



WHO CAN YOU TRUST? REPRESENTING SENIOR VICTIMS OF FINANCIAL EXPLOITATION



Leah M. Finlayson, Esquire
Director, Victim services
Philadelphia Office

Brendan Corbalis, Esquire
Assistant Director, Victim services
Bucks County office

SeniorLAW Center 2021 All Rights Reserved

1



SeniorLAW Center now has offices in Philadelphia, Bucks, Chester, Delaware and Montgomery Counties.

Philadelphia Office

1500 JFK Boulevard

Main office: Suite 1501

Victim Services office: Suite 305

Philadelphia, PA 19102

(215) 988-1242 Philadelphia Helpline

(877) 727-7529 (Pennsylvania SeniorLAW Helpline)

Helpline Hours: Monday through Thursday from 10AM to 12PM

Bucks County office

10 Canal Street, Suite 232

Bristol, PA 19007

(610) 910-0210

Chester County Office

780 E. Market Street, Suite 260

West Chester, PA 19382

(610) 910-0215

Delaware County Office

20 S. Olive Street, Suite 300B

Media, PA 19063

(610) 910-0215

Montgomery County Office

401 DeKalb Street, Suite 105

Norristown, PA 19401

(610) 910-0210

SLC County offices only handling Elder Abuse and Financial Exploitation with ancillary issues stemming from abuse.

SeniorLAW Center 2021 All Rights Reserved

2



- o **Largest provider solely devoted to legal services for seniors in Pennsylvania**
- o Independent non-profit organization founded in 1978
- o Serving over 5,000 seniors each year with:
 - o direct individual representation
 - o legal advice, information & referral services
 - o community legal education
 - o professional training
 - o systemic advocacy locally, regionally and nationally
- o Legal staff *and* pro bono panel
- o Focus on those in the greatest economic and social need
- o All services are **free**
- o Celebrating over 41 Years of Providing Services!



www.seniorlawcenter.org

SeniorLAW Center 2021 All Rights Reserved

www.seniorlawcenter.org

3



Pennsylvania SeniorLAW Helpline

215-988-1242 (Philadelphia)

610-910-0210 (Montgomery/Bucks)

610-910-0215 (Delaware/Chester)

1-877-PA SR LAW (other counties)

- Toll-free and statewide (all 67 counties)
- Older Pennsylvanians (60 and older)
- Legal information, advice and referral

Interpretation services in over 150 languages

Services to older victims include:

- Legal Advice and Limited Assistance
 - Information & Referral
 - Training for Professionals
 - Community Outreach
- Community Education Workshops



SeniorLAW Center 2021 All Rights Reserved

4

SLC
SeniorLAW Center
 Protecting the Rights of Older Pennsylvanians

Aging Population in Pennsylvania

- 2.8 million seniors
- 5th largest percentage of seniors in U.S.
- 1 in 4 Pennsylvanians are senior today
- 24.2% of all PA households include 1 or more seniors
- In US, by 2035, there will be 78 million people 65 years and older, compared to 76.4 million under the age of 18.



SeniorLAW Center 2021 All Rights Reserved

5

Types of Elder Abuse And Neglect

Physical Abuse

Psychological Abuse

Sexual Abuse

Financial Exploitation

SeniorLAW Center 2021 All Rights Reserved

6

**For every one case of
elder abuse that
comes to the
attention of a
responsible entity...**

1



SeniorLAW Center 2021 All Rights Reserved

7

What is Financial Exploitation?

Financial exploitation is a type of elder abuse.

It is defined as the fraudulent or otherwise illegal, unauthorized, or improper act or process of an individual, including a caregiver or fiduciary, that uses the resources of an older individual for monetary or personal benefit, profit, or gain, or that results in depriving an older individual of rightful access to, or use of, benefits, resources, belongings, or assets.

Over 7 million older Americans have been the victim of a financial swindle.

Financial exploitation costs Americans over the age of 60 billions of dollars every year.

