

MSBA PROBATE & TRUST LAW SECTION E-NEWSLETTER

May 2022

Call for Submissions

We are always looking for attorneys to write brief articles for this newsletter. Articles can focus on any issues relevant to probate and trust law. This newsletter is distributed to the Probate and Trust Law Section membership, which consists of approximately 1,060 practitioners. Writing for the newsletter is a great way to share your knowledge and expertise with your colleagues.

If you are interested in submitting an article, please contact Kiley Henry (henry.kiley@dorsey.com) or Jenny Colich (colich.jennifer@dorsey.com) with your idea.

Please visit the Section's website for ideas and to see the various articles that have been written in the past.

Best Regards,
Kiley Henry & Jenny Colich
Probate & Trust Newsletter Editors

Upcoming Events and CLE Programs

- **Greater MN Probate & Trust Study Group Conference Call**
 - Wednesday, May 25, 2022, 9:00 a.m.; Wednesday, September 21, 2022, 9:00 a.m.
 - Call-in Number: (888) 354-0094; Passcode: 9295091072
 - Contact Bradley W. Hanson (bhanson@quinlivan.com; (320) 251-1414) with any questions or to join the group
- **Probate & Trust Law Section Council Meeting**
 - Thursday, September 15, 2022, 3:30 p.m.
 - Location: TBA
 - Contact Tram Nguyen (tnguyen@mnbars.org) with any questions
- **CLEs**
 - RCBA, May 26, 2022: [What a Professional Bookkeeper Can Do For You](#)
 - HCBA, May 26, 2022: [Tackling Columbus, Systemic Failures in Equity: A Closer Look at State v. Forcia](#)
 - HCBA, May 26, 2022: [View from the Bench](#)
 - HCBA, May 27, 2022: [Commemorating George Floyd's Murder with Action](#)
 - MSBA, June 7, 2022: [Palliative Care, Hospice and End of Life Choices](#)

- MSBA, June 7, 2022: [Implications of the Otto Bremer Trust Decision for Private Foundations and their Attorneys](#)
- HCBA, June 9, 2022: [Building Your Brand: Perspectives and Insights from the Young and the Old | CLE & Social](#)
- MSBA, June 9, 2022: [2022 Tax Law Section Judges Conference](#)
- MNCLE, June 13-14, 2022: [2022 Probate and Trust Law Section Conference](#)
- MSBA, June 16, 2022: [Elder Law 101 | Planning for Aging Clients - The Intersection of Elder Law and Estate Planning](#)

MAKING THE CASE FOR GRADUATE TAX EDUCATION

I have been in the field of tax for over 40 years, first as a student, then a practitioner (started at the Dorsey law firm) and for the past 30 years as a full-time instructor in the Master of Business Taxation program at the University of Minnesota ("MBT"). I like to think I've learned a few things during that long period of time. Perhaps the most important being that I would not have had this career without my own graduate tax degree.

Tax law holds a unique place within the legal profession. Not only is it practiced primarily by non-attorneys, but the subject area's breadth dwarfs any other. Estate planning and administration attorneys cannot rely on non-attorney professionals. Attorneys who practice in the area must have a fundamental knowledge of transfer taxes, fiduciary income taxes, as well as a basic understanding of individual, partnership, and corporate taxes. The tax courses in law school do not adequately prepare someone to practice tax law. Other modes of learning, such as CLE, are of marginal help in closing that gap. There are at least three key reasons why attorneys should consider additional formal education if they regularly practice in the area:

1. Subject Matter too Broad to Learn on One's Own. The first thing a tax practitioner must accept is that there is no way to know everything in the field of taxation. But a broad curriculum is necessary to give a practitioner the necessary base which will allow the learning curve to accelerate by a multiple compared to experience alone. Understanding the "big picture" of key areas of taxation allows one to see both the potential pitfalls and planning opportunities.
2. Ability to See the Interconnection of Issues. Tax law is essentially issue identification. If an issue can be spotted then the practitioner can either speak with someone with greater expertise or do research. Almost all problems arise when the issue wasn't spotted when it should have been. Because all tax law is interconnected, it is easy to miss issues in areas in which you are not familiar. Again, a broad-based tax education allows you to spot these issues early on.
3. Broadening and Deepening of Skill Base. Beyond learning the various technical tax areas, graduate tax education at its best more deeply develops the analytical, problem solving, research and communication skills of a tax professional. While law school generally is designed to hone these skills, focusing on them in tax specific situations brings a practitioner to a different level.

