

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

**April 21, 2007 10:30 a.m.  
University Club, East Lansing, Michigan**

- I.** The meeting was called to order by the chair, Douglas A. Mielock, at 10:25 a.m.
- II. A. Council Members Excused:** Daniel E. Cogan, Richard J. Siriani and Thomas F. Sweeney
- B. Council Officers and Members Present:**
- |                     |                      |
|---------------------|----------------------|
| Douglas A. Mielock  | Nancy L. Little      |
| Lauren M. Underwood | Harold Schuitmaker   |
| Douglas A. Chalgian | Michael J. McClory   |
| John R. Dresser     | Amy N. Morrissey     |
| Robin D. Ferriby    | Rebecca A. Schnelz   |
| George W. Gregory   | James B. Steward     |
| Mark K. Harder      | Marlaine C. Teahan   |
| Ellen Sugrue Hyman  | Robert P. Tiplady II |
| Shaheen I. Imami    | Joan C. Von Handorf  |
| Marilyn A. Lankfer  |                      |
- C. Others Present:** Susan Allan, Josh Ard, Rebecca Bechler, Gary L. Bender, Ronald A. Berridge, Sam Carpenter, Francine Cullari, Hon. Kathryn George, Henry Grix, Phil Harter, Michael Holmes, David Kern, Ken Kingma, J. R. McGraw, Jean Mahjoory, Raj A. Malviya, Dan Marsh, Michele Marquardt, Bill Millard, Lorraine New, Patricia Ouellette, Wendy Parr, Valerie L. Rice, Tess Sullivan, Derek A. Walters, James Woods, and Everett Zack
- III. Introduction of Guests:** All attendees, including guests, introduced themselves.
- IV. Secretary's Report:** A motion was made by Lauren Underwood, seconded by Nancy Little, to approve the February 17, 2007 minutes, with the exception that Rick Siriani and Robin Ferriby were excused absences; the motion carried.
- V. Treasurer's Report:** No report
- VI. Chairperson's Report:** Doug Mielock reported that:
- He sent a response letter to the Supreme Court concerning Order 2005-37.
  - He reported on the Bar Journal special edition on estate planning.
  - He gave a report that the Elder Law Section was opposed to Senate Bill 324 (estate recovery).

## **VII. Report of the Committee on Special Projects:**

- George Gregory discussed the Guardianship fee reduction and made a motion to authorize Doug Chalgian's letter, with modifications, to be sent to the State Bar and the Michigan Department of Community Health, seconded by Jim Stewart. Vote: 16 yes, 0 no, no abstentions (copy of draft attached)
- Report on the Wedge Appeal
- Update on the Specialization Committee
- Lauren Underwood gave a report concerning the annual meeting, which this year would be held separate from the State Bar meeting.
- After a report from Lauren Underwood concerning George Cooney's condition, the fact that George had authored at least eight books, taken part in at least 53 ICLE seminars, plus made tremendous contributions to the Probate and Estate Planning Section, George Gregory made a motion, seconded by Amy Morrissey, to waive nomination and letters of referral and award the Michael Irish Award to George Cooney, as soon as possible.
- A motion was made by Doug Chalgian, seconded by Harold Schuitmaker, to set-up a special ICLE award called the "ICLE George Cooney Society Award".

## **VIII. Standing Committee Reports**

### **A. Internal Governance**

1. **Budget** - *George A. Cooney, Jr., chair*: There was discussion concerning dues increase. A motion was made by George Gregory, seconded by Marilyn Lanker, to raise the dues from \$30.00 to \$35.00; the vote was unanimous. This information will be forwarded to the State Bar.
2. **Bylaws** - *Marilyn K. Lankfer, chair*: No report
3. **Michael Irish Award** - *Brian V. Howe, chair*: See the report of Committee on Special Projects
4. **Long-Range Planning** - *Lauren M. Underwood, chair*: No further report
5. **Nominations** - *Henry M. Grix, chair*: Henry Grix passed out a list of terms of office.

6. **Relations with the State Bar** - *John R. Dresser, chair*:
  - Janet Welch is the new director. Francine Cullari is going to submit a story concerning Citizen Lawyer Section of the State Bar Journal about George Cooney.

DOUG MIELOCK, DOUG CHALGIAN, AND NANCY LITTLE LEFT THE MEETING.

- There was a request to file an Amicus Brief. Judge Harter thought the language in *Shoaff v. Woods* (concerning fraudulent conveyances, removal of a Personal Representative, failure to preserve probate assets, and Fiduciary duty to creditors being the same as the Fiduciary duty to heirs) flies in the face of a Personal Representative doing things to enhance the Estate. In the Summary Proceedings motion of the Schoaff matter, the Judge thought this was a reason to remove the Personal Representative. The issues are what is the duty to protect creditors and was a summary disposition proper. George Gregory made a motion that the Council not file an Amicus Brief or support approving leave to appeal. Vote: 13 yes, 0 no, no abstentions

DOUG CHALGIAN AND NANCY LITTLE RETURNED TO THE MEETING, AND DOUG MIELOCK RETURNED AS CHAIR.

**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*: 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*: Some of the pamphlets are complete.
6. **Electronic Communication** - *John R. Dresser, chair*: No report
7. **Committee on Special Projects** - *George W. Gregory and Doug G. Chalgian, co-chairs*: No further report

**C. Legislation and Lobbying**

1. **Legislation** - *Harold Schuitmaker and John R. Dresser, co-chairs*: There was discussion concerning the Rule Against Perpetuities and the Delaware Tax Trap.
2. **Michigan Trust Code** - *Mark K. Harder, chair*: No 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*: Discussed the Articles to be in the September Bar Journal
3. **Specialization and Certification** - *Shaheen I. Imami and Richard A. Shapack, co-chairs*: The Specialization Committee is looking for volunteers.
4. **Practice Management** - *Richard J. Siriani, chair*: No report

**E. Administration of Justice**

1. **Contested and Uncontested Probate Proceedings** - *Amy N. Morrissey, chair*: No report
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*:
  - Robin Ferriby gave a report on the proposed IRS regulations.
  - Josh Ard reported on Senate Bills 392 and 393 concerning funds with charitable institutions and the exclusive use for charitable purposes; a motion was made by Lauren Underwood, seconded by Nancy Little, that the UTC Committee take a position supporting the amendments. Vote: 15 yes, 0 no, 0 abstentions (sent to State Bar)
  - Ken Kingma gave a report on the insurable interest legislation and the Michigan inheritance tax; the Council on Foundations opposes.
  - Lorraine New gave out tax nuggets.
2. **Estate Gift Tax** - *George W. Gregory, chair*: No report

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*: The Court Rules and Forms committee will meet at Traverse City.
7. **Elder Law/Elder Law Section Liaison** - *Josh Ard*: No report
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*: No report
12. **Trust/Michigan Bankers Association Liaison** - *Daniel E. Cogan*: No report
13. **Michigan Probate Judges** - No report

**IX. Other Business:**

**X. Hot Topics:**

**XI. Adjournment** - the meeting was adjourned at 12:12.

Respectfully submitted,

Harold Schuitmaker