

MSBA ELDER LAW SECTION E-NEWSLETTER

AUGUST 19, 2008

E-Newsletter Editorial Staff:

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COMMITTEE SPOTLIGHT: PRO BONO COMMITTEE

Interested in working on a Section committee during 2008-09? To encourage more committee involvement, the E-Newsletter will provide a profile of one committee each week over the next few issues. The first committee highlighted is the Pro Bono Committee.

The Pro Bono Committee is a relatively new committee, formed in the fall of 2007. The mission of the Pro Bono Committee is to work with existing pro bono programs and elder service groups to make section members aware of pro bono opportunities, to connect section members with existing pro bono programs, and to expand the pro bono services offered for elders.

One of the major activities of the Pro Bono Committee in its first year was coordination of the statewide activities of the first-ever National Healthcare Decisions Day in April, 2008. The committee coordinated the event on behalf of the MSBA Elder Law Section, which served as state liaison to the national NHDD organization. It is anticipated that the section will again serve as state liaison in 2009 and that the committee will again coordinate state efforts to assist Minnesotans with completion of Health Care Directives. Work on the project will begin in early 2009.

Anyone interested in serving on the Pro Bono Committee may contact Co-Chair Jennifer Wright at jwright1@stthomas.edu or Co-Chair Vicki McIntyre at vmcintyre2@yahoo.com.

ELDER LAW NEWS

A University of Minnesota Morris student is headed to the Democratic National Convention. One of the reasons for this trip is to honor his grandmother, who led the fight to integrate schools in Suffolk, Virginia.

<http://www.stillwatercourier.com/articles/index.cfm?id=10966§ion=Minnesota%20News>

Minnesota is on course for a health care workforce shortage never before seen in our state's history. <http://www.tcdailyplanet.net/article/2008/08/14/health-care-labor-shortage-fact-or-fiction.html#>

In 2009, Medicare's elderly beneficiaries will pay premiums averaging twenty-eight dollars per month for their prescription drug plans. That is approximately three dollars more than they paid in 2008. The twelve percent premium increase reflects rising drug costs, higher estimates of costs for catastrophic drug coverage, and the end of a demonstration project, the Centers for Medicare and Medicaid Services reported. <http://www.bloomberg.com/apps/news?pid=20601103&sid=ash8QZ5VicFU&refer=us>

Democratic presidential candidate Barack Obama's Minnesota campaign is trying to boost Obama's standing among a key group of voters--senior citizens. Former Vice President Walter Mondale spoke at a rally to garner support among senior citizens for Obama. <http://minnesota.publicradio.org/display/web/2008/08/14/obamaseniors/>

UPCOMING EVENTS AND CLE PROGRAMS

Age and Disabilities Odyssey

Co-presented by Minnesota DHS's Continuing Care Division and the Minnesota Board on Aging

Monday, Tuesday, Wednesday, August 18 - 20, 2008, Duluth, Minnesota

A comprehensive education and networking event for those working in the fields of aging and disabilities throughout Minnesota.

More information available at:

http://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=dhs16_140408

Home and Community-based Medical Assistance in Minnesota

Presented by Jeffrey W. Schmidt in conjunction with Medical Education Services, Inc. Professional Development Network

Thursday, September 25, 2008

Radisson Suites, 404 West St. Germain, St. Cloud

5.25 CLE credits have been approved by the Minnesota Board of Continuing Education Information and online registration is available at: www.meds-pdn.com

The 2008 Elder Law Institute: "Protecting Vulnerable Clients in Tough Economic Times"

Co-presented by the Elder Law Section of the MSBA and Minnesota CLE

Thursday and Friday, October 2-3, 2008

Minnesota CLE Conference Center, 3rd floor City Center, Minneapolis

Application has been made for 10.25 CLE credits

Register by August 10, 2008, and save \$40!! More information and Early-bird

Registration is available at:

<http://www.minncle.org/AABuy1.asp?ITEMTYPE=S&ITEMNMBR=100540901&ArticleID=>

The New Transfer on Death Deed (TODD) Legislation

Presented by Julian Zweber and Minnesota CLE Faculty

Tuesday, October 14, 2008

Minnesota CLE Conference Center, 3rd floor City Center, Minneapolis

More information and online registration available at:

<http://www.minncle.org/AABuy1.asp?ITEMTYPE=S&ITEMNMBR=101850901&ArticleID=> or call 800-759-8840.

