

MSBA PROBATE AND TRUST LAW SECTION
Annual Report for 2007-2008

1. **Section Name:** MSBA Probate and Trust Law Section
2. **Council Meetings:** The Section Council consists of 12 elected council members, 4 officers, and the immediate past Chair of the Section. The Council met monthly from September 2007 through June 2008.
3. **Section Finances:** Tom Woessner served as Treasurer for the Section. Section finances remain strong with a fund balance of over \$61,000 as of the most recent statement. The Council anticipates that some of these funds will be used to provide support to the Minnesota Wills for Heroes pro bono program.
4. **CLE Programs:** Tom Woessner chair the Education Committee during the 2007-2008 fiscal year. Minnesota CLE and the Section jointly sponsored the 34th Annual Probate and Trust Law Conference at the St. Paul River Centre on June 9 and 10, 2008. More the 700 registrants attended presentations by an excellent array of national and local speakers. Vince O'Brien of Minnesota CLE, and his dedicated staff, deserves our special thanks for their efforts in planning this fine event. We appreciate the excellent suggestions from members of the Education Committee for topics and speakers. We especially appreciate the time devoted by our national and local speakers to preparing and presenting their very useful materials.

This year saw the development of a regular lunch time series of hour-long CLE sessions. These sessions were free of charge to Section members. Four presentations were made this year. The first was held on September 18 and featured Lloyd Grooms and members of the Legislation Committee discussing the manner in which new legislation is proposed and passed. Approximately 50 Section members attended this first session. The second CLE featured a discussion of the Margolis decision and its implications for estate planning professionals. Approximately 100 Section members attended this series on November 30. The third lunch-time CLE was a panel discussion regarding certain technologies available to assist estate planning professionals. It was held on January 31, 2008, and approximately 65 Section members attended. The last session of the year was held on May 19, 2008. It was a panel discussion by the probate registrars of Anoka County and Hennepin County and the Ramsey County Probate & Mental Health Referee. This session was again well attended with approximately 90 members present.

The Education Committee plans to continue these programs next year. The first program is scheduled for September 24 regarding Elder Abuse. Lori Swanson and Bob McLeod will be the featured speakers.

Tom Woessner will chair this Committee again for the 2008-2009 fiscal year.

5. **Legislative Developments:** The Legislation Committee was chaired by Mary Shearen and Joyce James. This year's Probate and Trust Section-sponsored legislation was combined with another bar bill (from the real property section) and emanated from House file 3420. There were three provisions:

- A change to the wording of the homestead protection from creditors (in section 524.2-402) to expressly indicate that a trust for the spouse or children qualifies for the protection;
- A change to the omitted spouse provision of section 524.2-804 to provide for an intestate share for an omitted spouse (rather than an elective share); and
- A change to the creditors' notice provisions to require a search for creditors.

A study group (including representation from our section) was convened to recommend technical corrections to the Darlene Luther Revised Uniform Anatomical Gifts Act which passed in 2007. Unfortunately, these technical corrections were not adopted. The result is that there is a slightly different order of priority of decision makers between the DLRUAGA and the morticians' statutes. The effective date of the act is April 1, 2008. The act modernizes current provisions by allowing donation of not just organs, but also body tissues. It provides for organ procurement organizations to receive gifts and for alternate recipients.

The Department of Revenue sponsored legislation which allows it to independently value estate assets. (Formerly, section 291.215 required deference to the federal determination in all cases.) Now, Minnesota must defer to the federal determination only if the Internal Revenue Service either conducts a separate appraisal or proposes a change in the reported valuation of an asset in the estate.

The omnibus tax bill also updated definitions in the Minnesota estate tax provisions to conform with those in the Internal Revenue Code.

Another important piece of legislation which passed was the adoption of a transfer on death (TOD) deed. The decedent's interest in the subject real property must be recorded prior to the grantor on whose death the conveyance is to be effective. The decedent's interest continues to be available for Medical Assistance repayment purposes.

The custodial trust act (at section 529.08) was amended to allow the custodial trustee to withdraw custodial funds and pay bills with a check card.

Next year, the Legislation Committee will be studying a number of Uniform Acts, including those concerning disclaimers, powers of attorney, principal and income,

trust law and others. We continue to encourage section members to bring needs for legislation to the attention of our section's Legislation Committee. The chairs for the 2008-2009 fiscal year are Joyce James and Scott Nelson.

