



InSight

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Protecting Our Seniors

Elder financial abuse is rampant in this country. That a sitting Alameda County Superior Court Judge, Paul David Seeman, was charged this summer with stealing the assets of an elderly neighbor underlines the problem. If a judge is not able to act appropriately in handling the financial affairs of an elderly person, then how can average citizens be expected to behave well?

Both of my parents were victims of elder financial abuse. My father was conned by an attorney who created a trust for him, made himself my father's executor and successor trustee, created an apparently bogus charity with himself as chair of the board, and directed all my father's assets to this supposed charity. We were able to recover a fraction of my father's estate through the courts. After this person did something similar with another family and questions were raised about whether any of the funds have been used for charitable purposes, he is under investigation by the California attorney general.

My mother was victimized by a family member living with her who gained access to her credit cards and electronic access to her bank account. Suffering from a shopping/hoarding/spending disorder, this individual used her funds to buy costly items and travel the world at my mother's expense while her home, her health and her assets deteriorated. We won a lawsuit to bar the abuser from our mother's affairs, just in time to arrange overdue heart surgery for our mom and secure her finances for her needs. She is now living safely and happily with my sister, and her funds are used to provide her with the very best care available. This outcome took two years in court and huge legal costs to accomplish, and we are still sorting out the mess the abuser made.

These are just a couple of the kinds of scams and behaviors through which elders are being victimized. But there are seemingly endless varieties of elder financial abuse. Many people I know are dealing with this problem in their families. I have a friend whose mom lives on their family's rural land in Vermont. A neighbor got her mom to sign an easement across her property allowing him to run logging trucks right by her house. Her mom had no idea what she was signing, and my friend had to bring an attorney from Chicago, where she lives, to fight the easement.

For everyone like this friend and my family who have the funds to fight the abuse of their parents, there are many families who are not so lucky. I know a wonderful man, a retired firefighter, whose mentally ill sibling moved in with his beloved mother, taps his mother's limited funds for her own use and will not let anyone else in the family see his mother, who suffers from dementia. My friend initially tried to set up a conservatorship to protect his mom, but on learning the costs and time it would take through the court process, being of modest means, he realized sadly that he could not do anything to change the situation.

One of the saddest things is that the financial designs of abusers, if they live with seniors and are responsible for their care, can lead to emotional and physical abuse, isolation of the senior from other family members and friends, even denial of medical treatment. The financial abuser exerts his or her will on the senior through these methods, to gain or keep control of the senior's finances. Ninety-year-old actor Mickey Rooney gave startling

testimony before the U.S. Senate Special Committee on Aging in 2011 about his financial, emotional and physical abuse at the hands of relatives.

Why is this problem occurring so frequently now? The extended lifespans of seniors is part of the cause. People are frequently living into their 80s and 90s. But the aging brain deteriorates, causing diminished capacity, loss of executive function and vulnerability to undue influence by those who have designs on the seniors' assets. And yet many seniors remain in charge of their finances into their 80s and 90s. In essence, some seniors are outliving their mental capacity to manage their affairs, making them easy targets for financial abuse. Yet, tragically, their longer lifespans actually increase their dependence on secure financial assets.

Our society and institutions have not caught up to the widespread prevalence of this problem. Modest legal and financial protections that have been enacted are not very effective. The courts are increasingly seeing elder abuse cases, but the costs of effectively dealing with the problem through the civil court system are prohibitive for the average citizen. Many in our society are not clear about the ethical and legal requirements for handling the affairs of seniors.

These are problems that must be discussed and better solutions must be found. We'll be talking about this more in the coming year, at The Commonwealth Club. 🏠

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