

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

October 21, 2006 9:00 a.m.
University Club, East Lansing, Michigan

- I. The meeting was called to order by the chair, Douglas A. Mielock, at 9:00 a.m.
- II. **A. Council Members Excused:** Robin D. Ferriby, Lisa Langton, and Lauren M. Underwood
- B. Council Officers and Members Present:**

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|-----------------------|--------------------------|
| Douglas A. Mielock | Lauren M. Underwood |
| Nancy L. Little | Harold G. Schuitmaker |
| George A. Cooney, Jr. | |
| Richard J. Siriani | Ellen Sugure Hyman |
| Amy N. Morriseey | Daniel E. Cogan |
| Marilyn A. Lankfer | Thomas F. Sweeney |
| Jim Steward | Sabastian V. Grassi, Jr. |
| John R. Dresser | Mark K. Harder |
| Shaheen I. Imami | Joan C. Von Handorf |
| Douglas G. Chalgian | George W. Gregory |
| Marlaine Teahan | |
- C. Others Present:** Sam Carpenter, Robert Tiplady, JR McGrew, Mary Hinker, Derek Walters, Christine Savage, John Hazcwinkel, John Bos, Pat Ouellette, Phil Harder, Jeanne Murphy, Josh Ard, J. David Kerr, Michael McCorry, Daniel Marsh, Lorraine New, Susan Allan, Henry Grix, and Francine Cullari, Representative of the State Bar
- III. **Introduction of Guests:** All attendees, including guests, introduced themselves.
- IV. **Secretary's Report:** The minutes of the June 17, 2006 meeting were approved.
- V. **Treasurer's Report:** George Cooney handed out the status of the Hearts and Flowers Fund and requested every member contribute \$35.00 to the fund. George Cooney and Harold Schuitmaker are going to present a budget and explanation of the previous years financial report at the next meeting.

VI. Chairperson's Report: Doug Mielock reported on tentative committee assignments, which was passed out. His priorities for the year were to finish and adopt the Michigan Trust Code and to prohibit the unauthorized practice of law.

He reported that he had the following correspondence:

- . letter from Judge Kent, Tuscola County Probate/Family Court concerning the National College of Probate Judges and a link to the Probate and Estate Planning Sections web site
- . letter from Lesa Smith, Program Administrator of the Access to Justice Campaign of the State Bar, thanking the Section for the \$15,000.00 cumulative giving total
- . letter from John Berry, State Bar, concerning Compensation for Services of members and officers. Reimbursement for expenses are allowed, but there is not reimbursement for services.
- . letter from Ken Kingma on the status of the proposed Insurable Interest Legislation
- . report on the Charitable Foundations Bill (House Bill 6535)
- . report from Public Affairs Associates as to pending legislation and an update on Public Act 399 concerning annuity recommendations to consumers

Other business:

- . Richard Siriani and Amy Morriseey made on a report on the net verses gross value of estates as a result of the Oakland County case Estate of Wolfe-Hadad vs Oakland County
- . It was agreed that the Tax Section of the State Bar could send out a notice to the probate list serve provided that there was a reciprocal or community arrangement with the tax section
- . There was discussion concerning the unauthorized practice of law and involvement of licenced attorneys with other organizations and trust mills
- . There was a motion to ratify the election held at the last meeting and in particular to ratify the appointment of Marlaine Teahan to the open slot upon the elevation of George Cooney to Treasurer, motion carried

VII. Report of the Committee on Special Projects: No report - meeting to be held after this meeting

VIII. Standing Committee Reports

A. Internal Governance

1. **Budget** – *Harold Schuitmaker, chair.* No further report
2. **Bylaws** – *Marilyn A. Lankfer, chair.* No report

