

**COUNCIL OF THE
PROBATE AND ESTATE PLANNING SECTION
OF THE
STATE BAR OF MICHIGAN**

**June 5, 2010
University Club
Lansing, Michigan**

Minutes

I. Call to Order

The Chair of the Section, Harold Schuitmaker, called the meeting to order at 10:30 a.m. following the conclusion of the meeting of the Council's Committee on Special Projects.

II. Excused Absences

The following officers and members of the Council were in attendance:

Harold Schuitmaker, Chair	Ellen Sugrue Hyman
Doug Chalgian, Chair Elect	Josh Ard
George Gregory, Vice Chair	James Steward
Mark K. Harder, Secretary	Susan Allan
David Kerr	Tom Sweeney
Hon. David Murkowski	Richard Siriani
Amy Morrissey	Bob Taylor
Rebecca Schnelz	Patricia Ouellette
	Marlaine Teahan

The following ex-officio members of the Council also were in attendance:

John Bos
Doug Mielock

The following officers and members of the Council were absent with excuse:

Marilyn Lankfer, Treasurer
Hon. Darlene O'Brien
Shaheen Imami
Rob Tiplady
James P. Spica

The following officer and member was absent without excuse:

Robin Ferriby

III. Introduction of Guests

Members of the Council, officers, and guests introduced themselves. The following guests were in attendance:

Lorraine New	Rhonda Clark
Jeanne Murphy	Mark Kellogg
Connie Brigman	Dan Cogan
Chris Ballard	Kathleen Goetz
Sereni Zeni	Kathleen Goetsch
Timothy A. Goodman	Marta Manildi
Sarah Meinhart	Valerie Lafferty

IV. Minutes of April 17, 2010 Meeting of the Council

Minutes of the April 17, 2010, meeting of the Council had been previously distributed with the Agenda for the meeting. Upon motion by Judge Murkowski with support from Josh Ard, the minutes were unanimously approved.

V. Treasurer Report – Marilyn Lankfer

In Marilyn Lankfer’s absence Mark Harder distributed a financial report through April 2010 (**Attachment 1**) and conveyed several comments from Ms. Lankfer. Revenues included a payment from ICLE for the Section’s share of royalties from the EPIC Commentary. Travel expenses for April were as high as they were because Mr. Steward from Ishpeming submitted his travel expenses for several months. Travel expenses for the year will exceed budget.

Jeanne Murphy reported on ICLE’s investigation of placing the Journal on the ICLE website. The Budget Committee will consider whether to do so and other options for use of the Council’s budget surpluses.

VI. Chairperson’s Report

No report.

VII. Report of the Committee on Special Projects – Amy M. Morrissey

Ms. Morrissey reported on the meeting of the Committee on Special Projects that preceded the Council meeting.

The Committee on Special Projects discussed possible changes to the rules governing principal residence. The Committee first discussed H.B. 6157. The Committee has recommended that the Council not take any position on the merits of the proposed substantive policy change, but is recommending language to better accomplish the perceived objectives of the bill. Amy Morrissey moved to approve the Committee’s

recommendation, with support from Pat Ouellette. The motion was approved by a vote of 17-0. There were no abstentions.

The Committee also discussed changes to MCL 211.7dd and the definition of “owner”. The Committee recommended changes to MCL 211.7dd(a) to add another paragraph (x) to state: “a beneficiary of a trust, if the trust owns the property, and the property is the principal residence of the beneficiary.” Ms. Morrissey moved to approve and recommend the Committee’s recommendation, with support from Mr. Siriani. The motion was approved by a vote of 17-0. There were no abstentions.

The Committee also discussed and approved a recommendation to add state information to existing Question 2 on Court Forms PC 625 and PC 639. Ms. Morrissey moved to approve the Committee’s recommendation with support from Mr. Siriani. The motion was approved on a vote of 17-0. There were no abstentions.

The Committee discussed whether Marlaine Teahan and the Forms Committee should be given authority to communicate updated section cross references to SCAO. Ms. Morrissey moved to approve and recommend the Forms Committee’s recommendation, with support from Mr. Siriani. The motion was approved by a vote of 17-0. There were no abstentions.

VIII. **Standing Committee Reports**

A. **Internal Governance**

1. Budget – George Gregory

No report.

2. Bylaws – Marilyn Lankfer

No report.

3. Michael Irish Award – Brian Howe

No report.

4. Long Range Planning – Doug Chalgian/Nancy Little

No report.

