**CBA TRUST AND ESTATE SECTION**

**STATUTORY REVISIONS COMMITTEE**

**MINUTES**

**March 4, 2020**

1. **Introductions**

Co-Chair Lauren da Cunha called the meeting to order at 1:40 p.m. There were introductions from those in attendance and on the phone/online.

1. **Approval of February 5, 2020 Minutes**

The minutes from the February 5, 2020 meeting were unanimously approved.

1. **Announcements**

SRC will meet the first Wednesday of August. There will be no meetings in June and July.

Kathy Seidel had two announcements to share with the group.

The Probate Trial and Procedure Committee is forming a subcommittee to look into the Compensation and Cost Recovery Act. Mark Darling and MarcieMcMinimee are chairing the subcommittee, please reach out to either of them if you are interested in joining.

The Trust and Estate Section request from the Colorado Court of Appeals to submit an amicus brief regardingthe *Trevino* case.\*The case turns on whether a personal representative can use a POD account to pay a debt of the decedent that had not defaulted and that had another signer. If you are interested in helping to write the brief, please reach out to Kathy.

\*Upon learning that *Trevino* was to be discussed and before any discussion was had, Mike Holder, an attorney in the case, left the room.

1. **Legislative Report**

Letty Maxfield provided the Legislative Report. The remote notary bill is still working its way through the Capitol but it has been amended to include a provision that allows privileged documents to remain privileged despite the use of a remote notary.

1. **SRC Approved Proposals**
2. **Active Matters - Work to Finalize Required**
3. **Amendment to ethical rules re Colorado Electronic Abandoned Estate Planning Documents Act**

Frank Hill provided that report. The committee that oversees Colorado’s ethical rules set up a subcommittee to review with the Colorado Electronic Abandoned Estate Planning Documents Act (CEAEPDA) subcommittee the purposed changes that would need to take place to allow attorneys to utilize CEAEPDA. They had their first meeting and will meet again in two weeks. The meetings have gone well and they plan on presenting to the full committee in a couple of months.

1. **Inactive Matters Approved by SRC but Not Moving Forward for Various Reasons**
2. **Colorado Electronic Preservation of Abandoned Estate Planning Documents Act Subcommittee (Pete Bullard, Chair)[[1]](#endnote-1)**
3. **Unapproved Matters under Consideration by SRC - Reports from Subcommittees**
   1. **UTC Subcommittee Part 5** **(Connie Eyster, Co-Chair)**

This subcommittee did not meet this month. There is no report.

* 1. **Legislation Review Joint Subcommittee (Michael D. Holder, Chair)**

No report.

* 1. **Advance Legislative Response Team (Marco Chayet and Letty Maxfield, Co-Chairs)**

Elder law has voted to disband the Advance Legislative Response Team as changes to the way the Colorado Bar Association operates no longer makes this subcommittee necessary.

* 1. **ADR Legislation (C. Jean Stewart, Chair)**

No report.

e. **Uniform Fiduciary Income and Principal Act Subcommittee (Gene Zuspann, Chair and Georgine Kryda)**

The subcommittee will finish reviewing the substantive portions in their April meeting. They plan on presenting to SRC in May.

**f. Child Support in Probate Subcommittee (Pat Mellen, Chair)**

No report.

**g. Uniform Electronic Wills Act (Letty Maxfield and Herb Tucker, Co-Chairs)**

The subcommittee will continue to review the Act into next year. They plan on presenting to SRC in October 2021.

**h. Witness Requirements in Advanced Directives (Carl Stevens)**

The report was given by Gordon Williams. The subcommittee did not have any problem with Advance Directives only need to be notarized. They noted that it appears that the Advance Directive statute allows the Court to change the Advance Directive if there satisfactory evidence. The subcommittee will discuss whether the decision to require only notarization will be opposed proponents of the Right to Life.

**i. Uniform Probate Code (UPC) 2019 Revisions (Bette Heller and Darla Daniels, Co-Charis)**

The subcommittee continues to meet and is still reviewing the non-substantive changes.

1. **Inactive Matters**
   1. **Changes to Conservator’s Report (Lindsay Andrew)**

No report.

1. **Report from Elder Law Section**

No report.

1. **Report from Other Sections of the Bar**

No reports.

1. **New Matters**
   1. **SB 129 - Amendment (Letty Maxfield)**

This bill regards emergency guardianship pre-meetings. The proposed amendments require the use of a court visitor to assess whether there is anyone in the local community who can serve as guardian in place of a government entity. The proposed amendment has been accepted and is moving forward in the Capitol.

1. **Passed Proposals for Inclusion in Omnibus Bill or Stand Alone Legislation** 
   1. **Bankruptcy/Inherited IRAs (approved in 2015-2016)**
   2. **Changes to the Uniform Power of Appointment Act (approved in 2015-2016)**
   3. **Disclosure of Fiduciary Fees, §§ 15-10-602 and 15-12-705, C.R.S. (approved in 2015-2016) (Gordon Williams)**

Lauren da Cunha adjourned the meeting at 1:58 p.m.

Respectfully submitted,

*/s/ Lauren da Cunha*

1. Judicial (State Court Administrator) would only agree to become the sponsoring agency of this legislation if the seven separate categories under the definition of “original estate planning document” was pared down to the single category of “will documents.”  This was insisted upon to minimize the size of the “pilot program” Judicial envisioned would be needed to initially implement the legislation in partnership with (and utilizing the technological resources of) the Colorado State Archives office.  Once Judicial has completed it’s pilot program and the electronic document upload, storage, and retrieval system for “will documents” is operating as intended under the statute, the other six categories of “original estate planning documents” as they appear in § 15-23-103(14) in HB19-1229 as originally introduced on March 8, 2019 should be restored to the Act by amendment.  See <https://leg.colorado.gov/bills/hb19-1229>. [↑](#endnote-ref-1)