ELDER LAW SECTION ACTIVITIES

MEDICAL ASSISTANCE COMMITTEE MEETING: The next Medical Assistance Committee meeting will be at 3:30 p.m. today, Tuesday, August 19, 2008, at the MAO offices, 2021 E. Hennepin, Suite 200, Minneapolis. If there are specific Medical Assistance topics you would like to discuss at an upcoming meeting, please email Chair Cathryn Reher at creher@mnelderlaw.com or fax materials 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.

LEGISLATIVE COMMITTEE MEETING: The next Elder Law Section Legislative Committee meeting will be from noon to 1:30 p.m. on Monday, August 25, 2008, at William Mitchell College of Law, Room 229. All Elder Law Section members are welcome to attend. Agenda items may be communicated to Lori Guzman at lori@guzmanlaw.com or Julian Zweber at julianzweber@qwest.net prior to the meeting. Attendees may bring a lunch or purchase one at William Mitchell.

MINNESOTA CASES

Following are three unpublished MN Court of Appeals decisions released on August 12, 2008:

A07-2110

In the Matter of the Petition of V. P. to Adopt H. A. P.

MINGE, Judge

Appellant challenges the decision of the district court affirming respondent Commissioner of Human Services' denial of her petition to adopt her grandchild, H.A.P. Appellant argues that denial of her petition was not in H.A.P.'s best interests, that the district court failed to independently consider the evidence, and that the district court considered improper evidence. We affirm.

The full decision is available at:

<http://www.mncourts.gov/opinions/coa/current/opa072110-0812.pdf>

A07-1407

Christian M. Sande, et al. Respondents, vs. HD Vest Investment Securities, Inc., a Texas corporation, Defendant; Seona Cherie Sande, Appellant.

WRIGHT, Judge

In this appeal, appellant challenges the summary judgment enforcing the dissolution judgment from the first marriage of appellant's late husband and awarding her late

husband's Individual Retirement Account (IRA) to his sons. Appellant argues that the district court erred because its action violates her statutory right to an elective share of her late husband's estate. We affirm.

The full decision is available at:
<http://www.mncourts.gov/opinions/coa/current/opa071407-0812.pdf>

A07-1376
Sandra M. McDonald, et al., Appellants, vs. Robert Lyle Cahlander, et. al., Respondents.
SCHELLHAS, Judge

Appellants challenge the district court's findings that properties titled in appellant-cohabitant's name were held in a constructive trust, that appellant-cohabitant and respondent-cohabitant were entitled to equal shares of the proceeds of the sale of the properties, and that rent that appellant-LLC owed respondent-LLC should not be offset by funds that appellant-LLC claimed it had paid respondents. Because we conclude that the district court's findings were not clearly erroneous, we affirm.

The full decision is available at:
<http://www.mncourts.gov/opinions/coa/current/opa071376-0812.pdf>

Unpublished opinions may not be cited except as provided by Minn. Stat. Section 480A.08, subd. 3 (2006).

STATUTES, REGULATIONS, BULLETINS

DHS BULLETIN #08-21-08: DHS INTRODUCES LONG-TERM CARE PARTNERSHIP (LTCP). This 50-page bulletin provides policies and instructions for implementing the Long-Term Care Partnership program, which allows protection of some assets to qualify for Medical Assistance payment of long-term care services. The Bulletin, dated August 8, 2008, is available at:
http://www.dhs.state.mn.us/main/groups/publications/documents/pub/dhs16_142131.pdf

GUARDIAN/CONSERVATORSHIP STUDY BEGINS. The State Court Administrators study of guardianship and conservatorship issues directed by Chapter 126, 2007, Laws of Minnesota, has met and scheduled meetings throughout the fall to discuss current problems with the guardianship and conservatorship system and possible remedies or improvements which could be implemented. The study group is made up of members of the bench, practitioners, professional conservators, representatives from adult protection and ombudsmans office, and others involved in conservatorship practice. More information is available from Daniel J. Steinhagen, Steinhagen & Crist, PLLP, at:
dsteinhagen@steinhagen-crist.com.

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 Vicki McIntyre at vmcintyre2@yahoo.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