



Enhancing Judicial Skills in Abuse in Later Life Cases

BENCH PRESS

A periodical for judges presiding over cases involving abuse in later life/elder abuse



The Money Issue by Jennifer L. White, Esq.

In 2024, the University of Michigan National Poll on Healthy Aging included a national sample of adults age 50 and older and asked them to rate their level of concern about 26 issues. The findings? The top three issues of concern were cost of medical care (56%), cost of home care, assisted living, or nursing home care (56%), and cost of prescription medications (54%).

Next were financial scams and fraud (53%), cost of health insurance/Medicare (52%), and cost of dental care (45%).

Yes, older adults fear isolation, crime, and a variety of other challenges, but their most compelling fears are related to financial security and the cost of daily living. These fears are likely to increase as possible cuts to services and the social safety net are volleyed and debated over the next several months. In addition to fears of economic insufficiency, older adults have real reason to fear theft and fraud. Whether an older adult has ample resources or is counting pennies, financial exploitation is a major threat, is often unreported, and typically co-occurs with other forms of abuse. Cost estimates of financial exploitation of older adults range anywhere from \$2.9 billion to \$273.5 billion (AARP, *The Scope of Elder Financial Exploitation: What It Costs Victims*). If you see financial exploitation in court, the older victim is likely subjected to other forms of harm as well. This issue we will discuss financial exploitation and elder abuse, what it has to do with state court judges and judicial officers, and what you can do about it.

UPCOMING EVENTS



Judicial Institute

May 11-14, 2025

Valencia, CA

Contact Jenny at jtalancon@ncjfcj.org today!



Seminar on Guardianships and Elder Abuse for Judges and Judicial Officers

September 9-10, 2025

Washington, DC

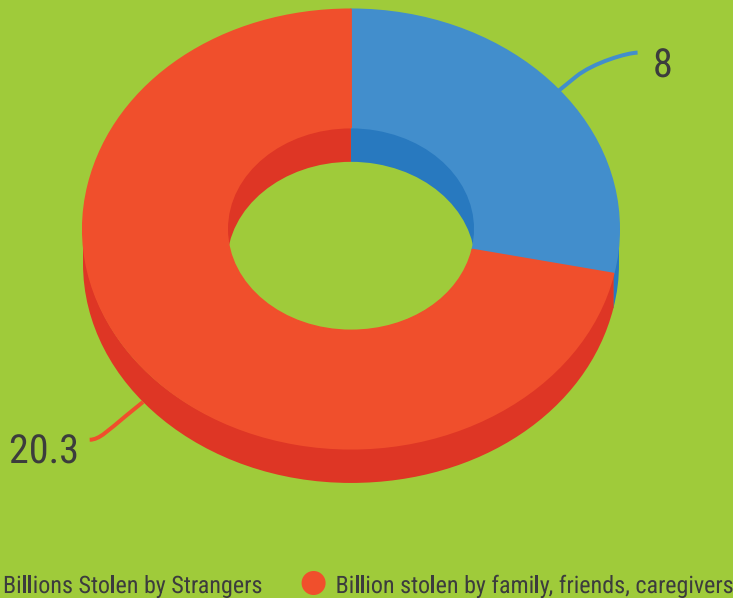
Contact Jenny at jtalancon@ncjfcj.org today!



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Financial Exploitation of Older Adults



In 2023, AARP's BankSafe Initiative published *The Scope of Elder Financial Exploitation: What It Costs Victims* to illustrate the true scope of financial exploitation of older adults. The report indicates that of the \$28.3 billion that 60+ individuals lost in one year, the overwhelming majority of financial theft came from people with whom the older adult had an expectation of trust.

Learning Circle

Undue Influence

Undue influence (UI) is the substitution of one person's will for the true desires of another. It involves fraud, duress, threats or other deceits. Though financial exploitation can occur without undue influence, undue influence is one tool that is used to steal from older adults and involves the influencer completely replacing the older adults best interests with their own. Though anyone can experience undue influence, diminished capacity increases susceptibility to it. Quinn, et. al. describe the elements of undue influence as:

- A confidential or fiduciary relationship between influencer and victim,
- The opportunity to exert UI and use of the **relationship** by the influencer in an attempt to control the weaker parties affairs, and
- A change of disposition that is unconscionable, unnatural, and unduly benefitting the influencer which may be counter to long standing patterns of behavior.

Stay tuned for an upcoming webinar on one family's experience with undue influence and the court process.



Cases of financial exploitation that include undue influence can be especially inscrutable for judges because the victim may deny the exploitation, disbelieve the evidence, protect the harm doer, and decline to participate in the legal process. With undue influence, the relationship is the key. The older person's desire to preserve the relationship, and/ or their reliance on it, increases their susceptibility to financial exploitation.

