

**Probate and Estate Planning Section  
State Bar of Michigan**

**NOTICE OF MEETING**

**Saturday, February 11, 2006**

**9:00 a.m. Meeting of Committee on Special Projects**

**10:15 a.m. Council Meeting**

There will be a meeting of the Committee on Special Projects on **February 11, 2006**, at the University Club in East Lansing, Michigan, beginning at 9:00 a.m., followed by a Meeting of the Council of the Probate and Estate Planning Section at 10:15 a.m.

*Please return the confirmation card enclosed with this mailing to Michael J. McClory to indicate whether you will attend.*

Nancy L. Little  
Secretary

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

**January 7, 2006, 10:15 a.m.  
East Lansing, Michigan**

- I.** The meeting was called to order by the chair, Michael J. McClory, at 10:15am.
- II. A. Council Members Excused:** Harold Schuitmaker, Lauren Underwood, John Dresser, Sebastian Grassi, Shaheen Imami, Lisa Langton, Marilyn Lankfer, Tom Sweeney
- B. Council Officers and Members Present:**  
Michael J. McClory      Douglas A. Mielock      Nancy L. Little
- Douglas G. Chalgian                      Ellen Sugrue Hyman  
Daniel E. Cogan  
George A. Cooney, Jr.
- Christopher L. Edgar                      Amy N. Morrissey  
Robin D. Ferriby                          Kenneth J. Seavoy  
Richard J. Siriani
- George W. Gregory  
Mark K. Harder                              Joan C. Von Handorf
- C. Others Present:** Cynthia Andrews, Rebecca Bechler, John Bos, Samuel D. Carpenter, Judge Harter, Marguerite Munson Lentz, Lorraine New, Patricia Ouellette, Robert Taylor, Rob Tiplady, Bradley R. Weeks
- III. Introduction of Guests:** All attendees, including guests, introduced themselves.
- IV. Secretary's Report:** The minutes of the December meeting were approved.
- V. Treasurer's Report:** Mike McClory reported that Harold Schuitmaker was out of town. Mike circulated the November 30, 2005, financial statement.

**Chairperson's Report:** Mike McClory reported that several members were unable to attend due to the icy roads. He had several items on which to report:

- First, Judge Casey died just before Christmas.
- Second, Mike gave an update on the proposed Administrative Order regarding privacy issues (discussed in detail in the October and November minutes). Attorneys are often called upon to file documents that contain

social security number, such as tax returns, death certificates, and so forth. We have requested that the Administrative Order be revised to reflect these concerns and to require courts to redact a file that contains a social security number only upon request.

- Third: Senator Van Regenmorter sponsored an amendment to pending legislation which would have eliminated one probate judge in Wayne County and converted one probate judge in Oakland County to a general circuit court judge. Senator Van Regenmorter's amendment restored the Oakland County Probate judgeship. The Legislature will go back into session on January 11, and Senator Van Regenmorter indicated to Mike that at that time the Wayne judgeship will be restored, too.
- Fourth: We have renewed our publishing agreement with ICLE re: the Section Journal. We will have a small increase in cost.
- Fifth: As of December 27, 2005, inventory fees are to be rounded to the nearest dollar pursuant to 2005 PA 326
- Sixth: SB 859 has been introduced to amend the general property tax act to add to the definition of "owner", for purposes of qualifying for a homestead exemption, a totally and permanently disabled sole present beneficiary of a trust for whom the trust purchased the property as a residence. See attachment for the version of this Bill passed by the Senate. George Gregory added there are a number of issues percolating about property taxes and Chris Edgar said property tax issues will be a topic of next month's Committee on Special Projects.
- Seventh: There is a bill pending to amend the adoption code with regard to step-parent adoption so the adoption code will be consistent with EPIC.
- Eighth: Mike asked Becky Bechler for an update on estate recovery legislation. Becky reported that legislation has been introduced but is not really moving.
- Ninth: Rep. Alexander Lipsey has introduced living will legislation in HB 5524. A copy of that bill, as introduced by the House, is attached. Becky will let us know where this is going.
- Tenth: Nancy Little added that Lauren Underwood's sister recently died unexpectedly. Lauren is named as guardian for her sister's adult developmentally disabled son. Memorials may be sent to the Allen N. Verlotti Amenities Trust. A memorial mass will be held January 19 at 11:00am at Christ Church in Detroit.

**VI. Report of the Committee on Special Projects:** The committee discussed the Deficit Reduction Act of 2005 re: Medicaid issues. This act has not yet passed.

## **VII.**

### **A. Internal Governance**

1. **Budget** – *Harold Schuitmaker/Nancy Little, co-chairs*: No report.

