

Improving the Civil Legal Response to Elder Financial Abuse: Making the Law Matter

Sarah M. Hooper, JD
Erika P. Falk, PsyD

ABSTRACT. The need for effective civil legal advocacy for victims of elder financial abuse far outstrips current resources. This article examines reasons why California has yet to address financial abuse more widely, despite a rich legal environment and statutory innovations designed specifically to enhance the legal response. The authors outline recommendations to galvanize the civil legal community. Further, the article details a research and community engagement collaboration in San Francisco, California to make “the law matter.” The process and recommendations may assist other jurisdictions to identify legislative gaps and to increase the utility of current legal protections.

Sarah M. Hooper, JD is the Assistant Director of Programs for the UCSF/UC Hastings Consortium on Law, Science & Health Policy and Adjunct Faculty at UC Hastings College of Law, 200 McAllister Street, San Francisco, CA 94102 (Email: hoopers@uchastings.edu). Erika P. Falk, PsyD is the Director of Geriatric Assessment Services at the Institute on Aging. (Email: efalk@ioaging.org).

The authors would like to acknowledge the stakeholders of the San Francisco Elder Financial Abuse Collaboration, especially Steven Riess, Mary Joy Quinn, Lisa Nerenberg, Cynthia Jones, Judy Hitchcock for their comments on the draft, as well as Yaelle Shaham, Meghan Dunn, and Duane Vickrey for their research assistance.

This study was funded by the Borchard Foundation Center on Law & Aging and the True North Foundation. The authors alone are responsible for the content of this manuscript.

Introduction

Elder financial abuse is an inherently multidisciplinary problem that requires highly-coordinated professional intervention from many fields, including law, medicine, psychology, social services, and the financial sector. While each approach is crucial to adequately address the problem, elder financial abuse has been addressed most robustly by the social services community and is only slowly gaining visibility in other professional communities. This is particularly true in the law (Kohn, 2010). While elder financial abuse has many courses of redress within the law, both in long-established doctrines such as fraud or undue influence and innovative new statutory schemes designed specifically to protect older adults, the legal community has yet to sufficiently mobilize around this issue. Elder law generally, and elder financial abuse in particular, remains a relatively new and specialized area of law that is only slowly gaining visibility in the legal community and remains largely marginalized (Kohn & Spurgeon, 2010). Given the aging of the population and the increasing prevalence of elder financial abuse, this issue must be brought within the mainstream of the legal community.

Though much can be written about improving criminal justice approaches to this problem, we here focus our attention to the civil legal response to the problem. Within the civil legal system, we will examine the ways in which individual attorneys, the courts, and the legal academy can and should respond to elder financial abuse. In particular, we focus on the civil legal environment in California which, despite a cutting edge statutory scheme and a general wealth of legal manpower, still fails to adequately address elder financial abuse on a scale warranted by the scope of the problem.

In Part I, we will examine the problem of elder financial abuse, including its scope, its various manifestations, and its impact to the health and well being of older adults. In Part II, we

will examine the civil legal environment in California, and the ways in which individual attorneys, the courts, and law schools can address this problem. In Part III, we discuss a community-based approach developed in San Francisco, California.

Part I: The Problem of Elder Financial Abuse

National Overview

The United States is experiencing an unprecedented demographic shift. By 2050, the number of people age 65 and older will double, and the number of people age 85 and older will increase fourfold (Administration on Aging, 2010). While experts predict that aging baby boomers will experience vitality and longevity unknown to previous generations of elders, with this longevity will come increased vulnerability to elder abuse.

A recent national study found that one in ten respondents aged 60 and older reported emotional, physical, or sexual mistreatment or potential neglect in the past year (Acierno et al., 2010). The same study found that 5.2% of respondents reported current financial abuse by a family member (Acierno et al., 2010). Elder financial abuse, also referred to as material or financial exploitation, is most broadly defined as “the illegal or improper use of an elder’s funds, property or assets” (National Center on Elder Abuse [NCEA], 1998, p. 3-3). However, definitions of elder financial abuse vary widely between jurisdictions (United States Government Accountability Office, 2011). For instance, there is considerable debate among researchers and advocates about whether scams perpetrated by strangers should be included with scams perpetrated by “trusted others” such as relatives, caregivers, attorneys, guardians and the like (Spiegel, 2011). Table 1.1 outlines some common ways of organizing types of elder financial abuse and related concepts.

[Insert Table 1 here]

Elder financial abuse is one of the more common forms of elder mistreatment and often co-occurs with other forms of abuse (MetLife, 2011). Because definitions of elder financial abuse are so variable, and there is no national reporting mechanism for abuse by “trusted others,” the true scope of the problem and the total financial loss to elder victims of financial abuse can only be approximated (Spiegel, 2011). MetLife (2011) compared national newsfeeds over a three-month period in 2008 and 2010 and extrapolated that the annual dollar amount loss by victims of elder financial abuse in 2010 was \$2.9 billion, a 12% increase from 2008. Current estimates on reporting of financial elder abuse vary widely; Wasik (2000) found that only 1 in 25 cases are reported, suggesting that there may be at least 5 million financial abuse victims each year; Lifespan of Greater Rochester (2011) found that in New York state, only 1 in 44 cases of financial exploitation was documented and referred to social service, law enforcement or legal authorities. Victims may be reluctant to report because of shame, particularly as family members are frequently the perpetrators. Victims also may be unable to report abuse, because they are isolated or cognitively and/or functionally impaired (NCEA, 2012). Research identifying seniors who are most vulnerable to financial crimes and exploitation is still in its infancy (Spiegel, 2011).

While elder abuse is an equal opportunity crime, several factors render women particularly vulnerable to elder financial abuse. One reason is that women tend to live longer than men; in 2006 there were 138 women for every 100 men in the 65 years + category and 213 women for every 100 men in the 85 years + category (MetLife, 2009). Bereaved elder women may be dealing with home maintenance or legal/financial transactions for the first time following the death of a spouse and may be susceptible to con men or unscrupulous professionals (including caregivers) who exploit their relative naiveté, trust, or emotional or cognitive

vulnerabilities. This is not to say that men are less susceptible to abuse. Men are in fact more susceptible to particular types of abuse, such as “sweetheart” swindles and risky investments (Metlife, 2009). Family members are frequent perpetrators of financial abuse (estimates range from 17-90%). Some older parents may unwittingly contribute to the dependency of an adult “caregiving” child who relies on the financial support to fund drug and other dependencies (MetLife, 2009).