SeniorLAW Center 2021 All Rights Reserved

8

Types of Financial Exploitation

- Identity Theft
- Unauthorized withdraws from bank accounts
- Abuse of Power of Attorney/Fiduciary Status
- Abuse of Power of Representative Payee
- Credit Card Fraud
- Fraudulent Deed Transfers
- Reverse Mortgage Scams
- Contractor Fraud
- Telemarketer and other Scams
 - a) IRS scam, grandparent scam, computer repair, car sales lottery scams,....more and more sophisticated.



SeniorLAW Center 2021 All Rights Reserved

Romance Scam



SeniorLAW Center 2021 All Rights Reserved

10



SeniorLAW Center

Protecting the Rights of Older Pennsylvanians

National Elder Fraud Hotline

This hotline is a free resource created by the U.S. Department of Justice (DOJ), Office for Victims of Crime for people to report fraud against anyone age 60 or older.

If you or someone you know has been a victim of elder fraud, help is standing by at the National Elder Fraud Hotline.

833-FRAUD-11

or 833-372-8311

Every day, 6:00 a.m.–11:00 p.m. eastern time

English/Español/Other languages available

The Hotline staff also provide resources and referrals to other applicable services as needed. When appropriate, case managers will complete a complaint form with the Federal Bureau of Investigation Internet Crime Complaint Center for Internet-facilitated crimes and submit a consumer complaint to the Federal Trade Commission on behalf of the caller. Reporting certain financial losses due to fraud as soon as possible, and within the first 2–3 days, can increase the likelihood of recovering losses, so the Hotline is open 7 days a week.

***Hotline started March 3, 2020 and by June 2020 had received over 1,800 calls.**

SeniorLAW Center 2020 All Rights Reserved

11

FTC and Consumer Sentinel Network

On **October 22, 2020**, the FTC launched ReportFraud.ftc.gov, a new site for people to report fraud and other illegal business practices. As always, reports from consumers are stored in the Consumer Sentinel Network (Sentinel). Identitytheft.gov is still a resource.

*The **Consumer Sentinel Network** is an investigative cyber tool and complaint database, restricted to law enforcement use, that provides civil and criminal enforcement organizations immediate and secure access to identity theft, internet, telemarketing (including do not call), and other consumer related complaints.*



FEDERAL TRADE COMMISSION

ReportFraud.ftc.gov

SeniorLAW Center 2021 All Rights Reserved

12

Cases of Scams/Frauds on the Rise

Statistics from the Consumer Sentinel Network



Year	# of Reports
2001	325,519
2002	551,622
2003	713,657
2004	860,383
2005	909,314
2006	906,129
2007	1,070,447
2008	1,261,124
2009	1,428,977
2010	1,470,306
2011	1,898,543
2012	2,115,079
2013	2,134,565
2014	2,620,931
2015	3,080,378
2016	3,060,824
2017	2,918,188
2018	3,115,556
2019	3,244,844
2020	4,720,743

SeniorLAW Center 2021 All Rights Reserved

13

2020 Statistics

Top 10 Fraud Categories

Rank	Category	# of Reports	% Reporting \$ Loss	Total \$ Loss	Median \$ Loss
1	Imposter Scams	498,278	22%	\$1,190M	\$850
2	Online Shopping and Negative Reviews	352,805	70%	\$246M	\$100
3	Internet Services	123,749	39%	\$170M	\$210
4	Prizes, Sweepstakes and Lotteries	116,205	10%	\$166M	\$1,000
5	Telephone and Mobile Services	81,221	22%	\$32M	\$225
6	Travel, Vacations and Timeshare Plans	73,388	53%	\$175M	\$1,100
7	Business and Job Opportunities	58,263	38%	\$168M	\$1,950
8	Health Care	49,821	39%	\$21M	\$134
9	Foreign Money Offers and Fake Check Scams	38,420	23%	\$46M	\$1,980
10	Investment Related	24,647	78%	\$387M	\$1,566

