

## ELDRS Section Meeting

February 3, 2018

State Bar of Michigan; 306 Townsend, Lansing, Michigan

1. Chair Sara Schimke opens the meeting and welcomes attendees
2. Roll call: Sara Schimke\*, Caroline Dellenbusch\*, Raymond Harris\*, Jean Doss, Nick Ryan, Christine Caswell\*, Kelly Quardokus\*, Todd Tennis, Beth Swagman\*, Christopher Smith\*, David Kerr, Greg Kish \*, Susan Chalgian, Michael Mestelle (in person).
3. Online: Bob Mannor\*, Catherine Jacobs, Don Rosenberg, Liz Vincent\*, Harley Manela, Howard Collens\*, Sandy Mall\*, Jim Steward, Paul Sturgul, Michele Fuller-Urbatsch\*, Erma Yarbrough-Thomas\*, Angela Hentkowski\*, John Payne, Robert Anderson, Deb Clawson, Ryan Long, Scott Robbins, Brad Vauter (\* denotes council member)
4. Agenda: Caroline D. moved approval of agenda; Kelly Q seconded; passed.
5. Motion to adopt December 2, 2017 minutes made by Beth S; seconded by Kelly Q; motion passed
6. Treasurer report: Kelly Quardokus. Kelly submitted several budget statements; no action taken.
7. Fall conference: Angela Hentkowski. Keynote speaker is Howard Krooks. Angela warned that food expense will be high and profit on fall conference will be less than previous year. Angela also spoke briefly as our liaison with probate section and the concern over SB713. Looking for someone from our council to review issues. Court order visitation – probably will not fly. Stories of adults living with an adult child who won't allow visitation between siblings and parent. Susan Chalgian will be willing to work with probate committee. Angela also reported on HB 4905 that removes uncapping requirement for property used for commercial purposes.
8. Spring conference: Harley reports the date for the spring conference is March 16, 2018, at the Inn at St Johns in Plymouth. Registration will be earlier this year. Eblast went out; save the date will be published in State Bar Journal. Sign up currently at 36. Still looking for sponsors – contact Harley.
9. Membership committee: no report. Tracey Rowens stepped down as the interim chair in place of Maria Messina-Wiersma. Maria will back with the council in March and will pick up chair of committee again. Sara reports membership is down. Discussed mentoring opportunities with the use of webinars that may lead to membership interest and growth. Webinars generally can increase interest in the section and membership. Bimonthly webinars at nominal cost over lunch time to learn about issues, hot topics, etc with 2-3 experienced lawyers.
10. Technology issues: Chris S and Sara S. Presently, Michelle runs meetings through her online service. People like this format. Thanks to Michelle for using program for ELDRS benefit without

cost! ELDRS depend on her to be on-line for the program to work. Now ELDRS has a section account to organize calls for committees and council meetings. Allow ELDRS to offer webinars. Cost is \$1000.68 per year. Still cheaper than our conference calls in previous years. Motion by Chris Smith to invest in 1 year of go-to-webinar process. Kelly Q. second. Use it for 1 year and look at the expense again. Discussion: concern about the ability to record meeting? Yes, this program can do that. Jim Steward says Probate section uses SBM Connect to store information and search. David Kerr uses Zoom for similar purpose. Can we find cheaper program? Should we do comparison shopping? No interest in waiting and putting Michele out while we look around. Motion passed.

Second tech issue: SBM connect – list serve through State Bar at no cost. Josh is manager of present list serve which is leaving the market. Probate section has moved to SBM connect. All members of the section are on it. Set up for general list serve and council list serve. Send attachments which are searchable and stored. Dedicated person at SBM. Can pick daily digest or real time. Allow non-attorneys? No, must be member of section. Legal assistant or paralegal on list? Yes. Transition period? Yes, for several months. David Kerr reports Master section is most active list serve and raises the issue of whether there is training? Need training for longer discussion threads, especially to help people know when to respond. Presently, responses don't always fit where the question was. Free announcements – no pay for e-blasts! Howard Collens wants to know if present archive of our list serve can be preserved. Probate looking into that, too. No limit on number of committees on SBM connect. Motion to move to SBM Connect by Kelly Q for ELDRS section and its committees. Second by Christine C. Aug 1 is start date. Modern firm will forward late messages? Don't know that yet. On the motion: no oppose, no abstain. Motion passed.

