I am honored to serve as Chair of the Estate Planning & Fiduciary Law Section for the 2019-2020 year. Our Section has over 1500 members. One of my goals for this year is to increase membership by connecting with members of our profession who may not yet realize the value that comes with Section membership, but I need your help. Be on the lookout for announcements of Section social events. If you have been a member of our Section for a while, I encourage you to join us and talk freely about our wonderful Section. If you are a newer member of our Section, I encourage you to join us to network with your fellow professionals. If you know someone who would benefit from learning more about our Section, I encourage you to invite them. Feel free to remind others that under the new NCBA dues model, attorneys in their first and second year of practice pay no dues. In addition, all NCBA members can join one Section at no additional charge.

Becoming active in the Section as a volunteer is easily one of the best decisions of my professional career. I have become friends with many of our best estate planning attorneys, and I have seen first-hand the work that is done by our Section on behalf of our profession and on behalf of the people of North Carolina.

I want to thank Rebecca Smitherman for her leadership as Chair during the past year and for her previous work on behalf of the Section, including as Chair of our Legislative Committee. I also want to thank our outgoing council members, Elie Foy, Jim Hickmon, Carl King, Holly Norvell, and John Veasey.

Electronic Wills: The Future Has Arrived — Are You Ready?

By Janice L. Davies and S. Blaydes Moore

Electronic wills are recognized today in a number of jurisdictions outside the United States and in at least four states in the United States. Statutory law recognizes electronic wills in Nevada, Indiana, Arizona, and Florida, and other states are considering legislation to recognize electronic wills. Case law has recognized the validity of electronic wills under the existing Statute of Wills. In July 2019, the Uniform Law Commission approved and recommended the Uniform Electronic Wills Act (the “UEWA”) for enactment in all states. Therefore, electronic wills are coming, and it is simply a matter of when, where, and how for North Carolina.

A testator makes her wishes known by creating a will that lays out her intent regarding disposition of her property upon her death. When doing so, a testator must follow a set of formalities in creating and executing a will to ensure the authenticity of the will presented to probate. A traditional or non-electronic will is written on paper signed and attested with wet ink. An electronic will is written, signed, and attested all using an electronic medium. These formalities ensure authenticity of the will by creating a reliable and efficient form and method for will creation and execution, by cautioning the testator of the gravity of the action she is about to take, and by protecting the testator from those who may attempt to take advantage of her.

 Traditionally, the three formalities of a will are referred to as a writing, a signature, and an attestation. The formalities associated with a will, by and through the four functions of those three formalities, help ensure that a valid will is admitted to probate. The four functions of the formalities are evidentiary, channeling, ritual/cautionary, and protective. The formalities ensure that (i) a will provides accurate and enduring evidence of the intent of the testator; (ii) the testator’s wishes are expressed such that practitioners can operate efficiently in carrying out those wishes, (iii) execution of a will imposes solemnity on the testator such that she appreciates the final and enduring nature of the will, and (iv) the testator is protected from fraud, undue influence, delusion, coercion, forgery, and perjury. John H. Langbein, Substantial Compliance with the Wills Act, 88 Harv. L. Rev. 489 (1975).

Technology has become commonplace in communicating, shopping, banking and addressing many other matters. Similar to other technology, the technology of electronic wills may present testators, attorneys, and, particularly, probate courts and clerks of court with novel circumstances. In the future – and even now – attorneys will present an electronic will to probate while...
The Chair's Comments, continued from the front page

Carl King and Holly Norvell will remain on the Section Council as each was elected to an additional three-year term at our annual meeting in July at Kiawah. Our membership also elected Ansley Cella, Caitlin Horne, and Anna Winger each to serve a three-year term on the Section Council. The other members of our Section Council are Stephanie Daniel, Paula Kohut, Kemp Mosley, Todd Stewart, Carter Webb, Andrea Chomakos, Janice Davies, Mark Hale, Larry Moye, and Adam Shealy. Our other officers are Rebecca Smitherman (Immediate Past Chair), Jessica Hardin (Vice Chair), David Lewis (Treasurer), and Elie Foy (Secretary).

The work of our Section is primarily performed by our committees and task forces, so I would like to acknowledge all of the chairs of the following committees and task forces:

- CLE Committee: Caitlin Horne and B.J. Kilgore
- Communications Committee: Lucy Siler and Heidi Royal
- Estate Administration Manual Committee: Anna Winger and Zac Lamb
- Ethics Committee: John Kelso
- Fiduciary Litigation Committee: Kim Kirk
- Fundraising Committee: Linda Johnson and Tanya Oesterreich
- Legislative Committee: Kemp Mosley and Judy Linville
- Pro Bono Committee: Brooks Jaffa
- Technology Committee: Carter Webb
- Joint Task Force with the NC Bankers Association: Andrea Chomakos
- Joint Task Force with the Clerks of Court: Mark Hale
- Joint Task Force with the Family Law Section: Rebecca Smitherman

In addition, Tyler Chriscoe is our Section's liaison with the Young Lawyers Division, Kara Gansmann is our Section's liaison with the Elder & Special Needs Law Section, and Linda Johnson is our liaison with the NCBA Board of Governors.

I look forward to working with our entire Section leadership as well as the many other attorneys and paralegals who serve on our committees. As you can see, numerous professionals volunteer their time to make our Section a success, and our reputation is well-deserved. If you would like to contribute your time, become more familiar with the Section's activities, and meet many other wonderful attorneys who share our practice area, please contact me at tim@jonesbranz.com to discuss opportunities to get involved.

Section CLE Scholarship Opportunity

One of the greatest benefits of being a member of our Section is the unparalleled CLE sponsored by our Section throughout the year. Our Section Council annually considers and adopts as part of its budget an allowance for scholarships to be awarded to members of the Section. These scholarships may be awarded to pay for the cost of tuition and related travel expenses for live CLE programs sponsored by the Section during such fiscal year, including the Section Annual Meeting. Scholarships may also be awarded to pay for the cost of tuition for online CLE programs sponsored by the Section. The purpose of awarding the scholarships is to facilitate participation and attendance at valuable CLE and meetings for members of our Section who otherwise may not be able to attend such events due to financial or other constraints. If interested, please email Andrea Bradford at abradford@ncbar.org to obtain an application and a description of scholarship qualification factors.