If I was advising someone already in practice looking to obtain the knowledge discussed above, I would strongly urge them to look at the Master of Business Taxation program at the University of Minnesota. Here are four reasons for that advice:

1. Law Schools Do a Poor Job of Teaching Tax Law. The traditional Socratic method of using a lot of case law to teach tax is simply a terrible way to learn the subject. It is far too vast and technical. I have my J.D. from the University of Minnesota and my LL.M in tax from New York University. I also taught in the LL.M tax program when William Mitchell College of Law offered one. So I know this to be true. An LL.M at a top-ranked program is more prestigious; but we do a far better job of actually having you learn tax law at Minnesota.

2. The MBT Program Knows Online Education. Law schools and online education appear to be an oxymoron given the traditional learning method. But online works quite well in taxation if you know what you are doing. One problem with online education is that it is extremely expensive to do well, and very few law schools have the resources to do it well. The MBT program was able to utilize the larger Carlson School of Management's movement to online graduate education when it hired a whole instructional design team to develop online courses from the ground up. The MBT program is now 100% online, offering asynchronous courses divided in weekly modules where practitioners can do their work on their schedule.

3. The MBT Program Offers Great Flexibility. Not only is there flexibility in getting the work done in the online courses, but there is flexibility in putting a package of courses to fit your goals. Anyone can take individual courses from our program, and up to 10 credits can later be transferred toward the 30-credit degree if you later decide to pursue one. This allows practitioners to "test drive" one or more courses (for example we offer courses in Wealth Transfer Taxes as well as Income Taxation of Fiduciaries). Additionally, the program offers five different certificate programs. Certificate programs offer a way for practitioners to obtain a credential from our top-ranked program by completing only 12 credits. Finally, because our program is built for tax practitioners, you can take courses at your own pace and all our courses qualify for CPE.

4. The MBT Program is one of the Top Graduate Programs in the Country. Attorneys are naturally aware of what are the top law school and LL.M programs in the nation, but usually have no clue of the other half of graduate tax education which generally caters to CPAs. However, the MBT program has had a number of attorneys go through its program and is one of the oldest (44 years) and most prestigious graduate tax programs in the country.

Everyone has their own goals and ambitions. I urge anyone contemplating taking even a single graduate tax course to reach out to me. I'm always happy to give my unfiltered, if not unbiased, thoughts and opinions.

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Probate and Trust Technology Survey Results

By: Cameron R. Kelly, Lommen Abdo
Probate and Trust Section Technology and Innovation Chair

This spring the Probate and Trust Section sent a technology survey to Section Members. The goal was to determine how Members were using technology in their practices. The response rate was excellent. More than 110 Members completed the survey.

Overall, the results confirm some of things we already know, but also offer some interesting information about the variety of resources that Members are using. For example, it is no surprise that resources like Drafting Wills & Trust Agreements are being used by many members. However, it is interesting to review the list of electronic and cloud based resources being used by Members. The responses to questions on remote work are particularly interesting.

The following are some insights on the survey. If you want to see the complete results, click [here](#).

Drafting Software

One of the most important tools for probate and trust lawyers is drafting software. According to the survey, nearly 60% of respondents use Drafting Wills & Trust Agreements from Minnesota CLE. The most common alternatives were mndocs Estate from the Minnesota State Bar Association, WealthCounsel, and the Minnesota CLEWills Estate Planning Automated Document System.

Some of these systems, such as CLEWills, are automated using software like Hot Docs. Document automation can help make drafting more efficient. The responses also showed that many Members are using Hot Docs, Contract Express, and similar applications to maintain and automate their own forms. This can take a lot of work up front, but can pay off over time with forms that are used repetitively in their practice.

Probate and Trust Administration Software

Like the drafting software category, there was a clear favorite among Members for probate and trust administration. Almost 50% of Members use Minnesota CLEPro Probate Automated Document System. Other Members use mndocs Probate & Estate from the Minnesota State Bar Association, and the probate documents found in practicelaw, also maintained by the Minnesota State Bar Association.

Practice Management

Among other things, practice management software is used to maintain client information and files, conduct conflict checks, and track and bill time. The most common practice management software was Clio, which is used by close to 25% of respondents.

This was the most varied category. Some of the practice management software is maintained locally on the law firms's computers or servers, and some are cloud based solutions. Respondents

use more than a dozen different practice management systems, including actionstep, Practice Master (Tabs3), iManage, PCLaw Time Matters, Amicus and AbacusLaw, and Practice Manager.

Remote Work

If remote tools were becoming useful before the pandemic, the last two years has made them commonplace. Remote solutions include cloud storage, remote login, video conferencing, and electronic signatures and notarization. Members responded with the remote tools they are using in their practice.

