

Matter One

Matter 1.1 Location
Basset and Associates; Ann Arbor
Meeting called to order at 10:13 a.m. by Chair

Matter 1.2 Attendance
Those present:

John Payne* (chair), Sara Schimke* (secretary), Chris Smith* (treasurer),
Christine Caswell*, Maria Messina*, Michael Mestelle*, Kelly Quardokus*,
Amanda Murray, Dolores Coulter, Todd Tennis.

On the phone:

Pat Bond* (past chair), Rosemary Buhl, Howard Collens*, Angela Hentkowski*,
J. David Kerr*, David Sprague*, Robert D. Mannor*, Beth Swagman*, Erma
Yarbrough-Thomas*, Jacquelyn Rygiel Sprague*, Paul Sturgul, Amy Peterman,
Kim Winokur, Susan Schaibel, Jennifer Ackroyd-Fabris, Brad Vauter, Robert
Anderson, Charlotte Shoup.

(* designates council member)

Matter 1.3 Approval of Minutes
Motion made by Michael Mestelle to approve October 2015 minutes, motion seconded by Kelly
Quardokus. Vote taken. Motion passed unanimously.

Matter 1.4 Treasurer report
Chris Smith made report, because it is the end of the fiscal year, he only had the draft reports.
The final year-end reports will be ready for next month.

Matter 1.5 Legislative update - Todd Tennis

- A. Digital assets HB 5034 now in bill form. All sides agree to latest draft; which is based off ELDRS sections suggestions. Hearing on bill this past Tuesday; Howard Collens and Rep. Forlini testified. The final bill could be signed in by the end of this year. Michigan will be first state to adopt this national agreement. Michael Mestelle made a motion to support HB 5034, Chris Smith seconded the motion. 14 members voted yes – none opposed – none abstain. Motion passes.
- B. ABLE act - The bill was signed into law last week. Chris Smith deserves a lot of credit for getting this through.
- C. Armed/arrest powers, Senate Bills 384 & 385. The bills have passed senate, they have now been referred to house criminal justice committee. They will be taking testimony Tuesday Nov. 10, 9:00am. If anyone wants to speak - testimony will be taken in the house building.
- D. New vulnerable adult bills introduced, House Bills 4056-4059. These bills increase penalties for crimes against vulnerable adults. Lansing advocates have implied that there should be more enforcement instead of just increasing penalties.

- E. Road Fix plan - raises \$6 million new money - diverts \$600 million from general funds to roads. Creates homestead property tax increase. Income tax bill that will auto ratchet down income tax rate. Study showed that if this would have been in place this last year, there would have needed to be \$600M cut from general fund. Doesn't go into effect in until 2023.
- F. Caregiver act SB 352 - Senator O'Brien's office talked about changes. Hospital association has come out and opposed it. This has slowed it down. Don't know where it will go now.
- G. Dower rights bills SB 558-560 (Jones) - eliminating the dower rights. ACLU is supporting these bills SB 558, 559, 560. These will not apply to pending cases. This will only apply to future matters.
- H. Motion by Christine Caswell change position on SBM website to support Kevin's Law Bill 4674; Seconded by Michael Mestelle. 15 members voted yes – none opposed - none abstain. Motion passes.
- I. Qualified dispositions in trust act SB 597 (Schuitmaker)- New act that appears to allow people to set up irrevocable trusts that are protected from creditors of the settlor and beneficiaries. Settlor must certify that they have sufficient resources, are not insolvent, and not going into bankruptcy. Appears to allow flow-through creditor protection. Todd will investigate further into this bill.
- J. Probate committee has taken up changes to EPIC project. If anyone has ideas, contact Howard Collens.

Matter Two - Old Business

Matter 2.1 Ketchum Estate - Amy Peterman
Charlotte Shoup previously reported that oral argument was denied without prejudice, but we can ask again for oral argument. No oral argument has been set yet.
Amy will send a report to council on what was submitted and what was denied.

