

**MSBA ELDER LAW SECTION E-NEWSLETTER**

**January 17, 2012**

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**LINK OF THE WEEK**

**Administration on Aging: News and Info—a Weekly eNewsletter**

To keep abreast of what's going on at the federal level with aging policy, subscribed to the Administration on Aging's weekly e-newsletter. This week's edition, for example, includes articles on free webinars hosted by AoA on health care reform, the latest announcements from HHS on grants and programs aimed at improving the quality of life of our nation's seniors, and a link to an important new report by AARP on dual eligibles.

Access the most recent issue of the newsletter [here](#). Subscribe to receive the newsletter every week [here](#).

Submitted by Kim Dayton, Esq.

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## **Consumer Financial Protection Bureau, Office for Older Americans**

The Office for Older Americans (OOA), an arm of the Consumer Financial Protection Bureau (CFPB), was created by the recent Dodd-Frank legislation. The legislation was passed to address America's financial crisis and assist consumers attempting to recover. Of special importance is the impact the crisis is having on Older Americans. Under the direction of Skip Humphrey, the OOA is charged with increasing financial literacy through among Older Americans education and outreach.

For more information on the OOA and CFPB, please visit [this website](#). As the agency and office are new, it is recommended to check the site frequently for updated resources.

Submitted by Courtney Allensworth

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### **ELDER LAW NEWS**

Minnesota lawmakers urged to make neglect a felony | [Star Tribune](#)

Scam reported in Heron Lake: "Grandchild" scam attempted | [Tri County News](#)

A push to get Minnesotans to save for old-age care | [Star Tribune](#)

Siblings stress over aging parents--Taking care of mom and dad often sparks disagreements | [Times Colonist](#)

Emergency health care recipients cut off this week | [MPR News](#)

Submitted by Joel Smith, Esq.

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## **ELDER LAW CASES**

**Hall v. Metropolitan Life Ins. Co.**

**Civil No. 11-1269 (DWF/LIB) (D. Minn. 1/5/12)**

**DONOVAN W. FRANK, United States District Judge**

Court's introduction:

“This matter is before the Court on Defendant Metropolitan Life Insurance Company’s Motion to Dismiss (Doc. No. 9), Plaintiff’s Motion to Strike the Affidavit of William D. Hittler (Doc. No. 17), and Plaintiff’s Motion to Amend the Amended Complaint (Doc. No. 19). For the reasons set forth below, the Court denies the motions to dismiss and to strike and denies as moot the motion to amend.”

Excerpts:

“Plaintiff’s claims stem from the principal allegation that MetLife has unlawfully failed to honor Decedent’s change of the named beneficiary of his life insurance policy. MetLife argues that Plaintiff’s claims fail because Decedent did not properly submit a change of beneficiary form pursuant to the requirements of the policy. Because the Court finds that Plaintiff has asserted valid claims and has properly pleaded her claims, MetLife’s motion to dismiss must be denied in its entirety.

...

It is not clear to the Court why a properly witnessed and executed Last Will and Testament, provided within thirty days of its signature, would not constitute 'a form satisfactory to' MetLife sufficient to effectuate a change in beneficiary of a life insurance policy. Such an issue, however, as well as any relevant factual disputes, are not before the Court for purposes of the present motion. Still, the Court determines, at a minimum, that Plaintiff has articulated a factual basis for her claims in light of her contention that Decedent complied with the terms of the policy by way of executing his Last Will and Testament. In so holding, the Court notes that it is not concluding, as a matter of law, that Decedent did, in fact, comply with the terms of the policy. Rather, the Court concludes

that Plaintiff has properly asserted her claims on the basis of her factual allegations. The Court concludes that the Amended Complaint contains factual support for each cause of action sufficient to satisfy the requirements of Twombly. As such, Plaintiff's claims must survive."

Submitted by Paulette Joyer, Esq.  
[pjoyer@voamn.org](mailto:pjoyer@voamn.org)

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

*There are no new Statutes, Regulations, or Bulletins to report this week.*

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

*There are no upcoming events or CLE programs to report this week.*

### **ELDER LAW SECTION ACTIVITIES**

**MA COMMITTEE MEETING:** The next MA Committee meeting will be at 3:30 p.m. on Tuesday, February 21, 2011. The Medical Assistance Committee is a study group to analyze Elder Law Section member questions and case studies and to discuss administrative policies and procedures in relation to Medical Assistance in Minnesota. Cathryn D. Reher of Long, Reher & Hanson, P.A., is Committee Chair. For directions, or to attend by phone, please contact Tracie Fenske with Long, Reher & Hanson, P.A., at [952-929-0622](tel:952-929-0622) at least 24 hours in advance of the meeting. Topics for the meeting may be submitted to [tfenske@mnelderlaw.com](mailto:tfenske@mnelderlaw.com) under the subject heading "MA Committee Topic", or faxed to [952-542-9201](tel:952-542-9201). Please be reminded that the meeting location is: Estate & Elder Law Services (formerly MAO Legal Services), Monroe Village, 1900 Central Avenue NE, Minneapolis, Minnesota 55418. The meeting takes place in the building's conference room. There are a few parking spaces behind the building and lots of street parking. People should walk to the back of the building and come to the back door which faces directly into the meeting room.

**GOVERNING COUNCIL:** The next meeting of the Elder Law Section Governing Council will be on Friday, February 17, 2011 at 3:30 pm at the offices of the Volunteers of America (VOA) at 1900 Central Avenue NE, Suite 106, Minneapolis, MN 55418. For further information, please contact Suzy Scheller, Chair, at: [suzy@schellerlegalsolutions.com](mailto:suzy@schellerlegalsolutions.com).

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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://www.mnbar.org/sections/elder-law/index.asp>

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Please send E-Newsletter contributions by 10 p.m. on Sunday of each week to Allison Burke at [allison@twincities-elderlaw.com](mailto:allison@twincities-elderlaw.com).

If you do not wish to receive this E-Newsletter, send your request to be removed from the mailing list to Tamara Patton at [tpatton@statebar.gen.mn.us](mailto:tpatton@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/newsletter.asp>.