6. **Newsletters:** Peter Hatinen again chaired the Newsletter Committee. Peter and his Committee produces a very high quality semi-annual newsletter informing its readers of both substantive developments in our practice area and of Section events and administrative matters. Peter will hand over the responsibilities for Chair of the Newsletter Committee to Krista Durrwachter for the 2008-2009 fiscal year.
7. **Federal Tax Committee:** Scott Nelson chaired the Federal Tax Committee. Scott, with the assistance of his committee, prepared monthly summaries of important tax developments of interest to Probate & Trust Law practitioners. These tax reports were included in the semi-annual newsletter and were posted on a monthly basis on the Probate & Trust Law Section's page on the MSBA website. With Scott's new responsibilities for the Legislation Committee in 2008-2009, Scott will turn responsibility for the Federal Tax Committee over to Richard Hawke, one of the Committee members.
8. **Consumer Protection Committee:** The Consumer Protection Committee, chaired by Bob McLeod, is a committee that serves a role that is more reactive to current developments than it is a proactive committee. During this year the Consumer Protection Committee reported that the Minneapolis Police Department and the Hennepin County Attorney were being encouraged to follow-up on reports of financial exploitation of vulnerable adults as there is no clear civil remedy for such abuses. The Committee also reported that the Minnesota Attorney General's office was pursuing lawsuits against abusive annuity salespersons/companies and against the American Family Legal Plan. It was decided to combine this Committee with the Ethics & Professional Responsibility Committee for the 2008-2009 fiscal year, under the leadership of Jane Kiker.
9. **Greater Minnesota Committee:** Brad Hanson, the former Chair of the Probate & Trust Law Section, chaired the Greater Minnesota Committee again this year. Brad reported that the Greater Minnesota Study Group, formed in the last few years, has continued to hold regular meetings telephonically. This service is of significant benefit to solo and small-firm practitioners who appreciate the opportunity to have a network of colleagues to utilize as a resource base for technical and practical issues that arise within our practice area. Brad Hanson indicated that the Greater Minnesota Committee has worked with Susan Link, Chair of the Minnesota Wills for Heroes Program, to bring the program to the St. Cloud area. Plans are in place to expand the program to other parts of Greater Minnesota during the summer months. Chad Roggeman will assume leadership of the Greater Minnesota Committee for the 2008-2009 fiscal year.
10. **Technology Committee:** As described above, the Technology Committee sponsored a noontime CLE during the year. The presentation regarding some

types software applications available to estate planning practitioners was very well received. The Technology Committee continued its work through the year to make probate forms available on the Practicelaw.org website. The Committee was chair during the year by Richard Bunin and Derrick Doerr, who have agreed to Chair the Committee again during its next fiscal year.

11. **Gene Daly Award:** The A decision was made not to grant the Gene Daly Award during the 2007-2008 fiscal year.
12. **Ethics & Professional Responsibility:** The Ethics & Professional Responsibility Committee was chaired by Jane Kiker. The Committee has planned noontime CLE program for the fall. The speakers will be Attorney General Lori Swanson and Bob McLeod who will discuss issues relating to Elder Abuse. Jane Kiker will continue to chair this Committee for the 2008-2009 fiscal year.
13. **Wills for Heroes:** The Minnesota Wills for Heroes Program was chaired by Susan Link. During the course of the 2007-2008 fiscal year the Committee was able to successfully build on its prior work, which related primarily to acquiring hardware to operate the program and programming the software for the program. During this fiscal year the Committee was able to schedule and hold several clinics around the greater metropolitan area. Programs for greater Minnesota are planned through out the summer months. Over 750 clients have been served as of the date of this report. Susan was recognized during the Probate & Trust Law Section Conference for her hard work on and dedication to the Minnesota Wills for Heroes Program. Susan has agreed to continue her service to this program for the 2008-2009 fiscal year
14. **Annual Meeting and Election of Council Members and Officers:** The annual meeting was held in connection with the Probate & Trust Law Section Conference on June 10, 2008. During the meeting the report of the Section was provided to the Section members in attendance. The following individuals were nominated by the Section for service during the 2008-2009 fiscal year:

Dale Schoonover, Chair	Peter Hatinen, Member
Bob McLeod, Vice Chair	Julie Haseman, Member
Susan Link, Secretary	Joyce James, Member
Tom Woessner, Treasurer	Jane Kiker, Member
Todd Andrews, Member	Scott Nelson, Member
Andrew Baese, Member	Tom Rauenhorst, Member
Michael Cowles, Member	Chad Roggeman, Member
Julie Frommelt, Member	Mary Shearen, Member

Respectfully submitted by Melinda K. Greer
Section Chair, 2007-2008

