

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

**September 11, 2010
University Club
Lansing, Michigan**

Minutes

I. Call to Order

The Chair of the Probate and Estate Planning Section, Harold Schuitmaker, called the joint meeting of the members of the Section and the Council of the Section to order at 10:00 a.m. following the conclusion of the meeting of the Council's Committee on Special Projects.

II. Excused Absences

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

Harold Schuitmaker, Chair	Hon. Darlene O'Brien
Doug Chalgian, Chair Elect	Rebecca Schnelz
George Gregory, Vice Chair	Ellen Sugrue Hyman
Mark K. Harder, Secretary	Josh Ard
Marilyn Lankfer, Treasurer	James Steward
Robin Ferriby	Susan Allan
Shaheen Imami	James P. Spica
David Kerr	Rob Tiplady
Hon. David Murkowski	Patricia Ouellette
Amy Morrissey	Marlaine Teahan

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

Robert D. Brower
Hon. Phillip E. Harter
Nancy L. Little
Douglas A. Mielock
Susan S. Westerman

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

Richard Siriani
Tom Sweeney
Bob Taylor

III. **Introduction of Guests**

Members of the Council, officers, and guests introduced themselves. The following guests were in attendance:

Brittany Walker	Amy Tripp
Keven DuComb	Lorraine New
John Arenz	Jeanne Murphy
Chris Ballard	Fred Hoops
Derek Walters	Timothy A. Goodnow
Kathleen Goetsch	Kristin Arnett
Constance L. Brigman	Marata Manildi
Dan Cogan	Rick Mills
Nancy Welber	Sean Nichols

IV. **Minutes of June 5, 2010 Meeting of the Council**

Minutes of the June 5, 2010, meeting of the Council had been previously distributed with the Agenda for the meeting. Upon motion by Mr. Ferriby with support from Judge O'Brien, the minutes were unanimously approved by the Council.

V. **Treasurer Report – Marilyn Lankfer**

A financial report through July 2010 was distributed with the meeting materials. The Section will end with a healthy fund balance. However, there is a significant invoice pending from the printer for the Journal, which will reduce the fund balance somewhat. Ms. Lankfer also reminded Council members to forward reimbursement forms to her promptly so expenses can be reimbursed before the end of the fiscal year on September 30.

Ms. Lankfer noted has declined to the nomination to serve as Secretary and has decided to withdraw from the Council activities, in order to spend more time on personal interests and with her husband. She expressed how much she has enjoyed serving on the Council.

VI. **Chairperson's Report**

Mr. Schuitmaker noted that this is his final meeting as Chair of the Section and Council and expressed his appreciation for the support he has received this past year.

VII. Report of the Committee on Special Projects – Amy M. Morrissey

Ms. Morrissey reported on the meeting of the Committee on Special Projects that preceded the Council meeting. The Committee discussed a number of possible projects for study by the Council. The officers of the Section will discuss these matters in more detail at an upcoming planning meeting.

VIII. Standing Committee Reports

A. Internal Governance

1. Budget – George Gregory

No report.

2. Bylaws – Marilyn Lankfer

No report.

3. Michael Irish Award – Brian Howe

No report. Mr. Mielock inquired whether the Section should sponsor a plaque for display in the lobby of the State Bar naming the persons who received the Michael Irish Award. There was support for this initiative and he will look into doing so. He also will look into whether to obtain a similar marker for the George A. Cooney Society, which would be displayed in the ICLE lobby. Ms. Little will work with Mr. Mielock to develop a definitive list of past Michael Irish Award winners.

4. Long Range Planning – Doug Chalgian/Nancy Little

No report.

5. Nominations – Doug Mielock

Ms. Little reported that the Nominations Committee nominates Tom Sweeney to fill the position of Secretary as a result of Ms. Lankfer's withdrawal from consideration. The Council will act on the nomination at its October meeting. Ms. Little moved approval, with support from Mr. Ferriby to approve the nomination of Mr. Sweeney. The nomination was unanimously approved by the Council and will be considered and voted upon at the October meeting of the Council.

At 10:20 a.m. Ms. Little reviewed the nominees for appointment as officers for the upcoming year and for election to the Council.

