

MEMORANDUM

TO: Litigation Section
FROM: Thomas F. Cavalier
RE: March 16, 2010 Litigation Section Council Meeting, Lansing, MI
DATE: March 29, 2010
PLACE: Lansing, Michigan

Council Members present: Bonnie Sawusch, Tom Cavalier, Michael Donnelly, Steve Fox, Bernard Schaefer, Gary Springstead, Marcy Tayler, James VandeWyngearde

Council Members absent: Dari Craven Bargy, David Centner, Evan Burkholder, Michael Butler, Michael Cooney, Albert Dib, Kyle Guthrie, Rita Lauer, Daniel McGlynn, Kristin McNelly, David Moffitt, Sherry O'Neal, Gary Peterson, Brittany Schultz

Guests: Elizabeth Lyon, Shel Stark

Quorum: A quorum was attained.

- I. **Call to Order.** Bonnie called the meeting to order at 5:40 p.m.
- II. **Approval of Minutes.** The minutes of the January 19, 2010 meeting of the council had been approved by email vote on March 5, 2010.
- III. **Financial Report.** A motion to approve the Treasurer's Report was made and carried unanimously. The report is attached.
- IV. **Special Report: Tax on Legal Services.** Elizabeth Lyon, the State Bar of Michigan's Governmental Relations Director, discussed the status of legislation to impose a tax on legal services. She explained that the Legislature is considering a variety of measures to raise revenue by extending the sales tax to services including legal services. A similar effort to tax services failed in 2007; but the current poor condition of the State's finances makes passage of a services tax this year very likely. None of the current proposals exempts legal services. All of them, however, exempt business-to-business transactions. The State Bar of Michigan opposes taxing legal services. Its principal arguments are (1) the tax would fall disproportionately on women and the poor, (2) few states tax legal services and (3) discretionary income

is not used for legal services. Elizabeth pointed out that the Section could take a position supporting the State Bar of Michigan position for these or other reasons. The task of drafting the Section's position is to be undertaken by the Legislative/Rules Committee. Elizabeth distributed several excellent summaries of the proposed legislation, criticisms of it and the State Bar of Michigan's position. The handouts are attached.

V. Committee Reports.

- A. Programs Committee.** Shel Stark reported on the various programs put on by the Section and ICLE.

Masters in Litigation. Shel reported that the recent Cybersleuth program was a great success. He stated that the next two programs have already been planned – the 9/23/10 program will be Robert Musante's "Attacking the Expert Witness."; the 3/24/11 program will be Thomas Mauet, "Trial Evidence: Artistry and Advocacy in the Courtroom."

Deposition Workshop. This workshop is scheduled for May 2010.

Litigation Bootcamp. Shel urged council members to attend the final session in May, 2010. Bootcamp participants will receive their certificates of completion, and gifts, purchased by the Section, will be given to faculty and students.

Bonnie reported that the Section and the ADR Section are continuing to work on a joint program for the Annual Meeting.

- B. Nominating Committee.** Steve passed out a binder containing important information about the Section. The council expressed its appreciation for Steve's hard work and the excellence of his product. The binder's materials will provide an invaluable guide for all council members.

VI. Old Business. There was no old business.

VII. New Business. Steve raised concerns about the cost (\$8) that the Oakland County Circuit Court's Wiznet service charges for each filing.

VIII. The Meeting was adjourned at 7:25 p.m. The next meeting is May 11, 2010, 5:30 p.m., by conference call.