

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

**March 15, 10:05 a.m.  
University Club, East Lansing, Michigan**

- I. The meeting was called to order at approximately 10:05 a.m. by the Chair, Lauren M. Underwood.
- II. **A. Council Members Excused:** John R. Dresser, Shaheen I. Imami, Rebecca A. Schnelz, Thomas F. Sweeney, Robert P. Tiplady
- B. Council Officers and Members Present:**  
Lauren M. Underwood      Nancy L. Little  
Harold G. Schuitmaker      Douglas G. Chalgian  
George W. Gregory
- C.** Daniel E. Cogan      Richard J. Sirani  
Robin D. Ferriby      James B. Steward  
Hon. Kathryn A. George      Marlaine C. Teahan  
Mark K. Harder  
Ellen Sugrue Hyman  
Marilyn A. Lankfer
- Others Present:** Susan M. Allan, Constance L. Brigman, Samuel D. Carpenter, Kevin Cotter, Christopher L. Edgar, Honorable Phillip E. Harter, Stephen W. Jones, J. David Kerr, Daniel P. Marsh, Melisa Mysliwicz, Michael S. McClory, Jeanne Murphy, Honorable David M. Murkowski, Lorraine F. New, Patricia M. Ouellette, Julie Hirth Pfitzenmaier, Valerie L. Rice, Christine M. Savage, Carol A. Sewell, George M. Smrtka, Tracy A. Sonneborn, James P. Spica, Teresa S. Sullivan, Bob Taylor, Derek A. Walters
- III. **Introduction of Guests:** All attendees, including guests, introduced themselves.

**IV. Secretary's Report:** Minutes were approved with corrections including excused absences which were: Ellen Sugrue Hyman, Nancy L. Little and Richard J. Siriani.

**V. Treasurer's Report:** Treasurer George W. Gregory provided the Treasurer's report. The Treasurer's report included a consolidated budget and a proposed amendment to the budget. George W. Gregory proposed to support the amended budget. Motion was seconded by Daniel E. Cogan, motion passed. **See Attachment 1**

A motion was made by Michael S. McClory and supported by Daniel E. Cogan to contribute \$200 from the Hearts and Flowers Fund to the bicycle club in Traverse City that assists with the bike tour at the annual institute. Motion passed.

**VI. Chairperson's Report:** No Report

**VII. Report of the Committee on Special Projects:** No Report.

**VIII. Standing Committee Reports**

**A. Internal Governance**

1. **Budget** – *George W. Gregory, chair.* No report.
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.* Judge Phillip E Harter reported for the Nominations Committee on a replacement for Joan Von Handorf who recently resigned from the Council. The recommendation of the Nominations Committee was to have Susan M. Allan from Comerica Bank Trust Department serve the remaining term of Joan Von Handorf. This motion was passed.
6. **Relations with the State Bar** - *John R. Dresser, chair.* No report.
7. **Annual Meeting** - *Lauren M. Underwood, chair.* No 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*. No report.
3. **Section Journal** - *Nancy L. Little, chair*. Nancy L. Little gave a report on the Journal and indicated that there is an upcoming issue on charitable giving.
4. **State Bar Journal** - No report.
5. **Pamphlets** - *Ellen Sugrue Hyman, chair*. No report.
6. **Electronic Communication** - *John R. Dresser, chair*. No report.
7. **Committee on Special Projects** – *Amy N. Morrissey/Richard J. Siriani, co-chairs*: No report.

### **C. Legislation and Lobbying**

1. **Legislation** - *Harold Schuitmaker and John R. Dresser, co-chairs*:

#### **Senate Bill 1200**

George W. Gregory discussed Senate Bill 1200 which would allow for funds in education accounts (529 and MET Plans) to be exempt assets in bankruptcy proceedings. George W. Gregory made a motion to support this bill, supported by Robin D. Ferriby, motion passed with 16 votes (100%) in favor. **See Attachment 2**

George M. Smrtka, a visitor to the meeting, reported on a case that he was recently involved with as expert witness in which an attorney was held to have committed malpractice and was subject to a jury award of \$750.00 of damages. He had some suggestions of things the Council may want to consider to further protect drafting attorneys from these types of results.

#### **Durable Power of Attorney Act**

Daniel P. Marsh presented an overview of the Durable Power of Attorney Act and its status. Specifically debated was whether the work of the Committee should continue to consider the inclusion of a form power of attorney. A motion was made by Robin D. Ferriby with support by James B. Steward to

oppose any further work by the committee on a form and that the Council, in fact, opposes having any form power of attorney as part of a Durable Power of Attorney Act. This motion passed with 11 in favor and 4 against.

**Uniform Prudent Management of Institutional Funds Act**

Robin D. Ferriby discussed a draft of legislation for the Uniform Prudent Management of Institutional Funds Act. Mr. Ferriby made a motion to have the Council support the proposed legislation as presented. His motion was supported by James B. Steward and was passed by a vote of 14 to zero with one abstaining. **See Attachment 3**

2. **Michigan Trust Code** - *Mark K. Harder, chair*. See Minutes from Joint Meeting of the Council and Committee on Special Projects.
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*. No report.
2. **Uniformity of Practice** - No report.

**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*. 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*
6. **Court Rules and Forms** - *Harold Schuitmaker*: No report.
7. **Elder Law/Elder Law Section Liaison** – *W. Josh Ard*: *W. Josh Ard* provided a report on legislation moving forward relating to elder law issues. He reported that the expansion of the Slayer Statute Bill has been significantly modified. He reported that a bill that would provide for certain rights to individuals subject to guardianship is continuing to be debated. He reported that there was a work group on the improvement of the Michigan Consumer Protection Act that is active. **See Attachment 4**  
  
Michael S. McClory also discussed the bill relating to the rights of individuals subject to guardianships. He indicated that the Michigan Probate Judges oppose House Bill 5499 for a number of reasons that were discussed at the meeting. A motion was made by George W. Gregory with support by James B. Steward that the Council oppose this bill. The motion passed with 15 votes in favor, one opposed and one abstaining. **See Attachment 5**
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 Committee/ Tax Section Liaison** – *Lorraine F. New*: *Lorraine F. New*, presented a report on the Tax Section and indicated that the Tax Section is working with the Business Section in reviewing proposed changes to the Michigan Business Tax. Ms. New also provided a Tax Nugget. **See Attachment 6**
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 by Chair Lauren M. Underwood at 12:15 p.m.

**Respectfully submitted,**

**Douglas G. Chalgian**