5. Nominations – Doug Mielock

Doug Mielock distributed a report of the Nominations Committee (**Attachment 2**). Mr. Sweeney, with support from Mr. Gregory, moved to approve the officer nominations. Mr. Ard moved, with support from Mr. Sweeney to approve the nomination of Ms. Teahan and Ms. Schnelz to serve a second three year term on the Council. Mr. Ard moved, with

support from Mr. Siriani, to approve the election of Ms. Allan and Judge O'Brien to serve a first full three year term on the Council. Finally, Mr. Gregory moved, with support from Mr. Siriani, to approve the election of Ms. Lentz and Ms. Brigman to a first full three year term on the Council. Each motion was unanimously approved.

6. Relations with the State Bar – Thomas F. Sweeney

No report.

7. Annual Meeting – George Gregory

No report.

B. Education and Advocacy Services for Section Members

1. *Amicus Curiae* – Ellen Sugrue Hyman

No report.

2. Continuing Education and Annual Probate Institute – George Gregory

Mr. Gregory distributed a report (**Attachment 3**) concerning registrations for the Probate Institute and recent attendance at programs regarding the Michigan Trust Code. Mr. Gregory will prepare thank you letters to sponsors of the Institute for Mr. Schuitmaker to send.

3. Section Journal – Nancy L. Little

Ms. Ouellette reported for Nancy Little, who was not able to attend. The next issue of the Journal is on schedule for timely publication.

4. State Bar Journal – Amy M. Morrissey

Ms. Morrissey reported that the Probate Section's theme issue of the State Bar Journal came out in May, and it focused on the Michigan Trust Code. She thanked the authors who contributed articles.

5. Pamphlets – Ellen Sugrue Hyman

Ms. Hyman reported that she and her committee continue to work on pamphlets.

6. Electronic Communications – Josh Ard

No report.

C. **Legislation and Lobbying**

1. Legislation – Harold G. Schuitmaker/John R. Dresser/George Gregory

SB 1301 was mentioned by Mr. Schuitmaker. It reduces the number of circuit court judgeships as retirements or vacancies arise due to constitutional limitations on re-election.

HB 6189 would revive the Michigan inheritance tax. Its prospects are uncertain. Mr. Gregory moved that the Council oppose revival of the Michigan inheritance tax. Mr. Steward supported the motion. The motion was approved by a vote of 16-0. There were no abstentions. (Mr. Taylor had left the meeting). Mr. Sweeney and Ms. Lentz will work with the Section's lobbyist to convey the Section's opposition to the bill.

HB 6197 has passed the House Judiciary Committee and the House of Representatives. Mr. Sweeney's efforts to meet with legislators and testify were acknowledged.

HB 5850 authorizes an amendment to EPIC providing for separate rules of priority for disposing of decedent's remains if was a military veteran. Mr. Kerr moved that the Council support the legislation. Mr. Gregory supported the motion, which was approved by a vote of 16-0. There were no abstentions.

2. Michigan Trust Code – Mark K. Harder

Mr. Harder reported that the Michigan Trust Code technical amendments bills have not been introduced.

Mr. Harder answered a question regarding the statute of limitations under MTC section 7905 and whether it is the exclusive statute of limitations for trust disputes. He clarified that this matter was not addressed in the technical amendments bill. Mr. Harder offered his opinion that the general statute of limitations found in the Revised Judicature Act does not apply to trust proceedings because of the provisions found in MTC Section 7905, which he believes are exhaustive.

D. **Ethics and Professional Standards**

1. Ethics – J. David Kerr

No report.

2. Unauthorized Practice & Multidisciplinary Practice – Bob Taylor

Prior to departing the meeting, Mr. Taylor noted that the Committee had met with staff from the Attorney General's office. Mr. Taylor is trying to

arrange a follow up meeting with the Attorney General's staff and the State Bar concerning protecting the public from the unauthorized practice of law.

3. Specialization and Certification – James B. Steward

Mr. Steward indicated that the Committee will need to have additional meetings before it can offer a report.

4. Practice Management – Patricia Ouellette

No report.

E. Administration of Justice

1. Contested and Uncontested Probate Proceedings – Shaheen I. Imami/Douglas G. Chalgian

No report.

2. Uniformity of Practice – Rhonda Clark

No report.

F. Practice Issues, Related Areas & Liaisons

1. Charitable Giving/Exempt Organizations – Robin D. Ferriby

No report.

2. Transfer Tax – Thomas F. Sweeney

Members of the Council discussed the prospects for reform of the estate tax rules during 2010.

3. Guardianships and Conservatorships – Constance Brigman

No report.

4. Business Law/Liaison to Business Law Section – John R. Dresser

No report.

5. Elder Law/Liaison to Elder Law Section – Amy R. Tripp

No report.

6. Family Law/Family Law Section Liaison – Patricia M. Ouellette

No report.

