

**Probate and Estate Planning Section
State Bar of Michigan**

NOTICE OF MEETING

Saturday, December 10, 2005

9:00 a.m. Meeting of Committee on Special Projects

10:15 a.m. Council Meeting

There will be a meeting of the Committee on Special Projects on **December 10, 2005**, at the University Club in East Lansing, Michigan, beginning at 9:00 a.m., followed by a Meeting of the Council of the Probate and Estate Planning Section at 10:15 a.m.

Please return the confirmation card enclosed with this mailing to Michael J. McClory to indicate whether you will attend.

Nancy L. Little
Secretary

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

**November 12, 2005, 10:15 a.m.
East Lansing, Michigan**

- I.** The meeting was called to order by the chair, Michael J. McClory, at 10:15am.
- II. A. Council Members Excused:** George Cooney, Robin Ferriby, Sebastian Grassi, Marilyn Lankfer, and Lisa Langton
- B. Council Officers and Members Present:**
- | | | |
|----------------------|-----------------------|---------------------|
| Michael J. McClory | Douglas A. Mielock | Lauren M. Underwood |
| Nancy L. Little | Harold G. Schuitmaker | |
| Douglas G. Chalgian | Ellen Sugrue Hyman | |
| Daniel E. Cogan | Shaheen I. Imami | |
| John R. Dresser | | |
| Christopher L. Edgar | Amy N. Morrissey | |
| | Kenneth J. Seavoy | |
| | Richard J. Siriani | |
| George W. Gregory | Thomas F. Sweeney | |
| Mark K. Harder | Joan C. Von Handorf | |
- C. Others Present:** Rebecca Bechler, Ronald Berridge, Bob Brower, Chris Brown, Ronald R. Fenwick, J.R. McGraw, Chad Nesbitt, Lorraine New, Patricia Ouellette, Wendy Parr, Shel Stark, Teresa Shafer Sullivan, Marlaine Teahan, Rob Tiplady, Bradley R. Weeks, Elizabeth K. Woodruff
- III. Introduction of Guests:** All attendees, including guests, introduced themselves.
- IV. Secretary's Report:** The minutes of the October meeting were approved.
- V. Treasurer's Report:** Harold Schuitmaker reported that he and Nancy Little will have a budget ready when we have a final count on membership for the upcoming year. Harold also reminded everyone that the mileage rate for reimbursement is \$.485 through December 31, 2005.
- Chairperson's Report:** Mike McClory had several items on which to report:
- First, the dates for all future meetings will be in our monthly meeting packets.

- Second, Mike sent a letter to the Supreme Court with the Council's comments about the proposed Administrative Order regarding privacy issues (discussed in detail in last month's minutes). The Supreme Court has acknowledged receipt of our letter but we have had no further response.
- Third: Mike will be attending the State Bar Board of Commissioners meeting on Friday, October 18, to give a general report on our Section's activities.
- Fourth: our publishing contract with ICLE for our Section Journal is up for renewal. Mike and Nancy Little will discuss the contract renewal with ICLE to negotiate a new contract.
- Fifth: Robin Ferriby, who could not attend today, told Mike that the Economics of Law survey, which is funded by the Community Foundation of Southeastern Michigan, is close to completion and will be sent out to Bar members electronically.
- Sixth: SCAO has recently done a judicial resource survey and, as a result, has recommended adjusting the number of judges in various counties. As a result, a bill has been introduced which will eliminate one probate judge in Wayne County and convert one probate judge in Oakland County to a general circuit court judge. Although the number of probate judges will be adjusted in certain other counties, in all cases other than Oakland County and Wayne County, the adjustment in number is upward rather than downward. Shaheen Imami passed out a copy of the proposed bill, which is enclosed. Mike reported that this bill would have a negative impact on the two busiest probate courts in the State of Michigan. Harold Schuitmaker stated that Judge Mack of the Wayne County Probate Court contacted him to express that the methods used when counting the courts' caseload was flawed. Various Council members noted that our aging population is growing, probate litigation is increasing, both of which will significantly impact the probate court caseloads. Lauren Underwood moved that the Council go on the record as opposing any attempt to reduce the number of probate judges in Wayne or Oakland County on the basis that such a reduction would be detrimental to the public, with a request to Becky Bechler to communicate our concerns to Rep. Van Regenmorter and an additional request to Mike McClory to write a letter to Rep. Van Regenmorter reiterating our concerns. Doug Chalgian supported the motion. Of the 17 Council members present, 16 voted in favor of this motion; Harold Schuitmaker abstained.

VI. Report of the Committee on Special Projects: The Committee on Special Projects devoted most of its time to the Michigan Trust Code committee. After lively discussion, the CSP recommended the Council adopt Sec. 411, 701, and 702 as recommended by the Trust Code Committee, and return Sec. 410 to the Trust Code Committee for further refinement. Chris Edgar moved, Harold Schuitmaker supported, and the motion was passed by vote of the membership. Chris also invited members to submit items for the CSP.

VII.

A. Internal Governance

1. **Budget** – *Harold Schuitmaker/Nancy Little, co-chairs*: No report.
2. **Bylaws** – *Marilyn Lankfer, chair*: No report.
3. **Michael Irish Award** – *Brian V. Howe, chair*: No report.
4. **Long-range Planning** – *Douglas A. Mielock, chair*: No report; however Doug complimented Mike McClory on a well-planned organizational meeting in October.
5. **Nominations** – *Dirk C. Hoffius, chair*: No report.
6. **Relations with the State Bar** – *John Dresser, chair*: No report.
7. **Annual Meeting** – *Douglas A. Mielock, chair*: Doug reported that the next annual meeting will be held in September, 2006, at the University Club in East Lansing.

