

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

**November 11, 2006 10:30 a.m.
University Club, East Lansing, Michigan**

- I. The meeting was called to order by the chair, Douglas A. Mielock, at 10:30 a.m.
- II. **A. Council Members Excused:** Douglas G. Chalgian, Robin D. Ferriby, Sebastian V. Grassi, Jr., Lisa Langton, Marilyn A. Lankfer, Michael J. McClory, and Lauren M. Underwood
- B. Council Officers and Members Present:**
- | | |
|--------------------|-----------------------|
| Douglas A. Mielock | Harold G. Schuitmaker |
| Nancy L. Little | George A. Cooney, Jr. |
| Daniel E. Cogan | Amy N. Morrissey |
| John R. Dresser | Richard J. Siriani |
| George W. Gregory | James B. Steward |
| Mark K. Harder | Thomas F. Sweeney |
| Ellen Sugrue Hyman | Marlaine C. Teahan |
| Shaheen I. Imami | Joan C. Von Handorf |
- C. Others Present:** Susan Allan, Josh Ard, Ron Berridge, Sam Carpenter, Lynn Chard, Phil Harter, Victoria Kremski, J. R. McGraw, Dan Marsh, Chad Nesbit, Catherine O'Connell, Patricia Ouellette, Wendy Parr, Tess Sullivan, Robert M. Taylor, Robert Tiplady, and Derek A. Walters
- III. **Introduction of Guests:** All attendees, including guests, introduced themselves.
- IV. **Secretary's Report:** The minutes of the October 21, 2006 meeting were approved.
- V. **Treasurer's Report:** George Cooney and Harold Schuitmaker presented a summary of the 2005/2006 receipts and expenditures of the Section.
- VI. **Chairperson's Report:** Douglas Mielock introduced Catherine O'Connor and Victoria Kremski, from the State Bar, and they led a lively information and discussion session concerning the unauthorized practice of law ("UPL"). It is noted that the Probate Section is concerned about UPL with trust mills, etc. and that such practices are doing harm to the general public. The purpose of

trying to stop the trust mills is not to better attorneys' pockets but to help the public. Michigan does not have a criminal penalty for UPL, but only civil penalties. Please refer to the attached information on UPL.

Douglas Mielock reported on Senate Bill 1396 (Notice to Credit Reporting Agencies) and after discussion, a motion was made by Harold Schuitmaker to oppose this legislation. Although the intent is good it creates more problems than it solves. The motion was seconded by George Cooney. Vote: Council members 16 yes, none against, four absent. Motion carried

Senate Bill 1272 (Criminal background checks for Guardians and Conservators) was discussed and the Council was in general agreement with the position of the State Bar to oppose, in principal.

Senate Bill 1266 (Licensed Attorneys as Notaries) was discussed. The Board of Commissioners of the State Bar unanimously voted to support, in principal, this bill, which would automatically make licensed attorneys Notary Publics.

VII. Report of the Committee on Special Projects: Mark Harder reported that Sections 401 - 409 of the proposed Michigan Trust Code were approved by the CSP. Mark Harder moved to accept the report and it was seconded by Daniel Cogan. Vote: unanimous. Motion carried

VIII. Standing Committee Reports

A. Internal Governance

1. **Budget** - *Harold Schuitmaker, chair*. No further report
2. **Bylaws** - *Marilyn K. Lankfer, chair*. No report
3. **Michael Irish Sward** - *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*. It was announced that Janet Welch is the interim State Bar Director, and all insurance programs are being reviewed.
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*: An Agenda for the Annual Probate Institute was handed out.
3. **Section Journal** - *Nancy L. Little, chair*: No further report
4. **State Bar Journal** - *Sebastian V. Grassi, Jr., chair*: No report
5. **Pamphlets** - *Ellen Sugrue Hyman, chair*: Pamphlets are being reviewed.
6. **Electronic Communication** - *John R. Dresser, chair*: No report
7. **Committee on Special Projects** - *George W. Gregory and Doug G. Chalgian, co-chairs*: No further report

C. Legislation and Lobbying

1. **Legislation** - *Harold Schuitmaker and John R. Dresser, co-chairs*: The Chairman appointed a committee consisting of Douglas A. Mielock, James B. Steward, Sebastian V. Grassi, Jr., and Douglas Stein to make a recommendation as to the Section's position on the proposed legislation to abolish the Rule Against Perpetuities.
2. **Michigan Trust Code** - *Mark K. Harder, chair*: Mark Harder states that he is e-mailing the Michigan Trust Code proposals. The next meeting will be at 8:30 a.m. and Sections 412 - 417 will be discussed.
3. **Statute of Repose** - *John A. Scott*: Becky Beckler, from Public Affairs Association, has contacted John Scott concerning attaching the Probate Council's version of the Statute of Repose to the pending legislation for a Statute of Repose for Engineers and Land Surveyors (House Bill 6437). A motion was made by Harold Schuitmaker, and seconded by George Gregory, to add attorneys to the bill and that the Probate Council's latest wording for its' Statute of Repose, incorporating the concept that the last date of representation begins the Statute of Repose and not the date of discovery, be attached to House Bill 6437. The motion was carried unanimously.

D. Ethics, Professionalism and Standards

1. **Ethics** - *Marilyn A. Lankfer, chair*. No report
2. **Unauthorized Practice & Multidisciplinary Practice** - *Thomas F. Sweeney, chair*. No further 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*. Amy Morrissey passed out documents concerning MCL 600.871 and Court Rule MCR 5.307 relating to inventory fees. It was recommended that the Court Rule be changed to conform with the Oakland County case. There was further discussion to add language to the Statute to further define value and secured interests. This was sent back to the Committee for further review.
2. **Uniformity of Practice** - *Sebastian V. Grassi, Jr. and Joan Von Handorf, co-chairs*: The survey results were to be discussed with the Committee at lunch.

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*. John Dresser mentioned that the first annual Family Business Institute was very well attended.
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*: Pat Ouellette stated that the Section was opposed to the bill to eliminate dower, and that any new bill should be gender neutral. It was discussed that possibly a Constitutional amendment would be needed to eliminate dower. It was proposed that we work more closely with the Family Law Section.
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: None

X. Hot Topics: None

XI. Adjournment - the meeting was adjourned at 12:00 noon.

Respectfully submitted,

Harold Schuitmaker

NEXT MEETING

Saturday, January 20, 2007

**University Club
East Lansing, Michigan**

**MEETING OF
COMMITTEE ON SPECIAL PROJECTS AT 8:30 A.M.**

COUNCIL MEETING AT 10:30 A.M.