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Probate and Estate Planning Section

Michigan Probate and Estate Planning Journal

Volume 17, Fall 1997, No. 1
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Probate and Estate Planning Section

The following article was published in the [Fall 1997](#) issue of [Michigan Probate and Estate Planning Journal](#)

FROM THE CHAIRPERSON'S DESK

By Patricia Gormely Prince

It should come as no surprise that the Probate and Estate Planning Section of the State Bar is not only the largest section of the State Bar but is also recognized as one of the most active sections. Therefore, by the time this issue of the *Journal* goes to print, the newly elected officers of the Council, existing Council members, and new Council members will already have had at least two meetings.

I invite Section members to our Council meetings. The Section meeting schedule is elsewhere in this *Journal*. We meet nearly every month. The Committee on Special Projects meets at 9:00 a.m. The Council meetings generally start by 10:15 a.m. and are over by 12:15 p.m. Everyone attending is welcome to stay for lunch, should they so desire.

Not only will you be helping your profession, but I believe that those who regularly attend the Council meetings, if asked, would tell other Section members that they personally benefit from this Saturday morning effort. Frequently, current issues in estate planning and probate are discussed. In addition, you will find that other Council and Section members are amenable to having their "brains picked" at lunch or during one of the breaks. So, those of you who have been considering attending the meetings, don't put it off and don't be shy!

It seems that probate and estate planning law, given the impact of new tax acts, court reform, etc., is in a state of flux, and we all are constantly striving to keep up with changes in the law. Being involved in your Section is one way to do this.

Estate Settlement Act

John Martin, out-going chairperson, who should be retiring from his duties on the Council and sitting on his laurels, is an example of how dedicated our members are. John will continue to act on the ESA Drafting and Enactment Committees to further the efforts to get this act passed during the current legislative session.

Committee Assignments

In the back of the *Journal* is a listing of Committee assignments. On reading these, you might note that there are a few new committees. One is Advising the Fiduciary. Given the maturation of many estate plans, advising fiduciaries on their

duties as trustees is a growth area of our practice. Carol Karr is the chair of this committee. Another new committee is Probate Litigation, which includes alternative dispute resolution. The chair of that new committee is Mike McClory. We hope to develop continuing education programs aimed at the specific and unique nature of probate litigation with the Institute of Continuing Legal Education.

Uniformity of practice, which is always an issue, could possibly be a hot topic this year due to the court reform legislation about to go into effect. We therefore expect that committee also to be fairly busy this year.

We are always looking for volunteers for our committees and for new ideas for other committees. Therefore, if you would like to volunteer to be on a committee, start attending meetings and be prepared to work!

Robert S. Hudson Award

The Hudson Award is the highest award conferred by the State Bar. It is given to one or more lawyers for his or her "unselfish rendering of outstanding and unique service to and on behalf of the State Bar of Michigan, the legal profession and public." The 1997 award recipient is none other than our own Raymond Dresser, a former chairperson of the Section. We all knew that Ray possessed all of these qualities, but we are most pleased that the entire Bar, through this award, has recognized Ray's energy and efforts on behalf of the Section and the State Bar.

Seminar Topics

Planning for our Annual Seminar, which is May 14–16, 1998, at the Grand Traverse Resort and June 12–13, 1998, in the Detroit area, is well underway. If there are any topics that are of interest to you as a practitioner, please feel free to call Dick Lowe and make suggestions. In addition, even though it is almost a year away, our September 18, 1998, program at the Annual State Bar meeting is also being planned. Again, if you have suggestions for topics, please contact Mary Ann Zito, who is in charge of that meeting.

Calling All Potential Authors!

The *Journal* gives Section members an opportunity to present articles of broad interest to Section members or even articles that might have a more limited reader appeal. This is because it is our *Journal*. Therefore, if you have an idea for an article, call our editor, Henry Grix, or the associate editor, Lauren Underwood, and suggest the topic. Be advised that if you do suggest a topic, you will be expected to write the article! However, more than one research project has turned into a very fine article to be shared with other probate and estate planning lawyers. Thus, the task of writing an article may not be as daunting as it seems. It is also a convenient, less painful way of keeping current in our area of law.

I look forward to working with this year's officers and Council members, as well as all Section members who are willing to volunteer their time.

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The following is an article excerpt. The complete article was published in the [Fall 1997](#) issue of [Michigan Probate and Estate Planning Journal](#)

HOW AND WHY THE MICHIGAN ATTORNEY GENERAL SUPERVISES CHARITABLE TRUSTS

By David W. Silver, Marion Y. Gorton, and Joseph J. Kylman*

"A charity, in the legal sense, may be more fully defined as a gift, to be applied consistently with existing laws, for the benefit of an indefinite number of persons, either by bringing their minds or hearts under the influence of education or religion, by relieving their bodies from disease, suffering or constraint, by assisting them to establish themselves in life, or by erecting or maintaining public buildings or works or otherwise lessening the burden of government."

Scarney v Clarke, 282 Mich 56, 63, 275 NW 765 (1937) (quoting *Jackson v Phillips*, 14 Allen (96 Mass) 539, 536 (1867)).

Introduction

Recent years have seen the boundaries between charity and business blur, with charities running thrift stores and selling donated vehicles, not to mention many nonprofit health care corporations holding for-profit subsidiary pharmacies and clinics. With all of these developments, it is important to clearly distinguish between nonprofit and for-profit entities and between charities and other nonprofits. Even though a for-profit corporation or business may perform some charitable activity, it does not become a charity simply by doing good deeds. Nor is every nonprofit corporation a charity or a charitable trust. But any nonprofit corporation or organization may be considered a charity if its purpose is to benefit the public.

A common-sense approach tells us that museums, libraries, and hospitals—where people routinely give their time and money for charitable causes and where people obtain educational or social services for free or at a low cost—qualify as charities. Charities are seen as encompassing some altruistic program or purpose. On the other hand, restaurants, stores, or other businesses, even though they may on occasion perform good deeds, are not charities. The lines seem clear, but what of the organizations that apparently have a charitable purpose but also conduct business activities or nonprofits that lobby on behalf of disabled persons or environmental issues? What standards apply to determine if these organizations are charitable? The following paragraphs provide some guidelines for identifying a charity and some of the obligations incumbent on a

charitable organization or a charitable trust.