2. **Bylaws** – *Marilyn Lankfer, chair*: No report.
3. **Michael Irish Award** – *Brian V. Howe, chair*: No report.
4. **Long-Range Planning** – *Douglas A. Mielock, chair*: No report.
5. **Nominations** – *Dirk C. Hoffius, chair*: No report.
6. **Relations with the State Bar** – *John Dresser, chair*: No report.
7. **Annual Meeting** – *Douglas A. Mielock, chair*: Doug reported that the annual meeting is scheduled for September 16, 2006, and the organizational meeting is scheduled for October 20-21, 2006. More details to follow.

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

1. **Amicus Curiae** – *Mark Harder, chair*: No report.
2. **Continuing Education & Annual Probate Institute** – *Lauren M. Underwood, chair*: Mike McClory reported that the agenda has been finalized for the annual seminar, which will be held May 18-20 at Grand Traverse and June 9-10 at Troy.
3. **Section Journal** – *Nancy L. Little, chair*: No report.
4. **State Bar Journal** – *Lauren M. Underwood, chair*: Robin Ferriby reported that there will be a future issue dedicated to charitable giving.
5. **Pamphlets** – *Kenneth J. Seavoy, chair*: No report.
6. **Electronic Communication** – *John Dresser, chair*: No report.

**C. Legislation and Lobbying**

1. **Legislation** – *Harold Schuitmaker, chair*: No report.
2. **Michigan Trust Code** – *Mark K. Harder, chair*: Mark reported that the committee is hard at work. The Council decided to have a joint committee and Council meeting following the regular Council meeting in order to work on the committee's recommendations.
3. **Statute of Repose** – *John A. Scott, chair*: 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** – *Richard A. Shapack, chair*: No report.
4. **Practice Management** – *Richard J. Siriani, chair*: Richard reported that he is following the lawsuit against Oakland County re: the inventory fee. He anticipates this action may be dropped since the Michigan Court Rules were amended to provide that the inventory fee is calculated on the net, not gross, value.

**E. Administration of Justice**

1. **Contested and Uncontested Probate Proceedings** – *Amy N. Morrissey, chair*: Amy reported Judge Kirkendall has resigned and the governor's office is taking applications to fill his position. The deadline for submission of applications is January 25, 2006. Doug Chalgian stated that Judge Nelson is retiring from the Genesee County Probate Court.
2. **Uniformity of Practice** – *Sebastian Grassi, Jr./Joan Von Handorf, co-chairs*:
  - Joan reported that Sebastian is trying to get on the agenda for the spring Probate Judge's Association meeting.
  - The Uniformity of Practice committee will meet after lunch at the February Council meeting to formulate a survey regarding uniformity of practice.
  - Joan also reported that MCR 5.409, effective November 15, 2006, provides that joint accounts are to be reported on conservatorship inventories, but the value of such accounts should be included in the description of the asset and should not be reflected in the column listing values. Mike McClory added that Wayne County requires the following information be included: the name of the joint owner, the date the asset was made joint, and the percentage of ownership in each joint owner.

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

1. **Charitable Giving/Exempt Organizations** – *Robin D. Ferriby, chair*: Robin reported that there is federal legislation pending that would permit the rollover of IRA's to charities. There will also be changes in the rules regarding the required annual payout on donor-advised funds. Robin reported the Business Law Section is reworking the Nonprofit Corporation Act. Finally, Robin and Mike will be meeting with the professor who is handling the economics of law practice survey to finalize the survey. The survey will be done on-line.

2. **Transfer Tax** – *George Gregory, chair*: George passed out the monthly tax nuggets, which are attached.
3. **Guardianships and Conservatorships** – *Douglas A. Chalgian, chair*: No report.
4. **Business Law and Business Section Liaison** – *John Dresser*: No report.
5. **Court Rules and Forms** – *Harold Schuitmaker/Joan Von Handorf, co-chairs*: No report.
6. **Elder Law/Elder Law Section Liaison** – *Josh Ard*: No report.
7. **Family Law/Family Law Section Liaison** – *Pat Ouellette*: Pat said the Family Law Section's meeting, also scheduled for January 7, was canceled because of the weather.
8. **Real Property Law/Real Property Section Liaison** – *Richard Shapack*: No report.
9. **State Bar Liaison** – *Kim Cahill*: No report.
10. **Tax Section Liaison** – *Shirley Kaigler*: No report.
11. **Trust Institutions and Michigan Bankers Association Liaison** – *Daniel E. Cogan*: No report.

X. Other Business: Because the Council finished its normal business at 11:05am, the Council as a whole took up the review of recommendations by the Michigan Trust Committee for Sec. 803, 804, 805, 806, 807, 809, 810, 811, 812, and 819. After discussion, the Council voted as follows:

1. Section 803 not be adopted, but MCL 700.1507 be amended to conform to Section 803.
2. Sections 804-806 not be adopted.
3. Sections 809, 810, 811, and 819 be adopted.
4. Sections 807 and 812 be returned to the committee for further work.

XI. Hot Topics.

XII. Adjournment