[Insert Table 2 here]

Elder financial abuse is expected to grow significantly in the coming years because of the increasing population of older adults, their relative wealth, vulnerability to exploitation, and the increasingly sophisticated means used to prey upon them (e.g. use of email and the Internet) (Kemp & Mosqueda, 2005). Americans age 50 and older control an estimated 70% of the nation’s wealth (National Committee for the Prevention of Elder Abuse, 2008). The typical U.S. household headed by a person age 65 or older has a net worth 47 times greater than a household headed by someone under 35 (Fry, R., Cohn, D., Livingston, G., & Taylor, P., 2011).

Research indicates that even at an early stage of cognitive decline before the onset of dementia, older adults are vulnerable to financial mismanagement and abuse (Triebel et al., 2009). Persons with mild cognitive impairment who progress to Alzheimer’s disease over a 1-year period demonstrate overt declines in checkbook management and overall financial capacity (Triebel et al., 2009). One of eight older Americans has Alzheimer’s disease, and close to half of all people over 85, the fastest growing segment of the U.S. population, has Alzheimer’s disease (Alzheimer’s Association, 2011). A recent study by Wiggelsworth et al. (2010) found that 47% of participants with dementia had been mistreated by their caregivers; the researchers emphasize that talking to caregivers is essential in detecting possible abuse.

Unlike younger victims of financial crimes, older victims are often unable to recoup losses over time, and restitution, which is rare, may not arrive before the elder victim has died (MetLife, 2009). The loss of economic resources may lead to a cascade of attendant problems including severe emotional distress or depression, decreased ability to access healthcare or medications, forced change of residence or dependence on others, decreased quality of life and shorter-than-expected life expectancy (Kemp & Mosqueda, 2005). Deem (as cited in MetLife, 2009) indicates that financial losses can result in shame, guilt, or general mistrust escalating into paranoia or depression. Some victims report that being the victim of financial abuse feels akin to being the victim of violent crime. Depression that is undetected or untreated can cause death by passive or active suicide.

California Overview

The aging of the population is particularly apparent in California, as are the implications for the prevalence of elder abuse. By 2050, nearly 25 percent of Californians will be 60 or older (California Department of Aging, 2009). Adult Protective Services (APS) reports of abuse (California Department of Social Services, 2010) indicate 68,145 new cases of elder abuse were opened in 2010. If only one-in-five cases of elder abuse is reported, as suggested by the National Elder Abuse Incidence Study (NCEA, 1998), the actual number of elder abuse cases annually would exceed 300,000 in California. Between January 2006 and September 2011 (the most recent date for which data is available), the total number of new reports of elder abuse in California increased by 20%. During the same period, financial elder abuse by others increased by 33%.

In the first nine months of 2011, elder financial abuse by others represented approximately 25% of all cases of reported elder abuse. In another approach to quantifying the

problem, on a single day in 2004 chosen to take a snapshot of financial abuse reporting and activity, APS in California received 111 reports alleging financial abuse (County Welfare Directors Association of California [CWDA], 2006). They determined that more than \$20 million dollars in assets were at-risk on that day and extrapolated that \$4.8 billion dollars in assets are at-risk every year in California (CWDA, 2006).

Part II: Mapping the Civil Legal Environment in California

While there is much discussion in the literature about the need for legislative action to combat elder financial abuse, California has already made large strides in this regard and possesses a unique and innovative statutory scheme designed to address elder abuse. Though further enhancements could always be made in the law, we argue here that efforts should be made to more effectively implement the legal assets that a state like California already enjoys. In other words, effective mobilization of the civil legal community is needed to make the law matter. Specifically, by strengthening and encouraging the involvement of individual attorneys in efforts to counter this problem, by bringing these issues into the mainstream of the legal academy, and by improving and enhancing access to the courts, we will more effectively address the problem of elder financial abuse.

California's Elder and Dependent Adult Civil Protection Act

California enacted the Elder and Dependent Adult Civil Protection Act (EADACPA) in 1991, which recognized the need to protect older and dependent adults against all forms of abuse and provided special protections for victims (Cal. Welf. & Inst. Code §15600 *et seq.*). Although California had formally recognized and sought to combat elder abuse since 1982, earlier versions of the statute had focused on reporting and information gathering, and contained no or few civil remedies or private causes of action. (See Former §15600, added by Stats.1982, ch.1184, §3,

p.4223; §15601 et seq.; Stats.1985, ch. 1164, §§ 1-16, pp. 3916-3927; Stats. 1986, ch. 769, §§ 3-20, pp. 2533-2549; Stats. 1986, ch. 1374, § 1.5, pp. 4912-4915; Stats. 1987, ch. 56, § 189, pp. 241-244; Stats. 1989, ch. 681, § 1, pp. 2245-2248; Stats. 1990, ch. 241, §§ 1-2, pp. 1199-1202.)

In enacting EADACPA, the legislature recognized that elder abuse cases were rarely adjudicated, and that efforts needed to be made to link victims of abuse to legal assistance (Cal. Welf. & Inst. Code §15600(h), (j)). Thus, EADACPA had two purposes: to enhance statutory protections for victims of elder abuse and to encourage legal action to combat elder abuse (See *Intrieri v. Superior Court*, 117 Cal.App.4th 72 (Ct. App. 6th Dist., 2004), 12 Cal.Rptr.3d 97). Since then, EADACPA's provisions relating to financial abuse have expanded dramatically to include a broader definition of financial abuse, a lower evidentiary threshold, and looser standing requirements (who may bring claims).

EADACPA has several features which make it a particularly powerful tool for combating elder financial abuse. The first is its expansive definition of financial abuse, which includes a wide range of prohibited behavior, and a permissive standard for determining culpability of the perpetrator (See Cal. Welf. & Inst. Code §15610.30). Abusive behavior includes "taking, secreting, appropriating, obtaining, or retaining real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both" (Cal. Welf. & Inst. Code §15610.30(a) (1)). Abusive behavior also includes assisting in any of those actions, or engaging in such behavior through undue influence (Cal. Welf. & Inst. Code §15610.30(a)(2), (3)). A perpetrator is deemed to have committed financial abuse when he or she engages in any of these actions and "knew or should have known that this conduct is likely to be harmful to the elder or dependent adult" (Cal. Welf. & Inst. Code §15610.30(b)). Significantly, financial abuse occurs when a perpetrator deprives an older or dependent adult of *any* property right, whether

directly held or held by a representative (Cal. Welf. & Inst. Code §15610.30(c)). The effect of this broad definition is to make a wide range of behaviors actionable in civil court. California has thus signaled to individuals and businesses that financial abuse of elder and dependent adults is not only intolerable, but that all or most financial dealings with this protected class will be subject to careful scrutiny.