3. **Michael Irish Award** – *Brian V. Howe, chair*. John Bos presented the Michael Irish Award to a surprised Phil Harter
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*. The Amicus Brief has been filed and arguments made in the *VanConnett Estate* (mutual wills) and a decision is awaited. The Fifth Third Bank decision, which removed Fifth Third Bank as a Trustee, (Judge Haynes, Kent County) under subsection 7207 and 7305 was discussed
2. **Continuing Education & Annual Probate Institute** – *Nancy L. Little, chair*. Natalie Choate is going to be the national speaker
3. **Section Journal** – *Amy N. Morrissey, chair*. Next issue presently with ICLE and the Spring issue is expected to be published January 1st
4. **State Bar Journal** – *Sebastian V. Grassi, Jr., chair*. Announced that the Probate theme Journal is set for September of 2007, authors and articles are needed and should be submitted. Perhaps an article on the ethical practice of law would be helpful
5. **Pamphlets** – *Ellen Sugure Hyman, chair*. reported that she had been given two pamphlets to revise and update, including the Guardian Conservator pamphlets, and that all of the pamphlets will be reviewed
6. **Electronic Communication** – *John R. Dresser, chair*. Marlaine Teahan reported she is in the process of rehabilitating our web site
7. **Committee on Special Projects** – *George W. Gregory/Doug*

G. *Chalgian, co-chairs*: No report

C. **Legislation and Lobbying**

1. **Legislation** – *Harold Schuitmaker/John R. Dresser, co-chairs*: It was reported that House Bills 6299 6365, and 6366 were approved by the House
2. **Michigan Trust Code** – *Mark K. Harder, chair*: The committee on Special Projects is going to meet immediately after the Council Meeting
3. **Statute of Repose** – *John A. Scott*: John Bos reported the status of the proposed Statute of Repose. It was suggested that we should link this with similar legislation with other professionals.

D. **Ethics, Professionalism and Standards**

1. **Ethics** – *Marilyn A. Lankfer, chair*: No report
2. **Unauthorized Practice & Multidisciplinary Practice** – *Thomas F. Sweeney, chair*: No report other than what has already been discussed in the President's report
3. **Specialization and Certification** – *Shaheen I. Imami/Richard A. Shapack, co-chairs*: No report
4. **Practice Management** – *Richard J. Siriani, chair*: Richard handed out a list of seminars and committee meetings.

E. **Administration of Justice**

1. **Contested and Uncontested Probate Proceedings** – *Amy N. Morrissey, chair*: No report
2. **Uniformity of Practice** – *Sebastian V. Grassi, Jr./Joan Von Handorf, co-chairs*: Joan handed out the raw data from the survey. It is possible that the raw data will be put on the Section and ICLE web sites with a disclaimer

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*: George and

Lorraine reported that approximately 100 IRS agents of the 500 plus IRS agents will be leaving in January

3. **Real Property Tax Issues** – *George W. Gregory*: A handout was passed out by George. It was reported that in a Michigan 706 return a funeral lunch expense was not deductible. There is going to be an after-hours seminar at Michigan State University Conference Center, in Troy, on Tuesday, October 24th, from 3:00 to 6:00 p.m.
4. **Guardianships and Conservatorships** – *Douglas G. Chalgian, chair*: No report
5. **Business Law and Business Section Liaison** – *John R. Dresser*: No report
6. **Court Rules and Forms** – *Harold Schuitmaker/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*: All State publications are going to be reviewed. There are approximately 38,000 active members of the State Bar and it is important that in the September 2007 Bar Journal featuring probate matters that we educate members on when not to take a case
12. **Trust/Michigan Bankers Association Liaison** – *Daniel E. Cogan*: Dan's protective gear was discussed
13. **Michigan Probate Judges** – There was discussion about inviting Judge Marchenik, the new Probate Judge in Kent County, to be our liaison

IX. **Other Business** none

X. **Hot Topics** none

XI. Adjournment –the meeting was adjourned at 11:05 a.m. and was followed by the Committee on Special Projects

Respectfully submitted,

Harold Schuitmaker

NEXT MEETING

Saturday, December 9, 2006

**University Club
East Lansing, Michigan**

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

COUNCIL MEETING AT 10:30 A.M.