

National Health Law and Policy Resource (NHLP) Center University of Iowa College of Law

BIBLIOGRAPHY

Power of Attorney Abuse and Other Forms of Elderly Financial Exploitation 2000 – 2012

- ABA Commission on Law and Aging. (n.d.). *Health and financial decisions, legal tools for*preserving your autonomy. Washington, D.C.: American Bar Association Commission on Law and Aging.
- Acierno, R., Hernandez, M.A., Amstadter, A.B., Resnick, H.S., Steve, K., Muzzy, W. & Kilpatrick, D.G. (2010). Prevalence and correlates of emotional, physical and financial abuse and potential neglect in the United States: The national elder mistreatment study. *American Journal of Public Health*, 100(2), 292-297.
- Acierno R., Hernandez-Tejada, M., Muzzy, W. & Steve, K. (2009). *National elder mistreatment study* (National Criminal Justice Research Service Document No. 226456), Retrieved from https://www.ncjrs.gov/pdffiles1/nij/grants/226456.pdf
- American Prosecutors Research Institute (2003). Protecting America's senior citizens: What local prosecutors are doing to fight elder abuse. Alexandia, VA: Author.
- Arizona Elder Abuse Coalition (n.d.). *Financial exploitation of the elderly: How financial institutions* can help. Retrieved from http://www.azag.gov/seniors/FinancialExploitationoftheElderly.pdf
- Bell, R. C. (2011). Florida's adoption of the uniform power of attorney act: Is it sufficient to protect Florida's vulnerable adults? *St. Thomas Law Review*, 24, 32–67.

- Black, J. A. (2008). The not-so-golden years: Power of attorney, elder abuse, and why our laws are failing a vulnerable population. *St. John's Law Review*, 82(1), 289–314.
- Brisk, W. J. (2012). An elder law attorney's view of the financial competence of older adults.

 Generations: Journal of the American Society on Aging, 36(2), 88–93.
- Brisk, W. J., & Flynn, J. M. (Fall, 2003). No bad deed should go unpunished: evaluation and discovery of cases of financial abuse of elders. *NAELA Quarterly*, *16*(4), 8-14.
- Caldwell, M. R., Burdette, E. E., & Rice, E. L. (2012). Winning the battle and the war: A remediescentered approach to litigation involving durable powers of attorney. *Baylor Law Review*, 64(2), 435-510.
- Calvo, J.B. (2002). Reforming durable power of attorney statutes to combat financial exploitation of the elderly. *Bifocal*, 24(2), 1, 8-10, 12.
- Christiansen, M. A. (2008). Unconscionable: financial exploitation of elderly persons with dementia.

 *Marquette Elder's Advisor, 9(2), 383–415.
- Conrad, K. J., Iris, M., Ridings, J. W., Fairman, K. P., Rosen, A., & Wilber, K. H. (2011). Conceptual model and map of financial exploitation of older adults. *Journal of Elder Abuse & Neglect*, 23(4), 304–325.
- Conrad, K. J., Iris, M., & Ridings, J. W. (2009). Conceptualizing and measuring financial exploitation and psychological abuse of elderly individuals. (National Criminal Justice Reference Service No. 228632). Retrieved from .

 https://www.ncjrs.gov/pdffiles1/nij/grants/228632.pdf
- Conrad, K. J., Iris, M., Ridings, J. W., Langley, K., & Wilber, K. H. (2010). Self-report measure of financial exploitation of older adults. *The Gerontologist*, 50(6), 758–773.

- Conroy, A. J. (2009). Curbing the license to steal: a discussion of English law and possible reforms for the durable power of attorney. *Real Property Trust & Estates Law Journal*, 44, 31-53.
- Deaver, E. (2010). Chapter 48: Protecting vulnerable adults from predatory power of attorney practices. *McGeorge Law Review*, 42(3), 677–685.
- Deen, P., Nerenberg, L., & Titus R. (2007), Victims of financial crime. In R.C. Davis, A.J. Lurgio, T.S. Herman (Eds.) *Victims of crime* (3rd ed.), Thousand Oaks, CA: Sage Publications.
- Dessin, C. (2003). Financial abuse of the elderly: Is the solution a problem? *McGeorge Law Review*, 34, 267-321.
- Federman, J., & Reed, M. (2006). *Abuse and durable power of attorney: Options for reform.* Albany, New York: Government Law Center of Albany Law School.
- Flint, L. A., Sudore, R. L., & Widera, E. (2012). Assessing financial capacity impairment in older adults. *Generations: Journal of the American Society on Aging*, 36(2), 59–65.
- Griffith, H.R., Belue K., Sicola, A., Krywanski, S., Zamrini, Harrell, L., & Marson, D.C. (2003).

