

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

**September 29, 2007 9:05 a.m.  
University Club, East Lansing, Michigan**

- I. The meeting was called to order at approximately 9:05 a.m. by the chair, Douglas A. Mielock.
- II. **A. Council Members Excused:**
- 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  |
| Robin D. Ferriby         | James B. Steward    |
| Sebastian V. Grassi, Jr. | Thomas F. Sweeney   |
| George W. Gregory        | Marlaine C. Teahan  |
| Mark K. Harder           | Joan C. Von Handorf |
| Ellen Sugrue Hyman       |                     |
| Michael J. McClory       |                     |
- C. Others Present:**
- |                        |                       |
|------------------------|-----------------------|
| Susan M. Allen         | Valerie F. Lafferty   |
| W. Josh Ard            | Marguerite M. Lentz   |
| Samuel D. Carpenter    | Michele C. Marquardt  |
| Kevin Cotter           | Daniel P. Marsh       |
| Craig Davis            | J. R. McGraw          |
| Steven Feidelson       | Jeanne Murphy         |
| C. Jill Goodell        | Lorraine F. New       |
| Henry M. Grix          | Patricia M. Ouellette |
| Kristin R. Gross       | Valerie L. Rice       |
| Hon. Phillip E. Harter | Kenneth J. Seavoy     |
| Michael S. Holmes      | Teresa S. Sullivan    |
| Stephen W. Jones       | Robert M. Taylor      |
| J. David Kerr          | Derek A. Walters      |
- III. **Introduction of Guests:** All attendees, including guests, introduced themselves.
- IV. **Secretary's Report:** The minutes of the June 16, 2007 meeting were approved.

- V. **Treasurer's Report:** No Report
- 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 A. Cooney, Jr., chair.* An extensive discussion took place regarding the budget which was led by nominated, incoming Chairperson Lauren M. Underwood, and nominated incoming Treasurer, George W. Gregory. The discussion included a decision where future Council meetings should take place and the cost associated with continuing to have the Council meetings at the University Club in East Lansing versus a proposal to move the Council meetings to the State Bar Building. See attached 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.* It was also announced at the Council meeting that Attorney Kenneth Kingma had moved out of state and, therefore, his nomination to become a new Council member would no longer be appropriate and it was announced that the nomination committee was offering Attorney Patricia Ouellette as an alternate Council nominee. This nomination was accepted by unanimous consent of the Council.
- 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** - *George W. Gregory and Doug G. Chalgian, co-chairs*: No report

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

1. **Legislation** - *Harold Schuitmaker and John R. Dresser, co-chairs*:
  - Douglas G. Chalgian reported to the Council on the passage of Estate Recovery legislation in Michigan and provided handouts. He explained that as of the date of the meeting a bill had been approved by both the House and Senate which was forwarded to the Governor which was expected to be signed by the Governor and thereby become law. He explained that the bill was a result of active negotiations by the Elder Law Section and other advocates for seniors and that, although many advocates believe that no estate recovery law should be approved, the advocacy community was generally relieved by the bill that was ultimately passed and that it applied only to “probate assets” and had other protections built into the law. Mr. Chalgian also noted that the law had been reviewed by John Martin, a former chair of the Council. See attached report.
  - Attorney Daniel P. Marsh gave a presentation regarding the status of the Uniform Power of Attorney Act Committee which he indicated has been meeting regularly since February, 2007. He indicated that, at this time, only New Mexico has adopted this code but that other states are looking into it as Michigan is. See attached written report.
2. **Michigan Trust Code** - *Mark K. Harder, chair*. Mark Harder presented a comprehensive discussion of the Uniform Trust Code and where the committee stands on this project and his timeline for completion of the project. Written materials were circulated. See attached report.

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*: Attorney Thomas F. Sweeney who was standing in for Mr. Shaheen I. Imami, who was unable to be present for the meeting, gave a report on specialization and certification. Mr. Sweeney gave a written report and indicated that the committee is working actively to draft proposed rules for the implementation of a specialization and certification process but has no timetable at this time regarding completion of this process. Chairperson Underwood indicated that the specialization and certification program was a priority for her (along with the Uniform Trust Code) during her year as chair. See attached 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** - *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*. Robin D. Ferriby discussed a proposed update to the Michigan Uniform Prudent Management of Institution Funds Act. Materials were circulated. As a result of the discussion that followed, it was agreed that proposed changes might be necessary and, therefore, the question of whether the Council would endorse these proposed changes would be taken up at the next meeting. See attached report.
2. **Estate Gift Tax** - *George W. Gregory, chair*. No report.
3. **Real Property Tax Issues** - *George W. Gregory, chair*.

- Mr. Sebastian V. Grassi, Jr. led a discussion regarding transfer tax implications of real estate held by a revocable trust and circulated materials regarding this issue. See attached report.
  - Mr. George W. Gregory presented a brief discussion of a “tax nugget”. See attached 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 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** - *Shirley A. Kaigler* : 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 meeting was adjourned at 12:00 noon.

**Respectfully submitted,**

**Douglas G. Chalgian**