

## **MSBA ELDER LAW SECTION E-NEWSLETTER**

### **January 5, 2010**

#### **E-Newsletter Editorial Staff:**

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**EDITOR'S NOTE: Welcome back to the E-Newsletter for 2010!**

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#### **ELDER MENTOR FOR COLLEGE STUDENTS**

Catherine Sullivan, a faculty member at St. Catherine University, is looking for older adults (65+) who are actively involved in their communities to be mentors for students in her Perspectives on Health and Aging course. Volunteers' involvement will make the learning more meaningful. Mentors need to be willing to share wisdom and insights about the experience of aging in our society. Mentors must meet with their students four times between February and May at a convenient place. For more information, contact Catherine Sullivan at 651-690-8602 or 651-253-8007.

#### **LATEST ON HEALTH CARE REFORM BILL:**

Check out the latest links below for the most up to date information.

##### **Bill Language**

House Version: H.R.3962 - Affordable Health Care for America Act

<http://www.opencongress.org/bill/111-h3962/show>

Senate Version: H.R.3590 - Patient Protection and Affordable Care Act (Legislative Vehicle)

<http://www.opencongress.org/bill/111-h3590/text?version=ocas>

##### **Clearinghouses of Information**

*Kaiser Daily Health Care Policy Report*, subscribe to the Report at:

<http://www.kaiserhealthnews.org>

*The Hill e-Newsletter*, a Congressional newspaper. Sign up for *The Hill News Alerts* at the top left corner of the home page at: <http://thehill.com/>.

#### **2010 ELDER LAW INSTITUTE DATE SET**

Mark your calendars for October 7-8, 2010 to attend the Elder Law Institute. Further information will follow closer to the date.

## **ELDER LAW NEWS**

Elder law expertise can be crucial in planning future

<http://www.newstimes.com/business/article/Elder-law-expertise-can-be-crucial-in-planning-305483.php>

A Mayo Clinic Outpost Won't Take Medicare

<http://blogs.wsj.com/health/2009/12/31/a-mayo-clinic-outpost-wont-take-medicare/>

Medicare Hospice Billing

<http://www.theledger.com/article/20091231/EDIT02/912319996?Title=Medicare-Hospice-Billing>

Volunteer army of senior citizens is helping uncover Medicare scams, saves taxpayers' money

<http://www.startribune.com/business/80278112.html?elr=KArks:DCiU1OiP:DiiUiacyKUUr>

Great American Settles With Minnesota -- The settlement allows seniors who bought annuities from the companies to submit refund claims

<http://www.lifeandhealthinsurancenews.com/News/2009/12/Pages/Great-American-Settles-With-Minnesota.aspx>

500,000 Minnesotans face Medicare deadline

[http://www.startribune.com/local/80237912.html?elr=KArksD:aDyaEP:kD:aUq9\\_b9b\\_jEkP:QUiD3aPc:\\_Yyc:aUU](http://www.startribune.com/local/80237912.html?elr=KArksD:aDyaEP:kD:aUq9_b9b_jEkP:QUiD3aPc:_Yyc:aUU)

Legalized Elder Abuse: Guardianships And Conservatorships

<http://assistedlivingseniorhousing.com/2009/12/29/legalized-elder-abuse-guardianships-and-conservatorships.html>

Two wanted in robberies of seniors in St. Paul arrested

[http://www.startribune.com/local/south/80488847.html?elr=KArksLckD8EQDUoaEyqyP4O:DW3ckUiD3aPc:\\_Yyc:aUUsZ](http://www.startribune.com/local/south/80488847.html?elr=KArksLckD8EQDUoaEyqyP4O:DW3ckUiD3aPc:_Yyc:aUUsZ)

How A Bone Disease Grew To Fit The Prescription – Osteopenia vs. Osteoporosis

<http://www.npr.org/templates/story/story.php?storyId=121609815&ft=1&f=2>

These attorneys make house calls

<http://www.minnlawyer.com/article.cfm/2009/12/28/These-attorneys-make-house-calls>

"Shielding the Assets" when you think parent will remain in your home in your care

<http://www.early-retirement.org/forums/f28/shielding-the-assets-when-you-think-parent-will-remain-in-your-home-in-your-care-47831.html>

Reform could close gap in diabetes prevention

<http://minnesota.publicradio.org/display/web/2009/12/22/diabetes-prevention-health-care/>

Aging folks' troubles appear at holidays

[http://www.startribune.com/local/79773362.html?elr=KArksLckD8EQDUoaEyqyP4O:DW3ckUiD3aPc:\\_Yyc:aUycaEacyUs](http://www.startribune.com/local/79773362.html?elr=KArksLckD8EQDUoaEyqyP4O:DW3ckUiD3aPc:_Yyc:aUycaEacyUs)

