

**Elder Law and Disability Rights Section
Council Meeting**

**Chalgian & Tripp Law Offices, PLLC
1019 Trowbridge Road
East Lansing, MI**

**April 11, 2009
10:00 AM - 12:00 PM**

On Saturday, April 11, 2009, the Elder Law and Disability Rights Section held a Council Meeting from **10:00 a.m.** until **12:28 p.m.** at the Chalgian & Tripp Law Offices, as well as via telephone conferencing.

MINUTES

I. INTRODUCTIONS

Amy Tripp lead roll call. Those present in person were A. Tripp, C. Dellenbusch, R. Buhl, B. Vauter, P. Cheever, M. Fuller, D. Huff, P. MacKinnon, D. Coulter. Those present via telephone were H. Manela, J. Payne, A. Malisow. Other attendees included Will Lucius, John Bos, Kevin Cotter, David Kerr, Jill Goodell.

II. APPROVAL OF MINUTES

Motioned passed to approve the March minutes.

III. TREASURER=S REPORT

The Treasurer=s report was emailed to the council prior to the meeting. The year-to-date ending fund balance is \$91,317.52. Also, invoices from the 2008 fall conference have been sent to the State Bar. Motion was passed to approve the Treasurer=s report.

IV. COMMITTEE REPORTS

A. Litigation Committee

The Litigation Committee has been working hard. Currently, there is a signed engagement letter with Renee and Goodman who have agreed to limit fees to \$25,000 and \$10,000 respectively (fees are not to exceed \$35,000).

Caroline has requested a check be issued from the State Bar. This request caused a certain level of anxiety, and the issue was taken to the executive committee. As of yesterday (4/10/09) the executive committee is comfortable with proceeding. The primary concern was that the section not be a named Plaintiff to the action.

Also, there was discussion held regarding the action being addressed on the Listserve, so as not to disclose any litigation strategy to non-members. The Listserve should be used for notification purposes only. Further, the council minutes need to be placed on the website, however there has been no intent to purposely withhold this information. Paul Sturgul will provide the minutes for posting.

Council members need to certify forty (40) litigants, which should not be difficult. The affidavit has been provided to the council members prior to the meeting. Members should return completed affidavits via email. Of the litigants, the focus should be on finding eastern district Plaintiffs due to the location. Specifically, there is a need for three (3) non-divestment Plaintiffs.

The next Litigation Committee meeting will be held on April 17, 2009. Lastly, nursing home counsel is excited about this prospect as well.

B. POLST Committee

No report was provided on the POLST Committee.

C. Nursing Home Contracts

No report was provided on the nursing home contract issue. However, Brad is excited and has stated that he will work with Roxanne on this matter.

V. OLD BUSINESS

A. 2009 Spring Conference

It is too early to determine profit and loss regarding the 2009 spring conference at this time. Attendance was down by approximately fifteen (15) to twenty (20) attendees from the previous conference. Otherwise, the general consensus was that the conference was a success.

B. 2009 Fall Conference

Currently there is no specific information to report. Brad is still organizing the programs for the conference. Robert Flemming will be the primary speaker. Members expressed the desire to have at minimum two (2) general sessions and several breakout sessions, with supplemental needs trusts and elder law in general being possible topics. Also, the

conference should maximize Mr. Flemming=s presence as much as possible.

Discussion was held on the Lifetime Achievement Award, with Judge Nelson as a past recipient. Caroline made a motion for a possible candidate, which passed with nine (9) in favor and two (2) abstentions.

There was also discussion on the desire to research the history of the section, and those who have been influential in it=s creation. Forming a committee was addressed, with John Payne, Brad, and Josh to serve. The primary focus will be on the history of the section, as well as determining who the founders are and who have been influential.

C. Database for ALJ Decisions

There was a brief discussion on the progress of the ALJ decisions database. This database will not go back further than year 2008. No real cost is associated with this project per se. As such, the database should be maintained for a period of time to determine if users find the information helpful.

D. DHS Policy re: reconsiderations and rehearings

A recent DHS policy was issued in early April. There have been no revisions to this policy. At this time letters of support are being sought from allied organizations. Once more information is provided the council will be advised. Any member may view the recent policy changes (funeral contract clarification, LLCs, etc.) on the state website.

VI. NEW BUSINESS

A. Public Policy Committee

Amy Tripp presented the possibility of forming a Public Policy Committee. This committee would be beneficial considering the volume of policy information that is received on an almost daily basis. The primary responsibility would be sorting the information and presenting it to the council. The chair-elect was appointed to be the person to steer the committee.

