

MSBA ELDER LAW SECTION E-NEWSLETTER

OCTOBER 7, 2008

E-Newsletter Editorial Staff:

Newsletter Committee Chair: Laurie Hanson, Esq.

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GOODERL AWARD PRESENTED TO LAURIE HANSON

The highest award of the Elder Law Section, the Mary Alice Gooderl Memorial Award, was presented to Laurie Hason of Long, Reher & Hanson, P.A. during the 18th annual Elder Law Institute on Friday, October 3, 2008. The Gooderl Award is presented by the section to acknowledge outstanding contributions to the field of elder law as exemplified by Mary Alice Gooderl, one of the founders of the Elder Law Section. Laurie received the Gooderl Award in recognition of her decades-long efforts on behalf of elders, as well as her active membership in the Elder Law Section, where she chaired the Governing Council during 2007-08 and cofounded the Elder Law E-Newsletter. Congratulations to Laurie, and thanks for all of her hard work and dedication to the field of elder law.

MORE SECTION AWARDS PRESENTED AT ELDER LAW INSTITUTE

The Awards Committee of the Elder Law Section presented several Special Recognition Awards at the Awards Banquet held during the Elder Law Institute on Friday, October 3, 2008. Special Appreciation Awards were presented to the following:

- Tom Meinz - For his dedicated and successful efforts in arguing the *Barg* case in front of the Minnesota Supreme Court
- Vicki McIntyre - For her contributions as co-founder and first Editor-in-chief of the Elder Law Section's E-Newsletter
- Melissa Hunt - For her many hours of exceptional research and reporting as Law Clerk for the Elder Law Section's Governing Council

Congratulations to all of the award winners!

VIDEO REPLAYS OF ELDER LAW INSTITUTE TO BE OFFERED

Video replays of the 18th Annual Elder Law Institute are being offered at at reduced rate. Two video replays will be available this year, both at the Minnesota CLE

Conference Center, Seventh & Nicollet, Minneapolis. A total of 10.5 CLE credits have been approved, including 1.0 ethics credits. Members who attended the Institute in person reported that the ethics presentation was one of the highlights of the Institute this year! Dates of the video replays are:

- October 20-21, 2008
- November 4-5, 2008

For more information and registration, go to: www.minncle.org.

ELDER LAW NEWS

The Mayo clinic launches pilot telemedicine program.

http://www.startribune.com/lifestyle/health/30072544.html?elr=KArksi8cyaiUHK:uUiD3aPc:_Yyc:aUU

The Twin Ports VA outpatient clinic goes out to bid.

<http://www.superiortelegram.com/articles/index.cfm?id=30957§ion=News>

Medicare won't pay for medical errors.

<http://www.nytimes.com/2008/10/01/us/01mistakes.html?ref=health>

Four states, including Minnesota, will be receiving money from Walgreen Co., an Illinois-based pharmacy chain, as part of a \$9.9 million Medicaid fraud settlement.

<http://www.legalnewsline.com/news/216191-four-states-federal-government-share-9.9-million-medicaid-fraud-settlement>

Hard times put cracks in the nest egg.

http://www.startribune.com/lifestyle/yourmoney/30002894.html?elr=KArsLckD8EQDUoaEyqyP4O:DW3ckUiD3aPc:_Yyc:aULPQL7PQLanchO7DiUsA

Lawmakers make a final push for mental health bill.

<http://ap.google.com/article/ALeqM5imxoTLxgROPF147hv7m0M4LPustAD93IJARO0>

UPCOMING EVENTS AND CLE PROGRAMS

The New Transfer on Death Deed (TODD) Legislation

Presented by Julian Zweber and Minnesota CLE Faculty

Tuesday, October 14, 2008 - 9:00 a.m. - 12:15 p.m.

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

Application has been made for 3.0 CLE credits or 3.0 Advanced Real Estate Specialist credits

More information and online registration is available at:

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

8th Annual National Aging and Law Conference - Setting the Agenda: Advocating for Elders After the Election

Sponsored by the AARP Foundation, the American Bar Association Commission on Law and Aging, National Senior Citizens Law Center, The Center for Social Gerontology, Center for Medicare Advocacy, Inc., NAELA, National Consumer Law Center, and the National Association of State Units on Aging

Wednesday through Saturday, December 3-6, 2008

Doubletree Hotel, Arlington, Virginia

More information and registration is available at: www.aarp.org/nltp

ELDER LAW SECTION ACTIVITIES

GOVERNING COUNCIL MEETING. The next meeting of the Elder Law Section Governing Council will be at 3:30 p.m. on Friday, October 10, 2008, at the MAO offices, 2021 E. Hennepin, Suite 200, Minneapolis. All members are welcome to attend. To participate by phone, contact Karla Nelson with Schmitz & Schmidt, P.A., at 651-291-2405.

MEDICAL ASSISTANCE COMMITTEE MEETING. The next Medical Assistance Committee meeting will be at 3:30 p.m. on Tuesday, October 21, 2008, at the MAO offices, 2021 E. Hennepin, Suite 200, Minneapolis. If there are specific MA topics you would like to discuss at the 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 Legislative Committee meeting will be at noon on Wednesday, November 19, 2008, at the offices of Garvey and Boggio, P.A., 9995 Lyndale Avenue South, Bloomington. Section members are welcome to attend. Please RSVP by November 18, 2008, to Peter Hendricks at 952-881-4996 or phendricks@gblawoffice.com.

MINNESOTA CASES

This is the case that was discussed by Deb Peterson of the Minnesota Attorney General's office at the Elder Law Institute.

Minnesota Court of Appeals opinion released on September 30, 2008:

State of Minnesota , Appellant, vs. Timothy Alan Campbell, Respondent.

Minnesota statute section 609.2335, subdivision 1(1) (2002), criminalizing financial exploitation of a vulnerable adult, is not unconstitutionally vague as applied to a defendant holding joint bank accounts with a vulnerable adult if circumstances indicate the existence of a fiduciary relationship.

The case is available at: <http://www.mncourts.gov/opinions/coa/current/opa080218-0930.pdf>

OPINION: LIFE SETTLEMENTS OFFER CONSUMER CHOICE

Mike Abrams of Tamar Fink, Inc. has submitted an opinion article concerning Life Settlements, an option for seniors who no longer need or who can no longer afford to keep a life insurance policy in place. According to the article, nearly 90% of life insurance policies lapse before a claim is made. If a senior wishes to discontinue the premiums on a life insurance policy, one current alternative to letting the policy lapse or surrendering the policy at cash value, is to sell the policy in the secondary market through a life settlement. Mike's article explains the benefits of life settlements, reviews the body of insurance law supporting life settlements, and identifies the current movement by insurance companies to take away policyowners' life settlement property rights in Minnesota. The article also explains the problem of "stranger-originated life insurance," or STOLI, and suggests how the life insurance industry can work with state regulators to craft appropriate legislation to control STOLI while still protecting consumers in life settlements.

Mike's complete article is posted on the Elder Law Website and is available at: <http://www2.mnbar.org/sections/elder-law/Life%20Settlements%20Opinion%20Piece.pdf>

Thank you to Mike for submitting this very interesting article. Questions or comments on the article may be directed to Mike at: mabrams@tamarfink.com. Any counterpoint may be submitted to the newsletter editor, Vicki McIntyre, at vmcintyre2@yahoo.com.

STATUTES, REGULATIONS, BULLETINS

Nothing to report this week.

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