The Michigan attorney general has an active role in any charitable trust's life. The attorney general seeks to protect these charities' beneficiaries—the public. Two important pieces of legislation, the Supervision of Trustees for Charitable Purposes Act (Charitable Trust Act), MCL 14.251 et seq., MSA 26.1200(1) et seq., and the Charitable Organizations and Solicitation Act (Charitable Solicitations Act), MCL 400.271 et seq., MSA 3.240(1) et seq., codified the attorney's general mandate to work on behalf of the public, which generously gives its time, energy, money, and creativity to charities and which also relies on charities to do important work, from sponsoring cancer research to buying books for the local library.

Article continued in the [Fall 1997](#) issue of the [Journal](#).

*

David Silver has been an assistant attorney general for 23 years, serving the last 9 years in the Consumer Protection and Charitable Trust Division. Mr. Silver received his undergraduate degree from the University of Michigan and his law degree from the University of Kentucky.

Marion Gorton has been the charitable trust administrator for three years. She has worked for the attorney general for over ten years in several capacities, including as a paralegal for the chief deputy attorney general and as assistant director of communications. Marion graduated from Michigan State University and has a master's degree from the University of Michigan. Her paralegal degree is from Lansing Community College.

Joseph Kylman has been with the Department of Attorney General for 12 years, the last 10 of which he has served as auditor in the Charitable Trust Section. He is a graduate of Michigan State University.

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A PRACTICAL DISCUSSION OF PROBLEMS IN WORKING WITH A CANADIAN CITIZEN WHO HAS SUBSTANTIAL CANADIAN ASSETS AND TIES BUT WHO IS A PERMANENT RESIDENT OF THE UNITED STATES


By Mark E. Mueller

Due to our proximity to the U.S.-Canadian border and the many economic ties between the province of Ontario and the state of Michigan, many estate planners in Michigan have more than a passing acquaintance with the rules concerning the Qualified Domestic Trust (QDT). A QDT is a method of ensuring the marital deduction for property passing to a noncitizen surviving spouse.

Simply put, the QDT is a mechanism for securing the payment of the federal estate tax when the surviving spouse is not a U.S. citizen. Congress feared that property could be left to a noncitizen surviving spouse, who might then remove the property from the United States and that the tax deferral generally allowed in the use of the marital deduction could become a means of tax avoidance. The legislated solution was the QDT. Instead of denying a marital deduction altogether for the value of property passing to a noncitizen surviving spouse, §2056A of the Internal Revenue Code allows the estate to claim the marital deduction for the value of property passing to the surviving spouse in the form of a QDT.

The QDT is a marital trust that pays estate tax (calculated as though part of the decedent spouse's estate) each year based on distributions to the surviving spouse of anything other than trust income. At the surviving spouse's death, the remaining assets are included in the surviving spouse's estate. It should be noted that the death of the surviving spouse is treated as a taxable event in the predeceasing spouse's estate as well. A system of offsetting credits ensures that tax is paid at the higher of the two rates applicable either to the estate of the predeceasing spouse or to the surviving spouse's estate. In addition to creating this overall structure, the regulations impose a number of restrictions and security arrangements to make sure that the taxes will be paid.

Article continued in the [Fall 1997](#) issue of the [Journal](#).



Mark E. Mueller is an associate of Driggers, Schultz & Herbst, PC, in Troy. His practice focuses on estates and trusts, tax, and corporate law. He received his JD from Wayne State University in 1992.

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REVIEW OF A FEDERAL ESTATE TAX COMPUTER PROGRAM

By Robert H. Pytell

After struggling all these years preparing the federal estate tax Form 706, thinking doing it by hand was the only way to go, I saw the error of my ways. Having a fiduciary accounting program for many years, I decided to take the plunge and purchase the vendor's 706 program that is integrated with the accounting program. By integration, I mean the ability to move the inventory of assets from the accounting program to the 706 program.

I examined the manual and found a reference to a tutorial. After going through the tutorial, I entered assets in the "Sam Sample" Estate for Schedules A, B, C, D, E, I, J, and K to see how the printed forms appeared. The program loads its own tax fonts, so there is no need to adjust your laser printer.

Feeling sufficiently informed, I began entries for an estate with a trust needing a return. I made the necessary computer entries to move the inventory from the accounting program into the 706 program, namely Schedules A, B, and C. When the assets are moved from the accounting program, they are not recognized as trust assets, so one needs to move the various schedules for trust assets into Schedule G, Lifetime Transfers. This was easily accomplished by using a specialized portion of the program that allows you to cut assets out of one schedule and move them into another schedule. I found that continuation sheets were automatically prepared and tabulated; and since there were so many stocks shown on Schedule B, I moved those items from the schedule to an attachment sheet. My only task then was to type in a description of the revocable living trust on Schedule G. The nonprobate assets (consisting of Schedule D, Life Insurance; Schedule E, Jointly Owned Assets; and Schedule I, Annuities) must be entered, but that proved to be an easy task.

Article continued in the [Fall 1997](#) issue of the [Journal](#).

Robert H. Pytell has practiced exclusively in the planning and administration of estates since 1965 and is with the firm of R.H. Pytell & Associates, PC, of Grosse Pointe. He is a member of the Probate Council, chairman of the Technology Committee, and a fellow of the American College of Trust and Estate Counsel and the National Association of Elder Law Attorneys. He has lectured at the

annual Probate Seminar. He began the use of computers in his office in January 1986 and presently has three computers in his office and a portable that he takes with him whenever he is away from the office for any extended period of time.

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NEWS AND COMMENTS

By Fredric A. Sytsma

How We Tell Our Clients What They Really Need To Know

At a recent meeting of the American College of Trusts and Estates Counsel, there was a session on communicating essential information to clients. The primary idea was to find out how estate planners explain their work product to their clients in a fashion the clients can understand, since we all know that our documents usually fall far short of being self-explanatory. A questionnaire was sent out in advance of the meeting, and the results were presented at the seminar. Questionnaires were sent to all of the fellows of the College, and almost 1,400 of them responded, which experienced pollsters indicate is a phenomenally high percentage for a total membership of approximately 5,000. I thought that the answers were fascinating and prevailed upon Stephen Martin of Idaho Falls, Idaho, who compiled the results, to let me share them with you.

Starting at the beginning of an engagement, the first question was whether the fellows use fee or engagement letters. The results slightly favored this practice, with 708 answering "yes," 555 answering "no," and 21 answering "sometimes." I'm a little disappointed that the question didn't distinguish between new clients and new projects for existing clients. I'd imagine the "no" answers would be greater for the latter category.

The second question was whether the fellows use fact-finding questionnaires to be completed by the client. The responses were a bit closer this time, with 678 fellows using the questionnaires, 573 concluding they aren't helpful, and 22 indicating occasional use.