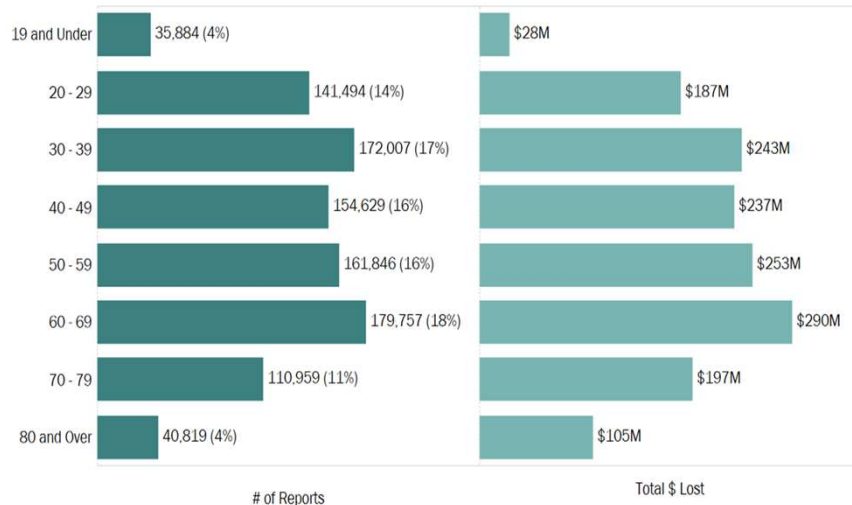
SeniorLAW Center 2021 All Rights Reserved

14

2020 Statistics



Reported Frauds and Losses by Age



Percentages are based on the total number of 2020 fraud reports in which consumers provided their age: 997,395.

SeniorLAW Center 2021 All Rights Reserved

15

2020 Statistics

**Younger people
reported losing
money to fraud
more often than
older people.**



Age 20-29



Age 70-79

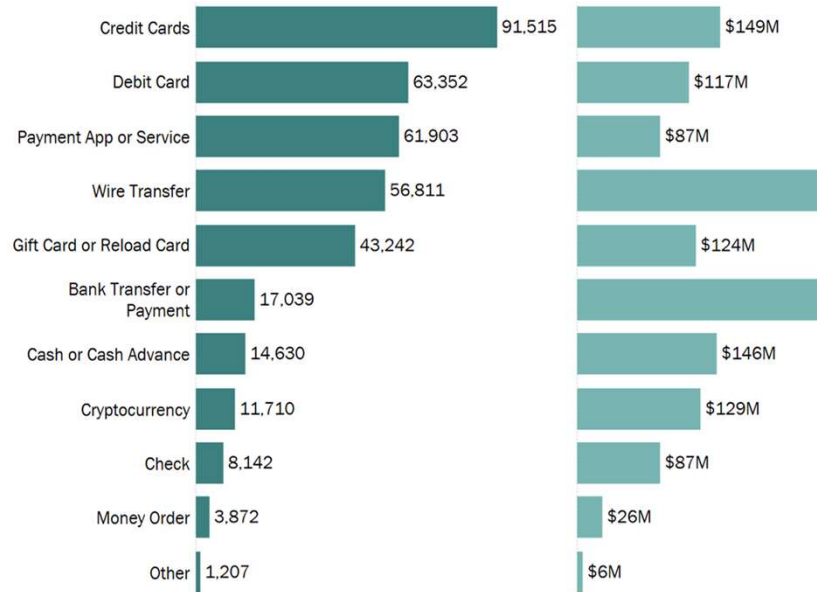
**But when people
aged 70+ had a loss,
the median loss
was much higher.**



SeniorLAW Center 2021 All Rights Reserved

16

2020 Statistics – Losses by payment type



SeniorLAW Center 2021 All Rights Reserved

17

2021 Statistics

According to AARP, “Coronavirus scams are spreading nearly as fast as the virus itself. As of March 2, 2021, the FTC has logged about 369,000 consumer complaints related to COVID-19 and stimulus payments, 69 percent of them involving fraud or identity theft.”



SeniorLAW Center 2021 All Rights Reserved

18



COVID-19 Consumer Protection Act of the 2021 Consolidated Appropriations Act

For the duration of the COVID-19 public health emergency declared pursuant to section 319 of the Public Health Service Act (42 U.S.C. 247d), this Act **makes it unlawful under Section 5 of the Federal Trade Commission Act for any person, partnership, or corporation to engage in a deceptive act or practice in or affecting commerce associated with the treatment, cure, prevention, mitigation, or diagnosis of COVID-19 or a government benefit related to COVID-19.** The Act provides that such a violation shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under Sec. 18(a)(1)(B) of the FTC Act.

