

MSBA ELDER LAW SECTION E-NEWSLETTER

April 21, 2009

E-Newsletter Editorial Staff:

Newsletter Committee Chair: Laurie Hanson, Esq.

Editor in Chief: Suzy Scheller, Esq.

Contributors: Joel Smith, Esq., Kristine Mullman, Esq., Peter Hendricks, Esq., Amanda Christman, Esq., Vicki McIntyre, Esq.

NATIONAL HEALTHCARE DECISIONS DAY IS HUGE SUCCESS

Submitted by Vicki McIntyre, Esq.

On April 16, 2009, over 30 NHDD events were attended by individuals seeking to learn more about completing a Minnesota Health Care Directive. Hundreds of attorneys, law students, and medical practitioners volunteered for Minnesota's NHDD initiative, which was spearheaded by the MSBA's Elder Law Section. Events were held in Minneapolis, St. Paul, Brooklyn Center, Maple Grove, Maplewood, Minnetonka, Roseville, St. Louis Park, Shorewood, Spring Park, Stillwater, Woodbury, Ramsey, Mora, St. Cloud, Duluth, Grand Rapids, Rochester, and Hudson WI. A website listing all of the state NHDD events was created and is available at www.mnhealthcaredecisions.pbwiki.com.

In conjunction with the NHDD initiative, Governor Tim Pawlenty issued an official proclamation designating April 16, 2009, as Healthcare Decisions Day in the State of Minnesota. Additionally, the KARE-11 Sunrise program presented a feature on the NHDD event held at William Mitchell College of Law.

Thanks to everyone who volunteered and helped to triple the size of the 2009 NHDD initiative. Special thanks to the state NHDD committee members who worked long hours to make the initiative a success: Attorneys Vicki McIntyre, Pook Grathwol, Kristine Mullman, Jennifer Wright, and Alice Berquist; and Fran Conklin of Hospice Minnesota.

The Elder Law Governing Council has voted to once again serve as state liaison for the NHDD initiative in 2010. Watch this newsletter for more information on volunteering for next year's event.

DATES SET FOR 2009 ELDER LAW INSTITUTE

The 19th annual Elder Law Institute will be held on Thursday and Friday, October 8th and 9th at the Minnesota CLE Conference Center in downtown Minneapolis. Please mark your calendars.

The first planning committee meeting for the Institute will be held at 11:30 a.m. today, Tuesday, April 21st, at the Minnesota CLE offices in St. Paul. Two more planning meetings will be held on May 20th and June 18th. Ideas for Institute topics or speakers may be submitted to committee chair Vicki McIntyre at vmcintyre2@yahoo.com.

GOVERNING COUNCIL NOMINATIONS APPROVED

The Governing Council has approved a slate of nominees for the 2009 -11 Governing Council. The slate will be voted on at the section's Annual Meeting, to be held at 1:00 p.m. on June 9, 2009, at the St. Paul RiverCenter. All section members are encouraged to attend the Annual Meeting and to vote on the slate of officers and council members. The full slate of nominees is available on the "What's New" page of the Elder Law Section website at: <http://www.mnbar.org/sections/elder-law/WhatsNew.asp>.

ELDER LAW NEWS

Veterans home proposal to get legislative hearing

<http://www.bemidjipioneer.com/articles/index.cfm?id=22830§ion=news>

Crisis in long-term health: Boomers caring for elderly parents, but who will care for them?

http://www.twincities.com/health/ci_12168708?source=rss

Group: Many Nursing Home Problems Go Underreported

<http://wcco.com/health/nursing.home.problems.2.987016.html>

Charges: Assets diverted – Woman had power of attorney for grandparents

http://www.mankato-freepress.com/local/local_story_103235254.html

Twin Cities Red Cross cuts budget – impacts ride service for the disabled and elderly

<http://minnesota.publicradio.org/display/web/2009/04/06/redcrosscuts/>

UPCOMING EVENTS AND CLE PROGRAMS

Medical Assistance and Long Term Care 2009

Video

April 21, 2009 – Minneapolis

April 24, 2009 – Mankato

April 29, 2009 – Moorhead

May 7, 2009 – St. Cloud

May 29, 2009 - Duluth

Contact Information: <http://www.minncle.org/SeminarsSearch.asp> or 1 800-759-8840.

The Basics of Elder Law: A Critical Course for Every Attorney Whose Clients are Getting Older

Live Presentation

May 18, 9:00 am

Contact Information: <http://www.minncle.org/SeminarsSearch.asp> or 1 800-759-8840.

Probate & Trust Law Section Conference

June 8 - 9, 2009

Saint Paul RiverCentre

Contact Information: <http://www.minncle.org/SeminarsSearch.asp> or 1 800-759-8840.

ELDER LAW SECTION ACTIVITIES

MA COMMITTEE MEETING: The next MA Committee meeting will be at 3:30 p.m. on Tuesday, April 21, 2009, at the MAO Offices, 2021 E. Hennepin, Suite 200, Minneapolis. Topics for the meeting may be submitted to MA Committee Chair, Cathryn Reher, at creher@mnelderlaw.com, or faxed to 952-542-9201. For directions, or to attend by phone, please contact Tracie Fenske with Long, Reher & Hanson, P.A. at 952-929-0622.