Maybe more interesting than the tools Members are using, are their remote work habits. The survey asked respondents to state the percentage of time they are working remotely and the responses were surprising:

Percentage of Time Worked Remotely	Responses
0 - 10%	26.50%
10 - 20%	17.09%
90 - 100%	13.68%
20 - 30%	11.11%
80 - 90%	9.40%
70 - 80%	8.55%
30 - 40%	5.13%
60 - 70%	4.27%
50 - 60%	3.42%
40 - 50%	0.85%

Interestingly, almost all the respondents fall on one side of the spectrum or the other:

- Respondents who work remotely less than 30% of the time (54.7%)
- Respondents who work remotely more than 70% of the time (31.63%)
- Respondents who split time in and out of the office 30 - 70% of the time (13.67%)

Respondents were also asked:

- Has this increased since January of 2020, (60% responded yes)
- Do you anticipate working more in the office in 2022 (60% responded no)

No surprise, it appears the pandemic has changed the way attorneys work. More than ever, Members are ditching their dictaphones and fax machines, and relying on digital resources. More importantly, it looks like the shift may be permanent for some attorneys.

Pro Bono Opportunities

Central Minnesota Legal Services:

Website: <https://www.centralmnlegal.org/volunteer-attorney-program/new-attorneys/>

Contact: (320) 257-4873 (St. Cloud); (320) 403-1051 (Willmar)

Geographic scope: Anoka, Benton, Big Stone, Chippewa, Chisago, Isanti, Kandiyohi, Lac Qui Parle, Lincoln, Lyon, Meeker, Mille Lacs, Morrison, Renville, Sherburne, Stearns, Swift, Todd, Wright, and Yellow Medicine Counties

Mid-Minnesota Legal Aid:

Website: <https://mylegalaid.org/support-our-work/volunteer>

Contact: (612) 746-3765; cdaly@mylegalaid.org

Geographic scope: Anoka, Benton, Big Stone, Chippewa, Chisago, Hennepin, Isanti, Kandiyohi, Lac Qui Parle, Lincoln, Lyon, Meeker, Mille Lacs, Morrison, Renville, Sherburne, Stearns, Swift, Todd, Wright, and Yellow Medicine Counties. Some services are available statewide

Southern Minnesota Regional Legal Services:

Website: <https://www.smrls.org/volunteer>

Contact: emily.bowen@smrls.org

Geographic scope: Blue Earth, Brown, Carver, Cottonwood, Dakota, Dodge, Faribault, Fillmore, Freeborn, Goodhue, Houston, Jackson, Le Sueur, Martin, McLeod, Mower, Murray, Nicollet, Nobles, Olmsted, Pipestone, Ramsey, Redwood, Rice, Rock, Scott, Sibley, Steele, Wabasha, Waseca, Washington, Watonwan, and Winona Counties

Volunteer Lawyers Network, LTD.:

Website: <https://www.vlnmn.org/volunteer>

Contact: (612) 752-6655

Geographic scope: Primarily Hennepin, but some opportunities in Anoka, Ramsey, and Statewide

Legal Aid Service of Northeastern Minnesota:

Website: <https://lasnem.org/pai/>

Contact: Eve Utyro at eutyro@lasnem.org

Geographic scope: Aitkin, Carlton, Cass, Cook, Crow Wing, Itasca, Kanabec, Koochiching, Lake, Pine, and St. Louis Counties

Legal Services of Northwest Minnesota, Inc.:

Website: <https://lsnmlaw.org/volunteer/>

Contact: Kristi Lanoue at klanoue@lsnmlaw.org (Alexandria); Ruth Ruch at rruch@lsnmlaw.org (Moorhead)

Geographic scope: Becker, Beltrami, Clay, Clearwater, Douglas, Grant, Hubbard, Kittson, Lake of the Woods, Mahnomen, Marshall, Norman, Otter Tail, Pennington, Polk, Pope, Red Lake, Roseau, Stevens, Traverse, Wadena, and Wilkin Counties

Legal Assistance of Olmsted County:

Website: <https://laocmn.org/volunteer/>

Contact: Victoria Ness at victoria@laocmn.org; (507) 287-2036
Geographic scope: Olmsted County

Cancer Legal Care:

Website: <https://www.cancerlegalcare.org/donate/volunteer.html>

Contact: (651) 917-9000

Who they serve: Minnesotans affected by cancer

Geographic scope: Statewide

Rainbow Health:

Website: <https://rainbowhealth.org/community-resources/legal-advocacy/>

Contact: Lynn Mickelson at Lynn.Mickelson@rainbowhealth.org; (612) 373-9160

Who they serve: People living with HIV and LGBTQ communities

Geographic scope: Statewide

For more information, contact Katy Drahos at kdrahos@mnbars.org.

Kiley Henry (henry.kiley@dorsey.com); Jenny Colich (colich.jennifer@dorsey.com)

To access the PROBATE & TRUST LAW SECTION WEBSITE | Click [here](#)

If you do not wish to receive this E-Newsletter, send your request to be removed from the mailing list to Tram Nguyen at tnguyen@mnbars.org.

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