 Impaired financial abilities in mild cognitive impairment: A direct assessment approach,

 Neurology 60(3) 449-457.
- Gunther, J. (2011). The Utah cost of financial exploitation. *BIFOCAL*, 32(4), 46–56.
- Hafemeister, T.L. (2002). Financial abuse of the elderly in domestic settings. In R.J. Bonnie & R.B. Wallace (Eds.) *Elder mistreatment: Abuse, neglect, and exploitation in an aging America* (382-445). Washington, DC: The National Academies Press.
- Henningsen, E. J. (2000). Special focus issue -- elder abuse. Preventing financial abuse by agents under powers of attorney. *Wisconsin Lawyer*, 73(9), 1–4.
- Hillard, T. (2006). *Power failures, power of attorney authority and the exploitation of elderly New Yorkers*. Albany, NY: Schuyler Center of Analysis and Advocacy.

- Hughes, M. M. (2000). Remedying financial abuse by agents under a power of attorney for finances.

 *Marquette Elder's Advisor, 2(4), 39–48.
- Hughes, S. L. (2003). Can bank tellers tell? Legal issues relating to banks reporting financial abuse of the elderly. Washington, D.C.: American Bar Association.
- Hull, K. G. (2008). Broken trust: Pursuing remedies for victims of elder financial abuse by agents under power-of-attorney agreements. *Clearinghouse Review*, 12 (5-6), 223–231.
- Humphry, H. H. I. (2012). The role of the federal government in financial education for older americans: The new Consumer Financial Protection Bureau. *Generations: Journal of the American Society on Aging*, 36(2), 101–104.
- Infogroup/ORC (2010). Elder investment fraud and financial exploitation: A survey conducted for Investor Protection Trust. Retrieved from http://www.investorprotection.org/learn/research/?fa=eiffesurvey.
- Investor Protection Trust, Investor Protection Institute. (2012). Results from the investor protection trust/ investor protection institute elder investment fraud and financial exploitation survey of experts. Retrieved from http://www.investorprotection.org/downloads/pdf/learn/research/IPT-IPI_EIFFE_Expert_Survey_CFPB_08-15-12.pdf
- Jackson, S. L., & Hafemeister, T. L. (2011). Financial abuse of elderly people vs. other forms of elder abuse: Assessing their dynamics, risk factors, and society's response. (National Criminal Justice Reference Service No. 233613.) Retrieved from https://www.ncjrs.gov/pdffiles1/nij/grants/233613.pdf
- Johnson, I. (2010). Preventing identity theft and other financial abuses perpetrated against vulnerable members of society: Keeping the horse in the barn rather than litigating over a cause and/or consequences of his leaving. *UMKC Law Review 79*(1), 99-122.

- Khon, N. A. (2006). Elder empowerment as a strategy for curbing the hidden abuses of durable powers of attorney. *Rutgers Law Review*, *59*(1), 1–53.
- Justice for All: Ending elder abuse, neglect and financial exploitation. Hearing before the Special Committee on Aging (S. Hrg. 1112-61), U.S. Senate, 112th (Org. L Serial No. 112-1) (2011). Washington D.C.: U.S. Government Printing Office.
- Karp, N. (2012). Protecting older investors: The challenge of diminished capacity.

 Generations: Journal of the American Society on Aging, 36(2), 33–38.
- Knight, A. J., & Marson, D. C. (2012). The emerging neuroscience of financial capacity.

 Generations: Journal of the American Society on Aging, 36(2), 46–52.
- Lemke, J. A., & Moskowitz, S. (2005). Protecting the gold in the golden years: Practical guidance for professionals on financial exploitation. *Marquette Elder's Advisor*, 7(1), 1-28.
- Lusardi, A. (2012). Financial literacy and financial decision-making in older adults.

 Generations: Journal of the American Society on Aging, 36(2), 25–32.
- Marson, Daniel C. (2012). Financial competency and America's aging population.

 Generations: Journal of the American Society on Aging, 36(2), 4–5.
- Marson, Daniel C., & Sabatino, C. P. (2012). Financial capacity in an aging society.

