



Courtney Elder Law Associates

Elder Law • Special Needs Planning • Estate Planning

FRASCOGNA COURTNEY, PLLC

4400 Old Canton Road, Suite 220, Jackson, MS 39211

Tel: 601-987-3000 • Fax-601-987-3001



Financial Abuse of Elderly On the Rise

“Last week I received a frantic call from a client’s daughter. ‘I was checking dad’s bank account online and there is \$60,000 missing, what can I do?’ ” This was how Danielle Cefalu of the Hurley Elder Care Law Firm in Atlanta, Georgia began a recent post. After some investigation, she said, they found out that dad was the victim of an elder scam. Dad had received a letter telling him he had won over \$1 million dollars in the Jamaican Lottery and that he would receive it after he prepaid the taxes on the money to the tune of . . . you guessed it \$60,000! “Money our client will probably never see again,” said Danielle. Unfortunately, that \$60,000 is just part of the over \$2.9 billion dollars in elder financial abuse which occurs every year – a 12% increase in 2010 from 2008 levels.

Who are the victims? According to a recent MetLife Study, family, friends and neighbors were the perpetrators in 45% of the cases. Elderly women, especially those in the 80-89-age range, were nearly twice as likely as men to fall victim to financial exploitation or abuse. The typical victim is visible to the potential perpetrator in the community through activities at banks, grocery stores, churches or driving around town, and is currently exhibiting some noticeable signs of mild to severe cognitive and physical impairment. In almost all cases the victim exhibits a tenuous combination of valued independence and observable vulnerability that optimizes the opportunity for abuse by every type of perpetrator, from the closest family members to professional criminals. Nearly 60% of perpetrators were men age 30 – 59.

Elder abuse crimes fall into three categories: crimes of occasion, crimes of desperation and crimes of predation. **Crimes of occasion** occur because the victim is merely in the way of what the perpetrator wants. The elder has money, assets, and the like, and the occasion presents itself for the perpetrator to avail himself of the resource. An example of this crime was where a woman was electrocuted with a stun gun and robbed after allowing someone into her home whom she thought was the pharmacist delivering medications for her ailing husband. The occasion was the open door and a person she thought was one she could trust.

Crimes of desperation are typically those in which family members or friends become so desperate for money that they will do whatever it takes to get it. Many of these family members are dependent on the elder parent for housing and/or money. Often drug or alcohol abuse is present. The exploiting family member/friend justifies his actions by stating that they are providing “care” in exchange for taking the elder person’s money/possessions. The “care” provided usually results in emotional control, threats or even neglect of care over a period of months or years. One horrible example of this is a son who extorted money from his dying adoptive mother by threatening to burn down her house and throw her dog against the wall.

Finally, **crimes of predation** occur when someone specifically builds a relationship with the intent of committing financial abuse. The taking of the assets is by working his/her way into the trust and life of the elder only to take it all and leave the elder penniless and without a relationship that was important to his/her life. This type of abuse happens when caregivers, handymen, housekeepers, financial advisors or others in places of trust and opportunity seize on trusting seniors' loneliness and depression.

Several years ago we met with an older lady and her daughter about the mother's rapidly decreasing financial assets and her expected future need for more expensive long-term care. Her granddaughter had, for some years, abusively exploited her grandmother's affection to drain her finances by tens of thousands of dollars. The older woman, in discussion with me, admitted that she needed to quit giving away her funds and keep those resources for her own care needs, but she was unable to resist demands and threats by her granddaughter. The solution she agreed to was an irrevocable trust that would hold her assets and pay for her care, with her trust-worthy daughter as trustee and appropriate oversight mechanisms in the trust. From that time on, the granddaughter was unable to get money from her grandmother, the older lady's needs were met, and a financial disaster was avoided.

Unfortunately, financial elder abuse is on the rise and many of our loved ones will fall victim to some predator's scheme to take their assets. Social isolation and mental impairment (such as dementia or Alzheimer's disease) are two factors that make an older person more vulnerable to abuse. The best thing that elders can do is to ask questions and be wary of anyone asking for money, and get objective advice from other reliable sources as to whether the offer is a good one. As the loved one of an elder, stay involved in his/her life, don't be afraid to talk about financial matters and help the elder protect himself/herself from predators.

For solutions to exploitation problems or information about how to pursue legal rights under the Vulnerable Adults Act in Mississippi, contact Courtney Elder Law Associates today.