11. Capital Services Contract: looking at new contract. Presently on second year of 2 year term which ends Dec 2018. Contract stated CS works on two issues each year. For several years, however, CS has done more than that. CS been very active with ELDRS legislative committee. CS also promoting legislative day in Lansing. The rate ELDRS is billed is lower than the services they are performing for us. CS needs to be compensated for what they are doing. Todd T proposes three year step up as follows: effective Jan 1 2018, contract is \$25,200 or \$2100 monthly. This compares to \$1600 we pay presently. Effective Jan 1, 2019, \$30, 000 or \$2500 per month. Effective Jan 1, 2020, \$34800, or \$2900 per month. Discussion: revenue for 2017 is \$89,877.17. Expenses around \$56000 so sections is on plus side of \$33500. Figures include the present contract. Despite increase by \$5000 this year, budget is up as a result of litigation expenses down due to NAELA litigation fund. Angela warned Mackinaw conference will be more costly than Bay City conference. David Kerr raises issue of being dependent on revenue for activity. Change out expense on litigation for legislation. The proposed contract amends the document signed last January 2017. Caroline D. says if we don't do this, then what? Was a conflicts check done? Yes. Will CS help with agency relationships? Sara said Todd will address that. Kelly Q moves to adopt 3-year contact as proposed with legislative training included and specific language for agency contact. Greg Kish second. Howard C made friendly amendment to approve with disclosure language. Roll call vote taken: 15 voted yes, no "nos"; 4 absent. Motion passed.
12. Litigation committee: Ray distributed a report on line. Amicus on Madigian. David Kerr not provide amicus as previously reported because Probate section covering the same issues, and their brief was good. No requests for litigation at this time.

13. Legislative committee: Todd and Jean talk about non-HB713 issues. Governor present budget. Some proposals coming after federal tax law went into effect. Caroline raises 5075 and 5076 bills – could impact POST legislation. There is a work group around these bills to put in more manageable form. DNR for minor children is SB 7084, 85, 86. Parents set it up. Schools keep track of it.

HB5415 – now that dower rights eliminated, legislator wants to bring it back.

Principal residence exemption issue: expand exemption for residents of nursing home – even if non-licensed facility or if go into a family member’s home. Must be for the purpose of convalescing. Still have to have intent to go home. Home could be occupied even if owner not living there. Probate section wants to know our position. House passed the bill.

14. SB713 Casey Kasem bill. Visitation to vulnerable adult who is isolated and not being allowed to visit with relatives. No standing for person to ask court for visitation. See this problem in second marriages; or siblings who keep parents from other sibs. Sen Marleau introduced bill in Dec, on fast track - Feb 13 hearing. Weaknesses: doesn’t coordinate with EPIC in current form. Some at council voiced opposition to the way it was written. Position of others in the group – support in concept but oppose written form of it because more provisions needed to avoid compromising EPIC and get buy-in from other providers. If anyone has changes, write them down and give to Bob Anderson. Kelly Q said committee was split and requests other council members or ELDRS members give written suggestions. Probate judges should weigh in on this issue, too. Majority of colleagues (24 out of 38) in Senate support bill; Rick Jones, chair of committee, wants to move it. Kerri Kasem will come to testify and she adds weight to the arguments. If Probate section, judges, and ELDRS oppose it, then senators want suggested changes. Jim steward opposed the bill because of the definition of vulnerable adults, the concept of qualified individuals to petition the court, estranged family member could compel visit, etc. Bill should be moved to family law and not EPIC. Jim warns against just tweaking – basic concepts should not be adopted. Jim recommends opposition and not just “other” category on the SBM website. Do you start off with oppose and we want these changes, or we are on board with the bill and want some changes. Todd says to offer recommendations - need to have public policy position first. Move by Kelly Q, seconded by Chris S. Motion: ELDRS supports SB713 in its overall concept that isolation of vulnerable adults is a serious issue that requires legislative attention. HOWEVER, ELDRS opposes the current written form of SB713 because more revisions are necessary to ensure that citizens are not harmed by the legislation, ensure that provisions and procedures do no adversely compromise existing law (EPIC), and more input from various stakeholders (courts, probate practitioners, adult protective services, et) is needed. Roll call vote: passes 11 to 2. 13 was a quorum. Sara reminds that no one from ELDRS section can hold out themselves as speaking on behalf of ELDRS but you can represent yourself. Thanks to Bob and Jim for their work, to Susan Chalgian, and to Todd and Jean.

15. CMS Memorandum. After many frustrating minutes trying to connect with Bob A to hear his report on this issue, Sara agreed to follow up with Bob after the meeting.

16. Newsletter committee: Christine. Deadline for winter newsletter is fast approaching.

17. Next meeting: March 3, 2018, 10:00am to Noon; State Bar of Michigan, 306 Townsend, Lansing, MI