EADACPA also contains provisions designed to attract civil attorneys to these cases. In addition to all other traditional remedies, EADACPA provides for mandatory attorney fees and costs (including conservator costs) that are *unilateral* to the plaintiff's (victim's) attorney (Cal. Welf. & Inst. Code §15657.50; *Wood v. Santa Monica Escrow Co.* (2007) 151 CA4th 1186). This means that if the plaintiff is successful in a claim of financial abuse, the court must award attorney fees and costs. However, if the plaintiff is not successful, the defendant may not receive such fees and costs. In addition, where the plaintiff can meet the appropriate evidentiary burden, EADACPA provides for compensatory and punitive damages, even if the plaintiff dies before resolution of the claim. (Cal. Welf. & Inst. Code §15657.50). EADACPA also allows a claim for financial abuse to commence or continue even after the death of the victim (Cal. Welf. & Inst. Code §15657.30). To help ensure that damages will be recoverable from the defendant, the statute provides that the court can issue a writ of attachment at the outset of litigation (Cal. Welf. & Inst. Code §15657.01). Because financial and logistical considerations factor so heavily in an attorney's decision to bring a case, these provisions may help tip the calculus in favor of pursuing the victim's claim.

Thus, EADACPA creates a permissive foundation in the law for addressing elder financial abuse, and has been hailed nationally as an important asset in efforts to combat the problem (Stiegel, 2002). Yet, despite the availability of this important legal asset, and the

California legislature's intent to encourage legal action on behalf of victims, elder financial abuse continues to proliferate with little attention from the legal community.

Data concerning the legal response to elder financial abuse is scarce, though what data we have is discouraging. Legal assistance to the elderly comes primarily from two sectors: legal aid organizations funded through federal and state governments and individual members of the private bar. Legal aid organizations provide the most comprehensive data on this subject to date, as they are required to report on their caseload as a requirement of government funding. The California Department of Aging, in conjunction with the Legal Aid Association of California (LAAC) and the Senior Legal Hotline, recently undertook a survey of Area Agencies on Aging (AAAs) in order to determine the legal needs of seniors (LAAC, 2011b). Significantly, the responding AAAs identified elder abuse, and in particular elder financial abuse, as an issue that was not adequately addressed by legal services providers (LAAC, 2011b). "Consumer problems and fraud" were also listed separately as areas of need, and many such cases could fall within the broad definition of financial abuse.

This finding was echoed in a parallel survey conducted by LAAC (2011a) to determine the capacity of legal providers to meet the needs of older adults. In that survey, a third of legal providers responded that they offer no assistance in cases of elder financial abuse. Forty-nine percent (49%) of legal providers stated that they offered "brief service" or "counsel and advice only" and only twenty-three percent (23%) of providers offered full litigation services (LAAC, 2011a, p. 10). While the merits of individual cases may help to explain this data (in that not all cases merit full litigation services), it is significant to note that the responding legal providers listed as their top priority "increasing the level of service (e.g. litigation instead of brief service)" (LAAC, 2011a, p. 12). This suggests that lack of resources, rather than case merit, may explain

the low rate of litigation services for victims of elder financial abuse. This is not surprising, as legal aid organizations are notoriously underfunded and are subject to political tides at the national and state level. Ensuring adequate funding for legal aid organizations serving the elderly is an important issue requiring attention beyond the scope of this paper..

The other category of attorneys who may assist victims of elder financial abuse are private civil attorneys who work in law firms or solo practice. Data on the number of civil attorneys who take these cases is scarce, and attempts to identify them are discouraging. Though California licenses nearly 230,000 attorneys, identifying those who take elder financial abuse cases takes some sleuthing, even for the California State Bar (W. Chiang, personal communication, January 26, 2012). The Bar cannot identify attorneys who take elder financial abuse cases, and this practice area is not listed as an option when attorneys complete their state bar profiles. Of the 5,245 attorneys currently reporting a practice area, only 253 attorneys indicate elder law as an area of practice (W. Chiang, personal communication, February 13, 2012). Even organizations specifically dedicated to elder law, such as the National Academy of Elder Law Attorneys or the American Bar Association's Commission on Law and Aging, do not have data on attorneys who take elder financial abuse cases.

Searches using publicly available data reveal relatively few attorneys who are willing to take these cases. The San Francisco Bay Area has one of the highest concentrations of attorneys in the state, with nearly 23% of California attorneys practicing in this region. This translates to roughly 52,900 licensed attorneys. Yet an online search of Bay Area law firms yielded just twenty-nine (29) law firms that list elder financial abuse as a practice area, the vast majority of which were solo practices or small firms. The Bar Association of San Francisco, an organization with approximately 7,000 attorney members, has an elder financial abuse referral panel with only

3 attorneys. (S.Happich, personal communication, March 16, 2012). Given the estimated prevalence of elder financial abuse, this attorney cohort seems insufficient to adequately address the problem.

The lack of available data on this topic is telling, not only in revealing a troubling lack of attention to elder financial abuse in the legal community, but also in that, if locating available legal assistance proves challenging for researchers, it most certainly presents a challenge to vulnerable or recently-victimized older adults. Moreover, even assuming a victim of abuse can locate legal assistance near her, costs of retaining a private attorney may still prove to be a barrier. For older adults who have been victims of financial abuse, money is exactly what they may no longer have.

In short, while California law provides relatively strong tools for attorneys to assist victims of elder financial abuse, these protections mean little if older adults cannot enlist an attorney able to help them.

Improving the Response to Elder Financial Abuse: The Attorney's Role

As an initial matter, it is important to note that “elder law” is a relatively recent field of practice (Arnason, 2001). The passage of federal programs such as Medicare, Medicaid, and the Older Americans Act in the 1960s created a need for attorneys who could navigate these complex regimes for the benefit of elderly clients. In response, the American Bar Association formed a Commission on Legal Problems of the Elderly in the late 1970s (Arnason, 2001). Since then, the field of elder law has gradually grown, and is generally understood to encompass public benefits, probate and estate planning, guardianship/conservatorship, health and long-term care planning, and elder abuse and neglect (National Academy of Elder Law Attorneys, 2012).

Yet despite a growing demand for professionals who can serve our aging population,

elder law as a field has yet to gain the attention it deserves. Elder law is unique in that the field is defined by the needs of a specific client population (older adults), and has the potential to encompass nearly all traditional fields of law from criminal matters to landlord tenant and consumer law (Moskowitz, 2001). It is this wide reach that may make elder law daunting to the legal community as lawyers tend to specialize in a given area of law and typically have not attempted the type of broad practice that is required by elder law. Thus, while gradually gaining steam over the past few decades, elder law still remains somewhat of an enigma to the general legal community.

Elder financial abuse brings these challenges into sharp focus. Because elder financial abuse manifests in many contexts, the legal framework for addressing the abuse can vary significantly. For example, in any given case (and depending upon the facts), the attorney may be required to understand and navigate state and federal consumer protection laws, family law, Medicaid eligibility, and wills and trusts law, as well as parallel criminal laws. In addition, the attorney must be aware of the implications of cognitive impairment and declining health of the elderly client for the case. The attorney may also need advanced litigation skills in order to bring a successful claim in court. In short, the learning curve for attorneys seeking to practice in this area is rather high.