The following individuals were elected by the members of the Section for a second three year term as members of the Council, beginning at the

conclusion of this meeting and continuing through the elections at the Annual Meeting in 2013:

Marlaine C. Teahan
Rebecca A. Schnelz

The following individuals were elected by the members of the Section for a first three year term as members of the Council, beginning at the conclusion of this meeting and continuing through the elections at the Annual Meeting in 2013:

Susan M. Allan
Hon. Darlene O'Brien

The following individuals were elected by the members of the Section for a first three year term as members of the Council, beginning at the conclusion of this meeting and continuing through the elections at the Annual Meeting in 2013:

Marguerite Munson Lentz
Constance L. Brigman

The following individuals were elected by the members of the Section to serve as officers of the Council for a term beginning at the conclusion of this meeting and continuing through the elections at the Annual Meeting in 2013:

Chairperson	Douglas G. Chalgian
Chairperson Elect	George W. Gregory
Vice Chairperson	Mark K. Harder
Treasurer	Amy N. Morrissey

6. Relations with the State Bar – Thomas F. Sweeney

No report.

7. Annual Meeting – George Gregory

No report.

B. Education and Advocacy Services for Section Members

1. *Amicus Curiae* – Ellen Sugrue Hyman

Over the summer the *Amicus Curiae* Committee looked at whether to file a brief in *Klooster v City of Charlevoix*. Ms. Hyman reviewed the issues in the case and the court of appeals decision. The Committee had

previously recommended to the officers that the Council not file a brief and none has been filed.

2. Continuing Education and Annual Probate Institute – George Gregory

Mr. Harder reported that plans for the 51st Annual Probate Institute in 2011 are well underway. The slate of topics has been completed and speakers are being confirmed. He will distribute the planned agenda and speaker roster at the October Council meeting.

Mr. Harder asked that the 2010-11 budget include funds for support of the Institute as has been the case in past years. He will follow up with Greenleaf regarding the Speakers Dinner at the Institute and see if they will be able to sponsor again in 2011.

3. Section Journal – Nancy L. Little

The next issue will be published soon and focuses upon charitable planning. Ms. Little asked for suggestions on topics for future issues and for volunteers to write for the Journal. She also noted that the assistant editor of the Journal, Melissa Myslewicz, recently had a baby.

4. State Bar Journal – Amy M. Morrissey

No report.

5. Pamphlets – Ellen Sugrue Hyman

Ms. Hyman reported that she and her committee continue to work on pamphlets. Their attention is presently focused on a pamphlet addressing the needs of incapacitated individuals. Josh Ard agreed to review and help with its completion.

6. Electronic Communications – Josh Ard

No report.

C. Legislation and Lobbying

1. Legislation – Harold G. Schuitmaker/John R. Dresser/George Gregory

Mr. Schuitmaker reported that there has been little movement on legislation of interest to the Section. Because it is an election year he considered it unlikely that much will happen until after the November elections.

Mr. Ferriby reported that the Governor has proposed modifying the escheat statute to reduce the period before property escheats as a means to

increase revenue and balance the budget. Mr. Ferriby inquired whether the Council wanted to take a position on the matter. Mr. Tiplady moved to oppose this proposal. Mr. Kerr supported the motion. Council approved the motion on a vote of 20-0 with no abstentions. Mr. Ferriby will provide Mr. Schuitmaker with a form of letter to communicate to the Governor and the Legislature the Section's opposition.

2. Michigan Trust Code -- Mark K. Harder

Mr. Harder reported that the Michigan Trust Code technical amendments bills were introduced, but have not been taken up by the Senate Judiciary Committee. Prospects for action are uncertain.

D. Ethics and Professional Standards

1. Ethics -- J. David Kerr

Mr. Kerr reported on behalf of the Committee. He expressed a desire for others to join, but had no further report.

2. Unauthorized Practice & Multidisciplinary Practice -- Bob Taylor

Mr. Taylor was absent from the meeting, but Mr. Gregory reported on his behalf that Mr. Taylor had no report this month. No meeting had occurred with staff from the Attorney General's office due to other matters that were occupying the time of the Attorney General's staff. Mr. Taylor will continue to try to arrange a follow up meeting with the Attorney General's staff and the State Bar to discuss protecting the public from the unauthorized practice of law.

3. Specialization and Certification -- James B. Steward

Mr. Steward reported they are establishing a schedule for future meetings. He hopes to have a report for discussion at a meeting of the Committee on Special Projects in a couple of months.

