

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

**June 16, 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:** Sebastian V. Grassi, Jr.
- B. **Council Officers and Members Present:**
- |                     |                      |
|---------------------|----------------------|
| Douglas A. Mielock  | Nancy L. Little      |
| Lauren M. Underwood | Harold Schuitmaker   |
| Douglas A. Chalgian | Amy N. Morrissey     |
| Daniel E. Cogan     | Rebecca A. Schnelz   |
| John R. Dresser     | Richard J. Siriani   |
| George W. Gregory   | James B. Steward     |
| Mark K. Harder      | Thomas F. Sweeney    |
| Ellen Sugrue Hyman  | Marlaine C. Teahan   |
| Shaheen I. Imami    | Robert P. Tiplady II |
| Marilyn A. Lankfer  | Joan C. Von Handorf  |
| Michael J. McClory  |                      |
- C. **Others Present:** Cynthia Andrews, Josh Ard, Kathryn George, Henry Grix, Phillip E. Harter, Mark Kellogg, J. David Kerr, Daniel Marsh, Lorraine New, Kurt A. Olson, Christine Savage, Tess Sullivan, Derek A. Walters,
- III. **Introduction of Guests:** All attendees, including guests, introduced themselves.
- IV. **Secretary's Report:** The minutes of the April 21, 2007 meeting were approved, as amended.
- V. **Treasurer's Report:** No report
- VI. **Chairperson's Report:**
- John Bos is recovering nicely from back surgery
  - Tom Sweeney's and Ellen Sugrue Hyman's report concerning their meeting with the State Bar on Unauthorized Practice is attached
  - He gave a report on the community mental health situation regarding reduced fees - they sympathize with us but cannot do anything
  - He received a letter from an attorney saying that the Bar should get tougher on unauthorized practice
  - He has written a letter to the State Bar, which is attached, concerning dues increase

- Natalie Choate's payment request was \$7,800.00. At least \$6,000.00 is going to be picked-up by the Southeastern Michigan Community Foundation
- The State Bar website survey was discussed

**VII. Report of the Committee on Special Projects:** George Gregory deferred to Mark Harder who gave a report that UTC Sections 1001, 1008, 1010, and 1012 were approved without changes; and Sections 1004, 1011, and 1013 were approved with changes. Mark moved, seconded by Dan Cogan, to approve the report - motion carried unanimously.

## **VIII. Standing Committee Reports**

### **A. Internal Governance**

1. **Budget** - *George A. Cooney, Jr., chair*: Nancy Little discussed trying to cut down costs on the *Journal*; she will report back on the costs to do printed format vs electronic format and whether or not a phase-in will work.
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*: Lauren announced the annual meeting will be September 22, 2007 in Lansing. She requested each committee chair review their mission statements so that the statements can be completed for the October 27, 2007 meeting. The annual dinner for the Council will be held October 26, 2007 at the Detroit Hilton. More information will follow.
5. **Nominations** - *Henry M. Grix, chair*: Henry Grix, Mike McClory, and Phil Harter gave a written report, which is attached. The report was accepted.
6. **Relations with the State Bar** - *John R. Dresser, chair*: No report
7. **Annual Meeting** - *Lauren M. Underwood, chair*: No further report

### **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*: Nancy Little received a round of applause for a successful Annual Probate Institute

3. **Section Journal** - *Nancy L. Little, chair*: No further report
4. **State Bar Journal** - *Sebastian V. Grassi, Jr., chair*: No report
5. **Pamphlets** - *Ellen Sugrue Hyman, chair*: No report
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*: Harold Schuitmaker discussed Amy Morrissey's memo about possibly amending the funeral priority law to either define "consanguinity" as including "adopted persons", or to take the word "consanguinity" out and put "children, natural or adopted". Becky Bechler gave a report on the proposed business tax.
2. **Michigan Trust Code** - *Mark K. Harder, chair*: Mark Harder reported he was almost finished with the UTC, with four sections left, one being substantive, plus the definition section. The council needs to review Article VII of EPIC to make sure that those provisions carry over to the Trust Code. Article V will be on the agenda in September. Mark expressed that he wants to finish the project by next year and will try to do so sooner. It was suggested that, as soon as possible, a draft of what has been done thus far be given to the Probate Judges so their committee can consider it.
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*: There are many issues concerning trust mills and title companies, and it was suggested that possibly legislation be introduced to designate on the trust document as to who prepared the trust. Josh Ard reported on the Consumer Protection Act - if it can get tweaked then there could be a cause of action against trust mill companies for unfair competition.
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*: It was mentioned that a letter was written on Administrative Order 2006-28 and there is going to be a hearing on September 25, 2007 and Richard Siriani will do his best to attend. There is a report attached concerning Court Rule 5.409 and 5.302 which deal with domicile. A motion was made, seconded and passed that Doug Chalgian will write a letter adopting the committee's report. The Rusiecki case, which is attached, concerning whether the respondent received proper notice. The case held that because the respondent did not file as a claimant he is not entitled to notice. It was proposed that a letter or telephone call be given to Chief Judge Whitbeck to take a look at this decision because it is wrong. Amy Morrissey will call Judge Whitbeck.
2. **Uniformity of Practice** - *Sebastian V. Grassi, Jr. and Joan Von Handorf, co-chairs*: The committee will meet with the Forms Committee after the meeting

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

1. **Charitable Giving/Exempt Organizations** - *Robin D. Ferriby, chair*: No report
2. **Estate Gift Tax** - *George W. Gregory, chair*: The tax nugget report is attached
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*: No further report
7. **Elder Law/Elder Law Section Liaison** - *Josh Ard*: It was noted that the Medicaid rule changes go into effect July 1<sup>st</sup>.

8. **Family Law/Family Law Section Liaison** - *Lorraine New*: No further report
9. **Real Property Law/Real Property Section Liaison** - *Richard Shapack*: No report
10. **Tax Section Liaison** - *Lorraine New*: No further 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 11:45 p.m.

Respectfully submitted,

Harold Schuitmaker