ILLINOIS STATE BAR ASSOCIATION

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Trusts & Estates

The newsletter of the Illinois State Bar Association's Section on Trusts & Estates

Message From the Chair

BY COLLEEN L. SAHLAS

It is an honor and a privilege to serve as your chair for the Trusts & Estates Section Council for the 2024-25 term. I am serving alongside Sarah LeRose as vice chair, and Oana Militaru as secretary of our council. Since 2015, I have learned so much from and enjoyed serving along my esteemed fellow council members. I'm thrilled to see what the coming year will bring.

The Mission of the Trusts & Estates Section Council:

The mission of ISBA Trusts & Estates Section is:

- to be responsible for activities relating to the education of probate, estate planning, and trust law practitioners;
- to promote and work for the development, modernization and improvement of legislation relating to the estate planning, probate and trust areas of the law; and
- to review relevant matters and issues, and to study and recommend solutions to various problems involving the public, the courts, and attorneys insofar as the areas of concern of the section are involved.

The role of chair can offer an opportunity to improve or modernize certain legislation or focus on educating the public and increasing access to justice. These are commendable and necessary. We will continue to focus on these and other objectives set out in the mission statement. But this year, I intend to have our council primarily focus on equipping attorneys who are new to trusts and estates law.

Legislative Proposals

Each year, our Legislative Subcommittee studies proposed legislation, makes recommendations, and considers drafting proposed legislation of our own. This year, I have asked our Legislative Subcommittee to consider drafting proposed legislation to amend the Illinois Small Estate Affidavit[1] to increase the threshold from $100,000 to a higher amount. The statute was last amended on January 1, 2015. With inflation continuing to rise, it doesn't take many personal assets to exceed, in the aggregate, the small estate affidavit limit of $100,000. A decedent having a newer luxury vehicle along with a modest amount in checking and savings accounts can easily exceed $100,000. Probate is likely not cost effective and overkill for such a small estate.

Next, I have established a new D.A.P.T. (domestic asset protection trusts) Subcommittee to re-visit self-settled asset protection trusts in Illinois. Wisconsin recently passed legislation and there are now 22 states that allow self-settled asset protection trusts. Our esteemed former chairs, Patrick Owens and George Schoenbeck, will co-chair this subcommittee.

Our Council's Subcommittees

Our council has a great team this year, and continues to serve Illinois trusts and estates attorneys in multiple ways, with a comprehensive outlook. Our council's subcommittees can be summarized as follows:

1. Legislation, with Neil Goltermann and Oana Militaru as co-chairs;
2. Continuing Legal Education, with Kerry Peck as chair;
3. Publications, with Jennifer Bunker Skerston and Mia Hernandez as co-chairs;
4. Access to Justice, with Tiffanie Powell as chair;
5. Case Law Update, with Michael English as chair;
6. Cook County Probate, with Sarah LeRose and I as co-chairs;
7. ISBA Central Communities, with Aaron Evans as chair;
8. Attorneys who are New to Trusts & Estates Law, with Amina Saeed and Mary Vanek as co-chairs;
9. D.A.P.T., with Patrick Owens and George Schoenbeck as co-chairs.

Attorneys Who Are New to Trusts and Estates Law

My primary vision for the Trusts & Estates Section Council this 2024-25 term is "back to basics." We will carry out the charge of our Council to educate practitioners in probate, estate planning and trust law. We will ***teach trusts and estates law to trusts and estates attorneys.***

There is an underserved group of attorneys: Those who are *new* to trusts and estates law. They are comprised not only of young attorneys, but also those changing their area of practice or who are new to Illinois. Numerous attorneys are flooding the Trusts & Estates Section's ISBA Central Community and asking basic questions every week. They are seeking guidance from our seasoned trusts and estates attorneys. In the past few months, several attorneys have reached out to me personally, asking for advice as they change their practice from criminal law or civil litigation and seek to practice transactional law, including estate planning and probate. Many are hanging out a shingle and going into a solo practice for the first time. At a recent ISBA Mutual risk management seminar, one of the speakers mentioned that there are a greater number of new attorneys becoming solo practitioners right out of the gate, rather than working at a firm to learn from seasoned attorneys. Solo practitioners can be isolated, lacking a second set of eyes to review their work or provide feedback, and thus be at greater risk for malpractice. They don't have the luxury of walking down the hall to ask another lawyer for feedback or advice – they need resources.

