

# ELDRS Update

## **Summer Edition 2018, Volume VIII, Issue 2**

*This is a publication of the Elder Law & Disability Rights Section of the State Bar of Michigan. All opinions are those of the respective authors and do not represent official positions of the Elder Law & Disability Rights Section or the State Bar of Michigan. Comments or submissions should be directed to Christine Caswell, Managing Editor, at [christine@caswellpllc.com](mailto:christine@caswellpllc.com).*

## **ELDRS Fall Seminar at Mackinac Island**

*Editor's Note: Rooms are filling up quickly, and there is a wedding that same week, so if you do not have a room reserved by September 1, you will not get one at Mission Point.*

Starts: Oct. 17, 2018 12:30 pm (ET)

Ends: Oct. 19, 2018 12 pm (ET)

### **Cost before September 7:**

- ELDRS or Probate & Estate Section member - \$300
- Non-section member - \$350
- Non-lawyer, student, or first-time registrant - \$225

### **Cost on or after September 7:**

- ELDRS or Probate & Estate Law Section member - \$325
- Non-section member - \$375
- Non-lawyer, student, or first-time registrant - \$250

**There is no charge to attend the Annual Meeting on Thursday, October 18, at 12:30 p.m.**

Register [online](#) or by [mail form PDF](#)

This year's keynote speaker will be **Howard Krooks**. Mr. Krooks, a partner of Elder Law Associates PA with offices throughout Southeast Florida, is admitted to practice law in New York and Florida. He is also of-counsel at Amoruso & Amoruso, LLP, in Rye Brook, New York. Mr. Krooks splits his time between New York and Florida, where his professional practice is devoted to elder law, trusts, and estate matters, including representing seniors and persons with special needs and their families in asset preservation planning, supplemental needs trusts, Medicaid, Medicare, planning for disability, guardianship, wills, trusts, and health care planning with advance directives.

Mr. Krooks is certified as an elder law attorney by the National Elder Law Foundation and is a past-president of the National Academy of Elder Law Attorneys (NAELA, 2013–2014). He is also

the current president of the New York chapter of NAELA and serves on the Executive Council of the Florida Bar Elder Law Section as the administrative vice-chair and NAELA liaison.

There will also be both intermediate sessions and advanced sessions, including ELDRS's own experts, including a special plenary session presented by Sanford Mall and Joseph Anderson, MD. Join Mr. Mall and Dr. Anderson as they discuss issues related to surrogate medical decision making under Michigan law, including the types of conflicts that arise between doctor and patient surrogate, frequency of these issues, how hospitals work to resolve conflict, identification of surrogates with legal authority, when probate court should be considered, when a doctor is not required to take a directive from a patient advocate, and how DNRs and POST fit in with a patient advocate designation and/or advanced directives.

### [Read the Full Agenda](#)

#### **Resort Accommodations (see Editor's Note above)**

- [Room Descriptions & Rates](#)
- Reservations can only be made by calling group reservations at (800) 833-7711.
- **All reservations must be made by Saturday, September 1, 2018.** Rooms are based on availability at the time of calling. No rooms will be available after September 1.
- An advanced deposit of one night's room and tax is required to confirm your reservation. Mission Point Resort accepts Visa, Mastercard, American Express, and Discover. Credit cards will be charged for the deposit at the time of booking.
- If paying by check, the reservation will be held for 10 days pending receipt of the check.
- Reservations must be canceled at least 14 days prior to arrival to receive a full refund.

#### **Ferry Service to the Island**

As a carrier for Mission Point, Shepler's Mackinac Ferry will offer our guests a discounted price per round trip ticket for adults and children. Parking is available. The ferry ride is approximately 16 minutes. Please visit the [Shepler's Mackinac Ferry website](#) for ferry schedule and plan your travel accordingly. You may also "like" Shepler's Mackinac Ferry on Facebook to receive discounts and special offers.

#### **Location**

Mission Point Resort  
6633 Main Street  
Mackinac Island, MI 49757

## ***Legislative Update***

*By Todd Tennis, Capitol Services, Inc.*

The legislature has wrapped up the Fiscal Year 2018-19 appropriations process and has recessed for the summer. It will return in September but is expected to have a light workload until after the election. Depending on the outcome, however, the Lame Duck session in November and December could be quite interesting.

### **Senate Bill on Isolation Being Redrafted**

Senate Bill 713 was introduced by Sen. Jim Marleau (R-Lake Orion) last December to prevent isolation of vulnerable adults. While there was general support for the bill's purpose, many senior and legal advocacy groups expressed concern that, as introduced, it could put vulnerable adults at risk. ELDRS took a position in opposition, although the Council made it clear that it supported the overall goal.

Over the last several months, numerous discussions have taken place to find a compromise. The good news is that a new proposal emerged from these discussions that has broad support. The bad news is that it will require a new bill to be drafted, in that the original amends the Estates and Protected Individuals Act, and the new proposal would need to amend the Social Welfare Act. The new proposal jettisons changes that would grant new rights to family members who feel they are being isolated and instead clarifies the section of the Social Welfare Act that outlines the rights of wards. The advantage is that it will no longer require complicated changes to guardianship proceedings. Sen. Marleau has requested that the Legislative Service Bureau draft a new bill over the summer hoping it can be introduced and move quickly in the fall.