The fellows were next asked if they commonly furnish a written description of the planning techniques they are proposing. A total of 338 said they do so before proceeding, 632 said that they furnish such a description with the documents, and 399 said they give only a verbal explanation. Perhaps 25 fellows responded, in effect, that "it depends." This seems like pretty good recognition of the fact that our documents don't tell a story our clients can understand, and most of what we explain verbally goes in one ear and out the other.

The next question seems related and got approximately the same response, percentagewise. The fellows were asked whether, at least in potentially taxable

estates, they commonly summarize a client's assets and project the tax and distribution consequences of applying the proposed plan to those assets. A total of 814 fellows said they do, 431 said they don't, and the usual 30 or so said sometimes. Given the plethora of commercial products that will provide this information at very little cost, both in terms of dollars and time, I'm a bit surprised that there weren't more affirmative responses.

The answers to the next question surprised me by being so lopsided. The fellows were asked whether they send documents to the clients in advance of the signature conference or whether they prefer to have their clients examine the documents for the first time in the attorney's presence. An overwhelming 1,171 said they send the documents in advance, with only 95 indicating that they prefer to explain the documents face to face. There were only 8 "boths" and 4 "depends."

The next question is similar to the one about written explanations of proposed planning techniques. The fellows were asked if they commonly furnish their clients with written explanations of the documents themselves. A total of 884 said "yes," 377 said "no," and about 25 had no firm practice.

The next question elicited the politically correct response, although I've got to say I'm a little suspicious about absolute honesty. An overwhelming 1,149 of the fellows said that when talking with their clients, they prefer to provide information and perhaps a recommendation but rely on the client to make all of the decisions. Only 104 said that they select an appropriate plan and then tell the client why they selected it. In this case, my sympathies are with those 35 or so who straddled the fence and said "both" or "it depends." I think that most clients can and should choose between a marital trust and an outright marital gift, or a "pot" trust versus separate shares, but the next question illustrates why this one was a bit too black or white.

When asked specifically if they usually discuss marital deduction formula clauses with clients or just decide on an appropriate clause without consulting with the client, 865 said they just select the best clause, while a startling 380 said that they routinely discuss these clauses with their clients. Those must be some long meetings!

Moving to another technical area, the fellows were asked whether, in second marriage situations where the client's assets are to be divided between the spouse and issue of the first marriage, or in plans involving gifts to both charities and individuals, they commonly discuss tax allocation clauses with their clients. A vast majority (1,011) of the fellows said they discuss this issue, while 251 said they simply select the most appropriate clause with no client input. I'd have to agree that this is an understandable issue and that the results of one approach versus another vary widely enough to mandate discussion.

There were a couple of questions about living wills, and the answers to at least the first question reflected the differing rules from state to state. The first question was whether the fellows use "check the box" living wills or present their clients with a variety of forms from which they can choose. "Check the box" forms were favored by 661 fellows, 366 said that they give the client a choice among several forms, 80 fellows said they use statutory forms, 66 fellows said "neither" (perhaps preferring to stay away from this aspect of planning altogether), and an exceptionally high total of 83 didn't respond.

When asked if they routinely prepare living wills for clients before a discussion of the options, 257 fellows said they do, and 919 said they do not. Those who said they do may well be dealing with statutory forms or with "check the box" forms that the client will complete.

The next question listed a series of planning options and asked the fellows if they almost always discuss these options with their clients. The options and the answers were as follows:

1. inter vivos powers in marital trusts, bypassing trusts, and trusts for descendants

951 "yes" and 302 "no"

2. special and general testamentary powers of appointment

908 "yes" and 344 "no"

3. using outright gifts, "estate" trusts, QTIPs, or general power of appointment marital trusts to qualify for the marital deduction

1026 "yes" and 234 "no"

4. generation-skipping

1,040 "yes" and 205 "no"

5. inter vivos trusts versus wills

1,068 "yes" and 192 "no"

There were very few fence-sitters on any of these options. Quite frankly, I'm more than startled that more than a quarter of the experienced estate planners responding to the questionnaire don't explain something as basic as testamentary powers of appointment.

When asked if they routinely review the boilerplate provisions in their documents with clients, 535 fellows said they do. This total undoubtedly includes the same 380 who profess to discuss marital deduction formula clauses with their clients. Now I *know* they have long meetings. A relatively slight majority, 733 fellows, admitted they don't review the boilerplate - provisions.

Turning to other aids, the fellows were asked if they regularly use number-crunching programs and, if so, if they use the printouts as part of their explanations to clients. A total of 562 said they use these programs, and 305 said they use copies when explaining concepts to clients. An astounding 699 fellows said they do not use number-crunching programs. I can only assume that none of them has ever drafted a charitable remainder trust.

The next question was whether explanatory materials were pre-prepared (either in the attorney's office or commercially) or whether they were customized in each instance. Only 199 fellows said they used pre-prepared materials. Customized materials were preferred by 968 fellows, and 64 fellows said they use both.

The next question explored whether supplementary materials were perceived as being necessary to protect against claims that the client didn't understand what he or she was being advised to do or whether the explanatory materials might enhance the chances of a professional liability claim because the materials don't adequately convey all of the nuances. There were 367 fellows who feel the supplementary materials give them more protection, 115 who feel that their exposure is increased, and a healthy majority of 751 who feel that liability isn't really an issue.

Turning to follow-up, the next question asked whether the fellows have a system for periodically reminding clients of the need to review their plans. Since this is a

relatively sophisticated group, I was surprised that only 460 answered "yes," while 808 said "no."

The final question was whether the fellows have a system in place for identifying the major features of each client's plan, to facilitate "product recalls" if the law changes. The split was about the same as the responses to the previous question; 531 fellows said "yes," and 736 said "no."

The fellows were invited to list any visual aids, flow charts, number-crunching programs, tax and distribution analyses, etc., that they found helpful. Predictably enough, scores of different products were listed. Those listed more than 20 times included Number Cruncher (36), Viewplan (54), Vista Veneview (21), U.S. Trust E Plan (36), BNA Estate Tax Planner (24), and Brentmark Applications (23).

I hope you've enjoyed this review of what your peers are doing and that you're now either feeling smug about being on the cutting edge (if you can ascertain from these responses where that is) or nervous that your practices seem to be consistently in the - minority.

Fredric A. Sytsma is a partner with Varnum, Riddering, Schmidt & Howlett, LLP, in Grand Rapids. He is a fellow of the American College of Trusts and Estate Counsel, and past chairperson of the Probate and Estate Planning Section of the State Bar of Michigan. Mr. Sytsma frequently writes and speaks on estate planning topics, and occasionally speaks on other topics as well.

