

T H E

# *Elder* Law

J O U R N A L

VOLUME 6      NUMBER 1      1998

ARTICLES

Age Discrimination in Employment and the Americans with Disabilities Act: "A Second Bite at the Apple"

*Constance Kleiner Hood*

Recent Changes in Medicare Managed Care: A Step Backwards for Consumers?

*Karen Visocan*

NOTES

Revamping the Phantom Protections for the Vulnerable Elderly: Section 3A1.1(b), New Hope for Old Victims

*Trent M. Murch*

Promises Made, Promises Broken: Securing Defined Benefit Pension Plan Income in the Wake of Employer Bankruptcy: Should We Rethink Priority Status for the Pension Benefit Guaranty Corporation?

*Jill L. Uylaki*

The Face of Social Security in the Twenty-First Century: An Analysis of the Reform Proposals Offered by the Social Security Advisory Council

*Rebecca E. Perrine Wade*

ESSAYS

Elder Law Journal Lecture: Seniors and Minorities in America

*Paul Simon*

Patient Dumping: Implications for the Elderly

*George P. Smith, II*

T H E

# *Elder* Law

J O U R N A L

VOLUME 6 NUMBER 1 1998

## **Board of Editors**

*Editor-in-Chief*

CYNTHIA JEAN ROBERTSON

*Managing Editor*

DENISE ROSE KAPLAN

*Administrative Editors*

KEN B. BARRETT

JOHN M. BRODERICK

*Articles Editors*

RANDY ELIZABETH BRENNER

REBECCA E. PERRINE WADE

*Business Manager*

BRIAN C. KMETZ

*Notes & Comments Editors*

MELISSA MLYNSKI

USHA SADAGOPAN

JILL L. UYLAKI

JEFFREY L. HEDGES

**Associate Editors**

SARA J. KAUFMAN

SCOTT D. MCKINNEY

## **Members**

MARK S. BISHOP

HUGH F. DRAKE

WALTER LEE DRANEY

MARGARET GEMBALA

ERIKA GOSKER

GRANT R. GULOVSEN

DOUGLAS D. GUTSELL

MICHAEL HAZY

ERIKA HOFFMANN

PETER HOLAVES

MICHAEL JURMU

AMY C. KOVARIK

GARTH F. LEWIS

TRACY W. LO

JASON T. LUNDY

BYUNG J. PAK

REGAN E. SAVALLA

AUGUST H. SCHUPP

JODY HELEN SCHWARZ

STEVEN STENNETT

ALISON S. TALBERT

JAMIE WELTON

*Faculty Advisor*

RICHARD L. KAPLAN

*Technical Editor*

BETH A. COBB

*Secretary*

BRENDA L. ANKENBRAND

*Member, National Conference of Law Reviews*  
© 1998 The Board of Trustees of the University of Illinois

---

The views expressed herein are to be attributed to their authors and not to this publication, the Board of Trustees of the University of Illinois, or the University of Illinois College of Law. The materials appearing in this publication are for information purposes only and should not be considered legal advice or be used as such. For a special legal opinion, readers must confer with their own legal counsel.

Except as otherwise provided, *The Elder Law Journal* grants permission for material in this publication to be copied for use by nonprofit educational institutions for scholarly or instructional purposes only, provided that 1) copies are distributed at or below cost, 2) the author and the *Journal* are identified, and 3) proper notice of the copyright appears on each copy. If the author has retained the copyright, permission to copy must be obtained directly from the author.

---

*The Elder Law Journal* (ISSN 1070-1478) is published twice annually for \$25 per volume by the University of Illinois at Urbana-Champaign, College of Law, 504 East Pennsylvania Avenue, Champaign, IL 61820. Single issues are available for \$15 per copy. Orders for new subscriptions, renewal of subscriptions, and single issues must be accompanied by payment.

---

POSTMASTER: Send address changes to *The Elder Law Journal*, 244 Law Building, 504 East Pennsylvania Avenue, Champaign, IL 61820.

*The Elder Law Journal* welcomes the submission of articles. Manuscripts should conform to *The Bluebook* (16th ed.) for citations and to the University of Chicago *Manual of Style* (13th ed.). Submissions should be addressed to: Articles Editors, *The Elder Law Journal*, University of Illinois College of Law, 504 E. Pennsylvania Avenue, Champaign, IL 61820. Unsolicited manuscripts cannot be returned unless a return envelope with sufficient postage accompanies the submission.

# Contents

## ARTICLES

Age Discrimination in Employment and the Americans  
with Disabilities Act: “A Second Bite at the Apple”  
*Constance Kleiner Hood* ..... 1

Recent Changes in Medicare Managed Care: A Step  
Backwards for Consumers?  
*Karen Visocan* ..... 31

## NOTES

Revamping the Phantom Protections for the Vulnerable  
Elderly: Section 3A1.1(b), New Hope for Old Victims  
*Trent M. Murch* ..... 49

Promises Made, Promises Broken: Securing Defined  
Benefit Pension Plan Income in the Wake of Employer  
Bankruptcy: Should We Rethink Priority Status for the  
Pension Benefit Guaranty Corporation?  
*Jill L. Uylaki* ..... 77

The Face of Social Security in the Twenty-First Century:  
An Analysis of the Reform Proposals Offered by the Social  
Security Advisory Council  
*Rebecca E. Perrine Wade* ..... 115

ESSAYS

Elder Law Journal Lecture: Seniors and Minorities in  
America

*Paul Simon* ..... **153**

Patient Dumping: Implications for the Elderly

*George P. Smith, II* ..... **165**