OlderWiserStronger Understanding Elder Abuse

[http://www.docstoc.com/docs/19881565/OlderWiserStronger-Understanding-Elder-Abuse---March-2009-\(MGS\)](http://www.docstoc.com/docs/19881565/OlderWiserStronger-Understanding-Elder-Abuse---March-2009-(MGS))

Alzheimer's takes toll on memories, and money too

<http://www.miamiherald.com/business/personal-finance/story/1391360.html>

Man pleads guilty to Medicare fraud

<http://minnesota.publicradio.org/display/web/2009/12/15/fraud-plea/>

### **MINNESOTA CASES**

*The Ramsey County District Court released the following opinion on December 30, 2009*

***2009 Unallotment Litigation***

***Multiple Parties v. Governor Pawlenty, et al.***

***Ramsey County District Court File No.: 62-CV-09-11693***

On December 30, 2009, the Court granted the Plaintiffs' motion for a temporary restraining order enjoining the State of Minnesota from reducing allotments to the Minnesota Supplement Aid Special Diet program and enjoining the MN Department of Human Services from implementing the unallotment of the MSA Special Diet program retroactive to November 1, 2009. The Court continued the Defendants' motion to dismiss to the March 1, 2010 hearing.

Chief Judge Gearin's Order and Memorandum (and other case documents) are available at:

<http://www.mncourts.gov/district/2/?page=3775>

*The Minnesota Court of Appeals issued the following published opinion on 12/29/2009:*

**A09-349**

*In re the Marriage of: Loretta Marie Angell, petitioner, Appellant, vs. Gordon William Angell, Jr., Respondent.*

Carlton County District Court, Hon. Robert E. Macaulay, Jr.

1. In a dissolution proceeding, life-insurance and death-gratuity benefits received during marriage by only one spouse who is found to be the decedent's sole beneficiary are nonmarital property under Minnesota Statutes section 518.003.

2. Under the Supremacy Clause, federal anti-attachment statutes that protect military death benefits paid to a beneficiary from attachment, levy, or seizure preempt Minnesota Statutes

section 518.58, subdivision 2 to the extent that the subdivision authorizes district courts to award the beneficiary's spouse a portion of those benefits as divisible nonmarital property. Affirmed in part, reversed in part, and remanded. Judge Kevin G. Ross.

The opinion is available at: <http://www.lawlibrary.state.mn.us/archive/ctappub/0912/opa090349-1229.pdf>

*The Minnesota Court of Appeals issued the following published opinion on 12/22/2009:*

**A09-245**

*Sherri Nelson, as Personal Representative of the Estate of Mary Grill Mindl, Appellant, vs. Ricky Holland, Respondent; All Other Persons Known or Unknown Claiming an Interest in Real Estate Described Below, Defendants; Mary Louise Mindl, Deceased.*

Lake of the Woods County District Court, Hon. Charles H. Leduc.

A conservator's failure to assert claims on behalf of a conservatee prior to death does not preclude standing for a personal representative to assert those surviving claims on behalf of the decedent's estate. Reversed and remanded. Judge Wilhelmina M. Wright.

The opinion is available at:

<http://www.lawlibrary.state.mn.us/archive/ctappub/0912/opa090245-1222.pdf>

*The Minnesota Court of Appeals issued the following two unpublished opinions on 12/22/2009:*

**A08-2203**

*Erica Morford-Garcia, Relator, vs. Metropolitan Council Housing and Redevelopment Authority, Respondent.*

KALITOWSKI, Judge

Relator Erica Morford-Garcia challenges the determination of the hearing officer for Metropolitan Council Housing and Redevelopment Authority, upholding the termination of her housing assistance under the Section 8 program. Because we conclude that the hearing officer's decision was supported by substantial evidence and was not arbitrary and capricious, we affirm.

The opinion is available at: <http://www.lawlibrary.state.mn.us/archive/ctapun/0912/opa082203-1222.pdf>

**A09-941**

*In re the Estate of: Raymond J. Stanley, Deceased*

SCHELLHAS, Judge

In this probate case, appellant Beverly Reimann challenges the district court's order granting summary judgment to respondents, dismissing appellant's objection, and admitting decedent's will for formal probate. Because appellant's objection has no basis in Minnesota law, we affirm. We also grant respondents' motion to strike portions of appellant's brief and appendix.