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ETHICS, UNAUTHORIZED PRACTICE, AND IMAGE

By **Steven A. Mitchell**

"Image" is an Individual Responsibility

Recently, the State Bar of Michigan has conducted research into concerns about the professional image of lawyers, to seek ways to improve the public's perception of lawyers as a group. An opinion survey about lawyers and the legal system was recently completed. See State Bar of Michigan, *Statewide Opinion Survey About Lawyers and the Legal Profession* (April 1997). In addition, it was recently reported that the State Bar has launched a major initiative dealing with the image of lawyers. According to yet another survey of State Bar members conducted in the summer of 1996, the image of lawyers as a profession is also a major concern among members of the bar. See *State Bar Outlines, Lawyer Image Campaign Strategies at Presidents-elect Conference*, 76 Mich BJ 674 (1997).

Several strategies have been formulated to improve professional image, including education programs aimed at the public and media, the development of public relations and marketing campaigns emphasizing positive information about lawyers; a renewed emphasis on professionalism, civility, mentoring, and continuing legal education programs; and law reform initiatives with an emphasis on providing greater access to justice among those in need of legal services.

Any strategy and initiative implemented by the State Bar of Michigan to improve the image of lawyers as a profession is welcome. However, I submit that most of these initiatives to promote "image" are necessary irrespective of the public perception of lawyers. In other words, there are good reasons for developing such initiatives other than the promotion of "lawyer image." After all, while the television commercial seduces us into believing that image is everything, television is not reality, and most of us are not lawyers because we covet a particular image.

Fundamentally, we are each responsible for our own individual and collective image. We each have within us the power to promote or denigrate our image as professionals. In fact, we each exercise that power every day of our professional lives. Therefore, if the image of lawyers is deficient in the eyes of the public, then we are each individually responsible for being held in such "esteem." Equally, we are individually responsible for doing something about it.

Earlier this year a study that gathered information about public opinion regarding

lawyers in the State of Michigan was completed. Such information is helpful in understanding perceived deficiencies in the collective character of lawyers in this state. Four hundred seventy people were interviewed, representing a cross-section of the Michigan population. One hundred of the respondents were professionals themselves, although it is not clear from the report if any were lawyers.

Broken down by geographic region, 34 percent of the respondents were from the metropolitan Detroit area, 33 percent were from central Michigan, and 33 percent were from western Michigan and northern Michigan. Thirty-nine percent of the respondents were under the age of 40, and 61 percent were over 40. Ethnically, 85 percent of the respondents were Caucasian, 13 percent African-American, and 2 percent Hispanic. Forty-eight percent of the respondents were male and 52 percent were female.

The survey was performed by Dr. Charles Atkin, using telephone interview facilities on the Michigan State University campus. The respondents that were interviewed were randomly selected, and each telephone interview took approximately 10 to 12 minutes. The survey is available through the State Bar of Michigan.

On a hopeful note, 52 percent of the respondents possess a positive basic attitude toward lawyers. Twenty-one percent possess a neutral or mixed attitude, and 27 percent have a negative attitude toward lawyers.

The respondents were asked their opinions regarding seven positive character attributes and four negative character attributes. Regarding the positive character attributes, it is interesting to note that lawyers get relatively high marks for skill and competence. Nearly 90 percent of the respondents answered that at least some Michigan lawyers are competent. Fifty-five percent answered that most lawyers are competent. Fifty percent of the respondents answered that most lawyers in Michigan are skilled at solving problems. Only 10 percent answered that few lawyers in Michigan are skilled at solving problems.

Where the marks tend to slide is in the evaluation of lawyers' personal characteristics. Less than half of the respondents believe that most Michigan lawyers are courteous (48 percent), only 30 percent believe that most Michigan attorneys are honest, even less (17 percent) believe that most Michigan attorneys are compassionate. But when it comes to defending the underdog and providing free legal services to the poor, Michigan attorneys get their lowest marks. Nearly half of the respondents (44 percent) believe that few Michigan attorneys defend the underdog, and 74 percent believe that few Michigan attorneys provide free legal services to the poor.

On the other hand, of the four negative characteristics attributable to attorneys, the two most prevalent negative attributes pertain to issues involving money. Nearly two out of every three respondents (65 percent) believe that most Michigan lawyers overprice their services. Nearly half (46 percent) believe that most Michigan lawyers are greedy. Approximately two-fifths believe that most Michigan lawyers file frivolous lawsuits (42 percent) and get criminals off on technicalities (41 percent).

Interestingly, only 40 percent of the respondents had retained the services of a lawyer in the past several years. The vast majority of those found their lawyers through a referral (83 percent). Only 10 percent found their lawyer in the yellow pages, 2 percent from a newspaper ad, and a mere 1 percent chose their lawyer based on television advertising.

Encouragingly, of the 40 percent who indicated that they had retained a lawyer's

services within the preceding couple of years, a full 85 percent indicated that their lawyer was responsive to their needs, and 76 percent rated the quality of their lawyer's performance as good or excellent. Only 25 percent indicated that they had experienced any problems in connection with working with their lawyer.

A fascinating question was posed to the respondents of the survey at about the halfway point, which reveals that attitudes about lawyers are largely held in the stereotypic sense. The question asked respondents whether their attitudinal perceptions about lawyers result from their thoughts about lawyers in general, specific types of lawyers, or particular individuals. Seventy-seven percent answered that their attitudes about lawyers were held based on their feelings about lawyers in general. Only 10 percent answered that their attitudes were based on the consideration of specific types of lawyers, and only 13 percent indicated that their attitudes were formed based on knowledge of particular lawyers. In other words, it appears that most people base their perceptions on lawyers as a general occupational category, rather than on individual experience with lawyers.

When asked about the source of most of their information about lawyers, 47 percent responded that they gained most of that information from other people they know. Forty-three percent responded that they get their information about lawyers from the news media.

The impact that the media and TV advertising has on the public's perception of lawyers is remarkable. Sixty-one percent of the respondents surveyed indicated that they have a negative impression of lawyers from the TV commercials that they see portraying lawyer services. Only 14 percent have a positive impression. The remainder are either neutral (18 percent) or haven't seen the ads (7 percent).

Forty-three percent of the respondents surveyed have a negative impression of lawyers from the news stories that they have seen, either on TV or in print, about court trials. Twenty-two percent have a positive impression, while the remainder are neutral (28 percent) or haven't seen news stories about court trials (7 percent). It is apparent that media coverage and advertising about lawyers generally create a negative impression of the profession in the eyes of the public. This is in contrast to the perception of the quality of services provided by lawyers among those who have used such services within the last couple of years. In other words, a good argument can be made that lawyers are actually better than their image.

