

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

**February 17, 2007 10:30 a.m.  
University Club, East Lansing, Michigan**

- I. The meeting was called to order by the chair, Douglas A. Mielock, at 10:30 a.m.
- II. **A. Council Members Excused:** Daniel E. Cogan and Nancy L. Little  
Other Members Excused: Phillip E. Harter and Lisa Langton
- B. Council Officers and Members Present:**  
Douglas A. Mielock            George A. Cooney, Jr.  
Harold Schuitmaker
- Douglas A. Chalgian            Amy N. Morrissey  
John R. Dresser                Rebecca A. Schnelz  
Robin D. Ferriby                Richard J. Siriani  
Sebastian V. Grassi, Jr.        James B. Steward  
George W. Gregory              Thomas F. Sweeney  
Mark K. Harder                 Marlaine C. Teahan  
Ellen Sugrue Hyman            Robert P. Tiplady II  
Shaheen I. Imami                Joan C. Von Handorf  
Marilyn A. Lankfer  
Michael J. McClory
- C. Others Present:** W. Josh Ard, Patrick J. Bond, Francine Cullari, Carine J. Hails, Mary I. Hiniker, Michael Holmes, J. David Kerr, Kenneth W. Kingma, Alan B. Koenig, Jean A. Mahjoory, Michele Marquardt, Daniel P. Marsh, Lorraine F. New, Patricia M. Ouellette, Teresa Schafer Sullivan, Derek A. Walters, and Elizabeth K. Woodruff
- III. **Introduction of Guests:** All attendees, including guests, introduced themselves.
- IV. **Secretary's Report:** The minutes of the January 20, 2007 meeting were approved, with the correction of Robin D. Ferriby being of the male gender, and the Uniform Trust Code Sections corrected to 401 to 412, 704 to 706, and 708 to 709.
- V. **Treasurer's Report:** The proposed budget was referred to a committee consisting of Doug Mielock, Nancy Little, Harold Schuitmaker, and George Cooney.

## VI. Chairperson's Report:

- Alan Koenig was introduced as Representative of the Representative Assembly
- Letter from John Scott, which was attached to the Agenda, was discussed
- Letter from Judge Kent, which was attached to the Agenda, was discussed
- Francine Cullari discussed awards
- The proposed sales tax on attorney services, and our lobbyist's report, were discussed (Attachment #1)
- Letter from David M. Tyrpak was mentioned and is attached to the minutes. This letter was referred to the Uniformity of Practice Committee (Attachment #2)
- Ken Kingma reported on the insurable interest legislation. He is looking at the viatical settlement act and working with the insurance industry. Proposed legislation will be brought to the Council.

VII. **Report of the Committee on Special Projects:** A motion by Mark Harder, and seconded by Robert P. Tiplady, II, was made to approve Section 1002 and 1003 of the Uniform Trust Code - motion carried.

## VIII. Standing Committee Reports

### A. Internal Governance

1. **Budget** - *Harold Schuitmaker, chair.* The discussion on the increase in dues was tabled for one month. It was suggested that Nancy Little look into the cost of the *Journal*, and it was discussed that e-mailing the editions and using advertisers may be a way of defraying the cost.
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.* The meeting this year will be separate from the annual Bar Meeting and will be held September 22<sup>nd</sup> at the University Club.

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

1. **Amicus Curiae** - *Mark K. Harder, chair*: A motion was made by Doug Chalgian, and seconded by Robin Ferriby, that the Council file an Amicus Brief in the case of Peter Martin Wege vs Fifth Third Trust to support the position that there was a misapplication of MCL 700.7305 and MCL 700.7207 - the motion was withdrawn. A second motion was made by Robin Ferriby, and seconded by Shaheen Imami, that the Council apply to the Supreme Court for a request to file an Amicus Brief on behalf of the Probate Council. A roll call vote was taken with 15 yes, one no, and abstentions by Mark Harder, Doug Mielock and Bob Tiplady. The Chair appointed Doug Chalgian, Ellen Hyman and Shaheen Imami to be a committee to file the request and select a law firm to prepare an Amicus Brief; they are to report back to the Council at the next meeting.
2. **Continuing Education & Annual Probate Institute** - *Nancy L. Little, chair*: No report
3. **Section Journal** - *Nancy L. Little, chair*: No report
4. **State Bar Journal** - *Sebastian V. Grassi, Jr., chair*: No report
5. **Pamphlets** - *Ellen Sugrue Hyman, chair*: Report was given by Ellen Hyman that two pamphlets are almost ready to be published.
6. **Electronic Communication** - *John R. Dresser, chair*: Sebastian Grassi made a motion to list Council members on a ListServ, it was seconded by Robin Ferriby, and the motion passed. This list would include the liaisons and Ex-Officio members. Josh Ard will follow-up on getting this ListServ set up.
7. **Committee on Special Projects** - *George W. Gregory and Doug G. Chalgian, co-chairs*: Report already given

