

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

October 22, 2011
The Somerset Inn
Troy, Michigan

Minutes

1. Call to Order

The Chair of the Section, George Gregory called the meeting to order at 10:05 a.m.

2. Attendance

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

George Gregory, Chair	David Kerr
Mark Harder, Chair Elect	Hon. David Murkowski
Tom Sweeney, Vice Chair	Hon. Darlene O'Brien
Amy Morrissey, Secretary	Rebecca Schnelz
Shaheen Imami, Treasurer	Bob Taylor
Susan Allan	Marlaine Teahan
Josh Ard	Nancy Welber
George Bearup	
Constance Brigman	

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

Chris Ballard	Jim Steward
Meg Lentz	Ellen Sugrue-Hyman
Pat Ouellette	Rob Tiplady
Jim Spica	

C. The following officers and members were absent without excuse:

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

John Bos	Jim LoPrete
Robert Brower	Harold Schuitmaker
Henry Grix	Susan Westerman
Phil Harter	

E. Others in Attendance

Karl Barr	David P. Lucas
W. Jerry Byrd	Rick Mills
Brittany Catterick	Jeanne Murphy
Rhonda Clark-Kreuer	Lorraine New
Keven DuComb	Neal Nusholtz
Stephen Dunn	Sharri L. Rolland Phillips
Robin Ferriby	David Skidmore
Kathleen Goetsch	Mark Snitchler
Tim Goodnow	Geoffrey Vernon
Mark D. Lang	Serene Zeni

3. Internal Governance

A. Minutes of September 17, 2011 Meeting of the Council

Minutes of the September 17, 2011, meeting of the Council had been previously distributed with the Agenda for the meeting. Upon motion by Mark Harder with support from Hon. Darlene O'Brien, the minutes were approved by a unanimous vote of all Council members present.

B. Treasurer Report

Shaheen Imami distributed a financial report through August 31, 2011 (**Attachment 1**). Mr. Imami indicated that the fund balance as of the end of August, 2011 was approximately \$194,457.

Mr. Imami noted that the Section will end the fiscal year with an increase in funds. He also reported that Public Affairs Associates, our Section lobbyist, is increasing its fees by \$500/month, from \$2000/month to \$2500/month beginning October 1, 2011. The budget will be presented at the November meeting.

C. Chairperson's Report

The latest version of the Section committee assignments was circulated by George Gregory at the meeting. Please direct any corrections or committee additions to Mr. Gregory.

Mr. Gregory thanked those who have served on the Council whose terms were expiring. He suggested that plaques be sent to each of them in recognition of their service and to Judge Harter for his website.

Some issues identified for the coming Council year are estate recovery, ethics, and several other Special Projects Committee items.

D. Report of the Committee on Special Projects

Mr. Gregory reported on the Special Projects Committee meeting in the absence of Co-Chairs, Jim Steward and Rob Tiplady.

Mr. Gregory appointed Rebecca Schnelz to chair a committee to explore and recommend changes to the Section's webpage on the State Bar of Michigan website to increase ease of use by the public and to improve content for the general public concerning probate.

On a motion by David Kerr, supported by Nancy Welber, and by a hand vote of all Council members present, the Council voted 16-0 to oppose ADM 2002-24 which would seek to amend MRPC 7.3. ADM 2002-24 was included with the October meeting materials. It was agreed that Tom Sweeney and David Kerr would write a letter for Mr. Gregory's signature in opposition to the proposed changes to MRPC 7.3. Mr. Sweeney's and Mr. Kerr's letter would adapt the content of Josh Ard's draft letter to the Supreme Court, which was also included in the October meeting materials, and would add concerns of the Council expressed at the meeting about contact with families of deceased clients, holiday cards, etc.