Despite this, all attorneys can and should play a role in addressing elder financial abuse and supporting successful resolution of cases, regardless of their area of expertise or personal interest in pursuing litigation of such cases. There are three primary ways in which any attorney can assist in combating elder financial abuse: 1) helping to identifying instances of abuse as early as possible, 2) counseling older adults about the abuse, including discussing various courses of action and possible remedies and 3) connecting the older adult to appropriate services and

supports, including expert legal assistance. As previously discussed, elder financial abuse is underreported due to a variety of reasons including distrust and fear of the legal system and reluctance to report family members or friends, who are most often the perpetrators of abuse (MetLife, 2009). Additionally, older adults are often afraid that reporting the problem will result in an unwanted loss of personal autonomy through conservatorship or institutionalization (MetLife, 2009). Older adults who do wish to get help may not know where to turn, and may not see their problems as “legal” issues or think to visit a lawyer. Thus, attorneys play an important role in educating the public about the law and legal rights, and helping to capture every opportunity to identify and appropriately address instances of abuse.

In order to help identify financial abuse where it occurs, attorneys should become more aware of the risk factors for abuse, and incorporate screening questions into discussions with older clients (Stiegel, 2002). Attorneys are not mandated reporters in California, and reporting abuse to Adult Protective Services without consent of the client would likely be a violation of attorney-client confidentiality under the current Rules of Professional Conduct (West’s Ann.Cal.Evid Code §952.) Thus, attorneys should tread carefully and focus on providing information and options to victims, as well as linkage to community resources. Given a better understanding of the problem, the available options, and the implications of various remedies or courses of action, many victims may consent to disclosure of the abuse (Sandusky, 2003).

In some instances, attorneys may suspect that the older adult suffers from diminished capacity and thus may not be capable of protecting herself or participating in the attorney-client relationship. While the ABA Model Rules of Professional Conduct provides guidance to attorneys in dealing with clients with diminished capacity (see Rule 1.14), California has yet to adopt such rules, leaving attorneys with a troubling lack of guidance. Under current California law, attorneys cannot

disclose confidential client information unless necessary to prevent a criminal act likely to result in death or substantial bodily harm (Rule 3-100(B)). Although elder financial abuse is a crime, it is unlikely that many cases will pose a sufficient risk of death or bodily harm to permit attorneys to disclose the abuse to others without the consent of the client. Further, attorneys are prohibited from taking protective action, such as initiating conservatorship proceedings, by the duty to avoid interests adverse to the client (Rule 3-300).

However, the law may soon change. California is considering adopting a new rule similar to Model Rule 1.14 which would clarify the attorney's role with respect to a client with suspected diminished capacity. First, the rule would make clear that attorneys are obligated to maintain a normal attorney-client relationship with the older adult and take measures to work with the client in determining the client's wishes and interests. Second, the rule would permit, but not require, a lawyer to disclose information about abuse to others where a client has significantly diminished capacity and is at risk of substantial physical, financial, or other harm, and where the client cannot act in her own interest (State Bar of California, 2011). This would include notifying an individual or organization that has the ability to take action to protect the client. Comments to the rule, however, clarify that attorneys would be prohibited from filing a conservatorship petition (State Bar of California, 2011).

Until this rule is adopted, attorneys will be bound to the current ethical rules and will need to tread carefully. However, some helpful tools are available. The American Bar Association Commission on Law and Aging and the American Psychological Association (2005) developed a downloadable and easily accessible handbook for attorneys that offers a conceptual framework, tools and practice tips for identifying and addressing problems of client capacity, including when to consider referral to a clinician for further assessment. In addition, California Probate Code section

810 (presumption of capacity) and section 811 may provide useful guidance to attorneys in considering issues of client capacity.

Regardless of the older adult's capacity, it is important that attorneys assist victims of elder financial abuse by helping to identify the problem, providing information, counseling, or a referral. In addition, attorneys with requisite expertise can prevent abuse by reviewing contracts (such as reverse mortgages) for red flags, or help clients craft estate planning documents that reduce the clients' risk of abuse. Finally, providing full scope representation, and pursuing litigation where appropriate, is the ultimate goal. Because relatively few attorneys practice in this area, it is important to cultivate new advocates who are willing and able to take these cases. Education, training, and mentorship throughout the early stages of lawyers' careers will be essential to ensuring that the legal community is equipped to address the problem of elder financial abuse as it balloons within an aging population.

The Role of Law Schools: Preparing Attorneys to Serve the Aging Population

In order to prepare attorneys to appropriately respond to instances of financial abuse when they arise, it is essential that attorneys are exposed to the issue of abuse in their early legal training. The lack of visibility of this problem in the legal community may in part be explained by the marginalization of elder issues more generally in the legal academy. As mentioned, elder law generally is a relatively new field, and elder financial abuse, as a special subset of that field, has even further to go in gaining widespread professional attention.

A recent empirical analysis of elder law teaching and scholarship revealed that, while elder law is gradually becoming more visible in law schools, there remain significant barriers to full integration into the legal academy (Kohn & Spurgeon, 2010). Availability of elder law coursework remains inconsistent at best. Kohn and Spurgeon (2010) found that, while a majority

of accredited law schools now offer an elder law course, many do not offer the course regularly and only half of the courses are taught by a tenured or tenure-track faculty member (Kohn & Spurgeon, 2010, p. 420). Further, even where such courses are offered, the topic of elder abuse (and specifically financial abuse) is but one of many topics covered in the course (Kohn & Spurgeon, 2010, p. 422).

An additional barrier is the silo-ed nature of elder law issues within law school curriculum. Elder law courses are elective, which means the students who take them are actively pursuing those issues. Students who do not, or cannot, take those courses are unlikely to be exposed to elder law issues elsewhere. Although elder law issues, and particularly financial abuse, may arise in many contexts ranging from criminal law to family or housing law, the legal needs of the elderly as such are rarely addressed in those courses or in the accompanying textbooks (Moskowitz, 2001). For instance, in an analysis of family law textbooks, Moskowitz (2001) found that abuse of older family members is *never mentioned*, though those texts commonly feature discussion of domestic violence (between younger partners) and child abuse. This failure to integrate legal needs of the elderly into relevant doctrinal settings represents a missed opportunity to prepare new lawyers for practice in an aging society. Lawyers confronted with instances of elder financial abuse will be largely unprepared to appropriately respond. By exposing new attorneys to elder abuse in law school, they will be more likely to recognize the problem and take appropriate action.