Matter 2.2 Rouch amicus brief - Angela Hentowski
After research, has determined that EPIC applies and Probate court has jurisdiction. More time was requested from the Court; Court gave 42 additional days from the date of the order. It is unclear of the exact date of the order because there are multiple dates on order. Angela will get clarification from court.
What is needed at this point: a public policy position statement and approved retainer agreement. Would also like a motion to take a public policy position inline with exclusive jurisdiction. Requesting an electronic vote once everyone has read the memo.
Michael Mestelle made a motion to take a public policy position in support of the probate court's exclusive jurisdiction and to approve Jim Stewart going forward with position that probate court has exclusive jurisdiction; motion seconded by Kelly Quardokus. 15 members voted yes – none opposed - none abstain. Motion passes.

Matter 2.3 Proposal A - Robert Anderson
Robert Anderson requests that council allows him and Jim Stewart to move forward with getting changes entered. Requested changes: residential vs commercial; internal changes within business entity; life estate change technical correction; approval of LBD, technical correction;

recognition of unequal joint tenacious; POW technical correction; fairness to tax payer. Would like Council to agree with proposed changes so committee can continue to work on details of language changes.

J. David Kerr made a motion to support proposed changes; motion seconded by Michael Mestelle. Discussion ensued and agreed that concepts are being approved but language details are being left open for efficiency. Council voted. No opposed - none abstain. Motion passes.

Matter 2.4 Advisory Letter to Nursing Homes - Robert Anderson

Pat Bond suggests forgoing the letter and offering a free webinar for nursing facility coordinators to help facilitate Medicaid qualifications. Brad Vauter thought letter was already approved and wants to continue with letter, just reevaluate tone of letter. John Payne offered a copy of the webinar he is already doing, suggested we offer webinar to NH administrators. He will send power point to council to look over. Kelly Quardokus suggested doing this as part of our conference. Allison and Brad had advocate suggestions for NH so it is not completely self-serving for us. Howard Collens believes that whether the USSC will hear the Florida appeal will affect us.

Matter 2.5 Michigan POST - Robert Anderson

We have been screened out of the process. Bob has reached out to the ABA attorney leading this. He provided two ideas from other states. Those were forwarded to Strimicki; but we continue to be shut out. Anderson is requesting that someone else assist with working on this. Please contact Robert if you are willing to lead this project.

Matter Three - New Matters

Matter 3.1 Technology Change - Chris Smith

Alternatives researched; will evaluate at next meeting based on today's technology issues. If anyone has suggestions - please contact an executive member of council.

Matter 3.2 Newsletter editor Stipend

Kelly Quardokus made a motion to approve the current stipend to Christine Caswell in the amount of \$500 quarterly; Michael Mestelle seconded the motion. Council voted; no opposed - Christine Caswell and J. David Kerr abstained. Motion passed.

Matter 3.3 Fall Conference

Michael Mestelle made a motion to approve the payment of a deposit in the amount of \$750 to Crystal Mountain for the Fall 2016 conference; Maria Messina seconded motion. Vote taken – no opposed - no abstain. Motion approved.

Matter 3.4 Spring Conference

March 4, 2016 is tentative date at Inn of St. John.

Matter 3.5 UPL - Robert Anderson

Recent meeting for SBM UPL committee is organizing and considering a new plan. All attorneys should report UPL activity to SBM

Matter 3.6 Litigation - Robert Anderson

Judge Mazuki - issued an opinion that the process is arbitrary and capricious - believe that this is the first in this state. Bob wants ELDRS to approve the hiring of outside council if state appeals.

Matter Four - Announcements

Matter 4.1 Kelly Quardokus - 2015 judicial conference
CSIA/CSRA presentation. Appears that some judges are taking the materials into consideration (Jackson County, kalamazoo county). Materials from the conference can be found on-line (both Dave/Sandy's and Geraldine's) or here:

http://courts.mi.gov/education/mji/Judicial%20Conference%202015/7F-Shaltz_Mall-ElderLawPerspective.pdf

http://courts.mi.gov/education/mji/Judicial%20Conference%202015/7F-Brown_ProtectiveOrdersandCommunitySpouseAllowances.pdf

Matter 4.2 Next Meeting
Next meeting will be held in Grand Rapids at Caroline Dellenbush's office

Matter 4.3 Adjourn
Michael Mastelle made a motion to adjourn; Maria Messina seconded the motion. Motion passed,
Adjourned 11:59 a.m.