Connie Brigman reported that the foreign guardianship legislation had moved forward and was out of committee and on the Senate floor thanks to Sen. Tonya Schuitmaker, SB 0539. Ms. Brigman testified for the Senate Judiciary Committee already for this bill and it had no problems going through. Ms. Brigman reported that the POLST Committee continues to be stuck trying to resolve what should be on the form. They want only one form for all settings. There were also issues with what signatures should be on the form. Charlie Sabatino who advises the National POLST Committee was scheduled to be on the next POLST conference call to resolve some of these issues. Ms. Brigman also reported that the guardians and DNR bill would probably require revisions and that we had formed a coalition group that would try to work out a bill that everyone could support. Becky Bechler, our lobbyist, helped pull this together since she also has the nursing home association (Health Care Association of Michigan) as one of her clients.

E. Other Committee Reports

1. Michael Irish Award

George Gregory reported that the Michael Irish Award was presented to John Scott at the Annual Chairperson's Dinner on October 21, 2011.

2. Annual Meeting

Tom Sweeney reported that the annual meeting will take place September 8, 2012.

3. Nominations

The Nominations Committee Guidelines, (**Attachment 2**) was discussed. Concerns were raised about content, including the areas of practice listed in part 4c of the Guidelines. John Bos made a motion to table the approval of the Guidelines until the Nominations Committee had an opportunity to review the Guidelines and recommend changes. Judge Murkowski supported the motion. The Council approved the motion to table approval of the Nominations Committee Guidelines.

4. Legislation

The Legislation Committee is compiling a list of legislation that the Section should be considering. John Bos noted that the State of Michigan has hired a company to enforce Medicaid estate recovery policy. George Gregory will be forming a committee to look at estate recovery related issues of concern to the Section.

5. Annual Probate Institute

The Speakers' Dinner will be held at Black Star Farms; a contract is being negotiated.

6. State Bar Journal

The Probate and Estate Planning Section is scheduled to host a theme issue at the end of 2012 or early 2013. The Section needs to think about topics of interest to the general Bar.

7. List Serve/Electronic Communications

Mark Harder raised the possibility of creating a connection to the Section through Linked-in, Facebook, Twitter, or similar tools. It was reported that the State Bar Ethics Committee is looking at this type of communication and virtual offices. George Gregory reported that the Business Law Section has a LinkedIn site.

8. Unauthorized Practice and Multidisciplinary Practice

John Bos proposed that the UPL and Legislation Committees of the Section work together to further enforcement of UPL statutes. It was also suggested that the Section consider approaching the Attorney General's office for assistance in enforcement of UPL statutes.

9. Charitable Giving

Robin Ferriby reported that the IRA charitable rollover option expires December 31, 2011, as well as several other charitable credits. See

handout “Community Foundation for Southeast Michigan – Michigan Tax Code Credits for Charitable Gifts – Credits expire after December 31, 2011.” Mr. Ferriby also suggested that Section members look at the Planned Giving Design Website for Federal income tax deductibility of charitable gifts.

10. Transfer Tax

Lorraine New reported that the IRS announced that the COLA adjusted Federal estate tax basic exclusion amount for 2012 is \$5,120,000. She reported that Revenue Procedure 2011-48 provides strict requirements for claims for refunds on estates and introduces a new form for 2012, Schedule PC. She also reported that new proposed regulations were released under IRC Sec. 67 regarding treatment of expenses of estates and non-grantor trusts under the 2% floor for miscellaneous itemized deductions. See Tax Nugget October 2011.

11. Trust Institutions and Michigan Bankers Association Liaison

Susan Allan reported that the MBA intends to review the fiduciary exception to attorney client privilege.

12. Michigan Probate Judges Association Liaison

It was reported that there were bills introduced in the Michigan Legislature that would remove the involvement of Michigan Department of Human Services in guardianships under the Estates and Protected Individuals Code. It was noted that many counties currently rely on DHS to do the investigation.

F. Adjournment

There being no other business brought before the Council, the meeting was adjourned at 11:35 a.m.

Respectfully submitted,

Amy Morrissey
Secretary