SeniorLAW Center 2021 All Rights Reserved

19



COVID-19 Consumer Protection Act of the 2021 Consolidated Appropriations Act

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

ERIC ANTHONY NEPUTE,
individually, and as
Owner of Quickwork LLC; and

QUICKWORK LLC,
a limited liability company,
also d/b/a WELLNESS WARRIOR,

Defendants.

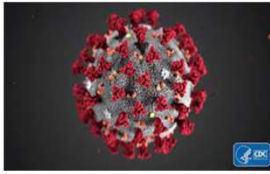
Case No.: _____

**COMPLAINT FOR CIVIL
PENALTIES, PERMANENT
INJUNCTION, AND OTHER
RELIEF**

Case filed April 15, 2021
Eastern District of Missouri

SeniorLAW Center 2021 All Rights Reserved

20



COVID-19 Consumer Protection Act of the 2021 Consolidated Appropriations Act

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

other products. Recently, Defendants have been advertising their Vitamin D and zinc products—including “Wellness Warrior Vita D”, “Wellness Warrior Zinc”, and others—on social media and the internet as drugs capable of treating, or preventing COVID-19. Defendants even claim that their products are more effective than the available COVID-19 vaccines. Defendants lack valid factual or scientific bases for these claims, which are frequently accompanied by equally unsupported assertions regarding the applicable science. In short, Defendants are selling their

OR CIVIL
RMANEN
ND OTH

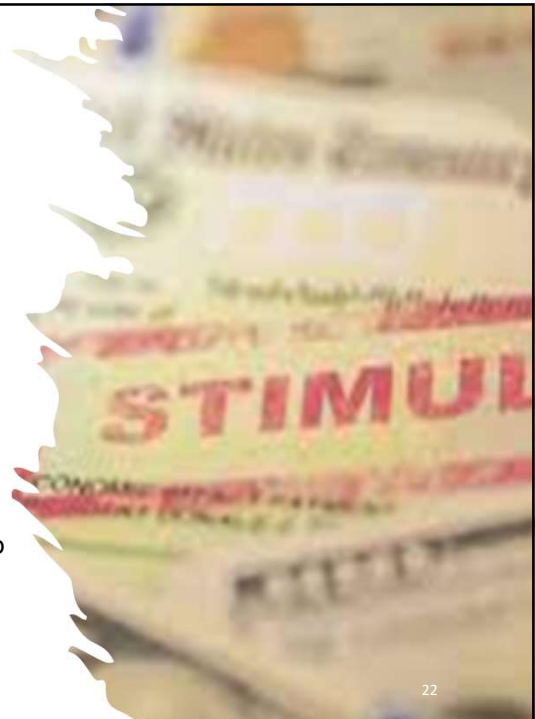
SeniorLAW Center 2021 All Rights Reserved

21

Stimulus Check fraud

Common scenarios reported by SLC clients....

- Physical check stolen from the home/mail and signature forged (by family member, friend or stranger).
- Another person claims you as a Dependent (inappropriately) on their taxes and sent Senior's stimulus payment.
- Stimulus payments were deposited in account set up by family member you no longer trust or set up in an account you were unaware of.



SeniorLAW Center 2021 All Rights Reserved

22

Stimulus Check fraud

If your Client received payment by check and it was stolen, the client will need to request a **payment trace** so the IRS can determine if your payment was cashed.

To start a payment trace, call the **IRS toll-free at 800-919-9835**. Be forewarned that your client may experience long wait times because of limited staffing, **OR**

You could also send the IRS a completed **Form 3911** (which is generally form locating a refund).

The catch is, even if your check wasn't cashed, the IRS won't immediately re-issue you another check, you can apply for **Recovery Rebate Credit**.

The deadline for the 1st and 2nd payments has passed to apply for the **Recovery Rebate Credit, (unless extension requested)** but steps apply to the 3rd stimulus payment.