## **C. Legislation and Lobbying**

1. **Legislation** - *Harold Schuitmaker and John R. Dresser, co-chairs*: Please see Attachment #1 for information from our Lobbyist

2. **Michigan Trust Code** - *Mark K. Harder, chair*. No further report
3. **Statute of Repose** - *John A. Scott*. No report

**D. Ethics, Professionalism and Standards**

1. **Ethics** - *Marilyn A. Lankfer, chair*. No report
2. **Unauthorized Practice & Multidisciplinary Practice** - *Thomas F. Sweeney, chair*. No report
3. **Specialization and Certification** - *Shaheen I. Imami and Richard A. Shapack, co-chairs*: No report
4. **Practice Management** - *Richard J. Siriani, chair*. No report

**E. Administration of Justice**

1. **Contested and Uncontested Probate Proceedings** - *Amy N. Morrissey, chair*. There has been a lot of response on the proposed Rule Against Perpetuities and the committee will meet after lunch. The Michigan Court Rule changes the rule relating to creditors claims, which now need not be filed with Probate Court. Attachments one and two in the February Agenda were discussed. Concerning the letter from the Probate Judges Association it was decided that the Section's position has previously been stated to the Supreme Court and any change would be considered at the March meeting. (Attachment #3)
2. **Uniformity of Practice** - *Sebastian V. Grassi, Jr. and Joan Von Handorf, co-chairs*: Joan Von Handorf made her report. She will make revisions after the discussion and present those at the March meeting.  
Pat Ouellette handed out six positions that the Family Law Section of the State Bar thought should be considered for sending to the Court of Appeals for their improvement proposal. A motion was made by Shaheen Imami, seconded by George Gregory, that Shaheen would find the letter that the Council sent to the Court of Appeals two years ago and would give that letter to Doug Mielock who would restate the Council's position. Motion was carried.

AT THIS POINT IT WAS APPROACHING NOON AND THE MEETING ROOM WAS NEEDED FOR ANOTHER EVENT AND, THEREFORE, THE FOLLOWING AGENDA WAS NOT DISCUSSED.

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

1. **Charitable Giving/Exempt Organizations** - *Robin D. Ferriby, chair.*
2. **Estate Gift Tax** - *George W. Gregory, chair.*
3. **Real Property Tax Issues** - *George W. Gregory, chair.*
4. **Guardianships and Conservatorships** - *Douglas G. Chalgian, chair.*
5. **Business Law and Business Section Liaison** - *John R. Dresser, chair.*
6. **Court Rules and Forms** - *Harold Schuitmaker and Joan Von Handorf, co-chairs:*
7. **Elder Law/Elder Law Section Liaison** - *Josh Ard:*
8. **Family Law/Family Law Section Liaison** - *Patricia M. Ouellette:*
9. **Real Property Law/Real Property Section Liaison** - *Richard Shapack:*
10. **Tax Section Liaison** - *Shirley A. Kaigler.*
11. **State Bar Liaison** - *Francine Cullari:*
12. **Trust/Michigan Bankers Association Liaison** - *Daniel E. Cogan:*
13. **Michigan Probate Judges** -

**IX. Other Business:** Francine Cullari quickly reported on the search for the new Executive Director of the State Bar.

**X. Hot Topics:**

**XI. Adjournment** - The meeting was adjourned at 12:10 p.m.

Respectfully submitted,

Harold Schuitmaker

Note from the Secretary: Attachment #4 should replace Attachment #4 of the February 17, 2007 Agenda booklet.