7. Real Property Law/Real Property Section Liaison – Daniel P. Marsh

No report.

8. State Bar Section to Section Action Team Liaison – Robert Tiplady

No report.

9. Tax and Taxation Section Liaison – Lorraine F. New

No report.

10. State Bar Liaison – Richard J. Siriani

No report.

11. Court Rules and Forms Committee Liaison – Marlaine C. Teahan

No report.

12. Trust Institutions and Liaison with Michigan Bankers Association – Susan Allan

A Subcommittee from the Michigan Bankers Association continues to meet and is likely to seek changes to the legislation providing for acceptances of powers of attorney, which was expected to be introduced as a substitute for the current text of HB 5196. HB 5196 has not been changed. The Bankers expect they will complete their work for our review by the fall.

13. Michigan Probate Judges Association Liaison – Hon. Phillip Harter/Hon. David M. Murkowski/Hon. Darlene O'Brien

No report.

14. Law School Liaison – Josh Ard

No report.

15. Insurable Interest – Mark Harder/Robin Ferriby

No report.

IX. Other Business

None.

X. **Hot Topics**

None.

XI. **Adjournment**

There being no further business, the Council meeting was adjourned at 11:45 a. m.

Respectfully submitted

A handwritten signature in black ink, appearing to read "Mark K. Harder". The signature is written in a cursive, flowing style.

Mark K. Harder
Secretary

2594611-9

ATTACHMENT 1

Financial Report

**Probate and Estate Planning Section
Treasurer's Report as of April 30, 2010**

	February 2010 Actual	March 2010 Actual	April 2010 Actual	Year to Date Actual	2009-10 Budget	Variance
Revenue						
Membership Dues	\$2,100	\$70	\$105	\$118,090	\$111,510	\$6,580
Publishing Agreements			2,226	2,311	1,875	436
Other					1,350	(1,350)
Total Receipts	\$2,100	\$70	\$2,331	\$120,401	\$114,735	\$5,666
Disbursements						
Journal	10,017			10,017	37,500	(27,483)
Chairperson's Dinner				2,953	4,000	(1,047)
Travel	1,259	796	5,384	11,045	12,000	(955)
Lobbying		2,000	2,000	14,000	24,000	(10,000)
Meetings		1,786	848	6,475	9,000	(2,525)
Publishing Agreements					1,125	(1,125)
Support for Annual Institute			6,000	6,000	6,000	0
Amicus Briefs					5,000	(5,000)
Listserv	70	70	70	490	850	(360)
Postage					900	(900)
Telephone	30	25		76	500	(424)
Other	75	110	75	260	1,000	(740)
Total Disbursements	\$11,451	\$4,787	\$14,377	\$51,316	\$101,875	(\$50,559)
Increase	-\$9,351	-\$4,717	-\$12,046	\$69,085	\$12,860	\$56,225

Additional Information

Fund Balance \$187,863

ATTACHMENT 2

Nominating Committee Report

Douglas A. Mielock
P: 517.371.8203 F: 517.367.7303
dmielock@fosterswift.com

313 S. Washington Square
Lansing MI 48933

June 2, 2010

E-Mail\First Class Mail

Harold G. Schuitmaker
Chairperson
Probate and Estate Planning Council
181 W. Michigan Avenue, Suite 1
P.O. Box 520
Paw Paw, Michigan 49079

Re: Nominating Committee Report for the Council Year 2010-2011

Dear Harold:

I write this letter on behalf of Nancy L. Little, Lauren M. Underwood, and myself – the Nominating Committee of the Probate and Estate Planning Council. Pursuant to Article IV, Section 1 of the Bylaws of the Probate and Estate Planning Section, the Nominating Committee is charged to submit nominations for Council officers and members of the Council at the meeting of the Council prior to the Annual Meeting of the Section. Accordingly, we submit the following nominations for officers and members of the Probate and Estate Planning Council.

OFFICERS

Chairperson	Douglas G. Chalgian
Chairperson Elect	George W. Gregory
Vice Chairperson	Mark K. Harder
Secretary	Marilyn K. Lankfer
Treasurer	Amy N. Morrissey

MEMBERS

For a second three-year term, beginning with the Annual Meeting in September 2010 and continuing until the election at the Annual Meeting in 2013:

Marlaine C. Teahan

Rebecca A. Schnelz

For a first full three-year term, beginning with the Annual Meeting in September 2010 and continuing until the election at the Annual Meeting in 2013:

Susan M. Allan

Hon. Darlene O'Brien

For a first full three-year term, beginning with the Annual Meeting in September 2010 and continuing until the election at the Annual Meeting in 2013:

Marguerite Munson Lentz

Constance L. Brigman

For the Council's information, a Roster showing the *current* terms of the Council members are enclosed with our report. Thanks to you and the Council for considering the report of the Nominating Committee.

