

**MINUTES OF THE JOINT MEETING OF THE COUNCIL
OF THE PROBATE AND ESTATE PLANNING SECTION AND COMMITTEE ON
SPECIAL PROJECTS**

**November 17, 2007 8:30 a.m.
University Club, East Lansing, Michigan**

I. The joint meeting of the Probate and Estate Planning Council and Committee on Special Projects was called to order at approximately 8:30 a.m. by chair, Lauren M. Underwood.

II. **A. Council Members Excused:**

B. Council Officers and Members Present:

Lauren M. Underwood	Nancy L. Little
Harold Schuitmaker	Douglas G. Chalgian
George W. Gregory	

W. Josh Ard	Marilyn A. Lankfer
Daniel E. Cogan	Douglas A. Mielock
John R. Dresser	Amy N. Morrissey
Robin D. Ferriby	Rebecca A. Schnelz
Sebastian V. Grassi, Jr.	Richard J. Siriani
Hon. Kathryn A. George	James B. Steward
Mark K. Harder	Thomas F. Sweeney
Ellen Sugrue Hyman	Marlaine C. Teahan
Shaheen I. Imami	Robert P. Tiplady
	Joan C. Von Handorf

C. Others Present:

Susan M. Allen	J. R. McGraw
Cynthia S. Andrews	Hon. David M. Murkowski
Sen. Hansen H. Clarke	Lorraine F. New
Kevin Cotter	Patricia M. Ouelette
Hon. Phillip E. Harter	Valerie L. Rice
J. David Kerr	Christine M. Savage
Valerie F. Lafferty	Pamela J. Sisson
Marguerite Munson Lentz	Teresa S. Sullivan
	Derek A. Walters

- III. **Introduction of Guests:** All attendees, including guests, introduced themselves.
- IV. **Secretary's Report:** No Report.
- V. **Treasurer's Report:**
- VI. **Chairperson's Report:**
- VII. **Report of the Committee on Special Projects:** Richard J. Siriani and Amy N. Morrissey, Co-Chairs of the Committee on Special Projects reviewed numerous issues that remain before them and discussed procedures for following through on these matters.

It was agreed that an issue regarding statutory authority for the attorney in a guardianship proceeding to be paid from the estate of the protected person would be referred to John Martin for consideration as an EPIC correction or update and that Richard J. Siriani will work with him on that.

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.* No report.
- 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*. No 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** – *Amy N. Morrissey/Richard J. Siriani, Co-Chairs*

C. Legislation and Lobbying

1. **Legislation** - *Harold Schuitmaker and John R. Dresser, co-chairs*:
2. **Michigan Trust Code** - *Mark K. Harder, chair*. Mark K. Harder began his discussion of the Michigan Trust Code. Mr. Harder began with Section 105 (see attached exhibits):

Section 105 – There was extensive discussion as to whether Michigan should adopt a proxy or surrogate rule for notice to beneficiaries which would allow the establishment of so called secret trusts. Number suggestions were made if such a rule were adopted it could be improved from the proposed language. Ultimately the vote was that no such rule should be adopted at this time and the section was not approved.

Section 108- There was a technical correction to the proposed language in Paragraph 3 changing “(b)” to “(2)”. In addition extensive discussion followed. A motion was made by Daniel E. Cogan and seconded by J. David Kerr. Motion failed. A second motion was made by Mark K. Harder and seconded by Lauren M. Underwood that Section 1(a) would be revised to include in Paragraph 4 that a beneficiary receiving this notice would also receive notice that they would be required to file an objection in Court within sixty days of receiving notice in order to prevent the trustee from being able to transfer the site of the trust.

Section 110 was approved as recommended on a motion by Douglas G. Chalgian, second by Marilyn A. Lankfer.

Section 112 was approved as recommended on a motion by Marilyn A. Lankfer, second by Shaheen I. Imami.

Section 703 was approved as recommended by the Committee on a motion by Douglas G. Chalgian, second by Daniel E. Cogan.

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*: Shaheen I. Imami reviewed the final draft of the definition of the practice of trust, estate and probate law prepared by the Committee on Pilot Project for Specialization (see attached exhibit).
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*.
2. **Estate Gift Tax** - *George W. Gregory, chair*: No report.
3. **Real Property Tax Issues** - *George W. Gregory, chair*.
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 report.
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** – *Lorraine F. New* : 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 Joint Meeting of the Probate and Estate Planning Council and Committee on Special Projects was adjourned at 11:30 a.m.

Respectfully submitted,

Douglas G. Chalgian