### **Campaign '18 Heating Up**

Statewide candidates. Ballot initiatives. Constitutional Amendments. Hundreds of state and local candidates, both partisan and non-partisan. Local millages and ordinances. Voters have a long ballot for the November 6 general election.

So far, the bulk of election media attention in Michigan has focused on the gubernatorial race. The most recent polls show that Attorney General Bill Schuette and Lt. Gov. Brian Calley are leading the race for the Republican nomination, with Schuette as the frontrunner. On the Democratic side, former State Sen. Gretchen Whitmer leads both Shri Thanedar and Abdul El-Sayed, but their combined attacks on Whitmer could narrow her lead in that primary. By the time this goes to print, those questions should be answered.

Most pundits are guessing that Whitmer and Schuette will face off in the governor's race, and most pundits feel that it will be a nail biter. Other top-of-the-ticket races include Attorney General, where Democrat Dana Nessel will face either State Rep. Tom Leonard or State Sen.

Tonya Schuitmaker on the Republican side. The Republicans will choose between Stan Grot, Joseph Guzman, or Mary Treder Lang to be their Secretary of State nominee, while the Democrats have unofficially chosen Jocelyn Benson.

A statewide race which has received much less attention is the U.S. Senate. Incumbent Sen. Debbie Stabenow (D-Lansing) will face the winner of the Republican primary, either businessman Sandy Pensler or businessman and veteran John James. Two other Republican candidates, former Supreme Court Justice Robert Young and Trump Campaign Co-Chair Lena Epstein, withdrew from the race earlier this year. So far, the polling shows that James and Pensler are neck and neck but either would face an uphill battle against the well-funded Stabenow in November.

Most interesting are the ballot proposals. Michigan voters have been bombarded with an unusually high number of ballot petitions, ranging from marijuana legalization to non-partisan redistricting. Some of these still need to receive final approval from the State Board of Canvassers and some are facing legal challenges before they will officially be placed on the ballot. One of the petitions, to eliminate the Michigan Prevailing Wage Law, was approved by the Legislature and, therefore, will not appear on the ballot.

As of this writing, three proposals have been certified to appear on the ballot. One is an initiated law to legalize marijuana for recreational use. Another is an initiated law to require paid sick time for most Michigan workers. The third is a constitutional amendment to create an independent citizens' redistricting commission. On July 31, "Citizens Protecting Michigan's Constitution," a group primarily backed by the Michigan Chamber of Commerce, brought suit. The Michigan Supreme Court heard oral arguments, in which the plaintiff alleged that the proposal contains sufficient changes to be a constitutional revision, rather than a constitutional amendment, and therefore cannot be implemented via a ballot proposal. Attorneys for "Voters Not Politicians," the organization that spearheaded the proposal, successfully defended the proposal in the Court of Appeals, and last Tuesday won by a 4-3 ruling, assuring that the question will appear on the November ballot.

The decision on whether to allow the redistricting on the ballot could impact the Supreme Court itself. Two newly appointed Michigan Supreme Court members, Justices Elizabeth Clement and Kurtis Wilder, will both face the voters for the first time. Justice Clement sided with the majority opinion while Justice Wilder joined the dissent. Some GOP influence leaders have floated the idea of nominating someone other than Justice Clement at the convention in response to the decision. Even in the unlikely event that the Republican rank and file opt to

nominate another candidate to run alongside Justice Wilder, Justice Clement would still appear on the ballot due to her incumbency.

Democrats have already indicated that their nominees will be Megan Cavanagh and Samuel Bagenstos, although that will not be official until the convention in late August.

## ***Calendar of Events***

*By Erma S. Yarbrough-Thomas, Neighborhood Legal Services Michigan Elder Law & Advocacy Center, Redford*

### **ELDRS – [www.michbar.org/elderlaw](http://www.michbar.org/elderlaw)**

- Sept. 15 - ELDRS Council Meeting, State Bar of Michigan Office, 306 Townsend Street, Lansing, MI, 10 a.m.
- October 17-19 - Annual Fall Conference and Annual Meeting, Mission Point Resort, Mackinac Island, MI

### **NAELA – [www.naela.org](http://www.naela.org)**

- Aug. 9-13 - Annual Council of Advanced Practitioners Conference, Portola Hotel & Spa @ Monterey Bay
- Sept. 26 - Public Policy: Is the Facility Drugging My Client? Webinar, 3-4 pm. EDT
- Nov. 15-17 - 2018 NAELA Summit, Fairmont Chicago Millennium Park Hotel in Chicago

### **ICLE/SBM – [www.icle.org](http://www.icle.org)**

- Sept. 13-14 - Elder Law Institute, 4th Annual, Serve the Expanding Needs of Your Client Confidently, Plymouth (Live)
- Sept. 14 - Hands-On Medicaid Part II: Planning Strategies and Divestment, Plymouth (Live)
- Sept. 18 - Drafting an Estate Plan for an Estate Under \$5 Million, Plymouth (Live)
- Oct. 9 - Fundamentals of Estate Administration, Plymouth (Live)
- Oct. 12 - Ethics Update 2018, Plymouth (Live)
- Oct. 18-20 and Nov. 2-3 - 40-Hour General Civil Mediation Training, Plymouth (Live)
- Nov. 1 - Administration of Trusts under the Michigan Trust Code, Plymouth (Live)