Respectfully submitted on behalf of the
Nominating Committee,

Douglas A. Mielock

ATTACHMENT 3

Continuing Education and Annual Probate Institute Committee Report

Continuing Education and Annual Probate Institute

Committee Report to the

Council of the Probate & Estate Planning Section

June 2, 2010

The **50th Annual Probate & Estate Planning Institute** was successfully held on May 6-8 in Traverse City with 379 registrations (compared to 299 in 2009) and terrific feedback on the evaluation forms. The Institute will be repeated on June 18-19 in Plymouth. As of June 2, 305 have pre-registered for the Plymouth presentation. In 2009 there were 295 total pre-registrations. The all time Probate Institute attendance record came in 2001 when there were 721 combined registrations. As of June 2, we have 684 registrations for the 50th Annual Institute.

Of course, planning is already underway for the 51st Annual Institute in 2011. If you have ideas for topics or speakers that might be of interest, please contact Mark Harder or Jeff Kirkey.

The Section also recently cosponsored the **2010 Medicaid and HealthCare Planning Update** (4/7 in Grand Rapids and 4/22 in Plymouth), **Advising Clients on VA Benefits** on 4/22 in Plymouth, and **Drafting an Estate Plan for an Estate Under \$5 Million** (5/26 in Plymouth). Both the Medicaid Update and VA Benefits seminars had more than 275 participants in-person or by live webcast. The drafting limited enrollment seminar on May 26 was a sell out (max of 21 participants).

The Section is co-sponsoring the following upcoming seminars:

- **Drafting an Estate Plan for an Estate Under \$5 Million** on Tuesday, September 14, 2010 in Plymouth.
- **Administration of Trusts under the MTC** on Tuesday, October 5, 2010 in Plymouth.

George W. Gregory

From: Jeff Kirkey [jkirkey@icle.org]
Sent: Monday, May 10, 2010 10:23 AM
To: 'GGregory@GGregoryonline.com'
Subject: FW: The Probate Institute is Nifty at 50!
Attachments: Quiz Show 50th Probate Institute .ppt

This is my institute recap that I sent to staff this morning. Thought you might like to see it too.

Jeff

From: Jeff Kirkey
Sent: Monday, May 10, 2010 9:57 AM
To: All Staff
Subject: The Probate Institute is Nifty at 50!

What a terrific event! Here is a rundown of the 50th Probate Institute "by the numbers."

50 top estate planning tips delivered by Doug Chalgian and George Gregory in a fun and fast-paced Friday morning session.

49th institute last year had one national speaker; this year we had three including Jeff Pennell, a law professor at Emory University in Atlanta, who recorded his one hour presentation last week and overnighted it to us.

48 books in the Online Library won by Dan Simjanovski from Mt. Clemens. The Grand Prize included all 48 online books plus print copies of MI Real Property Law and the EPIC/MTC paperback. He told us his firm was just about to buy the O.L. so his timing couldn't have been better.

47 minutes of furious action getting registrants checked in on Thursday afternoon. Deanna led the entire ICLE crew that ensured no one had to wait long.

46 compliments on our huge LCD screen behind the sales table. In 2009 our LCD was stolen at the Probate Institute. That wasn't going to happen this year - Choi took it back to her room each night. I bet she had fun playing Xbox on that thing.

45 minutes in length were the two presentations by national speaker Susan Porter who proved to be one of the highest rated speakers of the entire event.

44% of registrants watched Natalie Choate in the national speaker track while 56% attended the MI Trust Code Track. Despite having more than 1,000 people attend our MTC seminars in January and February, this was still the most popular track at the Institute with 199 choosing the sessions in that track. You gotta love new law.

43 registrants picked USB instead of a print handbook. It was the first time we offered USB as an option at the Probate Institute.

42 total signs in the exhibit area thanking sponsors, announcing special book deals, posting winners of all the prize drawings, etc. all consistently branded and looking sharp.

41 days until the Institute is repeated in Plymouth (June 18-19). We already have 246 registered. Last year we pre-registered 295, a record for Plymouth. We're on pace to smash that record.

40th institute in 2000 holds the record for attendance in Traverse City with 395. This year we got 378!

39 winners of great prizes including ICLE prizes, gold jewelry from Comerica Bank, an iPod Touch from IRR Residential, two huge gift baskets from Citizens Bank, an online subscription from US Trust and multiple prizes from 5/3 Bank.

