

# Missouri Chapter NAELA



A quarterly newsletter provided by the Missouri Chapter National Academy of Elder Law Attorneys, Inc.

Fall Edition 2011

## Officers 2011 - 2012

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**Dan Reuter, Esq.**  
St. Louis, Missouri

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**Mike Weeks, Esq.**  
St. Charles, Missouri

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Jefferson City, Missouri

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**Samantha Shepherd, Esq.**  
Kansas City, Missouri

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**Christine A. Gilsinan, CELA**  
St. Louis, Missouri

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Springfield, Missouri

**Rick Vouga, Esq.**  
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## Director 2011 - 2012

**Jessica Kimbrell, Esq.**  
Kansas City, Missouri  
*(filling Samantha's term)*

## Directors 2010 - 2012

**Scott King, Esq.**  
Kansas City, Missouri

**Sherry Snyder, Esq.**  
St. Louis, Missouri

## Message From The President

Hello to all our 'seasoned' and welcome to our new members. We are presently 115 strong, which represents a good retention/growth year. A special thanks to our past membership chair Samantha Shepherd. I hope you all remain active in NAELA and MONAELA sponsored events. There are ongoing changes in the law and regulations that impact the way we can help our clients and major changes are anticipated in the near future. There is no better way to be on the cutting edge and be informed of new strategies, than to be a member of MONAELA. We have and continue to live up to our Mission Statement:

**"To be the foremost organization of lawyers recognized as experts and committed advocates for the elderly and disabled in Missouri"**

Following are a few of our present initiatives. I ask each of you to support these activities in any way possible.

1. Fundamentals in Elder Law—December 9–10, 2011. This educational project offers attorneys and their support staff an opportunity to get a basic but thorough overview of what the practice of elder law is all about. Many thanks to Dianne Hansen, Mike Weeks and Reg Turnbull who have organized this huge undertaking. The brochures should be disseminated by the time you are reading this. Please attend and enroll one or more of your support staff. Please also spread the word to other attorneys you know. *(Ed. NOTE: Brochure is attached to this newsletter.)*

2. Elder Law Mediation and Collaborative Law Training. Martha Brown, Stephen Stark and yours truly are serving on a newly formed committee to bring this additional training to our membership. There will be two levels of training. We hope to have details on cost and locations for the basic training sometime in December. More information on the advanced training will be announced early next year. Several members who attended our semi-annual membership meeting in August expressed an interest in receiving this training, so we are moving forward as rapidly as possible. If you have an interest in being trained, please email me, Martha or Stephen and we will be sure you are included.

3. Membership Meeting—January 27, 2012. Mark your calendars! Topics for the educational portion of the program will be (1) business succession planning by Brian Quinn; and (2) the role of Trust Protectors in estate planning by Craig Reaves.

4. First Student Chapter in Missouri. Students at St. Louis University School of Law have submitted a New Student Chapter Formation Agreement to be authorized by NAELA to proceed with the development of the first law student chapter in the state of Missouri. A special thanks to

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Professor Barbara Gilchrist who has supported this group's effort to join our ranks. The MONAELA board of directors has approved a resolution waiving Chapter fees for any law school student who joins NAELA. Students will pay reduced national dues of \$30 and the regular membership fee for the semi-annual membership meetings. The board of directors also authorized four scholarships which waive the registration fee for the December Fundamentals in Elder Law program in St. Charles. All law school students are invited to apply for the scholarship.

MONAELA is fortunate to have many members who are well educated in many facets of elder law and very devoted to our group. Our members are always willing to share their expertise with fellow members. I encourage you to be as involved as time permits. There are plenty of opportunities for you to contribute to the success of MONAELA.

I look forward to serving as your President. I welcome any suggestions or comments. Hope to see you at the next NAELA or MONAELA event!

Dan Reuter

MONAELA President, 2011-2012

## 2012 SENIOR AWARD

The Missouri Chapter – National Academy of Elder Law Attorneys will recognize a “senior” for contributions of public service. The public service can be for involvement on a community level, statewide or a national effort.