Rather than directing attorneys who are new to trusts and estates law to other legal resources, our council will be that resource.

When I began practicing law in November 2000, the ISBA Central communities did not exist yet and legal webinars were not available. In fact, there were no continuing legal education requirements for attorneys at that time. Legal research by computers in lieu of books was relatively new and still developing. All court hearings were in person as videoconference did not exist. The quickest method to send letters and legal documents was by facsimile. Motions were "spindled" on a physical, metal spindle in the circuit court clerk's office and court orders were handwritten in the courtroom using carbon copies for duplicates.

As a green attorney in November 2000, I joined my father's law firm and was blessed to have had him as a legal mentor [and, he continued as my mentor for 20+ years until his recent retirement]. I learned Illinois probate through "trial by fire," practicing mainly in Cook County, Illinois, under the eminent, late Cook County presiding probate judge, Henry A. Budzinski. Judge Budzinski was renowned for his vast knowledge of probate. One of the longest serving judges in Illinois, he served on the bench from 1976 to retirement in 2010. For 18 years, he served as the presiding judge of the Probate Division of the Circuit Court of Cook County and served briefly as interim acting chief judge of the Circuit Court of Cook County. He oversaw high profile cases including the multimillion-dollar estate of Elijah Muhammad, the founder of the Nation of Islam, who died in 1975 without a will; and a complicated case in the mid-1980s involving ownership stakes of George Halas, Sr. and George Halas, Jr. in the Chicago Bears football team.

Judge Budzinski was also known for his exacting nature, as he ran a tight ship. In 2001, one of my first probate matters was on a bustling court call in Judge Henry A. Budzinski's courtroom. I watched with increasing anxiety as he became exasperated with the seasoned attorneys on the cases called before mine. My case was called. Judge Budzinski said, "Counsel, you didn't list the decedent's children [as heirs of the estate] on the Petition." Timidly, I replied, "Judge, the decedent was never married and had no children." He was most displeased with my response. He persisted, but so did I. I had personally known the decedent. I nervously repeated, "never married, no children." He chided me: "Counsel, you're at the end of the call!" During the remainder of the call, he'd periodically point at me and remind me that I was at the end of the call. By lunchtime, the entire courtroom was cleared. Finally, my case was recalled. I stood in an empty courtroom before the Honorable Judge Budzinski, terrified. I handed him the "Copy of Will" pleading. He then realized we had two completely different wills, and two completely different decedents' case matters. Coincidentally, both case matters had a decedent whose first, middle and last names were exactly the same and were assigned to Judge Budzinski's court calendar. The clerks had pulled the wrong decedent's file that morning. After three hours of fear and dread, I was vindicated. Judge Budzinski and the court clerk were the sole witnesses to the incredible irony.

Starting out as a lawyer can be daunting and overwhelming. Having legal resources in place – from manuals to a network of colleagues – is essential.

New, Standing Subcommittee: Lawyers Who are New to Trusts and Estates

I have established the new Standing Committee on Lawyers Who are New to Trusts and Estates. I have appointed Mary Vanek and Amina Saeed as co-chairs of this subcommittee. It will cater to those who are new to trusts and estates law, such as young attorneys, those changing their area of practice, or those new to the state of Illinois. It will coordinate with ISBA Central Communities Subcommittee to assess the needs of attorneys who are new to trusts and estates law, and how to best meet those needs. It will recommend topics for CLE and newsletter articles such as "back to basics" to the CLE and Publications subcommittees. It will also help recruit speakers and authors for the same. This subcommittee may also establish a mentoring program for new trusts and estates lawyers to be mentored by seasoned trusts and estates lawyers. Amina Saeed can be reached by email at aus7@ntrs.com, and Mary Vanek can be reached by email at mvanek@matlinlawgroup.com.

My goal is for the Trusts & Estates Section Council to:

Be a resource for trusts & estates lawyers.

- **Continue to offer dialogue and discussion via ISBA Central communities:** Sign up for the Trusts & Estates and Transactional ISBA Central communities. Reading the queries is a continuing legal education and offers free advice from many seasoned attorneys. Post a question after you've exhausted your research and need help.
- **Attract and equip younger attorneys** to practice in trusts & estates law.
- **Offer informal mentoring opportunities.**
- **Provide a "Back to Basics" series covering fundamentals of trusts and estates** along with practical guidance and practice tips through our continuing legal education webinars and newsletter articles.

