

## MINUTES

### DSBA ESTATES AND TRUSTS SECTION MEETING

December 4, 2018

In accordance with notice duly given, a meeting of the Estates and Trusts Section of the Delaware State Bar Association was held on December 4, 2018, beginning at 3:30 p.m. at the offices of Young Conaway Stargatt & Taylor, LLP, located in Rodney Square at 1000 North King Street, Wilmington, DE 19801.

In attendance were: Elizabeth W. King, James J. Gallagher, Trisha W. Hall, Jennifer E. Smith, Gregory J. Weinig, and Matthew P. D'Emilio.

In attendance via conference call were: David J. Ferry, Jr., Richard W. Nenno, Miguel D. Pena, Anthony N. Smedley (a), Jeffrey C. Wolken, Robert A. Glen, Harold W. T. Purnell, II, Mary B. Hickok, Mark E. Doyle, John C. Cronin, P. Kristen Bennett and Michael Neri.

Elizabeth W. King, Chair, called the meeting to order.

1. Minutes. Upon motion duly made and seconded, the minutes of the meeting of November 13, 2018 were unanimously approved.
2. Committee Reports and Activity.
  - a. Estate Administration Committee – Report of Committee. No report.
  - b. Trust Act Committee – Report of Committee. On behalf of the Committee, Mr. Weinig reported that the Committee is finalizing a draft of Trust Act 2019 to be presented to the Section at its January meeting and for the Section to vote on it at its February meeting. When considering whether to approve proposed legislation at the DSBA-level, the Executive Committee places importance on the number of Section members who reviewed and voted on proposed legislation when it considers its support of it. Therefore, Section members are encouraged to attend (in person, if possible) both the January and February meetings. Chair King noted that the January meeting will be held on the second Tuesday of January (the 8<sup>th</sup>) because New Year's Day falls on the first Tuesday. Mr. Nenno, immediate past-Chair of the Committee, commended the current Committee leadership, specifically Ms. Borowsky and Mr. Weinig, on their efforts.
  - c. Notice Committee – Report of Committee. On behalf of the Committee, Chair King reported that the Committee has not met recently, but continues its work on proposed changes to the notice statute.
  - d. Limited Guardianship Committee – Report of Committee. On behalf of the Committee, Mr. Ferry reported that the Committee had its first meeting in November and will have a second meeting soon. The Committee has begun

work on draft legislation which it hopes to propose to the Section and the Elder Law Section at their January meetings.

- e. CLE Committee – Report of Committee. No report.
- f. Access to Digital Assets Committee – Report of Committee. On behalf of the Committee, Ms. Hall had nothing to report.
- g. Publications Committee – Report of Committee. No report.
- h. Power of Attorney/Health Care Directive Committee – Report of Committee. On behalf of the Committee, Ms. Bennett had nothing to report.
- i. Trust Accountings Committee – Report of Committee. On behalf of the Committee, Ms. Hall reported that Mr. Lunger had sent to those who had volunteered for the Committee a letter to convene everyone, but that in light of the changeover in the Office of the Attorney General (which would need to be involved in any discussions about waiving accountings for charitable trusts) the Committee decided to postpone its work.
- j. Guardianship Committee – Report of Committee. On behalf of the Committee, Mr. Purnell had nothing to report.
- k. Trust Litigation Committee – Report of Committee. No report.
- l. Electronic Wills and Trusts Committee – Report of Committee. On behalf of the Committee, Mr. Haupt communicated by email to Chair King prior to the meeting that he had nothing to report.

### 3. Old Business

- a. Revocation Upon Divorce Statute. Chair King suggested that one or more volunteers reviewing the need for possible legislation on this issue may be more appropriate than adding another committee to the Section's roster, and asked for volunteers. Mr. Nenno observed that there were good arguments made in the U.S. Supreme Court case of Sveen v. Melin (the case which resulted in this agenda item) on both sides of the issue, and offered that perhaps there would not be a strong consensus on which approach to take in Delaware. After the meeting adjourned, Mr. Neri volunteered to review the Sveen case and report his findings to the Section.

### 4. New Business.

- a. Chair King encouraged Section members to attend the Delaware Tax Institute on Friday, December 7, 2018 from 8:30 a.m. to 5 p.m. at the Delaware Law School of Widener University.

- b. Chair King mentioned that she will consider ways of revising the Committee reporting structure to avoid the litany of “no reports” at each Section meeting. (This issue was raised in the discussion of the Revocation Upon Divorce Statute, but is recorded here under new business because it was not previously on the agenda.)

There being no further business to come before the meeting, the meeting was adjourned at 3:41 p.m. The next meeting of the Section will be held on January 8, 2019, at 3:30 p.m. at the offices of Young Conaway Stargatt & Taylor, LLP, located in Rodney Square at 1000 North King Street, Wilmington, DE 19801.

Additional details will be circulated on the Section listserv as the meeting date approaches.

Respectfully submitted,

Trisha W. Hall, Secretary