Constance L. Brigman, Michele C. Marquardt, Rebecca A. Schnelz – No report.


13. Taxation Section Liaison – George W. Gregory

Mr. Gregory reported on the activities of the Taxation Section. His written report was included with the October agenda.

IX. **Other Business**

None

X. **Hot Topics**

None
XI. **Adjournment**

The meeting was adjourned by Chairperson Shaheen I. Imami at 11:10 am.