Many solutions to the dearth of elder abuse training in law school are relatively straightforward, and require only the will of the legal academy to implement. In addition to offering courses in elder law on a more regular basis, law schools can integrate elder abuse curriculum into existing courses. For instance, elder financial abuse cases or hypotheticals could

be used to illustrate doctrine in a number of courses such as contracts, criminal law, family law, health law, or property. This would require no additional allocation of resources, and only very minimal adjustments to course syllabi. Additionally, law schools could ensure that their externship and internship programs include legal organizations that work with older adults and victims of elder abuse, such as legal aid organizations or law firms. These organizations can provide invaluable practical experience and skills training to any future lawyer, regardless of their ultimate career path.

Finally, law schools can and should increase clinical opportunities for students in this area. Not only is clinical legal training increasingly important in law education, but exposure to the needs of older clients will become important for law grads entering a competitive market filled with aging clients. Development of new clinics is a time and resource-intensive process, and financial abuse cases are often too complex for law students to handle on their own in a clinic setting. Thus, many law schools may not be able to design an entirely new clinic around such issues, or even incorporate such litigation into existing practice.

However, there are important and relatively modest steps that law school clinics could take that would benefit both students and elderly clients. For instance, schools can integrate basic training on elder abuse into existing clinics where elderly clients may be served. Both instructors and students should receive training on identifying signs of abuse in older clients and the appropriate courses of action when faced with suspected abuse. Additionally, clinics should incorporate questions about elder abuse into routine intake with older clients. Such measures not only provide students with invaluable training in client interviewing and counseling, but also help to combat financial abuse by identifying cases and helping link victims to appropriate assistance.

As law schools adapt to a changing marketplace, pedagogy and market responsiveness need not be at odds. In the case of elder law, and particularly elder financial abuse, the two in fact go hand in hand. Elder law frames traditional legal doctrines within the context of the complex social, socio-economic, health, and other needs of the older client, providing a rich environment in which students can develop both a theoretical and practical knowledge of the law. A client-centered approach to the law enables students to think about the client “in context,” an approach to lawyering which will serve them well in any marketplace, but particularly in one that is rapidly aging. Thus, incorporation of elder law issues such as financial abuse into legal education is important not only to a law school’s core pedagogical mission, but constitutes a significant contribution to the fight against elder abuse as well.

The Role of the Courts: Ensuring Fair Access for Older Adults

The notion that courts should and do adapt to social and demographic change in order to ensure fair access and just treatment of all persons is hardly novel. In fact, Van Duizend has observed that demographic pressures over the years, reflecting the age of the Baby Boomer generation at various stages of life, are responsible in large part for changes in the judicial system (Van Duizend, 2008). Van Duizend has noted changes in court practice, court composition, and the law itself that reflect demographic pressures at various stages. For instance, juvenile justice received a great deal of attention in the 1960s as youth comprised a large percentage of the population. Attention soon shifted to criminal law as Boomers reached young adulthood, then shifted again to family law as Boomers began starting families (Van Duizend, 2008, p. 76). Now attention must turn to the needs of older adults as the population ages through the judicial system. Courts must be willing to adapt its administrative practices and culture to ensure that older adults have fair and just access to the judicial system. In particular,

the courts must be sensitive to vulnerabilities commonly attendant with age, such as physical frailty, emotional isolation and vulnerability, and cognitive impairment of varying degree. Courts must strive to recognize and accommodate these vulnerabilities in order to ensure equitable access for older adults, and in particular for victims of abuse. It is important that such accommodations be viewed not as attempts to patronize or favor older adults, but to support the autonomy and dignity of older adults throughout the judicial system.

This is no small task, and yet some efforts have already been underway. In 1995, the American Bar Association issued twenty-nine recommendations to state courts on ways to improve handling of elder abuse (Stiegel, 1995). Importantly, these recommendations were derived from an extensive research and stakeholder consensus process, with expert input from a variety of sectors as well as the courts (Stiegel, 1996). Recommendations included training judges and court staff on elder abuse and the needs of older adults, improving accessibility to courtrooms for persons with physical and mental disabilities, adjusting court proceedings (e.g. special calendaring) to accommodate older adults with fluctuating capacity, providing self-help support to unrepresented older adults, improving understanding of capacity issues, expediting elder abuse proceedings, and improving coordination between courts on overlapping cases or consolidating courts (e.g. family court). Additionally, state courts were urged to take a community leadership role on this issue in a number of ways, including supporting interdisciplinary education of professionals who appear before the court, and encouraging and supporting local groups such as elder abuse task forces and multidisciplinary teams (MDTs).

Nearly a decade later, adoption of these recommendations across the country has been slow at best, though a few promising models have emerged. California's Administrative Office of the Courts (AOC) issued a report in 2008 analyzing elder abuse trends in the courts and

tracking adoption of the ABA recommendations (Judicial Council of California, 2008). The AOC found that California courts have made some improvements with respect to handling cases of elder abuse, but further efforts could be made (Judicial Council of California, 2008, p. 35). In particular, the AOC found that data collection on elder abuse cases remains insufficient, case monitoring and follow up should be enhanced, and most courts have not adopted a specialized calendar for elder abuse. In addition, courts remain distanced from community partnerships and multidisciplinary teams (MDTs) working to address elder abuse. The AOC noted that limitations on available resources may explain the slow adoption of many of the ABA's recommendations by state courts (Judicial Council of California, 2008, p. 35).

A few promising models have emerged in California, such as the Elder Protection Court in Alameda County and the Elder Court in Contra Costa County. The Elder Protection Court in Alameda County combines civil and criminal restraining order petitions in one court calendar, and employs a variety of approaches to support older adults during this process. These include working with service providers in the community, tracking and managing elder abuse cases across the various court divisions, and providing accommodations for older adults with impairments in hearing or vision, or other physical frailties (Judicial Council of California, 2008, p. 38). The Elder Court in Contra Costa County has a broader scope, consolidating a broader array of civil and criminal matters related to elder abuse in one court (Casper, 2011). Peer counselors are available to support older adults in navigating the courthouse and a Senior Help Center provides assistance with court forms. The Elder Court calendar is scheduled to maximize physical access and support optimal cognitive function. For instance, hearings are held later in the morning, which allows frail older adults more time to get to the courthouse and optimizes participation.

These models and others illustrate that the recommendations of the ABA are possible to implement, and with positive results (Stiegel, 2010). While many specific recommendations are still to be explored, adjustments to court practice are necessary to ensure fair access for vulnerable older adults who seek redress for financial and other types of abuse.

Bringing it All Together

Although we have been describing the much-needed efforts of attorneys, the courts, and law schools, we must highlight the importance of ensuring that these groups bring their expertise back to the community and work collaboratively with social services agencies, health care professionals, the police, and the financial industry. Elder financial abuse is a multidisciplinary problem and, as such, will not be adequately addressed if professionals continue to work in their respective silos. In fact, as most experts in the field will attest, these cases are virtually impossible to address without support from professionals in a variety of disciplines.

