

SBM State Bar of Michigan
2011-2012 COMMITTEE ANNUAL REPORT

Article VI §6, Bylaws of the State Bar of Michigan

No later than May 1 of each year, the chair of each committee and sub-entity of the Bar, with the assistance of the staff liaison, shall report to the Executive Director on a form provided by the State Bar on the activities and accomplishments of the committee or sub-entity.

Committee Name: Standing Committee on the Unauthorized Practice of Law

Jurisdiction: Pursuant to SBR 16, the State Bar of Michigan is authorized and empowered to investigate matters pertaining to the unauthorized practice of law (UPL). The Standing Committee on the Unauthorized Practice of Law (UPL Committee) investigates and provides guidance on matters involving the alleged unauthorized practice of the law. The UPL Committee makes recommendations to the Board of Commissioners to file and prosecute actions seeking to enjoin those engaged in the unauthorized practice of law. The UPL Committee proposes and supports measures to educate the public and the legal profession about unauthorized practice of law issues. The UPL Committee may have more than 15 members.

Chair and Committee Members:

Officer	Name	Address	Telephone	Email
Chair	Christopher G. Hastings (P40861)	Thomas M. Cooley Law School 111 Commerce Avenue SW Grand Rapids, MI 49205-4105	(616) 301-6800 ext. 6906	cghastings@sbcglobal.net
Staff Liaison	Danon D. Goodrum-Garland (P53603)	State Bar of Michigan Michael Franck Building 306 Townsend Street Lansing, MI 48933-2012	(517) 346-6333	dgarland@mail.michbar.org
Commissioner Liaison	David A. Perkins (P29735)	3rd Judicial Circuit Court 1025 E Forest Ave Detroit, MI 48207-1024	(313) 833-2910	dperks@mac.com
Members		Members		Members
Russell Reid Abrutyn (P63968)		Christine Marie Heckler (P73382)		Ruthmarie Shea (P44503)
Robert C. Anderson (P30102)		Brian P. Henry (P33876)		James Anthony Siver(P33597)
Barbara BakerOmerod (P52724)		Patsy L. Holmes (P72380)		Perry B. Thompson (P66464)
Christopher J. Berry (P68849)		Clinton J. Hubbell (P72321)		Theresa Valentine (P38857)
Howard Henry Brauckmuller (P69745)		Nora M. Hudson (P33991)		
James Booth Burr (P11444)		Barry C. Kane (P45851)		
Sara Lynn Doyle (P50990)		Michael D. Murray (P62580)		
Katherine Sue Gardner (P59050)		Meghan Kennedy Riordan (P44184)		
Stephen J. Gobbo (P56521)		Edwin H. Selwocki, Jr. (P54828)		

Committee Meeting Schedule:

Meeting Type	Date	Location
Description		
Regularly scheduled meeting.	August 4, 2011	State Bar of Michigan Michael Franck Building 306 Townsend Street Lansing, MI 48933
<p>Chair Hastings discussed appointments for the upcoming bar year and the UPL Committee approved the quarterly meeting schedule. Chair Hastings reported that the Special Committee unanimously approved a modified version of the proposed State Bar rule defining the practice of law. The UPL Committee made additional suggestions for the Spanish and Arabic version of the immigration pamphlets. The UPL Committee reviewed and discussed UPL Complaints and recommended litigations in two matters, advised staff counsel to continue monitoring one matter, forwarded an immigration to file the Wayne County Prosecutor for prosecution under MICA, and requested staff counsel to collaborate with the Attorney General-Consumer Protection Division on three debt consolidation matters.</p>		
Regularly scheduled meeting.	October 27, 2011	State Bar of Michigan Michael Franck Building 306 Townsend Street Lansing, MI 48933
<p>Chair Hastings conducted new member orientation and reviewed the quarterly meeting schedule. The UPL Committee reviewed and discussed UPL complaints, directed additional follow-up by staff counsel on several matters to informally resolve them, and recommended one matter for litigation. The UPL Committee discussed the background and progression of the proposed State Bar rule defining the practice of law, reviewed the Report of the Special Committee on Defining the Practice of Law, which was adopted by the Board of Commissioners at its September 2011 meeting and referred to the Representative Assembly for adoption, and discussed the strategy for consensus building to garner support for the proposed rule by State Bar members. The UPL Committee gave its final approval on the Spanish version of the immigration pamphlet and conditionally approved the Arabic version of the immigration pamphlet. Ms. Riordan, appointed by Chair Hastings, to serve as the UPL Committee representative on the U.S. Citizenship and Immigration Services Unauthorized Practice of Immigration Law Committee, gave a report regarding collective enforcement and educational initiatives to prevent the UPIL. The UPL Committee also discussed approaches for proactive outreach efforts to educate the public about the UPL and formed three Subcommittees, estate planning and trust mills (Mr. Anderson, Ms. BakerOmerord, and Mr. Berry), real property (Mr. Henry and Mr. Thompson), and domestic relations (Ms. BakerOmerod, Ms. Gardner, and Ms. Heckler) to participate in, develop, and plan programs for the community.</p>		
Regularly scheduled meeting.	January 26, 2012	State Bar of Michigan Michael Franck Building 306 Townsend Street Lansing, MI 48933
<p>The UPL Committee received a step-by-step tutorial regarding the use of SharePoint to access meeting materials and to collaborate regarding UPL Committee matters. The UPL Committee reviewed and discussed UPL complaints and recommended two matters for litigation and directed additional follow-up by staff counsel on one matter to informally resolve it. Chair Hastings gave a</p>		

