

Elder Law and Disability Rights Section Meeting minutes

May 5, 2012, Law Offices of Caroline Dellenbusch and Beth Swagman, Grand Rapids

Present in person: Caroline Dellenbusch*, Rosemary Buhl*, Christopher Smith*, Rob Longstreet*, Beth Swagman*, Michael Mestelle*, Christine Caswell, J. David Kerr ("David")*, Brad Vauter*

Present via telephone: Jim Steward*, Bob Anderson, Patrick Bond*, John Payne*, Paul Sturgul*, Kelly Quardokus*, Sara Schimke*, Art Malisow*, Todd Tennis (Capitol Services), David Sprague, Dolores Coulter, Angela Swanberg, Sandy Mall

*Indicates voting council members.

1. Meeting began at 10:00 am. Introductions were made for those present, and via telephone.
2. Approval of April Minutes. Motion made by Brad Vauter, Seconded by Rob Longstreet. Vote held, passed unanimously.
3. The Treasurer's report was made, as Treasurer; Patrick Bond forwarded most recent statements provided by the State Bar which shows a balance as of March 31, 2012 to be \$99,825.66.
4. Legislative Update (For complete analysis of the legislation, and other activity reported on, please see May 2012 Legislative Report prepared by Capitol Services)
 - a. Estate Recovery –still quiet. It is believed that this legislation may not move until after the election.
 - b. Dual Eligibles—Hearings are concluded, there is concern over the timeframe to implement the changes & disruption of services.
 - c. Check off for Alzheimer's—looking likely to be successful
 - d. Budget—Revenue estimating conference scheduled for May 16th, will move quickly after this.
 - e. Vulnerable Adult Package—Still in house, no hearings yet.
 - f. Pooled Trusts—Kurt Heise's office has sent the bill to Legislative Services Bureau. Hope to have it back soon. After we get an "official draft" we need to review and meet with Heise again.
 - g. Uniform Arbitration Bills:--lengthy discussion held about the negative ramifications of these bills,(ie tool to engage in further elder abuse, arbitrators in pocket of big companies, etc) and best way for ELDRS Council to approach this issue. Jules Olsman is also working on additional language, but it appears unlikely to be successful.

- i. J. David Kerr made the following Motion: “I move that the Elder Law Section objects to the ADR section for supporting legislation that ignores the contracts of unequal bargaining power forcing arbitration on very senior persons and other vulnerable adults entering into nursing home contracts and other similar contracts and does not properly address the issue of arbitration panels seeded with those from monied interested parties.”
 1. Motion seconded by Michael Mestelle
 2. Discussion was held regarding taking a position against another section, and making friendly amendments to the motion, which were agreed to by Mr. Kerr and Mr. Mestelle and included above.
 3. Vote held and passed unanimously. Plan is to have Chair, Caroline contact the ADR chair and Tonya Schuitmaker regarding our position.
- ii. Motion made by J. David Kerr that authorizes the Officers of the ELDRS section to determine best course of action in regard to this position and how best to communicate it. Seconded by Jim Steward, passed unanimously.
- h. SB 92: Bill has passed house and senate. Senate needs to concur with House changes (that were made by Probate Council and supported by ELDRS) Still have Oct. 1, 2012 implementation date. This is a significant change from existing law and education will be needed.

5. Old Business

- a. Fall Conference –
 - i. Kevin Urbatsch, out of San Francisco, has been confirmed as a “key note” speaker. He has agreed to present up to 4 workshops. In addition, Judith Stein and speakers regarding VA have been approached. Discussion was held regarding other speakers including: Connie Brigman, Josh Ard (consumer rights), Sandy Mall (litigation), Bill Hardaman, Gabrielle Warner(health insurance broker), David Shaltz (circuit court appeals), Doug Chalgian (estate recovery), Native American Legal community, Patti Dudek (digital assets), U-M Constitutional Law professor (ACA Supreme court decision), Gary Bauer (Guardianship)
 - ii. Theme is “Lost in Translation” October 3-5, we will start with Lunch
- b. Estate Recovery FOIA—no update. Tabled until June meeting.
- c. By-law Changes—conversation tabled until June meeting.
- d. Pooled Accounts Trusts—see legislative report

- e. Collaboration with Health Care section—Josh & caroline planning teleconference with other sections. May need funding, will come to section with request..
 - f. Unauthorized practice of Law definition—tabled until Amy Tripp can report.
6. New Business—
- 1. State UPL project—Chris berry. Starting to get serious about trust mills & annuity companies, etc. Will be doing presentations on it. Will be a combined effort of UPL/Probate and Estate Planning Section (PEPS) and ELDRS. Volunteers will be needed. May be a good Outreach Committee issue
7. Committee Reports
- a. POLST—Still waiting for committee to work with DCH to approve pilot program.
 - b. Litigation Committee—
 - i. South Dakota PAT case is bad, it came out of nowhere. They are working on a response to this issue. Still have one plaintiff, moving forward.
 - ii. 401k—1 case pending Judge Victoria Roberts. No TRO approved, not significant harm. Hoping to move fast. Jude had stated she will consider fast tracking for declaratory relief.
 - iii. Dual eligible—no plaintiffs yet
 - iv. Jointly held assets—see Chris Smith email.
 - c. Health Care Reform Committee—Dolores Coulter—Coalition came together to oppose BC/BS. Health care exchange discussed. Pilot of dual eligibles & integrated care moving along, Mary Ablan involved heavily.
 - d. Legislative Committee—Brad Vauter—tabled until June.
 - e. Newsletter—ready to approve
 - f. Unauthorized Practice of Law—see above.
 - g. Outreach Committee—members will be contacted by J. David Kerr to establish times for a conference call.
8. Announcements—Brad V. asked that all check the email about the council terms.
9. Upcoming meetings:
- a. June meeting will be held on Saturday June 2, 2012 meeting at Barron Rosenberg, Mayores & Mayores, Troy.
 - b. No July meeting
 - c. August meeting will be Saturday August 4th at Steward & Sheridan, PLC in Ishpeming.
10. Motion made by Brad V. to Adjourn, seconded by Beth Swagman. Passed unanimously.

Meeting ended at 12:00 pm

Respectfully submitted by Rosemary H. Buhl