

**MINUTES OF THE MEETING OF THE COUNCIL  
OF THE PROBATE AND ESTATE PLANNING SECTION**

**December 9, 2006 10:25 a.m.  
University Club, East Lansing, Michigan**

- I. The meeting was called to order by the chair, Douglas A. Mielock, at 10:25 a.m.
- II. **A. Council Members Excused:** Sebastian V. Grassi, Jr., Nancy L. Little, Richard J. Siriani, and Thomas F. Sweeney
- B. Council Officers Present:**  
Douglas A. Mielock                      Harold G. Schuitmaker  
Lauren M. Underwood                  George A. Cooney, Jr.
- Members Present:**  
Douglas A. Chalgian                      Marilyn A. Lankfer  
Daniel E. Cogan                              Michael J. McClory  
John R. Dresser                              Amy N. Morrissey  
George W. Gregory                          James B. Steward  
Mark K. Harder                                Marlaine C. Teahan  
Ellen Sugrue Hyman                        Joan C. Von Handorf  
Shaheen I. Imami
- C. Others Present:** Josh Ard, Rebecca Belcher, Francine Cullari, Kristen Gross, J. David Kerr, Meg Lentz, J. R. McGraw, Jean Mahjoory, Daniel Marsh, Jeanne Murphy, Allen J. Nelson, Chad Nesbit, Kurt Olson, Pat Ouellette, Christine Savage, Ken Seavoy, Tess Sullivan, Rob Tiplady, Lauren M. Underwood, Derek A. Walters
- III. **Introduction of Guests:** All attendees, including guests, introduced themselves.
- IV. **Secretary's Report:** The minutes of the November 11, 2006 meeting were approved, with the misspelling of Catherine M. O'Connell's name being corrected.
- V. **Treasurer's Report:** Awaiting final reconciliation from the State Bar to determine status.
- VI. **Chairperson's Report:**  
(1) Janet Welch is the interim Director of the State Bar  
(2) House Bill 6299 (backing) is moving along - no further Council position

(3) Joan Von Handorf has been confirmed as being on the Forms Committee  
(4) Ken Kingma has been working on the insurable interest legislation with Senator Bishop, who is now Senate Majority Leader, so a new sponsor must be found.

(5) Reviewed letter from Judge Whitbeck, Court of Appeals, regarding suggestions for the Court of Appeals case flow.

(6) Rule 9.227 regarding Judicial Tenure Commission was discussed

**VII. Report of the Committee on Special Projects:** Sections 404 - 413 of proposed Trust Code were discussed. A motion was made by Mark K. Harder, and seconded by Harold Schuitmaker, to approve, the motion carried.

Some banks are not accepting Powers of Attorney. This and the uniform Power of Attorney was discussed.

**VIII. Standing Committee Reports**

**A. Internal Governance**

1. **Budget** - *George Cooney, chair.* Working on the budget
2. **Bylaws** - *Marilyn K. Lankfer, chair.* No report
3. **Michael Irish Award** - *Brian V. Howe, chair.* No report
4. **Long-Range Planning** - *Lauren M. Underwood, chair.* No report
5. **Nominations** - *Henry M. Grix, chair.* No report
6. **Relations with the State Bar** - *John R. Dresser, chair.* No report
7. **Annual Meeting** - *Lauren M. Underwood, chair.* Discussion of whether the Section wishes to reconsider to hold its' annual meeting in conjunction with the State Bar annual meeting. Do we want an information booth at the State Bar annual meeting?

**B. Education & Advocacy Services for Section Members**

1. **Amicus Curiae** - *Mark K. Harder, chair.* No report
2. **Continuing Education & Annual Probate Institute** - *Nancy L. Little, chair.* Annual Institute is now finalized. Dinner will be as Madonna's Dad's Vineyard.

3. **Section Journal** - *Nancy L. Little, chair*. The current issue is at the printers.
4. **State Bar Journal** - *Sebastian V. Grassi, Jr., chair*. No report
5. **Pamphlets** - *Ellen Sugrue Hyman, chair*. Two pamphlets are now being reviewed.
6. **Electronic Communication** - *John R. Dresser, chair*. No report
7. **Committee on Special Projects** - *George W. Gregory and Doug G. Chalgian, co-chairs*: The Rule Against Perpetuities, as currently written, is dead. A vote to not oppose abolition of the Rule Against Perpetuities in same form was taken, 17 yes and 0 no votes, with total Council members present being 17.

### **C. Legislation and Lobbying**

1. **Legislation** - *Harold Schuitmaker and John R. Dresser, co-chairs*: Discussion regarding Beneficiary Deed legislation. A motion was made by Harold Schuitmaker, and seconded by George Gregory, to not oppose this legislation and approve in principle - motion carried.
2. **Michigan Trust Code** - *Mark K. Harder, chair*. No further report
3. **Statute of Repose** - *John A. Scott*. Trying to link with architects and engineers statute with a Statute of Repose for attorneys in next legislation session.

### **D. Ethics, Professionalism and Standards**

1. **Ethics** - *Marilyn A. Lankfer, chair*. No report
2. **Unauthorized Practice & Multidisciplinary Practice** - *Thomas F. Sweeney, chair*. There was discussion re "We the People" injunction in Kent County.
3. **Specialization and Certification** - *Shaheen I. Imami and Richard A. Shapack, co-chairs*: A draft of proposed specialized practice areas is to be given to CSP for their next meeting.
4. **Practice Management** - *Richard J. Siriani, chair*. No report

### **E. Administration of Justice**

1. **Contested and Uncontested Probate Proceedings** - *Amy N. Morrissey, chair*. Proposed changes distributed (see attached). There was discussion and a further report will be made at the next meeting.
2. **Uniformity of Practice** - *Sebastian V. Grassi, Jr. and Joan Von Handorf, co-chairs*: No report

**F. Practice Issues, Related Areas & Liaisons**

1. **Charitable Giving/Exempt Organizations** - *Robin D. Ferriby, chair*. No report
2. **Estate Gift Tax** - *George W. Gregory, chair*. As of January 4, 2007 IRS Estate and Gift Tax auditors could be located anywhere in the U.S.
3. **Real Property Tax Issues** - *George W. Gregory, chair*. No report
4. **Guardianships and Conservatorships** - *Douglas G. Chalgian, chair*. No report
5. **Business Law and Business Section Liaison** - *John R. Dresser, chair*. No report
6. **Court Rules and Forms** - *Harold Schuitmaker and Joan Von Handorf, co-chairs*: New Court Rule 5.402 requires notice to interested persons for temporary guardianships.
7. **Elder Law/Elder Law Section Liaison** - *Josh Ard*: There has been no progress on Medicaid recovery at the State level.
8. **Family Law/Family Law Section Liaison** - *Patricia M. Ouellette*: No report
9. **Real Property Law/Real Property Section Liaison** - *Richard Shapack*: No report
10. **Tax Section Liaison** - *Shirley A. Kaigler*. No report
11. **State Bar Liaison** - *Francine Cullari*: (1) Discussion regarding ethics opinions as to trust mills, and (2) asked for nominations for "Citizen Lawyers".

12. **Trust/Michigan Bankers Association Liaison** - *Daniel E. Cogan*: No report
13. **Michigan Probate Judges** - No report

**IX. Other Business:**

- (1) It was suggested that Channel 8 (West Michigan) do an investigative report on Trusts Mills
- (2) The next CSP meeting will address §410 thru 412 of the proposed Trust Code

**X. Hot Topics:** Nothing further

**XI. Adjournment** - the meeting was adjourned at 11:55 p.m.

Respectfully submitted,

Harold Schuitmaker