- **Encourage seasoned attorneys to get involved** with authoring articles for the newsletter and/or teaching CLE courses for attorneys who are new to trusts and estates.
- **Encourage networking with fellow attorneys.** Colleagues are hungry for professional relationships, collegiality, and support. This is evident from the ISBA Central community discussions.

The benefits of networking with other attorneys can't be overstated. Discussions and insight from fellow attorneys who've traveled that road before are invaluable. Build relationships with fellow trusts and estates attorneys. If necessary, ask one of them to co-counsel with you on a case matter. Our fellow attorneys are not competitors. They are a support, a resource, and trusted colleagues who can be a sounding board, cover your cases in a pinch, and act as referral sources.

Resources the Trusts & Estates Section Provides Its Members

The Trusts & Estates Section Council continues to provide numerous resources to support trusts & estates attorneys, including:

1. **The Trusts & Estates Section Newsletter**

- Has approximately 2,400 subscribers.
- Is one of the few sections that regularly and continually publishes on a monthly basis (despite a requirement of only a quarterly basis) and has done so for over a decade. As the former managing editor for the newsletter, I can speak to the quality of our authors and articles. I commend our co-editors, Jennifer Bunker Skerston and Mia Hernandez, who continue to excel in publishing the newsletter on a monthly basis with substantive articles.
- Offers its subscribers the newsletter in PDF form directly to their email inbox.
- Archives all articles, which can be searched by keyword to find answers to legal questions or learn more about a particular topic.
- Offers perks to its authors, which include the reward of being a published author, receiving a PDF of your article which you may display on social media and/or your firm's website, and earning CLEs. See the ISBA's website for further information at https://www.isba.org/publications/benefitsofauthorship.
- If you have an idea for an article or would like to offer an article for publication, please contact Jennifer Skerston at jennifer@reillyskerston.com or Mia Hernandez at mhernandez@webberthies.com.

2. **Continuing Legal Education.** Kerry Peck continues as our esteemed chair for the CLE Subcommittee for the 2024-25 term.

- Earn MCLE credit by attending our live, in person, and on-demand webinars. The Trusts & Estates Section Council offers a minimum of 20 continuing legal education courses each year, and three of those are basics courses.
- Search the on-demand webinars for past webinars you can view at your convenience. Some of our most popular and well-attended programs include:
  - Practical Administration of Pet Trusts;
  - Why Won't the Bank Accept my Client's Power of Attorney? Bank Issues for T&E Lawyers and T&E Issues for Bank Lawyers;
  - The Power of Power of Appointments;
  - The Basics and not so Basics of Transfer on Death Instruments- Estate Planning with TODIs;
  - Planning for and Calculating the Illinois Estate Tax; and
  - Illinois Electronic Wills Act Series.
- Speakers who teach an accredited CLE course can earn MCLE credit. Visit the Minimum Continuing Legal Education Board of the Supreme Court of Illinois for more information at https://www.mcleboard.org/.

3. **Access to the online community Trusts & Estates Section in ISBA Central,** where section members can connect with, pose questions to, and share information with fellow section members from around the state.
4. **Consumer Legal Guide pamphlets (a/k/a Client Brochures)** drafted by our council and available for purchase in the ISBA store online. Brochure titles include: Estate Planning, What Is a Living Trust?, How Does a Married Couple Incorporate Tax Planning into Their Estate Plan?, Your Health Care, Being a Guardian, Serving as a Guardian for an Adult with Disabilities, and more.
5. Our council member, Tiffanie Powell, and former member, Angelica W. Wawrzynek, recently created **consumer education videos** available for the general public, which introduce estate planning, probate, powers of attorney, and other trusts and estates concepts. This helpful tool can empower you and your clients to learn trusts and estates concepts and provide access to justice. Find it on the ISBA website at: https://www.isba.org/public/yourfinances and https://www.isba.org/public/yourhealthcare.
6. **Council Meetings.** Any member is welcome to attend and observe our in-person section council meetings at the ISBA midyear and annual meetings.

I invite you to tap into our many resources and get involved with our council. Author an article, speak and present for one of our CLE courses, or get in touch with Amina Saeed and Mary Vanek (emails provided earlier in this article) to become a mentor or mentee in trusts and estates law. If you have any questions or suggestions, feel free to email me at Colleen@Sahlas.com.■

1. 755 ILCS 5/25-1 *et seq.*