Fortunately, innovative models have been developed which provide structured opportunities for multidisciplinary collaboration. These include community and medical multidisciplinary teams (MDTs), Financial Abuse Specialist Teams (FASTs), Elder Death Review Teams (EDRTs) and elder abuse Forensic Centers. Depending on the focus of the team, members may include physicians, mental health professionals, law enforcement, prosecutors, financial specialists, victim advocates, the public guardian, long-term care ombudsman, and civil attorneys.

Schneider, Mosqueda, Falk and Huba (2010) summarize some of the main distinctions between these types of multidisciplinary collaborations. Community MDTs address elder abuse issues specific to their community, often with a focus on detection and education. Medically based teams provide medical expertise and assessment for victims of abuse or neglect. Financial

Abuse Specialist Teams, which originated in California and have become accepted nationwide, focus on elder financial abuse cases and education. Elder Fatality Review Teams (or Elder Death Review Teams) review the deaths of elders that may have resulted from or are related to abuse or neglect. An elder abuse Forensic Center can be differentiated from a traditional MDT in that greater attention is paid to legal approaches to cases, and members are required to carry out an action plan as forged by the team. The Forensic Center model reflects a “one-stop-shop” where the consumer is an agency working through an elder abuse case and needing the assistance of other agencies with expertise in elder abuse (Schneider et al., 2010).

A primary function of an MDT is the cross-education of professionals, and exchange of knowledge and resources, in order to promote more efficient and appropriate handling of elder abuse cases. Members of the civil legal community, including attorneys, the courts, and law schools, have an important role to play in de-mystifying the law and the civil legal system for other professionals, who frequently encounter legal processes when working through elder abuse cases, but may not understand exactly how, when, and why cases move through the civil justice system. Though many MDTs have a private civil attorney as a member, not all do and this presents a significant information gap for those communities. However, it could easily be filled with a number of representatives of the civil legal community, including members of the private bar or law faculty. Law professors (particularly clinical faculty) may provide general information about the law as well as consultation on particular cases. This could include analyzing the law in light of the facts of a particular case, and considering the logistics and consequences of various courses of action such as time, cost, stress to the victim, or potential loss of autonomy.

In addition, court officers could appear for special sessions of the MDT to provide

general education about the law and judicial processes, though would likely be prohibited from sitting as a member of the MDT and reviewing particular cases that might come before the court (Judicial Code Canon 4(B) and (C)).

Civil attorneys may be able to provide direct services on cases brought to the MDT. This may include reviewing, completing or modifying wills, trusts, or durable powers of attorney for finances, or, where the victim cannot protect herself, assisting with filing for conservatorship (Morris, 2010). Direct legal intervention at an early stage may be critical in preventing further abuse, and lead to more efficient resolution of cases. Where significant damage has already been done, and recovery of assets for the victim is feasible, the civil attorney (or faculty) can help refer the victim for more aggressive legal action.

The importance of a civil attorney's presence on an MDT cannot be understated, though has sometimes been overshadowed in the literature by discussion of the prosecutor's role. Both are crucial to effective handling of elder financial abuse cases. This is particularly true if resources for elder abuse cases (e.g. for criminal prosecution or legal aid assistance) are inconsistent within and across jurisdictions. In addition, while not all cases may be appropriate for criminal prosecution, many civil remedies in California are available and can be effective tools for enforcing the rights of older adults. Thus, through MDTs, civil attorneys can provide much-needed education and support to other professionals in the community, and should be made standing members of such teams.

Part III: A Local Approach to Enhancing the Civil Legal Response

Elder Financial Abuse in San Francisco

Many of the problems described above hold true in San Francisco, where the demographics are particularly demanding of attention to this issue. The 2010 US Census

indicates that San Francisco's population is even older than California as a whole, with the median age climbing from 36.5 in 2000 to 38.5 in 2010. In that same year, 55- to 64-year-olds went from 8.4 percent of the city's population to 12 percent, or in real figures, from 65,284 people to 96,596. By 2025, 1 in 5 persons in San Francisco will be 65 or older and the number of persons 85 and older will nearly double. In addition, San Francisco has one of the highest concentrations of seniors living independently and high concentrations of non-English speaking elders who are even less likely than seniors in general to understand their rights and to report abuse. Thus, San Francisco is home to a large and growing population of residents who are at risk of abuse.

Incidents of elder abuse appear to be on the rise. In FY 2009-2010, San Francisco Adult Protective Services received approximately 5,758 reports of elder abuse, a 15% increase over a 3-year period (City and County of San Francisco Department on the Status of Women, 2010). Between January 2006 and September 2011, there was an increase of approximately 23% in the number of new elder abuse cases reported in San Francisco. During the same time period, approximately 20% of all new reports of elder abuse were for financial abuse by others and 7% of reported cases involved financial self-neglect, though it should be noted that financial self-neglect and financial abuse by others may co-occur.

A number of resources exist in San Francisco for combating elder financial abuse, though much remains to be done to more effectively marshal these resources. The San Francisco Bay Area hosts a wealth of legal brainpower, as it is home to 23% of California's attorneys (the highest concentration of attorneys in the state, just beating out Los Angeles) (State Bar, 2012) and boasts six accredited law schools. The Bay Area is also home to nationally-recognized elder advocacy groups such as California Advocates for Nursing Home Reform and the National

Senior Citizens Law Center. Finally, California, unlike many states, requires financial institutions to report suspected financial abuse to Adult Protective Services, thereby allowing APS to gather significantly more information about such cases (See Cal.Fin.Code §4056 (b)). This access to information about financial abuse cases provides a unique opportunity to identify victims for whom a civil remedy would be appropriate.

Yet recent interviews with key informants in the community yielded common agreement that victims of financial abuse still have difficulty accessing legal assistance. Key informants noted that this was true even where legal resources were available. This is somewhat unsurprising, and mirrors the trends at the state level. Legal aid organizations in the Bay Area have suffered the same shortage of resources noted as elsewhere. Further, a survey of Bay Area attorneys revealed that, while 80% of respondents (n=26) have encountered financial abuse in their careers, only twenty percent (20%) would agree to take a case in San Francisco (n=19). This is particularly significant in that practitioners in elder law and estate planning, probate and trust were heavily represented among the respondents (nearly 85%).

