

OHIO STATE BAR ASSOCIATION
COUNCIL OF DELEGATES
SCREENING COMMITTEE
OSBA HEADQUARTERS
OCTOBER 24, 2013

Minutes

Report to the Council of Delegates

The Screening Committee began at 10:00 AM with the following members present by phone or in person:

Hilary R. Damaser, District 7, Chair	Kelly Summers Lawrence, District 12
Sally W. Bloomfield, District 7	Donald B. Leach, Jr., District 7
Jeffrey A. Brauer, District 12	Sean A. Martin, District 5
Edward P. Brueggeman, District 1	Jennifer J. Morales, District 1
Stephen R. Bruns, District 2	Thomas P. Moushey, District 14
Frank J. Cimino, District 11	Michael W. Sandner, District 2
Kevin W. Donovan, District 10	Joseph C. Schroeder, District 3
William D. Dowling, District 11	Kenneth F. Seibel, District 1
Tawanda J. Edwards, District 1	Ronald E. Slipski, District 13
Frederick C. Fisher, District 8	Adrienne L. Steman, District 12
Timothy A. Garry, Jr., District 1	E. Jane Taylor, District 7
John F. Hall, District 4	Elizabeth J. Watters, District 7
William C. Hicks, District 6	Bruce H. Wilson, District 11
Frederic E. Kramer, District 12	Barbara Friedman Yaksic, District 12

Also present were Bill Weisenberg and Todd Book.

I. Access to Justice

Bill Dowling, chair of the Access to Justice Committee, explained the plight of legal aid given the drop in IOLTA account interest. He put forward a resolution reaffirming OSBA's commitment to support legal aid and urging governmental bodies to fund civil legal aid in Ohio.

Sally Bloomfield also spoke in support of the resolution.

Elizabeth Watters moved the adoption of the resolution, seconded by E. Jane Taylor.

Barbara Friedman Yaksic moved to amend line 19 to insert after "attorneys" the following "representing a sizeable reduction of attorneys from 347 attorneys in 2008 to only 246 attorneys in 2012." Motion was seconded by Fred Kramer and unanimously accepted.

Bill Hicks moved to amend lines 21 and 22 by moving those lines to be inserted into line 11 of the resolution. Motion was seconded by John Hall and unanimously accepted.

The amended resolution was unanimously adopted by the Screening Committee.

The amended resolution states:

WHEREAS, the Ohio State Bar Association has long held as a core value the principle that society must provide equal access to justice to all citizens, including those who cannot afford to pay a lawyer to represent them in civil matters; and

WHEREAS, adequate funding of civil legal aid programs is an essential mechanism for providing equal access to justice; and

WHEREAS, poverty in Ohio has increased dramatically to 19.1% of the population or 2.1 million people, 572,000 of whom are children; and

WHEREAS, funding for civil legal aid in Ohio has been in decline since 2007; and

WHEREAS, civil legal aid faces a new and immediate funding crisis as a result of dramatically reduced court filing fee income and interest rate declines on IOLTA and IOTA accounts in 2013; and

WHEREAS, civil legal aid in Ohio has already been forced to reduce its workforce by over 100 attorneys representing a sizeable reduction of attorneys from 347 attorneys in 2008 to only 246 attorneys in 2012 as a result of the original funding decline; and

WHEREAS, civil legal aid has had to reduce its services as a result and is currently only providing services to 25% of qualified applicants; and

WHEREAS, civil legal aid has continued to help Ohioans in need of civil legal services despite inadequate funding, serving almost 15,000 seniors and over 3,000 veterans; saving almost 600 Ohio homes; and supporting over 1,000 children in school in the last year; and

WHEREAS, equal access to justice cannot be achieved without adequate funding of Ohio's civil legal aid programs; and

RESOLVED, that the Ohio State Bar Association reaffirm its commitment to equal access to justice for all Ohioans, achieved through effective and accessible civil legal aid; and

FURTHER RESOLVED, that the Ohio State Bar Association urges all federal, state, and local legislative bodies and governmental agencies to adopt laws and policies that ensure full and adequate funding for civil legal aid in Ohio.

II. Report of the Estate Planning, Trust and Probate Law Section

Barbara Friedman Yaksic moved and Fred Kramer seconded the proposals of the Estate Planning, Trust and Probate Law Section.

Proposal 1: Steven Dauterman explained the need for an updating of the fiduciary fee computation given the repeal of the Ohio Estate Tax.

Kevin Donovan moved to amend line 158 and after the word “return,” insert “for purposes of computing the fee allowed pursuant to this section.” Motion was seconded by Edward Brueggeman and unanimously accepted.

Joseph Schroeder moved to amend line 154 to insert after “real property” the following: “that is received and accounted for by them and.” Motion was seconded by John Hall and unanimously accepted.

The amended proposal was then approved by the Screening Committee.

The amended resolution states:

§2113.35(B) Executors and administrators shall be allowed a fee of one per cent on the value of real property that is received and accounted for by them and that is not sold. Executors and administrators also shall be allowed a fee of one per cent on all property that is not subject to administration and ~~that is includable for purposes of computing the Ohio estate tax, except joint and survivorship property~~ the value of which would be includable for purposes of computing the federal gross estate, whether or not the estate is required to file such a return for purposes of computing the fee allowed pursuant to this section. No such fee shall be allowed on joint and survivorship property, proceeds of life insurance payable to a beneficiary other than the decedent’s estate, or real estate located outside the state of Ohio.

Proposal 2: Steven Dauterman explained the need for the proposed language to clarify the fee section of the Ohio Trust Code.

After extensive debate concerning the need for the language, the question was called. The proposal was adopted with objections.

III. Report of the Real Property Section

Mike Sikora gave an in depth discussion of Real Estate Defect Cure Statutes in the United States. He explained the Ohio statute was last amended in 1961. He also discussed the committee's extensive work on drafting the proposed language.

The proposed statute was moved by Barbara Friedman Yaksic and seconded by Bill Hicks. The proposal was approved with one negative vote.

The Screening Committee's work being completed the committee was adjourned at 12:15 PM.