

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

October 14, 2017
Lansing, Michigan

Minutes

I. Call to Order: The Chair of the Section, Marlaine C. Teahan, called the meeting to order at 10:50 am

II. Attendance:

A. The following officers and members of the Council were present:

Marlaine C. Teahan, Chair
Marguerite Munson Lentz, Chair Elect
Christopher A. Ballard, Vice President
David P. Lucas, Secretary
David L.J.M. Skidmore, Treasurer
Kathleen M. Goetsch
Nazneen Hasan
Angela M. Hentkowski
Mark E. Kellogg
Robert B. Labe
Michael G. Lichterman
Katie Lynwood
Richard C. Mills
Melisa M.W. Mysliwicz
Kurt A. Olson
Nathan R. Piwowarski
Christine M. Savage
Geoffrey R. Vernon

A total of 18 Council officers and members were present, constituting a quorum

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

Christopher J. Caldwell
Rhonda M. Clark-Kreuer
Hon. Michael L. Jaconette
Raj A. Malviya
Lorraine F. New

C. The following officers and members of the Council were absent without excuse:
none

D. The following ex-officio members of the Council were present:
John E. Bos
Nancy L. Little

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Michael J. McClory
James B. Steward

E. The following liaisons to the Council were present:

Susan Chalgian
John R. Dresser
Joseph Patrick McGill
Jeanne Murphy
Rebecca A. Schnelz
James P. Spica

F. Others present:

Aaron Bartell
Becky Bechler
Ryan Bourjaily
Georgette David
Daniel Hilker
Rose Scheid
Mike Shelton
Tess Sullivan
Nancy Welber

- III. Minutes of September 9, 2017 Meeting of the Council: it was moved and supported to approve the Minutes of the September 9, 2017 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.
- IV. Chair's Report – Marlaine C. Teahan: The Chair reviewed the Chair's Report which was included with the meeting agenda materials. There was discussion regarding the Report, including the Chair's request for the names of individuals who might be willing to act as the Council's liaison to the bankers, and that the caption "probate and trust administration" should be used (in place of "estate planning") in the State Bar Economics of Practice survey
- V. Report of the Committee on Special Projects – Geoffrey R. Vernon: Mr. Vernon discussed the meeting of the Committee on Special Projects which had immediately preceded the meeting of the Council, and Mr. Vernon requested that comments and suggestions regarding the standby guardianship discussion be directed to Nathan R. Piwowarski and that comments and suggestions regarding the divided and directed trustee discussion be directed to James P. Spica.
- VI. Old Business - Standing and Ad Hoc Committee Reports

- A. Court Rules, Forms, and Procedures Committee - Melisa M.W. Mysliwiec: Ms. Mysliwiec discussed the activity of the Court Rules, Forms, and Procedures Committee, including House Bills 4821 and 4822, which propose to amend EPIC. Ms. Mysliwiec reported that the Committee is concerned about (i) HB 4821, among other concerns, because of the potential damage to an estate because of the proposed lengthening of reporting and posting periods before action can be taken, and because of the proposed potential criminal penalties; and (ii) HB 4822, among other concerns, authority is taken from the Probate Courts, and that procedures already exist to address the matters addressed in this proposed legislation. The Committee's motion is:

the Probate and Estate Planning Section opposes HB 4821 and HB 4822 in current form, but that the Section is willing to work with the Sponsors of the legislation to make changes to the proposed legislation to address issues that are of concern to the Section.

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 18 yes, 0 no, and 0 abstain. The Chair declared the motion approved.

- B. Citizens Outreach Committee - Kathleen M. Goetsch: Ms. Goetsch reported that the Committee had discussed the posting by third parties on the Section's portion of the State Bar website. The Committee's motion is:

persons who are not members of the Probate and Estate Planning Section will not be permitted to post items on the Section's area within the State Bar of Michigan website.

Following discussion, the Chair called the question and on voice vote, the Chair declared the motion approved.

VII. New Business - Standing and Ad Hoc Committee Reports

- A. Amicus Curiae Committee - David L.J.M. Skidmore: Robert B. Labe excused himself from the meeting, stating that he had a potential conflict. Mr. Skidmore reviewed the Committee's report, regarding the request for an *amicus* by a party in the *Brody* matter, which was included with the meeting agenda materials. The Committee's motion is:

the Probate and Estate Planning Section authorizes the submission of an *amicus* as described in the Amicus Curiae Committee's report which as presented to the meeting

James P. Spica stated that he had discussed the matter in a telephone conference, but that the discussion had been with him as a member of the Uniform Law Commission, and so he felt that there was no conflict. Following discussion, the Chair stated her sense that the

Council had concluded that no action should be taken on the motion at this time, and the Chair tabled the motion.

- B. Legislative Analysis and Monitoring Committee – Ryan P. Bourjaily/Daniel S. Hilker: Mr. Bourjaily reviewed the Committee’s report, which was included with the meeting agenda materials. The report was discussed, including noting that the “Bill Hound” service, a legislation status reporting service, was available to subscribers for a fee.
- C. Legislation Development & Drafting Committee – Nathan Piwowarski/Katie Lynwood: Mr. Piwowarski reported that the Committee was working on legislation regarding the *Jajuga* case, and that Ms. Lynwood had testified in the Legislature on the legislation.
- D. Real Estate Committee - Mark E. Kellogg: Mr. Kellogg reported that the Committee has worked on SB 540, which is legislation to provide an exemption for uncapping for a variety of transfers of real estate. The Committee’s motion is:
 - the Probate and Estate Planning Section supports SB 540
 - in current formThe 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 17 yes, 0 no, and 0 abstain. The Chair declared the motion approved.
- E. Tax Committee - Christine M. Savage: Ms. Savage reviewed the Committee’s report, which was a Tax Nugget included with the meeting agenda materials.

VIII. Liaison Reports

- A. State Bar Commissioner Liaison – Joseph Patrick McGill: The Chair welcomed Mr. McGill to the position of State Bar Commissioner Liaison to the Section. Mr. McGill reported that he serves on the Board of Commissioners of the State Bar, and that he is the Chair of the State Bar Representative Assembly. Mr. McGill encouraged the Section to be active in support of, and opposition to, matters of interest and concern to members of the Section, and that the Board of Commissioners may provide assistance to the Sections efforts if the Board’s activity in such assistance is not in conflict with the limitations imposed by the *Keller* case.
 - B. Uniform Law Commission Liaison -- James P. Spica: Mr. Spica’s report was included with the meeting agenda materials, and Mr. Spica stated that he had no oral report.
- IX. Hot Topics: The Chair stated that there had been no request to include any other topics for the Council’s agenda

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Probate and Estate Planning Section of
the State Bar of Michigan
on October 14, 2017

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- X. Other Business: The Chair called for any other matters or business to be brought before the Council at the meeting, and none was offered or requested.
- XI. Adjournment: seeing no other matters or business to be brought before the meeting, the Chair declared the meeting adjourned at 12:30 pm.

Respectfully submitted,
David P. Lucas, Secretary