B. Education & Advocacy Services for Section Members

1. **Amicus Curiae** – *Mark Harder, chair*: Mark reported that Ellen Sugrue Hyman will be assisting Mark with his duties for this committee because of Mark's heavy responsibilities with the Michigan Trust Committee.
2. **Continuing Education & Annual Probate Institute** – *Lauren M. Underwood, chair*: Lauren reported that plans are on track for the annual seminar. Mike McClory thanked Lauren for all her hard work as well as Shel Stark for his assistance.
3. **Section Journal** – *Nancy L. Little, chair*: No report, other than Nancy invited ideas for upcoming articles.
4. **State Bar Journal** – *Lauren M. Underwood, chair*: Lauren reported that she has sent the State Bar Journal an announcement about the new requirement that the Friend of the Court be notified in new estate matters.
5. **Pamphlets** – *Kenneth J. Seavoy, chair*: No report.
6. **Electronic Communication** – *John Dresser, chair*: John reported that participation in the list serve has increased to about 750 members. John also

serves on an e-filing task force, but reported that no probate courts are considering e-filing yet. John is monitoring the conflict between Michigan's claims statute and federal/state environmental laws, which has not yet been addressed in the 6th Circuit. John will keep the Council advised on this issue.

C. **Legislation and Lobbying**

1. **Legislation** – *Harold Schuitmaker, chair*: Harold reported that the EPIC amendments have passed both houses and are on the Governor's desk for her signature. He reported that there will be some new legislation introduced involving the adoption code but he does not expect any controversial issues to pass in the next few months. He expects any technical amendments will be run through without further amendment.

2. **Michigan Trust Code** – *Mark K. Harder, chair*: Mark reported that the committee is hard at work and meets once a month.

3. **Statute of Repose** – *John A. Scott, chair*: In John's absence, Harold Schuitmaker reported that this was sent to Becky Bechler to write up in a proper format. However, Harold believes this may be difficult to pass. The committee will put together a summary of why it is important to pass but anticipates any legislation will be opposed by physicians. Becky suggested that we do one-on-one meetings with various legislators when we are ready to proceed.

D. **Ethics, Professionalism and Standards**

1. **Ethics** – *Marilyn A. Lankfer, chair*: No report.

2. **Unauthorized Practice & Multidisciplinary Practice** – *Thomas F. Sweeney, chair*: Tom reported that Catherine McConnell at the State Bar is still doing sessions on trust mills with AARP and may need some participants from our Section to help. He will keep us posted.

3. **Specialization and Certification** – *Richard A. Shapack, chair*: The committee will be getting together soon for a meeting.

4. **Practice Management** – *Richard J. Siriani, chair*: No report.

E. **Administration of Justice**

1. **Contested and Uncontested Probate Proceedings** – *Amy N. Morrissey, chair*: Amy reported that the committee would be meeting at lunch today with the Uniformity of Practice Committee.

2. **Uniformity of Practice** – *Sebastian Grassi, Jr./Joan Von Handorf*, *co-chairs*: Joan has posted on the list serve the Oakland County form for notification of Friend of the Court. Nancy Little reported this form will also be published in the upcoming Journal.

F. **Practice Issues, Related Areas & Liaisons**

1. **Charitable Giving/Exempt Organizations** – *Robin D. Ferriby*, *chair*: No report.

2. **Transfer Tax** – *George Gregory*, *chair*: George reported that the IRS has announced a proposed regulation that would permit filing one form for a six-month extension of income and gift tax filings. He expects this to be finalized in about one month.

3. **Guardianships and Conservatorships** – *Douglas A. Chalgian*, *chair*: No report.

4. **Business Law and Business Section Liaison** – *John Dresser*: No report.

5. **Court Rules and Forms** – *Harold Schuitmaker/Joan Von Handorf*, *co-chairs*: No report.

6. **Elder Law/Elder Law Section Liaison** – *Josh Ard*: No report.

7. **Family Law/Family Law Section Liaison** – *Pat Ouellette*: Pat will try to coordinate between our two sections to come up with a uniform procedure for notification of Friend of the Court in new estate filings. She will then make sure that procedure is published in the Family Law Section Journal as well as the Probate and Estate Planning Section Journal.

8. **Real Property Law/Real Property Section Liaison** – *Richard Shapack*: No report.

9. **State Bar Liaison** – *Kim Cahill*: No report.

10. **Tax Section Liaison** – *Shirley Kaigler*: No report.

11. **Trust Institutions and Michigan Bankers Association Liaison** – *Daniel E. Cogan*: Dan reported that the Trust Institutions/MBA Council is actively studying states that have reviewed or modified their rules against perpetuities to prepare for their plan to seek a modification or repeal of Michigan's perpetuities law.

X. Other Business: Because the Council finished its normal business slightly ahead of time, the Council as a whole took up the review of recommendations by the Michigan Trust Committee for Sec. 705 and 707. After discussion, the Council voted to recommend the adoption of those sections as proposed by the Committee.

XI. Hot Topics

XII. Adjournment