38 total sign in sheets. That's a lot of clipboards!

37 in attendance at the start of Choi's Partnership-Online Library training. The number grew to more than 100 by the time she finished.

36 holes in the resort's Bear and Wolverine golf courses. It was rainy and cold so only a few attendees braved the elements to golf these famous courses.

35 trivia questions about 1960 (the first year of the institute) on display during the Institute (attached as a PowerPoint - launch the show and play along).

34 people told us how much they loved the disability planning track. For the first time we presented basic topics in this track and it was more popular than ever.

33% of ARS respondents said that they've practiced probate and estate planning for 31 years or more! That's a lot of "seasoned" lawyers who love this program. I hope they never retire.

32% of ARS respondents said that probate and estate planning is the bulk (76%-100%) of their legal work. This is the "can't miss" program for lawyers who specialize in this area.

31 minutes of movie previews before "Doug's Movie Pick" Iron Man 2. Those that saw it said that it's a really good movie.

30 minutes it took Deanna, Stephanie Fowler and Sandee Frentrup to staple 425 handouts that arrived unstapled! Ugh.

29 times we reminded attendees to fill out their evaluations. Thankfully we got hundreds returned to us and they look terrific.

28 total faculty. George Gregory covered three topics himself as Sebastian Grassi and Lauren Underwood had to bail out.

27 total topics over the course of 3 days and only three were hand outs. Thanks to Jen B, Sam and Barb for handling the materials so well.

26 sections in a massive 3" binder. The handbook cost \$37.50 to print and had more than 1,100 pages!

25 \$50 ICLE gift certificate given away in three drawings throughout the institute. 9 attendees redeemed them on the spot.

24 attended John Bos's Leelenau Peninsula winery tour. 21 went on John Scott's Old Mission Peninsula winery tour. Both were sell outs.

23 minutes of announcements to kick off the Institute. There was a lot of stuff going on!

22 years of old Institute course materials on display. Memorabilia everywhere!

21 pages of names in the registration list we handed out to all registrants. 6 lawyers was the most from any one firm (Varnum).

20 minutes spent planning the **51st** Probate Institute. It never hurts to start early.

19 laptops in use by attendees was the most we had in the ballroom at any one time. Deanna arranged for lots of "power cord rows" so people could plug in.

18 "tweets" by attendee Howard Collens about the Institute. See them on Twitter at <http://twitter.com/#search?q=50THPEPI>

17 minutes that we ran over on Saturday as people got their last minute questions answered by the remaining faculty.

16 minutes was how long State Bar Executive Director Janet Welch took to update everyone on what's happening at the State Bar. She pinch hit for Charles Toy, the State Bar President, who couldn't make it.

15 minutes is all it took for the crowd to devour the 35 dozen delicious shrimp at the Thursday night reception!

14 total no-shows

13 questions in our ARS poll to kick off the program. There were some really interesting results. We lost 0 keypads! 13% of respondents said this was the first Probate Institute they've ever attended.

12 ICLE staff who all worked tirelessly from Wed setup to Sat cleanup - Deanna, Stephanie Fisher, Brian, Dave, Stephanie Fowler, Choi, Lelia, Sandee, Arlene, Jeanne, Jeff & Lynn.

11 total walk-ins

10 total sponsors contributing a record-setting \$53,000. Not to mention another \$3,400 in exhibitor revenue. We had a full exhibit hall, and attendees spent a lot of time visiting with the exhibitors and sponsors.

9 table captains answered questions during our ever-popular Friday roundtable lunch. Deanna ordered 88 lunches and exactly 88 people attended!

8 pages in one of the best looking brochures ICLE has ever mailed. Our marketing department really outdid itself. In our ARS questions 49% of respondents said they learned about the institute from the brochure. Obviously it was highly effective!

7 books on sale at 50% or 30% off. Lelia and Choi sold about \$5,500 worth of stuff compared to \$3,267 last year in Traverse City! They were hopping.

6 tracks throughout the institute - 2 each day. The MI Trust Code Track was the most popular of all. New this year was the "Future of Estate Planning" track.

5 fun activities on Friday afternoon - golf, spa, wine tour, Iron Man 2, and bike ride (ok, the bike ride got canceled because of the rain so it wasn't all that fun). Believe it or not, it was snowing when we loaded the ICLE cars and headed home on Saturday!

4 times I was asked to record all the presentations and sell the audio CDs because it's too hard to choose between the sessions in the competing tracks.

3 dynamic and incredibly popular presentations by national speaker Natalie Choate. She brought her A-game.

2 gifts handed out to all attendees - a 5/3 Bank handbag to carry the course handbook and a legal pad from Plante Moran.