The question becomes, what can be done to improve that image? Perhaps more importantly, what does the public think should be done to improve the image of the legal profession?

The respondents to the survey were read a list of different ways to improve public perception of lawyers and asked to rate the effectiveness of each on a scale of zero to ten. The most effective strategy in the eyes of the public is working to improve the functioning of the court system. Second in priority is the prohibition of direct solicitation of business. Other suggested strategies ranked in order of importance as follows:

- training lawyers to improve their interpersonal communication skills
- publicizing news about lawyers who serve as community leaders
- teaching students about lawyers and the justice system in school
- banning lawyer advertising on television
- providing more public service information about legal services in the media

Since it is the public's perception of the legal profession that we desire to

cultivate, it seems very fitting that lawyers should listen to the public to determine the most effective ways to improve image. By the same token, image is not an end in itself. The public perceives that substance is more important than form. Again, there is sound, substantive justification for undertaking many of the initiatives suggested by the State Bar for improving the image of the profession. Perhaps the best way to improve the image of us all is as simple as looking into a mirror.

We can formulate strategies for educating the media, and at the same time we can insist on fair, accurate, and responsible reporting. We can develop public relations and marketing campaigns, but at the same time we can individually set an example of professionalism. We can attend seminars and read articles about professionalism and civility, but at the same time we can demonstrate professionalism and be civil. Image isn't everything, but it is very important, and it is our individual responsibility.

Steven Mitchell is a shareholder at Willingham & Coté, P.C. where he concentrates his practice on the defense of lawyers and judges in professional disciplinary procedures. Your questions and comments are welcome at (800) 361-1542.

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READERS' QUESTIONS ON ESTATE PLANNING AND ESTATE SETTLEMENT

By **Kenneth E. Konop**

Question

A husband and a wife jointly purchased their home several years ago. The home is now worth \$500,000 and is subject to a \$250,000 mortgage. In the course of run-of-the-mill estate planning, the home is conveyed to the wife's revocable trust. The husband has always paid the mortgage payments. The wife dies. Does the husband have a right of contribution against the wife's trust? If so, is it half of the husband's \$250,000 liability, or is it the whole \$250,000? If the husband continues to make mortgage payments, is he making taxable gifts? If the trust pays the mortgage, has it made a distribution to the husband? In short, how is this to be handled?

Answer

The facts do not indicate whether there was any agreement between the husband and the wife when they acquired the home or when the home was conveyed to the wife's revocable trust. Absent any agreements to the contrary, it would seem that the husband has made a gift to the wife of his interest in the home. Since the trust was revocable, the wife presumably could have revoked the trust and taken title to the home in her own name. Accordingly, it would not appear that the husband has any claim or right of contribution against the wife's trust following her death. As a matter of fact, since the home was conveyed to the trust for "run-of-the-mill estate planning" purposes, it would seem that any claim that the husband might have would reduce the amount protected from tax by the wife's unified credit.

If the husband continues to make the mortgage payments, it would appear that he would be making taxable gifts of the entire amount of the mortgage payment if he is not a beneficiary of the trust. In this case, if the trust requires distributions to an income beneficiary, the payments would qualify for the annual exclusion up to the value of the income interest in the mortgage payments. If the husband is the income beneficiary of the trust, the amount of the gift would be the value of the remainder interest in the mortgage payments and would not qualify for the annual exclusion.

If trust assets are used to make the mortgage payments, the trustee is only protecting the trust's interest in the property, and the trustee would be well advised to do so. It is doubtful that such payments should be considered distributions to the husband for tax or any other purpose.

The question points out the complexities that can arise when a family home, especially one subject to a mortgage, is transferred to one spouse as part of "run-of-the-mill" estate planning. Presumably, the transfer is made so that the transferee spouse can use the unified credit. Unfortunately, a house can be a clumsy asset to place in whole or in part in a trust. Furthermore, a house held in a credit shelter trust, when sold, does not appear to be eligible for the new exclusion from gain on sale available under the 1997 Taxpayers Relief Act.

Kenneth E. Konop, of Miller, Canfield, Paddock and Stone, PLC, in Bloomfield Hills, practices in the areas of probate and estate planning and probate litigation. He has served as chairperson of the SCOPAR Committee of the Probate and Estate Planning Council and also as chairperson of its Publications Committee. He is a fellow of the American College of Trusts and Estate Counsel and a member of the Financial and Estate Planning Council of Detroit, the Illinois State Bar, and the District of Columbia Bar. He has been a columnist for the *Michigan Probate and Estate Planning Journal* since 1993 and has published several articles in the *Journal* and in *Laches*. Mr. Konop is also a former adjunct professor at Walsh College and has been a speaker for its College of Accounting and Business Administration and for ICLE.

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The following article was published in the [Fall 1997](#) issue of [Michigan Probate and Estate Planning Journal](#)

RECENT DECISIONS IN MICHIGAN PROBATE, TRUST, AND ESTATE PLANNING LAW

By Hon. Phillip E. Harter

Case summaries of new appellate cases, court rules, and statutes affecting the probate court may be found at the [Calhoun County](#) Web site.

ADOPTING—TERMINATION OF RIGHTS— INCARCERATED NATURAL PARENT

Russell v Caldwell (In re Caldwell), No 197219, 1997 Mich App LEXIS 274 (Aug 8, 1997), *opinion vacated* (Aug 22, 1997) (special panel being convened to resolve conflict between *Caldwell* and *In re Halbert*, 217 Mich App 607, 552 NW2d 528 (1996))

On May 3, 1990, a child was born to petitioner, Kaetlyn E. Russell, and respondent, who were married at the time. The parents were divorced in 1994 while the father (respondent) was in prison. During respondent's imprisonment, his ex-wife married petitioner, who sought to legally adopt the child. Throughout the case, respondent remained incarcerated, failed to pay child support, and had little or no contact with his child. As part of the stepparent adoption proceeding, the probate court terminated respondent's parental rights pursuant to MCL 710.51(6), MSA 27.3178 (555.51)(6), which provides:

If the parents of a child are divorced, . . . and if the parent having legal custody of the child subsequently marries and that parent's spouse petitions to adopt the child, the court upon notice and hearing may issue an order terminating the rights of the other parent if both of the following occur:

- (a) The other parent, having the ability to support, or assist in supporting, the child, has failed or neglected to provide regular and substantial support for the child or if a support order has been entered, has failed to substantially comply with the order, for a period of 2 years or more before the filing of the petition.
- (b) The other parent, having the ability to visit, contact, or communicate with the child, has regularly and substantially failed or neglected to do so for a period of 2 years or more before the filing of

the petition.

