

ORANGE BOOK FORMS COMMITTEE MEETING

MEETING MINUTES

February 1, 2023

To: Trust and Estate Section — Orange Book Forms Committee

From: Rikke M. Liska; Marianne Luu-Chen; Kate Noble

The next meeting of the Orange Book Forms Committee of the Trust and Estate Section will be on March 1, 2023, from 12:00 – 1:30 p.m. via in-person and Zoom hybrid.

1. **Welcome and Call to Order.** Rikke M. Liska, the Orange Book Forms Committee Chair, began the meeting at 12:05 via Zoom.
2. **Attendance and Introductions.** Rikke began general introductions. The sign-in/attendance was taken via Zoom. The following members were present for the meeting:

Chris Brock
Geoffrey Carpenter
Corina Gerety
Susan Fox
John Ferguson
Heidi Gassman
Lisa Hardin
Bette Heller

Frank Hill
Lori Kalata
Alison Leary
Rikke Liska
Marianne Luu-Chen
Michelle Mieras
Kate Noble
Tom Pohl

Dan Rich
Julie Rosen
Nadia Sullivan
John Valentine
Gordon Williams
Carolyn Wylie

3. **Reminders.**
 - a. Reminder that in order to receive complimentary supplements, committee members must attend 5 entire meetings in a season and participate on at least one subcommittee, and to receive a discount on the supplement, members must attend 5 entire meetings.
 - b. Please state your name before speaking and speak one at a time so that other members can hear and that co-chair can take accurate meeting minutes.
4. **Review and Approval of Previous Minutes.** Rikke introduced the minutes from the January 4, 2023 meeting. John Ferguson moved to approve the minutes. Bette Heller seconded the motion. Motion passes.
5. **Chairperson's Reports.**
6. **Legislative Liaison Report.**

- a. Uniform Cohabitants Economic Remedies Act. If this is enacted, it would be wise to review the provision to determine whether language should be included in OBF with regard to cohabitants.
- b. Uniform Community Property Disposition at Death Act. Similar comments. If this is enacted, review should be made to determine whether Orange Book Forms should be revised to include language addressing community property disposition that differs from default language.

7. **Subcommittee Reports: Active Matters**

a. **In-Progress**

- i. **Retirement Assets.** Bette reported that the committee is finished with the article explaining retirement benefits and drop-in trust language and are currently working on the beneficiary designation language and respective notes on use. Subcommittee meets First Wednesdays at 9 am via Zoom.
- ii. **Impact of 2011 Federal Tax Legislation/Marital Formula Issues/Clayton Election/Family By-Pass Trust.** Dan Rich reported there was no substantive changes. Frank Hill is working on this editorial after CUTC work. Frank noted that he will be more devoted to this drafting once he finishes some other projects.
- iii. **CUTC Revisions Subcommittee.** Subcommittee continues to update forms to conform to CUTC. Frank Hill reported the subcommittee will continue working on the definition of “education,” settlor’s ability to amend without the trustee’s consent, single signature facility, note on use on qualified beneficiary designation, and trustee exoneration. Subcommittee meets second Wednesday of each month at 1 pm via Zoom.
- iv. **Supplemental Needs Trust.** Subcommittee received feedback from practitioners of an amendment provision and will reconvene next week. Committee meets every second Tuesday at 9 am via Zoom.
- v. **Engagement Letter.** Subcommittee is considering “best practices” recommended under the recent ethics opinion 143 (<https://www.cobar.org/ethicsopinions>) and plan to bring a draft to the committee next month.
- vi. **Medical Durable Power of Attorney.** Susan Fox reports that the subcommittee continues its work redrafting the form and Notes on Use. Subcommittee spent previous year to develop list of revisions needed and structural changes and has received input from medical providers. Subcommittee meets every third Thursday at 10 am – 12 pm.

b. **Active Consideration**

- i. **Beneficiary Deed to Trust Subcommittee.** Committee continued its review on the restructured draft of the Notes on Use and will continue its review of Note on Use 2(d) in light of CRS § 15-15-407(2).

8. **Announcements.** None.

9. **New Matters.**

- a. Consider formation of new subcommittee to review all Notes on Use for Orange Book Form Deeds after finished with review of Beneficiary Deed to Trust.
- b. Michelle Mieras proposed a subcommittee to update the Disposition of Last Remains form after Colorado’s adoption of “natural reduction” (also known as human composting). Lori, Susan, Marianne, and Geoffrey have joined as members of the subcommittee.

10. **Other.** None.

Meeting adjourned at 1:27 pm.

Respectfully submitted by Marianne Luu-Chen