23

Stimulus Check fraud

Tips for filing out form 3911:

- Write "EIP3" on the top of the form to identify the payment you want to trace (EIP is short for Economic Impact Payment, which is what the IRS calls a stimulus check);
- Complete the form answering all refund questions as they relate to your third stimulus payment;
- When completing item 7 under Section 1, check the box for "Individual" as the type of return, enter "2021" as the tax period, and don't write anything for the date filed; and
- Sign the form (if you file a joint tax return, both spouses must sign the form).
- Mail or fax **3911** form to:

District of Columbia, Idaho, Illinois,
Pennsylvania, Rhode Island

Philadelphia Internal Revenue
Service
2970 Market St.
Philadelphia, PA 19104

FAX 855-404-9091

24

Stimulus Check fraud

If the check was cashed, the Treasury Department's Bureau of the Fiscal Service will send you a claim package that includes a copy of the cashed check. The Treasury Department's Bureau of the Fiscal Service will review your claim and the signature on the canceled check before determining whether the payment can be reversed.

If reversed, you will need to claim the **Recovery Rebate Credit** on your 2021 return.

SeniorLAW Center 2021 All Rights Reserved

25

Stimulus Check fraud

Common scenarios reported by SLC clients....

- Another person claims you as a Dependent (inappropriately) on their taxes and was sent Senior's stimulus payment.
- Stimulus payments were deposited in account set up by family member/friend you no longer trust.
 - Demand letters/consider lawsuit for unjust enrichment/conversion

SeniorLAW Center 2021 All Rights Reserved

26

Immediate Steps Senior Victims of FE can take:

- ✓ File a report with the police and ask for a copy or incident report number (DC#) (to preserve any potential VICAP claim)
- ✓ Debit/credit card fraud - Notify bank of unauthorized use and confirm in writing (*in cases that senior gave Pin number, bank will deny claim – explore options in filing VICAP claim*)
- ✓ Close all accounts
- ✓ Open new account at another bank
- ✓ Notify payers of direct deposits (e.g. Social Security & Pension)
- ✓ Change automatic debit payment to new account
- ✓ Order bank statements for period in question
- ✓ Revoke any power of attorney to perpetrator

SeniorLAW Center 2021 All Rights Reserved 27

Challenges to Seniors Victims in taking these steps:

- ✓ File a report with the police and ask for a copy or incident report number (DC#)
Senior does not report because he is embarrassed he was victimized by his daughter.
- Senior does not want to contact the police and have the perpetrator face criminal charges.***
- ✓ Notify bank of unauthorized use and confirm in writing
Senior never notifies bank because perpetrator says he or she will pay the money back and Senior afraid bank will report to the police and perpetrator will get in trouble.
- ✓ Close all accounts/open new account
Senior does not have assistance to physically go to the bank to close and change bank accounts.
- ✓ Open new account at another bank
Senior does not have assistance to physically go to the bank to close and change bank accounts or does not have enough money to open an account at a new bank.
- In some cases, perpetrator steals senior's id and unable to open new account without one.***

SeniorLAW Center 2021 All Rights Reserved 28

Case Scenario: Meet Roger

Roger has three adult children – Jane, Samantha and John. In December 2018, Roger lost his beloved wife of nearly sixty years. Bereft of his best friend and life partner, he felt particularly vulnerable and anxious about his future.

Samantha was a social worker at a nearby hospital. She advised Roger to name her as agent under a durable power of attorney. Of course, Roger trusted her implicitly and did. He never asked any questions and believed all his bills were being paid.

Three years later, Pennsylvania State Police arrested Samantha, charging her with a serious crime related to a family member. She posted her \$50,000 bail bond by using Roger's money without his knowledge or consent.

Roger filed a private criminal complaint against his daughter.

Roger comes to your office. What are the first steps you should take to protect Roger's assets?

SeniorLAW Center 2021 All Rights Reserved

29

Case Scenario: Meet Roger

Immediate steps if client has capacity.....

Revoke POA and consider changing will
Provide copy of revocation to Agent
and all providers (medical, financial, etc.)