VULNERABLE ADULT COMMITTEE MEETING: The next meeting of the Vulnerable Adult Committee will be Thursday, April 30, at Noon, at the offices of Pearson, Randall, Schumacher & LaBore, P.A., 100 S. 5th Street, Suite 1025, Minneapolis, 612.767.7500. Contact co-chairs Ken LaBore at klabore@prslegal.com or Joel Smith at joel@koslaw.com for more information.

ELDER LAW SECTION ANNUAL MEETING: The annual meeting of the Elder Law Section will be on June 9, 2009 at 1:00 p.m. at RiverCentre in St. Paul (following the Probate and Trust Law Annual Conference).

GOVERNING COUNCIL MEETING: The next meeting of the Elder Law Section Governing Council will be at 3:30 p.m. on Friday, August 21, 2009, at the MAO offices, 2021 E. Hennepin, Suite 200, Minneapolis. All members are welcome to attend. To participate by phone, please contact Karla Nelson with Schmitz & Schmidt. P.A., at 651-291-2405.

MINNESOTA CASES

The following are four unpublished cases from the Minnesota Court of Appeals released April 14, 2009.

A08-0362

Amy Vann, Relator, vs. Dakota County Community Development Agency, Respondent.

TOUSSAINT, Chief Judge

Relator Amy Vann, a housing assistance recipient, challenges the decision of respondent Dakota County Community Development Agency to terminate her assistance, arguing that she was deprived of due process and that the decision was not supported by substantial evidence. Because relator was not deprived of due process and substantial evidence supports respondent's decision, we affirm.

The decision is available at:

<http://www.lawlibrary.state.mn.us/archive/ctapun/0904/opa080362-0414.pdf>.

A08-0371

Steven Larsen, Relator, vs. Dakota County Community Development Agency,
Respondent.

COLLINS, Judge

Relator challenges the termination of his Section 8 housing benefits, arguing that (1) respondent's decision was arbitrary and capricious and unsupported by substantial evidence, and (2) the hearing officer's findings are legally insufficient. Because the hearing officer made sufficient findings and the decision is supported by substantial evidence, we affirm.

The decision is available at:

<http://www.lawlibrary.state.mn.us/archive/ctapun/0904/opa080371-0414.pdf>.

A08-0715

In the Matter of the Estate of: Vernet Steen, Deceased.

WORKE, Judge

Appellant Connie Steen, an heir of decedent, challenges the district court's determinations that (1) she was not entitled to a restraining order preventing the personal representative of decedent's estate from selling estate land and (2) the purchase agreement entered into by the personal representative was commercially reasonable. We affirm.

The decision is available at:

<http://www.lawlibrary.state.mn.us/archive/ctapun/0904/opa080715-0414.pdf>.

A08-0378

Law Offices of Otten & Associates, P. A., Appellant, vs. Soucie & Bolt, P. A.,
Respondent.

PETERSON, Judge

In this appeal from a summary judgment in an action for attorney fees [**Ed. Note: attorney fees were related to the collection of medical assistance benefits on behalf of the Minnesota Department of Human Services in a personal injury settlement**], appellant law firm argues that genuine issues of material fact exist as to whether respondent law firm collected attorney fees from appellant's former client and whether appellant is entitled to a share of those fees. We affirm.

The decision is available at:

<http://www.lawlibrary.state.mn.us/archive/ctapun/0904/opa080378-0414.pdf>.

Unpublished opinions may not be cited except as provided by Minn. Stat. Section 480A.08, Subd. 3 (2008).

STATUTES, REGULATIONS, BULLETINS

DHS BULLETIN #09-21-05: TREATMENT OF THE TEMPORARY INCREASE IN UNEMPLOYMENT INSURANCE AND \$250 PAYMENT PROVIDED. The American Recovery and Reinvestment Act of 2009 (ARRA) provides a temporary increase of \$25 weekly in unemployment insurance (UI) benefits for persons eligible for UI from February 22, 2009 to December 31, 2009. The temporary \$25 supplement is not counted for federally funded health care programs. Also, a \$250 one-time lump sum payment is available for certain adult social security beneficiaries or recipients. The bulletin, dated April 10, 2009, is available at:

http://www.dhs.state.mn.us/main/groups/publications/documents/pub/dhs16_144728.pdf

DON'T FORGET THAT THE ELDER LAW WEBSITE IS A GREAT RESOURCE. Here's what you can find on the Website: Links under "What's New" to the DHS Health Care Programs Manual, the updated Income and Asset Eligibility Figures for Minnesota Health Care Programs, the DHS Bulletin on treatment of uncompensated transfers, the Minnesota Bankers Association Compliance Bulletin on Powers of Attorney, and a legislative summary; Practice Links to organizations such as NAELA, ABA Commission on Law and Aging, Minnesota Senior Federation; Links to Federal and State Government Agencies, Statutes, and Regulations; Meeting Notices, Listings of Officers and Council Members, Section Bylaws, and more.

To access the ELDER LAW SECTION WEBSITE

Click here: <http://www2.mnbar.org/sections/elder-law/index.asp>

Please send eNewsletter contributions by noon on Saturday of each week to Suzy Scheller at sscheller@prslegal.com.

If you do not wish to receive this eNewsletter, send your request to be removed from the mailing list to Kim Basting at kbasting@statebar.gen.mn.us.