<p>report regarding his presentation to the Professional Ethics Committee regarding Ethics Opinion RI-349 on the ethical use of legal assistants. The UPL Committee prepared an alert regarding the unauthorized use of a “power of attorney” and recommended that it be adopted by the Board of Commissioners and used to educate the public to avoid the UPL.</p>		
<p>Regularly scheduled meeting.</p>	<p>April 26, 2012</p>	<p>State Bar of Michigan Michael Franck Building 306 Townsend Street Lansing, MI 48933</p>
<p>Chair Hastings reported that the proposed State Bar rule defining the practice of law was approved by the Representative Assembly at its April 2012 meeting. The UPL Committee reviewed and discussed UPL complaints and recommended two matters for litigation, directed additional follow-up by staff counsel on one matter to informally resolve it, directed staff to continue monitoring a matter, and tabled one matter for future review and discussion at its next meeting. The UPL Committee also discussed legislative proposals that would permit small LLC owners to represent the LLC in landlord-tenant eviction proceedings. After receiving Ms. Kennedy Riordan’s report regarding the recommendation by the State of Michigan, Office of Regulatory Reinvention to deregulate the Michigan Immigration Clerical Assistant Act, the UPL Committee authorized her to work with the SBM Director of Governmental Relations to prepare a response to the Governor opposing the recommendation. The UPL Estate Planning and Trust Mill Subcommittee reported on its planning efforts to present seminars to seniors across the state to warn against estate planning scams and to provide practical estate planning information.</p>		

Resources provided by the State Bar of Michigan in support of committee work:

The State Bar provides staff support via the administrative assistance of a paralegal and staff counsel who provides legal services and manages the State Bar’s UPL Department. The State Bar also provides meeting facilities, food and beverage for meetings, teleconferencing services, meeting materials, document production services, and a small budget to support the UPL Committee’s community outreach projects. In addition, the State Bar staff provides informational pamphlets to SBM members, the general public, and to other institutions serving the public to educate the public and legal profession about the UPL.

An additional commitment of staff resources is needed to permit the UPL Department to address the backlog of litigation and investigative matters and to timely attend to UPL Complaints as they are submitted.

Committee Activities: The UPL Committee continued its work in prevention and remediation of the UPL. The Committee has continued its investigation of pending legislation, statutes, and court rules that would facilitate the goal of protecting the public from the unauthorized practice of law. The UPL Committee enhanced its public outreach efforts to educate the public and legal profession about the UPL as follows: (1) Chair Hastings served as a panel member on a four-member panel convened to present the proposed State Bar rule defining the practice of law to the Representative Assembly and to respond to questions about the proposed rule; (2) Chair Hastings served as a panel member at the SBM 3rd Annual Justices Initiative Summit, Solutions on Self-Help to present background regarding the proposed State Bar rule defining the practice of law; (3) Mr. Henry presented at the Michigan Land Title Association fall seminar on the topic “The Unauthorized Practice of Law and Title Companies;” (4) Mr. Henry presented at the International Council of

Shopping Center Owners conference on the topic “Broker Beware! The Unauthorized Practice of Law and Brokers;” (5) Ms. Goodrum-Garland presented to mediators associated with the Oakland Mediation Center on the topic “Avoiding the Unauthorized Practice of Law When Serving as a Mediator;” (6) Ms. Goodrum-Garland presented to the Michigan Chapter of the American Immigration Lawyers Association on the topic, “The Unauthorized Practice of Immigration Law;” and (7) Ms. Goodrum-Garland presented to Arbitrators associated with the Oakland County Bar Association Arbitration Committee on the topic “Preventing the Unauthorized Practice of Law During Arbitration.”

Future Goals and Activities: The Committee will continue to: (1) expand community outreach activities to proactively educate the public regarding the UPL, develop and use creative and proactive measures in addressing the UPL; (2) continue to support adoption by the Michigan Supreme Court of the proposed State Bar rule defining the practice of law as this matter is presented for consideration; (3) continue to identify and take advantage of opportunities to work with the SBM Governmental Relations Department to prevent adoption of legislation broadening statutory exceptions to the UPL statute that is likely to create opportunities for harm to the public and lend its support to advance legislative measures and other legal remedies to reduce the potential for the UPL and harm to the public; and (4) continue to evaluate UPL complaints and make referrals to the Board of Commissioners for matters to be litigated to enjoin the UPL.

As a result of the community outreach planning efforts of the UPL Subcommittee on Estate Planning and Trust Mills, on August 1, 2012, the UPL Committee in conjunction with the SBM Probate and Estate Planning Section and the Elder Law and Disability Rights Section will give presentations at area senior centers across Michigan to warn senior citizens about estate planning scams and “trust mills” and provide practical estate planning information.

In conjunction with the Solutions on Self Help initiative and the roll-out of the pilot website, UPL Committee members (Ms. BakerOmerod, Mr. Berry, Ms. Doyle, Chair Hastings, and Mr. Thompson) will prepare informational pieces to caution self-represented litigants about what could go wrong when relying exclusively on information from nonlawyers.

The UPL Committee’s last quarterly meeting for this bar year is scheduled for July 26, 2012.

Other Information: Not applicable.