The most notable approach to elder financial abuse in San Francisco is its long history of developing multidisciplinary teams (Schneider et al., 2010). The Consortium for Elder Abuse Prevention, which eventually became a national model, was founded in San Francisco in 1982 by a task force of professionals from the field of aging. San Francisco also adopted both an Elder Death Review Team and a Financial Abuse Specialist Team (FAST). In 2008, the San Francisco Elder Abuse Forensic Center (SFEAFC or Center) was launched with stakeholders from the District Attorney's Office, the Institute on Aging, the Department of Aging and Adult Services, the City Attorney's Office, the Long-Term Care Ombudsman, and the San Francisco Police Department. As many of the same team members participated in the FAST, the two teams were

consolidated into the forensic center team. In approximately four years, the Center handled over 350 complex cases of elder or dependent adult abuse or neglect. Over 30% of those cases involved financial abuse (T.Guinn, personal communication, February 8, 2012). However, the SFEAFC does not have a representative from the civil legal community who can provide information or support on elder law and elder abuse issues.

Thus, consistently, there remains a need to improve the response to financial abuse from the civil legal community. In 2010, twenty-seven stakeholders representing a variety of professional sectors convened at a “state of affairs” roundtable to discuss San Francisco’s existing responses to elder financial abuse and ways to improve them. These professionals included physicians, private civil attorneys, court administrators, the public guardian, legal aid attorneys, government attorneys (civil and criminal justice), elder advocates, police, mediators, and academics. Throughout the day, stakeholders provided information and perspectives on existing approaches to addressing elder financial abuse, as well as ways to enhance them. Recommendations made throughout the day were tracked and synthesized, and later disseminated to stakeholders for review and comment. The ultimate recommendations generated by stakeholders formed the basis for a blueprint for addressing elder financial abuse in San Francisco, along with a “resource map” designed to facilitate coordination and referral among existing providers. This blueprint and resource map was also disseminated to stakeholders for review and comment. (See illustration A.)

The stakeholders’ roundtable was a first for the San Francisco community. Although many stakeholders were veterans in working with abused elders, and many participate in the Forensic Center, many new stakeholders provided fresh perspectives to the group. Importantly, members of the private bar, court administrators, academics, mediators, and legal aid attorneys,

who have not traditionally participated in the Forensic Center team, were able to provide new information and insight about existing or potential new resources in the community. The following examples are representative of the specific implementation goals identified by stakeholders: 1.) Add a box in Superior Court filing forms for the claimant to indicate it is an elder abuse case, 2.) Develop one-hour modules on elder abuse to be taught in local law schools by a cohort of local expert guest speakers, 3.) Create a “mentorship” panel with the Bar Association to link new attorneys with expert attorneys on elder financial abuse cases, 4.) Form an exploratory working group on starting an elder court in San Francisco that would handle civil and criminal matters, and 5.) Pilot an enhanced legal referral panel system for financial elder abuse that links the Bar Association, law students, civil attorneys and Adult Protective Services.

Additionally, this was a unique opportunity for stakeholders to convene and assess approaches to elder financial abuse in a systematic and broad-based way. Unlike Forensic Center meetings, which tend to focus on specific cases, the stakeholder roundtable was intended to provide participants with a broader and also deeper understanding of both the needs and assets of the community.

The San Francisco Elder Financial Abuse Collaboration is an important example of a community-based approach to combating elder financial abuse. Communities can improve responses to abuse by taking a careful look at existing resources, and identifying ways to strengthen and better coordinate those resources.

Conclusions

Elder financial abuse is a multidisciplinary problem requiring an array of approaches and areas of expertise. The civil legal community is an extremely important, though underactive player in efforts to prevent and combat abuse. California, and San Francisco in particular,

presents a compelling illustration of a legal environment rich with potential resources and innovative legislation that still fails to address this problem with the seriousness it demands. An important step for California's civil legal community, from the law schools to the courts, is to begin acknowledging the need to address this problem, and mobilize effectively around it. While new legislation can be extremely helpful, these tools will mean very little if advocates lack the training, will, or resources to implement them.

Efforts like the stakeholder roundtable in San Francisco are needed to cultivate awareness of this problem and ensure that the civil legal community can contribute as a meaningful partner.

References

- Acierno, R., Hernandez, M., Amstadter, A., Resnick, A., Steve, K., Muzzy, M., & Kirkpatrick, D. (2010). Prevalence and correlates of emotional, physical, sexual and financial abuse and potential neglect in the United States: The national elder mistreatment study. *American Journal of Public Health, 100*(2), 292-297.
- Administration on Aging. (2010). *A profile of older Americans: 2010*. Retrieved from http://www.aoa.gov/aoaroot/aging_statistics/Profile/2010/docs/2010profile.pdf
- Alzheimer's Association. (2011, March). *2011 Alzheimer's disease facts and figures*. Retrieved from http://www.alz.org/documents_custom/2011_Facts_Figures_Fact_Sheet.pdf
- American Bar Association Commission on Law and Aging, & American Psychological Association. (2005). *Assessment of older adults with diminished capacity: A handbook for lawyers*. Washington, DC: Author. Retrieved from <http://www.apa.org/pi/aging/resources/guides/diminished-capacity.pdf>
- Arnason, S, Fish, D. G., & Rosenzweig, E. P. (2001). Elder law and elder care: A team response to the needs of elderly clients. *Journal of Gerontological Social Work, 34*(3), 3-11.
- Casper, N. (2011). The Elder Court: Interview with Judge Joyce Cram. *Contra Costa Lawyer online*. Retrieved from <http://cclawyer.cccba.org/2011/03/the-elder-court-interview-with-judge-joyce-cram/>
- California Department of Aging. (2009). *California state plan on aging 2009-2013*. Retrieved from http://www.aging.ca.gov/whatsnew/California_State_Plan_on_Aging_AoA_2009-2013_06-30-2009.pdf
- California Department of Social Services. (2010). *Adult Protective Services and county block grant monthly statistical report*. Available from

- <http://www.cdss.ca.gov/research/PG345.htm>
- City and County of San Francisco Department on the Status of Women. (2010). *Family violence council: Comprehensive report on family violence in San Francisco 2010*. Retrieved from <http://www.sfgov3.org/Modules/ShowDocument.aspx?documentid=458>
- Consumer Financial Protection Bureau. (2012). *Financial protection for older Americans*. Retrieved from <http://www.consumerfinance.gov/older-americans/>
- County Welfare Directors Association of California. (2006, April). *A day in the life of adult protective services – II financial abuse: A profile of the financial abuse reports received in California on Friday, March 5, 2004*. Retrieved from http://www.cwda.org/downloads/publications/adult/ditl_report2.pdf
- Fry, R., Cohn, D., Livingston, G., & Taylor, P. (2011, November 7). *The rising age gap in economic well-being: The old prosper relative to the young*. Retrieved from <http://www.pewsocialtrends.org/files/2011/11/WealthReportFINAL.pdf>
- Johnson, K.D. (2003). Financial crimes against the elderly. *Problem-Oriented Guides for Police, Problem-Specific Guides Serie (Vol. 20)*. Retrieved from: <http://www.cops.usdoj.gov/files/ric/Publications/e07042443.pdf>
- Judicial Council of California. (2008, February). *Effective court practice for abused elders*. Retrieved from <http://mnvac.pbworks.com/f/Effective+Court+Practices+for+Abused+Elders.pdf>
- Kemp, B. R., & Mosqueda, L. A. (2005). Elder financial abuse: An evaluation framework and supporting evidence. *Journal of the American Geriatrics Society*, 53(7), 1123–1127.
- Kohn, N. A. (2010). The lawyer's role in fostering an elder rights movement. *William Mitchell Law Review*, 37, 49-79.