The deadline for nominations is December 15, 2011. The winner will be announced at the January 27, 2012 Chapter meeting. The Senior Award Recipient will be honored at the luncheon during the August Missouri Chapter-NAELA meeting.

Criteria for nominations for the Senior Award include:

1. The candidate must have made a significant contribution to society and/or the senior citizen group as a whole in the form of sustained exemplary service, an outstanding single achievement or public service.
2. The candidate must be a “senior citizen,” i.e. 65 years or older at the time of his or her contribution.
3. The candidate must have demonstrated his or her commitment to serving the community and/or society.
4. The candidate must have made a contribution that in turn encourages other seniors to make a meaningful contribution to society.

Nominations can be forwarded to Scott King, Public Relations Chair, at [scott@scottelderlaw.com](mailto:scott@scottelderlaw.com), 816-878-6050 (fax), or 4200 Little Blue Parkway, Suite 680, Independence, MO 64057.

## IN MEMORIAM

Former member Colleen Nunnely recently died during hospice. The MONAELA Board will make a contribution in her honor either to a MONAELA scholarship fund or to The Greater Lovely Land Trust, Center Lovely, Maine, where Colleen spent each summer.

We also extend our sympathy to member Bill Hubbard, whose father recently died.

## CONGRATULATIONS

Congratulations to President-elect Mike Weeks of St. Charles, Missouri, who recently became a Certified Elder Law Attorney.

Another of our members also joined the ranks of CELAs not too long ago — Mavis Kennedy. Congratulations, Mavis!

## REMEMBER:

Fundamentals in Elder Law  
December 9–10, 2011.  
The brochure is attached.

## TIPS FROM THE MONAELA CLE PROGRAM AT THE 2011 MISSOURI BAR/JUDICIAL CONFERENCE, SEPTEMBER 21–23, 2011

William L. Hubbard moderated, and Samantha L. Shepherd and Reginald H. Turnbull presented a continuing legal education program entitled:

### *What Estate Planners Need To Know & Consider For Long-Term Care Planning— Private, MoHealthNet, and VA Benefits*

Here are some of the “Take-Aways:”

1. Antenuptial agreements do not work in the medicaid context. You can't fully shield the well and wealthier spouse's assets. In addition, Missouri statute (§§451.250.2 & 451.260, RSMo) imposes the duty of paying for necessities. However, you can put in a pre- or post-nuptial agreement the requirement to use frail spouse's assets first for medical care. Also, for married clients: have separate bank accounts to receive the income of the respective spouses, i.e., one for him, one for her. Put the well spouse's name on BOTH but DO NOT put the frail spouse's name on the well-spouse's account. Prepare, or be prepared to change documents: to bypass the frail spouse as fiduciary, to bypass the frail spouse as beneficiary (except through will), unless you do not expect to apply for needs-based benefits.
2. Important: take the institutional spouse's name off of everything except one bank account, to receive/disburse IS's income.
3. Relevant (current) numbers:  
Community spouse resource allowance—Minimum of \$21,912; Maximum of \$109,560  
Monthly maintenance needs allowance—\$1,839/mo. minimum, \$2,739/mo. max.  
Community spouse is entitled to an excess of \$552/month for shelter expenses,  
utility allowance of \$262/month.
4. Claim against the recipient's estate: Probate Code, § 473.398, RSMo but claims filed by the division are 7<sup>th</sup> priority, § 473.397, RSMo.
5. VA Pension “Aid & Attendance” numbers\*:  
Single Veteran, \$1,644/mo., \$19,736/yr.;  
Married Veteran, \$1,949/mo., \$23,396/yr.;  
Widowed Spouse, \$1,056/mo., \$12,681/yr.;  
\$90 Personal Spending Allowance for Veteran (if also on MoHealthNet in Nursing Home).  
*\*current figures may have been increased*
6. Financial Powers of Attorney: Focus on fiduciary choices; should not be springing; include trustee/agent resignation instructions; include specific powers in financial POA, found in §404.710.6 and have them especially initialed; give financial Agent/Attorney-in-Fact the power to divest to spouse.
7. Meet with client separately; remember “Period of Lucidity” rule; beware of coupling benefits with products as encouraged by some salespersons.
8. Require trustee and financial agent to fund whatever health care agent authorizes.
9. Figure out early “Who Is Client?”; Remind clients of overhead, i.e., exempt property will have ongoing expenses; encourage families to consider extras.