Respondent appealed the termination of his parental rights.

The Court of Appeals reversed the decision of the trial court. The court stated that it was required by AO 1996-4 to follow the case of *In re Halbert*, 217 Mich App 607, 552 NW2d 528 (1996). It interpreted *Halbert* to hold that an incarcerated parent's rights may not be terminated under MCL 710.51(6), MSA 27.3178(555.51)(6) of the Adoption Code because the legislature did not intend to apply this provision against an incarcerated parent who lacks the ability to support or visit the child. Thus, respondent's parental rights could not be terminated. However, it went on to make it clear that it disagreed with the *Halbert* holding and provided arguments why it should have been decided otherwise.

The case continues a line of cases started by *Halbert* and creates a bright line rule that protects incarcerated parents from having their rights terminated under MCL 710.51(6), MSA 27.3178(555.51)(6) of the Adoption Code. That the legislature really intended to protect such parents at the expense of their children is highly questionable in my opinion. Hopefully, the Michigan Supreme Court or the legislature will take action to correct the situation in which these cases have placed Michigan's children.

ILLEGITIMATE CHILD—PRESUMPTION OF NATURAL PARENTAGE—STANDING

Fuglseth v Quintero (In re Estate of Quintero), No 189578, 1997 Mich App LEXIS 266 (July 25, 1997)

Decedent and his wife had two children, respondents Theresa and Rudolph, Jr. Intervenor claim that they are the adult children from an extramarital relationship between decedent and Doralynn Fuglseth. Decedent and his wife apparently divorced at some point after intervenors were born. Doralynn and Darrell Fuglseth divorced in June 1975. Their divorce judgment granted Doralynn custody of intervenors, who were acknowledged in the judgment of divorce as being children of the marriage. Decedent died intestate on February 21, 1994. Probate proceedings were commenced, and the intervenors filed a petition asking that the probate court determine them to be the illegitimate children of decedent and that they be entitled to inherit from decedent's estate. The probate court determined that pursuant to MCL 700.111, MSA 27.5111, only parents have standing to disprove the presumption of natural parentage of children born during a marriage. Therefore, the probate court found that respondents and the estate were entitled to judgment because Darrell Fuglseth was not present to disprove his presumptive paternity arising from the fact that intervenors were born during the course of his marriage to Doralynn and because Doralynn was precluded from disproving Darrell's paternity because she was bound by the divorce judgment that named intervenors as her and Darrell Fuglseth's children. The probate court also found that intervenors lacked standing to sue and granted dismissal in favor of respondents. Intervenor appealed.

The court of appeals affirmed the probate court. They stated the issue to be whether disproving the presumption established in MCL 700.111(2), MSA 27.5111(2) is a threshold requirement to proving paternity pursuant to MCL 700.111(4), MSA 27.5111(4). Applicable sections of Revised Probate Code §111(2)–(3) read as follows:

(2) If a child is born or conceived during a marriage, both spouses are presumed to be the natural parents of the child for all purposes of intestate succession. . . . Consent of the husband is presumed unless the contrary is shown by clear and convincing evidence. If a man and a woman participated in a marriage ceremony in apparent

compliance with the law before the birth of a child, even through the attempted marriage is void, the child is considered to be their child for all purposes of intestate succession.

(3) Only the person presumed to be the natural parent of a child under subsection (2) may disprove any presumption that may be relevant to the relationship, and this exclusive right to do so terminates upon the death of the presumed parent.

The court found that because of the presumption of paternity, intervenors lacked standing to disprove the paternity of their presumed parents and that Doralynn Fuglseth was precluded by her judgment of divorce, which is *res judicata* regarding the presumption of paternity with respect to Darrell Fuglseth, from overcoming the presumption that Darrell Fuglseth is the intervenors' father. Thus, summary disposition was properly granted.

LIMITATION OF ACTION— TEMPORARY PERSONAL REPRESENTATIVE— MEDICAL MALPRACTICE CLAIM

Lindsey v Harper Hosp, 455 Mich 56, 564 NW2d 861 (1997)

Decedent's estate filed a wrongful death medical malpractice action for events that took place between October 1, 1987, and December 17, 1987. Decedent died on January 7, 1988. On September 14, 1990, plaintiff was appointed temporary personal representative of decedent's estate. On October 4, 1990, plaintiff was appointed personal representative of decedent's estate. On October 1, 1992, more than two years after the issuance of the September 14, 1990, letters of authority but within two years of the October 9, 1990, letters of authority, plaintiff initiated the wrongful death medical malpractice action. Defendants moved for summary disposition, which the circuit court denied. The court of appeals reversed the circuit court, and this matter was appealed to the Michigan Supreme Court.

The question to be decided by the Michigan Supreme Court was whether the statute of limitations saving provision of MCL 600.5852, MSA 27A.5852 began to run when plaintiff was appointed temporary personal representative or when plaintiff was appointed personal representative. The period of limitations for a medical malpractice action is two years from the time a claim first accrues. However, when a potential claimant dies within 30 days after the statute has run or within the two-year period of limitations, the statute of limitations saving provision operates to suspend the running of the statute until a personal representative is appointed to represent the interests of the estate. The court held that the statute began to run when plaintiff was appointed temporary personal representative and that the claim was therefore barred. It reasoned that the Revised Probate Code includes a temporary personal representative within the definition of personal representative and that a temporary personal representative may now commence and maintain actions unrelated to the collection of goods, chattels, and debts of decedent. It further held that its decision was not limited to prospective application but rather applied to pending cases and future cases interpreting MCL 600.5852, MSA 27A.5852.

TRUSTS—SALE OF REAL ESTATE— ADEQUACY OF PRICE

Ansell v First of Am. Bank—Michigan NA (In re Harold S Ansell Trust), No 192739, 1997 Mich App LEXIS 271 (July 29, 1997)

This case involved the sale of real estate by a trust. The primary asset of the trust was a piece of commercial real estate. The land was subject to a lease between the trust, as lessor, and the Truesdale Funeral Homes, Inc., as lessee. Harold S. Ansell, Jr., the petitioner in the trial court, was the owner and operator of the

funeral home. Lessee had an option to purchase the real property subject to the lease at any time during the time of the lease for \$1,300,000. This lease was effective until May 31, 1998. First of America, trustee and respondent in the trial court, determined that the property needed to be sold to meet trust obligations. Petitioner declined to exercise the option and insisted that the sale be conducted in a very private and discrete manner so as not to damage his business. The property was originally appraised between \$600,000 and \$865,000. It was initially listed at \$1,300,000. The highest offer received was \$600,000, and the price was reduced to \$995,000. After several offers and counteroffers, the property was sold for \$875,000. Petitioner filed a petition alleging that the trustee did not have the authority to sell the property and that an inadequate price was obtained. The probate court found that the trust did not abuse its discretion and dismissed the petition. Petitioner appealed.