When Guardian/Conservators Commit Crimes

Spotlight

On the Bench
by Hon. Janice Martin
(Ret.)



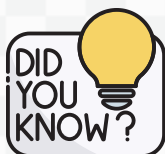
When courts appoint guardians/conservators over older adults, it is generally to support them in their daily life and/or to protect their financial health. Sometimes these helpers are appointed because an older adult with some diminishment in capacity has been subjected to exploitation, violence and abuse. Sometimes, however, it is the trusted fiduciary himself who is causing the harm. One important tool for judges' oversight in these matters is to conduct review hearings of guardian/conservators. Some items to examine:

- ✓ Is the annual report timely filed, accurate, and complete?
- ✓ Is the financial report timely filed, appropriate, and complete?
- ✓ Is there 3rd party, independent verification of the information on the annual report, as it relates to the individual's condition, status, and living arrangements?
- ✓ Are all expenditures related to the specific needs of the individual and solely for their benefit?
- ✓ Are all financial transactions supported by documentation?
- ✓ Are the expenses reasonable and appropriate for the services provided?
- ✓ Are Guardianship assets held in a Guardianship account, avoiding comingling of assets?
- ✓ Are assets/ property being protected? Properly insured, invested?
- ✓ Has the guardian hired additional professionals (accountants, for e.g.) and are they necessary?
- ✓ Is the Guardian making unnecessary purchases?
- ✓ Is the Guardian dependent on the individual; are the roles reversed? Is the individual providing care and support for the Guardian, instead of the opposite?
- ✓ How does the individual feel about the guardian and his/her services?

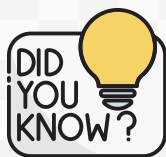
Technology & the Financial Exploitation of Older Adults by Kennedy Brooks

Financial abuse of older adults is a global concern and many professionals in the justice system, social services, and in healthcare struggle to assess financial decision-making capacity in older adults. The complexity highlights the urgent need for improved resources and standardized assessment tools that can be easily administered across different fields. Current methods for identifying financial exploitation of older adults often rely on subjective judgments which can lead to inconsistencies in how cases are addressed and resolved. This inconsistency not only affects outcomes for victims but also undermines trust in the systems designed to protect them. Many older adults are unaware of the resources available to them or may feel uncomfortable reporting financial exploitation due to stigma or fear of retaliation. Comprehensive educational programs that empower older adults and their families to recognize the signs of financial abuse are essential. By creating a supportive environment where open discussions about financial matters are encouraged, communities can foster a culture of vigilance that helps prevent exploitation.

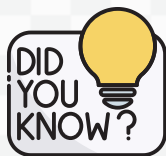
The omnipresence of technology contributes to the risk of financial exploitation, but can also serve as a powerful tool for prevention and intervention. Digital safeguards, such as AI-driven software designed to track spending patterns, block robocalls, and filter phishing emails, can help mitigate risks (Greene, 2022). Tech tools such as EverSafe and LifeLock can detect suspicious activity – like missing deposits, unusual withdrawals or abrupt changes in spending patterns – and notify older adults or their trusted advocate. Moreover, technology can empower older adults by providing educational resources and screening tools that enable them to recognize and report abuse. For instance, projects like Yale’s VOICES (Virtual Coaching in Making Informed Choices on Elder Mistreatment Self-Disclosure) illustrate how technology can facilitate awareness among older adults, helping them identify various forms of abuse and encouraging them to take action when necessary (Locklear, 2022). As technology continues to evolve, it is crucial to leverage its capabilities to monitor suspicious activities and protect older adults effectively. By integrating technology into protective strategies, we can create a more responsive system that prioritizes the safety and well-being of older adults.



To combat financial exploitation, it is vital to develop educational initiatives that cater to older adults. Programs should focus on enhancing financial literacy, emphasizing how to recognize scams, understand digital security, and making informed financial decisions. FUTURES has a new program, *STAGES Pathways*, which partners with community based orgs that offer such education specifically for older adults.



Fostering collaboration among various professions, enhancing training programs, and investing in the development of standardized assessment tools are essential in combating financial exploitation. A proactive approach that engages multiple stakeholders—from law enforcement to healthcare providers—are key to ensuring that older adults receive the protection they need.



Judges can play a key role in stimulating multi-disciplinary collaborations that can improve court processes and community support and ultimately prevent crimes from occurring. As long as individual cases are not discussed, judges generally are "encouraged to engage" in appropriate extra-judicial activities. (ABA, Model Code of Judicial Conduct)