The opinion is available at: <http://www.lawlibrary.state.mn.us/archive/ctapun/0912/opa090941-1222.pdf>

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

### **STATUTES, REGULATIONS, BULLETINS**

**DHS BULLETIN #09-24-01: Managed Care for Seniors Update.** The bulletin provides an update on managed care for seniors including the announcement of statewide expansion of Minnesota Senior Health Options (MSHO) and the exclusion of non-duals from MSHO.

The bulletin, dated December 16, 2000, is available at:  
[http://www.dhs.state.mn.us/main/groups/publications/documents/pub/dhs16\\_147608.pdf](http://www.dhs.state.mn.us/main/groups/publications/documents/pub/dhs16_147608.pdf)

**DHS BULLETIN #09-21-16: Social Security Administration Data to Initiate Application for Minnesota Health Care Programs (MHCP).** This bulletin provides policy and instructions for determining MHCP eligibility based on SSA transmission of Medicare Part D Low Income Subsidy application data that will begin in January 2010.

The bulletin, dated December 16, 2009, is available at:  
[http://www.dhs.state.mn.us/main/groups/publications/documents/pub/dhs16\\_147607.pdf](http://www.dhs.state.mn.us/main/groups/publications/documents/pub/dhs16_147607.pdf)

### **UPCOMING EVENTS AND CLE PROGRAMS**

#### **Health Care Reform in Minnesota: The Impact on Older Adults**

##### **Vital Aging Network Forum**

Wilder Center Auditorium  
451 Lexington Parkway North  
St. Paul, MN 55104

January 12, 2010, 8:00 AM to 12:30 PM

Contact Information: <https://secure.acceptiva.com/?cst=369319> or 651-917-4652.

#### **Elder Law Institute**

##### **Video Replays**

January 21-22, 2010 – Duluth

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

**Elder Law 2010: Issues and Answers**

**HCBA Live Seminar**

January 28, 2010

Contact Information: <https://www.hcba.org/intus/Event3/event.asp> or 612-752-6600.

**Estate Planning in Uncertain Times (including Medical Assistance)**

**Video Replay**

February 12, 2010 - Duluth

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

**Estate Planning for the Final Years of Life**

**Lorman Teleconference**

January 20, 2010, 1:00 p.m.

Contact information: <http://www.lorman.com/teleconference/teleconference.php?pid=207029> or 1-866-878-9329.

**ELDER LAW SECTION ACTIVITIES**

**VULNERABLE ADULT COMMITTEE MEETING:** The next meeting of the Vulnerable Adult Committee will be Thursday, January 28, 2010 at Noon, at the offices of Pearson, Randall, Schumacher & LaBore, P.A., 100 S. 5<sup>th</sup> Street, Suite 1025, Minneapolis, 612.767.7500. Contact co-chairs Ken LaBore at [klabore@prslegal.com](mailto:klabore@prslegal.com) or Joel Smith at [joel@koslaw.com](mailto:joel@koslaw.com) for more information.

**MA COMMITTEE MEETING:** The next MA Committee meeting will be at 3:30 p.m. on Tuesday, February 16, 2010, 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](mailto: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.

**GOVERNING COUNCIL MEETING:** The next meeting of the Elder Law Section Governing Council will be at 3:30 p.m. on Friday, February 19, 2010, at the MAO offices, 2021 E. Hennepin, Suite 200, Minneapolis. All members are welcome to attend. To participate by phone, please contact Vicki McIntyre at [vmcintyre2@yahoo.com](mailto:vmcintyre2@yahoo.com) or 612-722-8572.

**GREATER MINNESOTA COMMITTEE:** Please contact Bonita Kallestad at 1-320-235-9600 or [bkallestad@westernlegal.org](mailto:bkallestad@westernlegal.org) with issues you would like the Greater Minnesota Committee to address. Also contact Bonita if you would like to serve on the Greater Minnesota Committee.

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**DON'T FORGET THAT THE ELDER LAW WEBSITE IS A GREAT RESOURCE.**

Here's what you can find on the Website: Links to the DHS Health Care Programs Manual, the DHS Bulletin on treatment of uncompensated transfers, the Minnesota Bankers Association Compliance Bulletin on Powers of Attorney, legislative summary; Practice Links to

organizations such as NAELA, ABA Commission on Law and Aging, 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>.

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Please send E-Newsletter contributions by noon on Saturday of each week to Suzy Scheller at [sscheller@prslegal.com](mailto:sscheller@prslegal.com).

If you do not wish to receive this E-Newsletter, send your request to be removed from the mailing list to Elyse Farnsworth at [efarnsworth@statebar.gen.mn.us](mailto:efarnsworth@statebar.gen.mn.us).

Current and prior E-Newsletters are posted on the website for the MSBA Elder Law Section and are available at: <http://www2.mnbar.org/sections/elder-law/newsletters.asp>.