## WEBSITES

Did you know that MO NAELA has two (2) websites? They contain the same information but having two sites with different extensions (.com and .org) will assist the public in finding us. The sites are improving rapidly because of the efforts of Samantha Shepherd. You can take a look at them: <http://www.monaela.com> or <http://www.monaela.org>

Be sure to attend the January meeting of the Chapter where our website, as well as the national NAELA website will be described and explained. Someone will do a step by step walk through of how to save/upload shared files, an ability we haven't had before and through which we can share cases, administrative decisions and more.

While you are at it, why not visit the MONAELA community on the national NAELA site, where you can set up your profile for other Missouri members to review.

To access it:

1. Log onto **NAELA's** website: [www.NAELA.org](http://www.NAELA.org)
  - a. Your user name is the email address you have on file with NAELA
  - b. Your password, unless you have changed it, is: naela2010 (no caps; no spaces)
  - c. Click **COMMUNITIES** (upper right hand side of the menu bar after you have logged in). This will take you to the communities home page
2. Select **GROUPS** from the menu bar
  - a. Select **MY GROUPS** from the drop-down menu
  - b. This will bring up all the communities to which you belong.
3. Select **MISSOURI CHAPTER**. This will take you to the main screen for the Missouri Chapter community.

Spend a little time navigating around the site by clicking on the options on the left-side menu. This will give you an idea of the types of things you are able to do with the web site. Also, as you can see, on the first page below the Missouri Chapter logo, it states "If you would like to go directly to the Missouri Chapter web site please click here <http://monaela.org>"

**REMEMBER: Fundamentals in Elder Law – December 9–10, 2011.**  
**The brochure is attached.**

# Missouri Elder Law Fundamentals Institute

*Including Special Tracks for Paralegals/Legal Assistants*

**Please Join us**

**Friday, December 9th and  
Saturday (1/2 day), December 10th 2011**

Bogey Hills Country Club, 1120 Country Club Rd, St. Charles, MO 63303

*Sponsored by Missouri Chapter of the National Academy of Elder Law Attorneys.*

What makes "Elder Law" practice different? During the Fundamentals Institute, lawyers new to elder law will learn (and experienced practitioners will refresh themselves with) the minimum knowledge fundamentals which set apart the practice of Elder Law from other practice areas.

Paralegals, legal assistants, and legal secretaries may attend some of the lawyer sessions and they will have three separate tracks on completing the MO HealthNet application, the Assessment of Assets for a married couple including intake forms and document assembly programs for each, and the administrative guardianship/conservatorship process to guide the client-guardian/conservator and assist the attorney through these ministerial tasks.

Several of MO-NAELA's best and brightest (all but one certified CELA's) attorneys\* will present core competencies in the following areas: public benefits for adults; planning for single clients going into nursing homes; planning for married couples with one spouse going into nursing home; client capacity for executing documents and/or capacity/ability to take care of self and property; decision making and guardianship/conservatorships; how to approach estate planning holistically especially if client frailty noted; 1st-party and 3rd-party Special Needs Trusts; coordination with Veterans Benefits, and miscellaneous hot topics such as use of irrevocable trusts, annuities, estate recovery, and post-eligibility asset receipts, gifts, and sales as well as an hour of Ethics.

Forms, checklists, and practice tips will be emphasized to immerse the attendees in the practical subject area and take home Missouri "how-to" knowledge. Participants will have time to discuss the application of what was learned during the event and receive handouts of a list of known practice resources in addition to the speakers' materials.

This program offers a fundamental overview for new practicing attendees to the field (while experienced lawyers will be refreshed) of skills to meet the legal advocacy, guidance, and document demands of clients' typical elder law goals as they age or have special needs. Examples of forms, checklists, and client handouts will be provided.