The court of appeals affirmed the trial court. They distinguished this case from *In re Green Charitable Trust*, 172 Mich App 298, 431 NW2d 492 (1988). It held that in the absence of bad faith, unfair dealings, or a conflict of interests, the adequacy of a price obtained by a trustee for a piece of trust property should be reviewed for an abuse of discretion. In this case, the trust document expressly gave the trustee the power to sell the real estate. The trustee reached its decision based on the mandatory payments to be made by the trust, the need for liquidity, and the need to diversify the trust portfolio. Therefore, it concluded that the trustee did not abuse its discretion in deciding to sell the real estate. Concerning the adequacy of price, they found that the real estate agent actively marketed the land and that the trustee considered all offers in a businesslike manner and arrived at its decision to sell only after consulting the real estate agent and members of the First of America real estate section. Therefore, the trustee did not abuse its discretion in selling the land for \$875,000.

The Honorable Phillip E. Harter has been a Calhoun County Probate Court judge in Battle Creek since 1984 and chief judge since 1992. He has served as chairperson of the Probate Rules Committee of the Michigan Probate Judges Association and on the advisory committee and as a faculty member of the Michigan Judicial Institute. He has been admitted to the bars of the U.S. Supreme Court and the U.S. Court of Appeals. He is a fellow of the Michigan State Bar Association and a member of the Probate and Estate Planning Section of the State Bar of Michigan and of the Calhoun County Bar Association. He is a frequent lecturer and writer on probate topics.

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DIGEST OF MICHIGAN PROBATE OPINIONS

By Patrick Boland

87-33 Holographic (Requirements); Intent, Testator's; Revocation; In the Matter of the Estate of Robert M. Liggett, Sr.; Judge Neil G. Mullally, Muskegon County. Although the decedent received a "draft copy" of his proposed will, a document which the decedent made personal notations on over the next 11 months, such a document did not meet the statutory requirements for a valid holographic will, especially since the document neither was dated nor contained the decedent's signature. The statute is meant to ensure certainty concerning the testator's intent and the execution of the testator's holographic will, and the court will not presume a testator's intent. MCLA: 700.24; 700.123; 700.493; 700.503; 700.584; MSA: 27.1236(3); 27.5024; 27.5123; 27.5493; 27.5584.

87-34 Claims (Interest Allowed); Bequest, Demonstrative; Bequest, General; Bequest, Specific; Insurance; Pour-Over; Power of Sale; Sale (Notice); Survivorship; Wills (Contest); In the Matter of the Estate of Olga M. Spring; Judge Neil G. Mullally, Muskegon County. When a pour-over will places assets into an inter vivos trust, the disposition language of the trust controls; furthermore, the statute stating that the personal representative may not sell specific bequests without notice to the devisee only applies to wills. The court held that language regarding the time of disposition, as long as it is unchanged by codicil or otherwise, controls unless no reasonable construction is possible. In addition, the Revised Probate Code recognizes that an asset encumbered with a lien only has a value to the estate after the attached lien is satisfied. MCLA: 555.201; 700.167; 700.605; 700.632; MSA: 26.85; 27.5167; 27.5605; 27.5631; MCR 2.114(D); 2.114(D)(2); 2.114(E); 252 Mich 375; 330 Mich 635; 170 A 88.

89-53 Intent (Ambiguity); Intent, Testator's; Wills (Construction); Estate of Frances D. Buchner; Judge Neil G. Mullally, Muskegon County. This case involved alleged ambiguity regarding named versus unnamed grandchildren beneficiaries. In determining the testator's intent, the court found no ambiguity on the face of the instrument and interpreted the instrument within the four corners of the instrument itself. 9 Mich App 245; 121 Mich App 527.

89-54 Distribution (Valuation); Diversification; Intent, Settlor's; RUIA; Securities; *In re* Charles E. Johnson II, Jeffrey E. Johnson and Paul D. Johnson, Jr., Irrevocable Trusts dated May 29, 1964; Judge Neil G. Mullally, Muskegon County. This case involved a special dividend being declared by a corporation

whose stock makes up a large portion of the settlor's trust. The court found that the trustee, when deciding whether the special distribution is "income" or "principal," may rely on the issuing corporation's position concerning the nature and accounting treatment of the distribution. In managing trust assets, the standard of care that a Michigan trustee is held to is that which would be observed by a prudent person dealing with the property of another. MCLA: 555.56(e); 700.813; MSA: 26.79(6)(e); 27.5813; MCR: 2.625(B)(2); 223 A2d 857; 269 Cal App 2d 526.

90-65 Attorney (Fees); Case-By-Case; Heirs, Determination of; Proceedings; Personal Representative; In the Matter of the Estate of William Lewis Faulkner, Deceased; Judge Neil G. Mullally, Muskegon County. The court found no authority imposing a duty on the personal representative to be involved in *all* estate proceedings for the determination of heirs, especially when the person is also an heir; rather, Michigan has adopted a case-by-case approach. Attorney fees for heirship determination proceedings are not properly charged to the estate when the heirs, and not the estate, benefit from the personal representative's participation. 280 Mich 627; 296 Mich 148; 121 Mich App 585.

90-66 Claims (Defined); Claims (Tardy); Conservatorship; Conversion; Laches; Statute of Limitations; Estate of Myrtle Vanderley, Deceased; Judge Neil G. Mullally, Muskegon County. This case was against the conservator, who was deceased, for the conversion of jointly held certificates of deposit brought nine years after the claimant knew of commingling. The court found that the "claim" against the final accounting was not a claim at all, pursuant to statutory definition, and that the conversion lawsuit was untimely. MCLA: 600.5813; 600.5815; 700.3; MSA: 27.5003; 27A.5813; 27A.5815; 164 Mich App 349; 174 Mich App 476.

90-67 Claims (Implied Contract); Living Expenses; Quantum Meruit; In the Matter of the Estate of Frances John Jaunese, Deceased; Judge Neil G. Mullally, Muskegon County. The petitioner claimed that a codicil was evidence of a contract to make a will or not to revoke a devise, that there was a mistaken omission of living expenses, and that *quantum meruit* compensation was due for care of the decedent. The court denied the estate's motion for summary disposition on these issues. MCLA: 700.140; MSA: 27.5140; MCR: 2.116(C)(8); 2.116(C)(10); 159 Mich App 69; 171 Mich App 648.