- Kohn, N. A., & Spurgeon, E. D. (2010). Elder law teaching and scholarship: An empirical analysis of an evolving field. *Journal of Legal Education*, 59, 414-431.
- Legal Aid Association of California. (2011a). *Assessing the capacity of California's legal services system to meet the needs of older Californians*. Retrieved from <http://www.calegaladvocates.org/library/attachment.206432>
- Legal Aid Association of California. (2011b). *Insight into the legal needs of California's seniors: Results of survey of area agencies on aging, summer 2010*. Retrieved from <http://www.calegaladvocates.org/library/attachment.203389>
- Lifespan of Greater Rochester, Weill Cornell Medical Center of Cornell University, & New York City Department for the Aging. (2011, May). *Under the radar: New York state elder abuse prevalence study*. Retrieved from <http://www.lifespan-roch.org/documents/UndertheRadar051211.pdf>
- MetLife Mature Market Institute, National Committee for the Prevention of Elder Abuse, & Center for Gerontology at Virginia Polytechnic Institute and State University. (2009, March). *Broken trust: Elders, family and finances*. Retrieved from <http://www.metlife.com/assets/cao/mmi/publications/studies/mmi-broken-trust.pdf>
- MetLife Mature Market Institute, National Committee for the Prevention of Elder Abuse, & Center for Gerontology at Virginia Polytechnic Institute and State University. (2011, June). *The MetLife study of elder financial abuse: Crimes of occasion, desperation, and predation against America's elders*. Retrieved from <http://www.preventelderabuse.org/documents/mmi-elder-financial-abuse.pdf>
- Morris, J. R. (2010). The Bet Tzedek legal services model: How a legal services model addresses elder abuse and neglect. *Journal of Elder Abuse & Neglect*, 22, 275-280.

- Moskowitz, S. H. (2001). Reflecting reality: Adding elder abuse and neglect to legal education. *Loyola Law Review*, 47, 191-229.
- National Center on Elder Abuse. (1998, September). *The national elder abuse incidence study*. Retrieved from http://aoa.gov/AoARoot/AoA_Programs/Elder_Rights/Elder_Abuse/docs/ABuseReport_Full.pdf
- National Center on Elder Abuse. (2012). *Frequently Asked Questions*. Retrieved from http://www.ncea.aoa.gov/NCEARoot/Main_Site/FAQ/Questions.aspx
- National Committee for the Prevention of Elder Abuse. (2008). *Financial abuse*. Retrieved from http://www.preventelderabuse.org/elderabuse/fin_abuse.html
- National Academy of Elder Law Attorneys. (2012). *Elder and special needs law topics*. Retrieved from http://www.naela.org/Public/About_NAELA/Public_or_Consumer/Elder_Law_and_Special_Needs_Topics.aspx
- Nerenberg, L. (2003). *Multidisciplinary elder abuse prevention teams: A new generation*. Washington, DC: National Center on Elder Abuse. Retrieved from http://www.ncea.aoa.gov/Main_Site/pdf/publication/EldAbs_complete.pdf
- Sandusky, S. S. (2003). The lawyer's role in combating the hidden crime of elder abuse. *Elder Law Journal*, 11, 459-491.
- Schneider, D.C., Mosqueda, L., Falk, E., & Huba, G. J. (2010). Elder abuse forensic centers. *Journal of Elder Abuse & Neglect*, 22(3), 255-274.
- Spiegel, D.R. (2011, November). *Financial exploitation of seniors: Untangling the "how*

much” conundrum. Retrieved from

http://www.dcbbar.org/for_lawyers/resources/publications/washington_lawyer/november_2011/stand.cfm

State Bar of California. (2011). *Rule 1.14 Client with Diminished Capacity:*

(Commission’s Proposed Rule – Clean Version). Retrieved from

<http://ethics.calbar.ca.gov/LinkClick.aspx?fileticket=QYlq1fX2ngI%3d&tabid=2161>

State Bar of California. (2012). *Summary Results: Survey of Members of the State Bar of*

California. Retrieved from <http://www.calbar.ca.gov/AboutUs/BarNumbers.aspx>

Stiegel, L. A. (1995). *Recommended guidelines for state courts handling cases involving elder*

abuse. Washington, DC: American Bar Association. Retrieved from

<http://www.ncsconline.org/famviol/elderabuse/pdf/Key%20Components%20Exercise%20Resources/ABA%20Recommended%20Guidelines%20for%20Courts%20on%20Elder%20Abuse.pdf>

Stiegel, L. A. (1996). What can courts do about elder abuse? *Judges’ Journal*, 35, 38-42.

Stiegel, L. A. (2002). Financial abuse of the elderly: Risk factors, screening techniques, and

remedies. *Bifocal: Bar Associations in Focus on Aging and the Law*, 23(4), 1-2, 6-11.

Stiegel, L.A., Teaster, P.B. (2010). Final technical report to the National Institute of Justice on

“A Multi-Site Assessment of Five Court-Focused Elder Abuse Initiatives.” Retrieved from

http://www.americanbar.org/content/dam/aba/uncategorized/2011/2011_aging_ea_multi_assess.authcheckdam.pdf

Triebel, K.L., Martin, R., Griffith, H.R., Marceaux, J., Okonkwo, O.C., Harrell, L., . . .

- Marson, D.C. (2009). Declining financial capacity in mild cognitive impairment: A 1-year longitudinal study. *Neurology*, 73(12), 928-934.
- United States Government Accountability Office. (2011, March). *Elder justice: Stronger federal leadership could enhance national response to elder abuse* (GAO Publication No. 11-208). Washington, DC: U.S. Government Printing Office.
- Van Duizend, R. (2008). The implications of an aging population for the state courts. *Future Trends in State Courts, 2008*, 76-80.
- Wasik, J. F. (2000, March/April). The fleecing of America's elderly. *Consumers Digest*, 77-83.
- Wiglesworth, A., Mosqueda, L., Mulnard, R., Liao, S., Gibbs, L., & Fitzgerald, W. (2010). Screening for abuse and neglect of people with dementia. *Journal of the American Geriatrics Society*, 58(3), 493-500.