4. Practice Management -- Patricia Ouellette

No report.

E. Administration of Justice

1. Contested and Uncontested Probate Proceedings -- Shaheen I. Imami/Douglas G. Chalgian

No report.

2. Uniformity of Practice – Rhonda Clark

No report.

F. Practice Issues, Related Areas & Liaisons

1. Charitable Giving/Exempt Organizations – Robin D. Ferriby

Mr. Ferriby noted that charitable organizations are trying to determine their legislative agendas and priorities. Subjects of particular interest are combating limitations on charitable deductions and IRA rollovers to charity. Sen. Grassley has pressured some charitable organizations to disclose their donor lists and there is concern that this might be a trend.

UPMIFA continues to be misunderstood. The Council of Southeast Michigan Foundations is sponsoring programs to help agencies understand the statute.

The Council also discussed the level of interest in a new survey of economics in the probate and estate planning practice and whether Mr. Ferriby should seek sponsorship for a study. There is interest in having another survey compiled and Mr. Ferriby will look into it.

2. Transfer Tax – Thomas F. Sweeney

No report.

3. Guardianships and Conservatorships – Constance Brigman

Ms. Brigman reported that the UAGPPJA is on hold. Probate Court staffing has been reduced statewide and the courts are concerned about the increased workload that would result if it were enacted. As a result efforts to have it passed have been suspended.

4. Business Law/Liaison to Business Law Section – John R. Dresser

No report.

5. Elder Law/Liaison to Elder Law Section – Amy R. Tripp

Ms. Tripp reported that the Elder Law Section is holding a seminar October 6-8 at Crystal Mountain and will have a pair of prominent national speakers on the Agenda. She encouraged those with an interest to sign up to attend.

6. Family Law/Family Law Section Liaison – Patricia M. Ouellette

No report.

7. Real Property Law/Real Property Section Liaison -- Daniel P. Marsh
No report.
8. State Bar Section to Section Action Team Liaison -- Robert Tiplady
No report.
9. Tax and Taxation Section Liaison -- Lorraine F. New
No report.
10. State Bar Liaison -- Richard J. Siriani
No report.
11. Court Rules and Forms Committee Liaison -- Marlane C. Teahan
Ms. Schnelz and Ms. Teahan recently attended a Court Rules and Forms Committee. There will be some minor modifications to a number of forms, but no major changes are pending or expected.

Ms. Teahan submitted a report in the form of minutes of the Rules Committee (**Attachment 1**). The Committee hopes to bring to the October meeting of the Committee on Special Projects a draft of a rule change governing appeals from Probate Court.
12. Trust Institutions and Liaison with Michigan Bankers Association -- Susan Allan
Ms. Allen reported that HB 6272 passed House. Bankers want changes and are working to have them introduced in the Senate. The Bankers would like a statutory acceptance form for durable powers of attorney and some tweaks to other language. Mr. Steward asked that these changes be placed on the Agenda for the Committee on Special Projects in October. Ms. Allan concurred and expressed that the Bankers Association would like input from the Section.
13. Michigan Probate Judges Association Liaison -- Hon. Phillip Harter/Hon. David M. Murkowski/Hon. Darlene O'Brien
No report.
14. Law School Liaison -- Josh Ard
No report.

15. Insurable Interest – Mark Harder/Robin Ferriby

No report.

IX. Other Business

The Council's annual organizational dinner will be Friday, October 8 in Jackson. The organizational section meeting will on Saturday, October 9 in Lansing at the University Club.

X. Hot Topics

None.

XI. Annual Meeting of the Section

A. Approval of Minutes of October 24, 2009 Special Meeting of the Section

Mr. Harder moved, with support from Judge Murkowski that the minutes of the October 24, 2009 Special Meeting of the Section, distributed with the materials for the meeting, be approved. They were unanimously approved by the members of the Section in attendance.

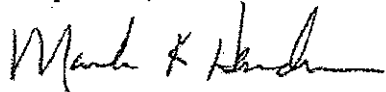
B. Strategic Planning Discussion

Mr. Gregory reported that Section membership has declined by approximately one third since 1998. Mr. Gregory will discuss a strategic planning process for the Section when the officers meet on September 13 to discuss and plan for the upcoming year.

XII. Adjournment

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

Respectfully submitted



Mark K. Harder, Secretary

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