**Begin conducting your own forensic
accounting investigation.**

At the time, Roger was in an assisted living facility - he experienced deep grief and trauma trying to create a paper trail of where his money went.



SeniorLAW Center 2021 All Rights Reserved

30

Case Scenario: Meet Roger

As a result of your investigation, you discover that nearly \$250,000.00 is missing from Roger's various banking and investment accounts.

What are your next steps?



SeniorLAW Center 2021 All Rights Reserved

31

Case Scenario: Meet Roger

Send formal demand letter to Samantha, former agent under POA.

You send multiple letters to Samantha. Samantha ignores them.

NOW WHAT?



SeniorLAW Center 2021 All Rights Reserved

32

Duties of agent and Accounting

5601.3. Agent's duties.

(a) General rule.--Notwithstanding any provision in the power of attorney, an agent that has accepted appointment shall:

- (1) Act in accordance with the principal's reasonable expectations to the extent actually known by the agent and, otherwise, in the principal's best interest.
- (2) Act in good faith.
- (3) Act only within the scope of authority granted in the power of attorney.

Duties of agent and Accounting

(d) Disclosure of receipts, disbursements or transactions.

(1) Except as otherwise provided in the power of attorney, an agent shall not be required to disclose receipts, disbursements or transactions conducted on behalf of the principal **unless ordered by a court or requested by the principal, a guardian, conservator, another fiduciary acting for the principal, governmental agency having authority to protect the welfare of the principal or, upon the death of the principal, the personal representative or successor in interest of the principal's estate.**

Duties of agent and Accounting

(2) Within **30 days of the request**, the agent shall either comply with the request or provide a writing or other record substantiating the reason additional time is needed, in which case the agent shall comply with the request within an additional 30 days.

Petition for Accounting

20 PA Cons Stat § 5610 (2016)

§ 5610. Account.

An agent shall file an account of his administration whenever directed to do so by the court and may file an account at any other time.



Petition for Accounting

All accounts shall be filed in the office of the clerk in the county where the principal resides.

The court may assess the costs of the accounting proceeding as it deems appropriate, including the costs of preparing and filing the account.



SeniorLAW Center 2021 All Rights Reserved

Petition for Accounting

Where to file:

ORPHANS' COURT



SeniorLAW Center 2021 All Rights Reserved

Petition for Accounting: Orphans Court practice

What to include in your petition?

- **PENNSYLVANIA ORPHANS' COURT RULES**
- **DO NOT FORGET YOUR LOCAL RULES OF COURT – PARTICULARLY REGARDING FILING, SERVICE, AND NOTICE!**



SeniorLAW Center 2021 All Rights Reserved

Petition for Accounting: Orphans Court practice

Overview of what to include
in your petition:

- The material facts giving rise to the action stated in a concise and summary form.
- Averments of fraud or mistake shall be averred with particularity.
- If based on an agreement, state specifically if the agreement is oral or written.
- If based upon a writing attached a copy of the writing.
- If writing not accessible, identify the reason therefore, and set forth the substance of the writing.



SeniorLAW Center 2021 All Rights Reserved

Petition for Accounting: Orphans Court practice

Citation Practice

- If personal jurisdiction not established, include a preliminary decree for the issuance of a citation to those interested parties for whom a citation is necessary to show cause relief should not be granted
- Serve citation to obtain personal jurisdiction and a copy of the petition at least 20 days before the date when a responsive pleading is due
- Court may order service by publication
- Service of a citation as original process shall **not** be permitted by electronic means, **unless agreed to by the respondent.**

SeniorLAW Center 2021 All Rights Reserved



Petition for Accounting: Orphans Court practice

Notice Practice

- If personal jurisdiction not required or previously obtained, serve copy of the petition to the interested parties with notice to plead
- Include certificate of service

SeniorLAW Center 2021 All Rights Reserved



Case Scenario: Meet Roger

Shortly after filing the petition, you find out that Roger's daughter planned on selling her home in another county.

What should you consider filing?