\*The CELA designation means "Certified as an elder law attorney by the National Elder Law Foundation, Inc. Neither the Missouri Supreme Court nor The Missouri Bar reviews or approves certifying organizations or specialist designations. 8.10.2011

## FUNDAMENTALS OF ELDER LAW FOR ATTORNEYS & PARALEGAL/LEGAL ASSISTANTS FRIDAY, DECEMBER 9, 2011

FRIDAY TIME	TOPIC	FACILITATOR	SPEAKER
8:15 to 8:30 am	Welcome, Announcements	Dianne Hansen Reg Turnbull	N/A
8:30 to 9:40 am	ALL - Overview of Public Benefits other than Vendor MO HealthNet & Veterans Benefits—with emphasis onSSI, Social Security, HUD	Diane Hansen	Craig Reaves, CELA
9:40 to 9:55 am	BREAK	N/A	N/A
9:55 to 11 am	ALL—Overview Vendor MO HealthNet for Single Person-- regional eligibility determination, difference between vendor & non-vendor, exempt transfers, fair hearings, supplemental care grant, HCB waivers	Reg Turnbull	Julie Berkowitz, CELA
11 am to 12:05 pm	ALL—Overview Vendor MO HealthNet for Married Couple—regional eligibility determination, division of assets, stay married v. divorce, ante nuptial agreements, mechanics of surplus & allotments for spouse and minor children, increasing CSRA, HCB Waivers	Dianne Hansen	Mike Weeks, CELA
12:05 to 1:05 pm	Networking Lunch—provided		
1:05 to 2:05 pm	BREAKOUT ATTORNEYS - Aging & Capacity Issues for Clients of the Elder Law Practitioner—period of lucidity (incapacity to execute documents v. capacity to take care of self or ability to manage property), impulse control & judgment, eccentricity v. incapacity, susceptibility to influence, functional focus v. diagnosis	Reg Turnbull	Martin Zehr, J. D., Ph.D.
1:05 to 2:05 pm	BREAKOUT PARALEGALS/LEGAL ASSISTANTS - Completing the MO HealthNet Application(M-1MA)—who signs, authorization of representative, checklist of information needed, verifying income and assets, responses from FSD approving or denying functional	TBD	Tracy Looney, Legal Asst., Zerrer Elder Law Office, LLC, Springfield
2:05 to 3:05 pm	BREAKOUT ATTORNEYS - Estate Planning When Decline Likely—holistic planning approach to facilitate property management and succession pending probable incapacity and certain death to avoid burdening families, incurring costs/expenses of probate, minimizing tax consequences, ways to pay for LTC other than MO HealthNet (LTC insurance, reverse mortgages, insurance options, savings, income.	Dianne Hansen	William Hubbard, CELA
2:05 to 3:05 pm	BREAKOUT PARALEGALS/LEGAL ASSISTANTS - Completing MO HealthNet Assessment of ASSETS FORM—who signs, checklist of information needed, responses from FSD including notices of allotments for spouse and/or minor children	TBD	Theresa Throgmorton, Legal Asst., Elder Law Firm of Beck & Weeks, St. Charles
3:05 to 3:20 pm	BREAK N/A N/A		
3:20 to 4:05 pm	BREAKOUT ATTORNEYS - "Self-Appointed and Court-Appointed Decision makers for the Person Who is Incapacitated or Disabled"— Durable power of attorney for health care & finances, lack of Family consent/surrogacy decision-making law, last resorts of Guardianship/Conservator-ship actions, how representing respondent & petitioners different, UAGPPJA, coordination with other fiduciaries—trustees, agents, etc.	Reg Turnbull	Mavis Kennedy, CELA
3:20 to 4:05 pm	BREAKOUT PARALEGALS/LEGAL ASSISTANTS - Information necessary for guardianships/Conservatorships—notice to client of administrative processes—annual reports, annual settlements (unless waived), inventory, need for information upfront rather than when due to have to reconstruct	TBD	Terry Truss, Legal Asst., and Virginia Rice, Esq., Law Offices of Virginia Rice, St. Louis
4:05 to 5:30 pm	ALL - 1st & 3rd Party Special Needs Trusts-- liens, & claims, who is client, parental obligation of support while minor, family caretaker, owning a residence, payback, Midwest Special Needs Trust alternative, choice of fiduciary, trust protectors, care managers, letter of intent	Dianne Hansen	Martha Brown, CELA
5:30 pm	Adjourn—On own for evening (May be reception at Hotel) List of Restaurants to be available		

