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**ELDER FRAUD**



Within the next four years, there will be 77 million people in the US who are seventy years of age or older. This is the largest number of elders we have ever had in our nation's history, and a group ripe for elder abuse. Where does much of this abuse take place? Arizona, California, Florida, Oregon, or anywhere elderly retire.

According to the AMA, victims of financial destitution have a mortality rate three times higher than their peers. 33% of all reports are for financial abuse. One in 14 instances of physical abuse gets reported, but *only one in 100 of financial abuse* are reported. Why is this? Victims feel:

1. It's a family matter
2. Shame, embarrassment
3. Fear of losing independence
4. Love, trust, dependence on perpetrator
5. Victim is unaware
6. Cases are misdiagnosed as civil only

As an example – There were 94 claims in one day in 2005 totaling \$11,5 million – in ONE day. Approximately \$3.6 billion is lost annually. (These statistics are from the California county Welfare directors Association report "A Day in the Life").

**Role of County Counsel**

The Superior Court Probate Division reminds us that many elderly suffer from dementia or cognitive deficiencies, thus are easy prey. Agencies are working hard to investigate, secure and return property or assets belonging to an elder. In civil cases, where there is a preponderance of evidence, it's easier to prove, but in criminal cases where you must prove beyond a reasonable doubt, prosecution has been difficult.

Perpetrators are often family members or caretakers, someone the victim knows and trusts. In one instance, a grandson took out a loan to supposedly fix up grandma's house. For this transaction, grandma unknowingly signed a Quit Claim Deed.



**WARNING SIGNS**

**Account Dripping** – thief takes small amounts of money (credit cards, bank accounts) over an extended period of time. Loss usually goes undetected.

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**Account Hijacking** – thief, family member or caregiver usurps control of victim’s bank and credit card accounts, pensions and Social Security payments.

As soon as you discover this, go to the bank to check ATM videos & cameras

**Theft Services** – victim’s information is used to steal medical services, social Security Services, and food stamps

**Utility Fraud** – thief uses victim’s personal details to pay for utilities, particularly new cell phones. Unpaid bills

**Loan Fraud** – thief takes out new loans in victim’s name. Many victim’s discover their house has been re-mortgaged, or new home equity loans have been taken out, often by family members.

Check for:

Caregiver or family member withholding portion of checks cashed for an elder

Creation of a New Power of Attorney, Will or Trust

Attempts to borrow money

New Friends

Charging excessive fees for basic care – transportation, food, medicine

Inappropriate purchases – one caregiver used a gas charge card 32 times in one month

Confusion regarding financial affairs

Fraudulent lifelong care offers in exchange for money or property

Using an elder’s property or possessions without permission

ISOLATION

Unfortunately, many children of elderly either work full time or live a great distance away, and either entrust a parent’s welfare to a caregiver or are unaware that a parent’s cognitive function has diminished. Typical Scams include:



**Annuity Sales** – some don’t even start for 5 yrs, with commissions of 6-8%, and hefty annual fees. One woman purchase a \$200,000 annuity which contained a \$12,000 commission and a \$4,000 annual fee.

**Sweepstakes**, lotteries, that use exaggerated claims or scare tactics (deadline is today!)

**Medi-Cal Scams** – person says they will make you eligible for Medi-cal, and will help you shelter your assets.

**Business loans** – the hairdresser, manicurist, landscaper get the elderly to fund a new business

**Roofing & other home** repair – often happens between May – September

**Tree trimmer** next door – we need to come over to show you what we need to do so the limb won’t fall on your house. Meanwhile, partner asks if he can have a drink of water, goes in the house and rips victim off.

**Staged Auto Accident** - particularly if it appears as though the driver would be well insured



#### **FIRST STEPS TO STAY SAFE**

1. Stay in touch. Scammers are less likely to focus on a victim if they know a family member calls frequently and is vigilant. If you know and trust the neighbors, ask them to please keep an eye out.
2. Encourage the person to check with the appropriate family member or their lawyer before signing documents, loaning money or making a significant purchase .
3. Do a criminal background check on any home health care provider.
4. Make sure the person is receiving Social Security benefits, pension payment and health care they're entitled to and that these funds are not being diverted.
5. *Place a credit freeze on their credit reports to prevent any unauthorized credit.* This freeze can be easily lifted if necessary.
6. Check for accounts that are no longer used or needed and close them.



**RESOURCES** – check the web for organizations that can help you

**FAST** – Financial Abuse specialist Team, includes specialists from Adult Protective Services, Public Guardians, the DA's office and County Counsel. They are trying to get Rapid Response to preserve, protect, recover and freeze assets through probate court.

**ELDER FINANCIAL PROTECTION NETWORK** – dedicated to preventing elder financial abuse. Check their website for information and resources

#### **Legislation to watch**

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|--------|--|
| SB308  | 2 year bill to fund FAST teams   |
| AB916  | would increase penalties where losses exceed \$500,000   |
| SB1018 | would require mandatory reporting by banks & credit unions to Adult Protective Services if there is suspected elder abuse. |

Ann Mahony is not a lawyer and cannot offer legal advice. Check with your attorney to determine the best way to proceed in your particular situation.