

ELDRS Section Meeting

May 5, 2018

Lansing, Michigan

1. Chair Sara Schimke opens the meeting and welcomes participants
2. Roll call (in person): Christine Caswell*, Kelly Quardokus*, Beth Swagman*, Christopher Smith*, Susan Chalgian, Caroline Dellenbusch*, Raymond Harris*, Brandon Dornbush (* denotes council member)
Roll call Online: Sara Schimke*, Jean Doss, Bob Mannor*, Harley Manela, Howard Collens*, Sandy Mall*, John Payne, Ryan Long, David Kerr, Greg Kish*, Theresa Rich*, Maria Messina-Wiersma*, Terri Winegarden, Erma Thomas-Yarborough*, Krystal Danielak, Michele Fuller-Urbatsch*, Kevin Gilhool, Jacob Spear, Paul Sturgul, Todd Tennis (* denotes council member)
3. Agenda: Motion Beth S seconded Caroline D Passed
4. Secretary's report: March 3, 2018 minutes: moved by Beth; seconded by Kelly; passed. April 7, 2018 minutes: moved by Beth; seconded by Ray; passed.
5. Treasurer report: Kelly Quardokus. \$25K taken from our fall conference line item because the revenue should have been attributed to another section. Our budget shows more asset as a result of fewer dollars expensed for litigation. New policy at SBM says that if bills not submitted within 60 days, reimbursement will be considered income.
6. Fall conference: Angela Hentkowski absent; Sara reports. Registration information coming this month.
7. Spring conference: Harley Manela: no report. \$16,900 for revenue for spring conference.
8. Membership committee: Maria Messina Wiersma: the first webinar is scheduled for May 24, Thursday, at noon, and the topic is "Pitfalls and Best Practices when Filing a Petition for Guardianship." Tracey Rowens presenting and Theresa Rich assisting.

Membership Committee has submitted an application to present at the SBM Young Lawyers Annual Summit on Saturday, June 16, at Boyne Highlands. We have been given 2:10-3:05 timeslot. Susan Chalgian volunteered to represent ELDRS.
9. ADR Summit: Sara reports that Sandy Mall will be attending on behalf of the Section at Summit on May 11, 2018.
10. Newsletter Committee: Christine Caswell reports. Chris S. raises the issue of whether or not aggressive Medicaid planning strategies should be published in the newsletter. To what extent should we promote such articles? Greg Kish echoes Chris' thoughts. Suggestion made to withdraw the current article and re-draft it using new the CMS Waiver divestment penalty

letter. Circulate Medicaid planning strategies on the SBO Denial Listserve. Suggestion made to put the body of CMS letter on Waiver divestment into the newsletter.

David Kerr wondered about an article on how litigation cases are determined. What position does AG office take with DHHS as to what cases to pursue? What is the relationship? Jean Doss volunteers to discuss this issue with Todd Tennis and report back to ELDRS council.

11. Litigation Committee: Ray Harris reports. Litigation Committee re-reviewed Gene Coffey (CMS) letter re promissory notes and recommends the letter not be sent. Bob Anderson sent materials to the committee and committee reviewed the materials. It appears to be specific to Bob and not widespread throughout the state.

Hegadorn/Lollar/Ford SBO Trust cases are going before MSC. Jim Schuster to file amicus. MI-NAELA approved to pay Jim Schuster \$5,000 for amicus.

Vansach oral arguments this week in Detroit. David Shaltz, Don Rosenberg, and Sandy Mall to argue the position that probate court has authority over requests for protective orders.

Litigation case reported by Bob Mannor. Probate Court awarded CSIA increase for Bob's client; AG office now appealing court's decision.

National NAELA agreed to do amicus brief for Hegadorn/Lollar/Ford SBO litigation.

12. Legislative committee: Kelly Q presents supplemental report on HB 5032. Motion made to take position against HB 5032 because it defines elderly as being 65 and older, it does not address consent, and the overbreadth of the bill could criminalize non-criminal behavior. Kelly moves to oppose HB 5032 with grounds; Caroline seconds. Roll call vote: 15 of 19 eligible council members voted affirmatively; no nays, and no abstains. Passed.

Jean and Todd present Capital Services report. SB 713 (Casey Casem bill): Probate Section has similar issues with the bill and bill sponsor is willing to resubmit with changes. Josh Ard working on bill with guardianship issues and not POAs. Bob Anderson working with Josh. No new draft yet. New bill, if any, to be specific to guardianship. Go back to Council after Senator Marleau submits new draft. He is termed out so if the bill doesn't get through in June, it won't likely go forward and the bill will die.

HB 5813 was introduced requiring Elder Abuse forms for peace officers to be more mindful of handling elder abuse. However, the form is too broad and overwhelming, so peace officers may not use it.

Bill re Guardians and mental health issue – did not go through this week, possibly next week. Guardians under the bill would get more permission to obtain outpatient mental health services for wards.

Jean reports on the Medicaid work bill. Bill requires able bodied Medicaid recipients to work 29 hours a week to maintain eligibility. House held a tense hearing on the matter. Many organizations oppose it. Governor did not sign Senate version of the bill.

13. Next meeting is June 2, 2018, at the State Bar of Michigan Office in Lansing, MI.