SeniorLAW Center 2021 All Rights Reserved

43

Preserving Assets

- Different courts have different tools
- Civil Court
 - Lis Pendens
 - Injunction
- Orphans Court
 - Writ of Sequestration, 20 P.S. 783
 - Filing of Account, 20 P.S. 5610
 - Discovery of Information, 20 P.S. 5604(d)
 - Lis Pendens
- Criminal court
 - Freeze accounts per 42 Pa.C.S. 9728(e) or (f)
 - Lis Pendens



SeniorLAW Center 2021 All Rights Reserved

44

Case Scenario: Meet Roger

How about a petition for emergency injunctive relief?

- That's what Roger did.
- Here's what happened.....



SeniorLAW Center 2021 All Rights Reserved

45

Advocating for Criminal Charges

- Deal in Proceeds of Unlawful Activities
- Theft by unlawful taking
- Theft by deception – false impression
- Theft by Receiving Stolen Property
- Theft by Failure to make required disposition of funds
- Forgery – Alteration of Writing
- Forgery – Unauthorized Writing
- Tampering with Record or Identification
- Securing Execution of a Document by Deception
- Theft Extortion
- Identity Theft



SeniorLAW Center 2021 All Rights Reserved

46

Other Litigation issues for senior victims to consider

- Preservation of Evidence/Testimony
- Danger of delays especially when victim is frail or very elderly
- Restitution/ Seizure of Assets in FE cases (preserving assets)
- Could be multiple actions occurring at one time
- Capacity Questions



Seniors as Witnesses

Prejudice from courts/third parties that seniors do not make good witnesses

Assumption that seniors lack credibility

Assumption if have dementia, you cannot testify at trial.

- Study done that says even with dementia, better recall of traumatic events than non-traumatic events.
- If consent is defense, order psychological eval of victim before writing off case.

SeniorLAW Center 2021 All Rights Reserved

47



LITIGATION:

Offer representation in: Philadelphia, Bucks, Chester, Delaware, Montgomery Counties

Pursuant to our VOCA funding, our team can provide **direct representation** in litigation where there is a nexus with the legal issue and victimization. Our team represents seniors in the following types of cases:

Protection from Abuse cases: Each county has represented seniors in PFA cases. In Philadelphia, advice and/or representation in Protection from Abuse/elder abuse issues is about 40% of our cases handled.

Spousal support: We represent Sr Dependent spouses against abusers in actions for support.

Ejectment: We represent in cases where the abuser is in the Senior's home and Senior is not eligible for a PFA due to emotional abuse only OR Sr and the abuser does not have the required intimate of family relationship.

Landlord-tenant eviction: We represent Sr **Landlords** where the tenant is abusive; we represent Sr Tenants if eviction is due to acts of the abuser OR non-payment of rent is due to financial exploitation by abuser.

SeniorLAW Center 2021 All Rights Reserved

48



LITIGATION:

Offer representation in: Philadelphia, Bucks, Chester, Delaware, Montgomery Counties

Debt collection defenses: We represent Sr Defendants who have been sued for a debt incurred due to a scam or financial exploitation.

Quiet Title/Deed fraud: We represent in filing Quiet Title Actions for Seniors who have lost title to their home due to a fraudulent conveyance. Deed Fraud is a significant problem in Philadelphia.

POA abuse: We represent victims in filing for accounting in cases of POA agent abuse.

Other advice/brief service issues: **Preparing Future care planning documents when Perpetrator was the agent, Neighbor Disputes, Filing Applications for Victims Compensation Assistance Program (VCAP) to recover financial losses from financial exploitation, Unfair trade practices issues/ notable car dealerships, Contractor Fraud, Stalking/harassment, Probate/estate fraud, divorce and other family issues**

SeniorLAW Center 2021 All Rights Reserved

49



SLC
SeniorLAW Center
Protecting the Rights of Older Pennsylvanians

Any Questions?

Leah M. Finlayson, Esquire
Director, Victim services
lfinlayson@seniorlawcenter.org
Philadelphia Office

Brendan Corbalis, Esquire
Assistant Director, Victim services
bcorbalis@seniorlawcenter.org
Bucks County office



Mr. White, a WWII Veteran, came to SeniorLAW Center after a con artist stole his life savings

SeniorLAW Center 2021 All Rights Reserved

50