**For More Information Please call Ann Bickel at 573-634-7772**

## FUNDAMENTALS OF ELDER LAW FOR ATTORNEYS & PARALEGAL/LEGAL ASSISTANTS SATURDAY, DECEMBER 10, 2011

SATURDAY TIME	TOPIC	FACILITATOR	SPEAKER
7:30 to 8:15 am	Buffet Breakfast N/A N/A		
8:15 to 9:15 am	ALL - Sophisticated Planning—Half-a-Loaf, Irrevocable Trusts, Annuities, Divestment and pay through penalty or lookback periods, other techniques	Reg Turnbull	Wes Coulson, CELA
9:15 to 10:15 am	ALL - Veterans Benefits: the Interplay with MO HealthNet and More, including state-operated Veteran's Homes	Dianne Hansen	Mary McCormick, CELA
10:15 to 10:30 am	A. M. BREAK	N/A	N/A
10:30 to 11:30 am	ALL - Ethics of Elder Law Practice—Signing applications or not, reporting assets, reporting post-eligibility items, who is client, and other ethical issues	Reg Turnbull	Christine Gilsinan, CELA
11:30 am to Noon	ALL - Wrap Up with a practice tip or 2 from each session and list of resources for practitioners	Dianne Hansen Reg Turnbull	Dianne Hansen Reg Turnbull

### Rates for Event to include Breaks, Buffet Lunch, Friday Reception, Saturday Buffet Breakfast:

	Register Before 11/15	Register After 11/15
<b>MO NAELA Member</b>	<b>\$295.00</b>	<b>\$350</b>
<b>Non MO NAELA Member</b> <small>\$80.00 discount offered on rates for second or more attorneys from same firm (e.g. \$215 and \$270, if from same firm for MO NAELA Members or \$265 and \$315, if non MO NAELA members).</small>	<b>\$345.00</b>	<b>\$395</b>
	<b>Register Before 11/15</b>	<b>Register After 11/15</b>
<b>Paralegal or Legal Assistant with attorney</b> <small>Registration only permitted if with attorney from same firm</small>	<b>\$195.00</b>	<b>\$245.00</b>
<b>Second or more paralegals or legal assistants from same firm:</b>	<b>\$115.00</b>	<b>\$165.00</b>
<b>Law Students (Must be enrolled in Accredited Law School)</b>	<b>\$100.00</b>	<b>\$110.00</b>

This program has been approved for 13.2 hours of CLE credit and 1.2 hours of ethics credit by the MO Bar.

*Bogey Hills Country Club  
1120 Country Club Road  
St. Charles, MO 63303*

**See Reverse for Registration Information**

*Hotel Accomodations:*

**Country Inn & Suites**

1190 South Main St., St. Charles, MO 63301

**636-724-5555**

Special Room Rates at Country Inn & Suites: \$84.00 per night.

Ask for "Elder Law Firm Rates" when making reservations.

Hotel Website: <http://www.countryinns.com/saint-charles-hotel-mo-63301/>

This hotel is in downtown historic St. Charles, resplendent with Christmas decorations.

For More Information and to Register, Please contact

**Ann Bickel, Staff Assistant**

Missouri Chapter - NAELA

**Phone: 573-634-7772 • Fax: 573-634-4374**

[ann@homecaremissouri.org](mailto:ann@homecaremissouri.org)

To Register for event, Fill out the form below and send in with payment.

Make check payable to: **MO-NAELA**

Mail to: **2420 Hyde Park Road, Suite A, Jefferson City, MO 65109**

Name (as you want it on your nametag): \_\_\_\_\_

Firm: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Special Meal Requirements: \_\_\_\_\_