92-67 Intestate Succession; Putative Father; In the Matter of the Estates of Alicia Ann Hill, Deceased, and Justin Lee Hill, Deceased; Judge Neil G. Mullally, Muskegon County. The court found that the petitioning man was the putative father of the children, pursuant to both Michigan statute and legal precedent. MCLA: 700.711; MSA: 27.511(4)(c); 191 Mich App 215.

92-68 Evidence, Extrinsic; Express Gift; Power of Appointment; Trust; In the Matter of the Estate of John W. Workman, Deceased; Judge Neil G. Mullally, Muskegon County. When an express gift in default is found within the instrument creating a power of appointment, the expression will be given effect, as long as the wording of the instrument is unambiguous. Extrinsic evidence is inadmissible to clarify the express gift language. MCLA: 556.111; MSA: 26.155(101); 395 Mich 188.

93-34 Adoption; Best Interests; Putative Father (Rights); In the Matter of Baby Boy; Judge Neil G. Mullally, Muskegon County. This case involved an employed 21-year-old putative father seeking custody of a child placed for adoption by the mother. The court found that youth and marital status are not evidence of an incapacity to ensure that the child would receive adequate care under the "best interests" factors, nor was wealth a factor to be considered. The court weighed all factors used to determine whether the best interests of the child would be served

by staying with the putative father. MCLA: 710.22; 710.39; 710.39(1); 710.39(2); MSA: 27.3178(555.22); 27.3178(555.39); 27.3178(555.39)(1); 27.3178(555.39)(2); 404 Mich 216.

94-15 Adoption; Parental Rights, Termination of; Visitation; In the Matter of [one child], V; Judge Neil G. Mullally, Muskegon County. In a case in which the father failed to make support payments, failed to actively assert visitation rights, and failed to have any contact with the child for two years before the mother filed a spouse's stepparent adoption petition, the father's parental rights were terminated. 144 Mich App 805; 161 Mich App 474.

95-19 Contract (Express); Contract (Implied in Fact); Contract (Implied in Law); Gratuity; Quantum Meruit; Sheila Carey v. Bruce Hawkins, Personal Representative of the Estate of Luella P. Petersen, Deceased; Judge Neil G. Mullally, Muskegon County. This case involved a stepdaughter, who, after her father's death, cared for her elderly stepmother for about 10 years. The stepmother had always said she would "take care" of her stepdaughter but died intestate. The court found (1) no express contract; (2) no contract implied in law, since the plaintiff was unable to rebut the presumption of gratuity for services rendered to a relation; and (3) no contract implied in fact, since the deceased could not be said to have "expected" to pay for the stepdaughter's services. MCLA: 600.2166; 700.140; MSA: 27.5140; 27A.2166; MCR: 2.116(C)(10); 2.116(G)(3); 341 Mich 493; 357 Mich 103; 73 Mich App 405; 157 Mich App 795; 168 Mich App 70.

95-20 Adoption; Parental Rights, Termination of; Standard of Proof; Visitation; In the Matter of [a five-year-old child]; Judge Neil G. Mullally, Muskegon County. In a case in which the father never paid support payments and never exercised court-ordered visitation rights for two years before the mother filed a spouse's adoption petition, the father's parental rights were terminated. The standard of proof in support and visitation issues is clear and convincing evidence. MCLA: 710.51; MSA: 27.3178(555.51); 144 Mich App 805.

95-21 Adoption; Parental Rights, Termination of; Putative Father; Standard of Proof; Visitation; In the Matter of [a four-year-old child]; Judge Neil G. Mullally, Muskegon County. The standard of proof in custody and visitation issues is clear and convincing evidence. In a case in which the father did not assert visitation rights and did not financially support the child for a two-year period before the mother's spouse filed an adoption petition, the father's parental rights were terminated. Despite the mother's barriers to visitation, the court makes it clear that a father is expected to take a strong initiative in claiming and exercising his visitation rights. MCLA: 710.51; MSA: 27.3178(555.51); 144 Mich App 805; 171 Mich App 443.

97-7 Best Interests; Parental Rights, Termination of; In the Matter of [three minor children]; Judge Michael J. Anderegg, Marquette County. The mother continued a relationship with an abusive man, contrary to a court order; one minor child had evidence of sexual and physical abuse; the mother did not participate in parenting classes; the mother did not attend a review hearing or challenge allegations that she was unfit. The court found clear and convincing evidence for various grounds for the termination of parental rights, including failure to protect the children from physical or sexual abuse when she was able to do so, other conditions that arose, the parent's failure to provide proper care and custody; and a reasonable likelihood of harm if the children returned to the parent's home. The court also found termination to be in the best interests of the children. The court held that the "hearing" referred to in the termination statute does not include a right to a jury but only to some form of written notice along with an opportunity for the parent to challenge allegations and change his or her behavior. Finally,

according to court rule, the state must show "legally admissible evidence" of new facts to justify termination. Thus, the mother had not availed herself of the extra protections the statute and court rule offer to a parent beyond the Juvenile Code. MCLA: 712A.19b(3)(a)(ii); 712A.19b(3)(b)(i); 712A.19b(3)(b)(ii); 712A.19b(3)(c)(i); 712A.19b(3)(c)(ii); 712A.19b(3)(g); 712A.19b(3)(j); MCR: 5.973(A)(4)(a); 5.973(B)(5); 5.973(E); 139 Mich App 23; 144 Mich App 678; 361 NW2d 20; 375 NW2d 788.

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THE PROBATE AND ESTATE PLANNING SECTION OF THE STATE BAR OF MICHIGAN IS ON THE WEB, ON THE WEB

The Probate and Estate Planning Section of the State Bar of Michigan is on the Web in two places. The Section has established a Web site in cooperation with the [Institute of Continuing Legal Education](#). The Section also has a Web site established in cooperation with the [State Bar of Michigan](#). Both of these sites will connect you to Probate and Estate Planning Section resources.

Reproduced below are two "snapshots" taken of the site operated in cooperation with ICLE. One of the items visible in these illustrations may be particularly interesting: links to law firm Web sites. You can arrange to link your law firm's site to the Section's site. In addition, there are numerous legal research and practice sources available from this site and the other pages presented by ICLE.

A visit to the site operated by the State Bar of Michigan is also worthwhile for the probate and estate planning practitioner. Here you will find information on the organization and activities of the Section and links to similar information on the State Bar of Michigan. Again, there is a wealth of legal research and practice sources available from this site and the other pages presented by the State Bar of Michigan.

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