B. Tax Free Savings Plans for Disabilities

A discussion was held on the topic of a tax-free savings plan for individuals with disabilities. In essence, this is a 529-type plan for families with special needs children. Advocates argue that parents have incentives to save for college, and thus special needs parents should have a similar incentive to save for children with disabilities. The primary concern would be the requirement of a state payback provision, thus third-party supplemental needs trusts would still remain beneficial. This is proposed federal

legislation and should be monitored. The account would be called an Aable-account.@ The main advocates currently are autism groups. Patty offered to draft a letter of support. Also, Art and Patty will have a meeting regarding this issue and present the council with more information.

C. ALF Questionnaire

Allison has been working hard on a draft of a disclosure form for assisted living facilities. She would like to distribute as many copies as possible to various groups. Allison requested that the section assist financially with the copying costs. Members indicated that this project would be good to support financially, but should withhold any vote in support until more information is made available, such as the number of copies needed as well as the costs per copy.

D. Policy re: Charitable requests

Amy Tripp suggested to the council that the section maintain a policy regarding charitable requests. There was significant discussion on the type of parameters that should be set in dealing with requests from various individuals and organizations. Most members indicated that there should not be a specific policy, but rather that each request be addressed on a case-by-case basis. There was also a suggestion that the section budget for donations. A motion was made to handle charitable requests on an individual basis (case-by-case), with only a general policy of no direct charitable donations with the exception of memorial contributions. However, the motion failed.

E. 2009 Fall Conference Discussion

Another discussion concerning the 2009 fall conference was added to the agenda. Specifically the council addressed

compensating Brad for his services in organizing the conference. A motion was presented to compensate Brad at a rate equal to the previous year, which is \$2,500. The motion was carried.

F. Legislative Issue re: Funeral arrangements

No discussion was held on the funeral arrangement legislative issue, as Paul Sturgul was not present.

G. Council Nominations

Section members should be aware that this is the time for council nominations. The nominating committee should ascertain if any section members are willing or interested in serving on the council. The Treasurer position, as well as council positions, will be available. The positions for Rosemary, Conrad, Rachel, Harley, and John Payne will be ending. Also, Kristen Cole resigned, thus there is an open seat. If any member is interest in serving they should notify the nominating committee.

H. ELDRS Award

The ELDRS award topic was addressed under the 2009 fall conference discussion.

VII. LEGISLATIVE UPDATE: CAPITOL SERVICES

A. HB 4331 - Council voted to oppose

The council voted to oppose House Bill 4331, which would require that Power of Attorneys be registered. The vote was held via email.

B. HB 4505 - Doug

House Bill 4505 is the Afuneral bill. No specific information was provided during the meeting. However, Doug should have a position on this bill to present to the section at the next meeting. A motion was presented by Diane Huff to support HB 4505, with a second from Brad. The motion carried.

C. Other

The legislative update was sent to the section via email. The Legislature is currently in its spring recess, and will return on April 21, 2009 likely to begin voting on the proposed budget bills.

Put Michigan People First

The coalition is working on a proposal to expand health care coverage for pre-Medicare individuals by providing a market product that all providers must offer. This product could be subsidized. It will be difficult, however, to sell this legislation to those who support the BlueCross/BlueShield proposal.

Budget Bills

HB 4436 (Community Health Budget Bill) is out of the appropriations committee, but has not been addressed by the full House. Also, SB 248 (DHS budget bill) was passed by the Senate, and there will now be hearings before the House on this measure. Lastly, the State has finalized PA 7 of 2009 which appropriates a portion of the federal stimulus money. There will be an increase in funding for senior nutritional programs, subsidized employment programs for low-income seniors, and vocational rehabilitation.

EPIC Amendments

The Senate passed several bills that would change the Trust Administration section of EPIC. Amy Tripp initiated this discussion by praising those that worked on changing the trust code, and indicated that these individuals were extremely thorough in their approach. Also, the code will be SNT-friendly. The code should pass the House with ease.

Adult Protective Legislation

An overview was provided on the various legislation introduced in March that offers increased protection for vulnerable adults. The various bills addressed a wide range of issues including abusive annuities (by changing the insurance code and the Uniform Securities Act), setting heightened standards for banks and credit unions, and prohibiting inheritance for those convicted of elder abuse.

Death Notification

Legislation requiring long-term care facilities to notify next of kin, guardians, health care providers and the county of a resident=s death is controversial. In a recent hearing the bill was strongly opposed by county medical examiners.

In other business, the council was informed of recent appointments by the governor to the independent living council. Lastly, a newsletter will be circulated once drafted and received that will provide more information on financial companies that mislead the public into thinking that the company is a veterans= organization.

Amy Tripp concluded the meeting at 12:28 p.m. The next meeting will be held on May 2, 2009 at Barron, Rosenberg, Mayoras & Mayoras PC.