 Generations: Journal of the American Society on Aging, 36(2), 6–11.
- Marson, D. C., Martin, R.C., Wadley, V., Griffith, H.R., Snyder, S., Goode, P.S., ... & Harrell, L.E. (2009). Clinical interview assessment of financial capacity in older adults with mild cognitive impairment and alzheimer's disease. *Journal of the American Geriatrics Society*, *57*(5), 806–814.
- Metlife Mature Market Institute, National Committee for the Prevention of Elder Abuse, Center for Gerontology and Virginia Polytechnic Institute and State University (2011). *The Metlife study of*

- financial abuse, crimes of occasion, desperation, and predation against America's elders. New York, NY: Author.
- Metlife Mature Market Institute, National Committee for the Prevention of Elder Abuse, Center for Gerontology and Virginia Polytechnic Institute and State University. (2009). *Broken trust: elders, family, and finances. A study on elder financial abuse prevention.* New York, NY: Author.
- Missouri Department of Health and Senior Services (2009). It's a crime: Abuse, neglect and financial exploitation of Missouri's elderly and adults with disabilities. Jefferson City, Mo: Author.
- National Conference of State Legislatures (2012). Financial Crimes Against the Elderly 2012

 Legislation. Retrieved from http://www.ncsl.org/issues-research/banking/financial-crimesagainst-the-elderly-2012-legis.aspx
- National District Attorneys Association (2003). *Policy positions on the prosecution of elder abuse,* neglect and financial exploitation. Alexandria, VA: Author.
- Reed, K. (2005). When elders lose their cents: financial abuse of the elderly. *Clinics in Geriatric Medicine*, 21(2), 365–382.
- Rhein, J. L. (2009). No one in charge: Durable powers of attorney and the failure to protect incapacitated principals. *Elder Law Journal*, *17*, 165–199.
- Roush, R. E., Moye, J. A., Mills, W. L., Kunik, M. E., Wilson, N. L., Taffet, G. E., & Naik, A. D. (2012). Why clinicians need to know about the elder investment fraud and financial exploitation program. *Generations: Journal of the American Society on Aging*, *36*(2), 94–97.
- Senior Financial Empowerment Act of 2009, Hearing before a Subcommittee on Crime, Terrorism and Homeland Security of the Committee on the Judiciary. House of Representatives. 111th Cong. (Serial No. 111-137). (2010), Washington, D.C.: U.S. Government Printing Office.

- Silverman, R. E., & Jones, A. (2007, November 28). How to ensure relatives don't rip you off. Case of Astor's son highlights risks of powers of attorney; requiring regular accounts. *The Wall Street Journal Online*. Retrieved from http://online.wsj.com/home-page
- Sherod, M. G., Griffith, H. R., Copeland, J., Belue, K., Krzywanski, S., Zamrini, E. Y. ... & Marson, D.C. (2009). Neurocognitive predictors of financial capacity across the dementia spectrum:

 Normal aging, mild cognitive impairment, and Alzheimer's disease. *Journal of the International Neuropsychological Sociey*, 15(2), 258–267.
- Shivapour, S. K., Nguyen, C. M., Cole, C. A., & Denburg, N. L. (2012). Effects of age, sex, and neuropsychological performance on financial decision-making. *Frontiers in Neuroscience*, 6, 1–7.
- Snyder, J. (2012). Strategies for banks to protect elderly clients from themselves and others.

 Generations: Journal of the American Society on Aging, 36(2), 98–100.
- Stanger, T. (2009). Astor case: How to prevent financial elder abuse by family. *Consumer News, Consumer Reports.org*. Retrieved from http://news.consumerreports.org/money/2009/10/brooke-astor-case-verdict-financial-elder-abuse-family-members-power-of-attorney-.html
- Stiegel, L. A. (2002). Financial abuse of the elderly: Risk factors, screening techniques, and remedies. *Bifocal*, 23(4), 1-2, 6-11
- Stiegel, L. A. (2008a). Durable power of attorney abuse. A National Center on Elder Abuse fact sheet for consumers. Washington D.C.: American Bar Association.
- Stiegel, L. A. (2008b). Durable power of attorney abuse: It's a crime too, a National Center on Elder Abuse fact sheet for criminal justice professionals. Washington D.C.: American Bar Association.

- Stiegel, L. A. (2009). Elder financial exploitation: from Astor to undue influence. American Bar Association, Washington D.C.
- Stiegel, L. A., & VanCleave Klem, E. (2008). Power of attorney abuse: What states can do about it: a comparison of state laws with the new Uniform Power of Attorney Act. Washington, D.C.: AARP Public Policy Institute.
- Stiegel, L., & VanCleave Klem, E. (2008). *Power of attorney laws: Citations, by state* (Laws current as of 12/31/07). Washington D.C.: American Bar Association Commission on Law and Aging.
- Teaster, P. B. (2002). A response to the abuse of vulnerable adults: the 2000 survey of state adult protective services. Washington DC: National Center on Elder Abuse.
- Thilges, A. A. (2000). Abuse of power of attorney: Who is more likely to be punished, the elder or the abuser? *Journal of the Academy of Matrimonial Lawyers*, 16(1), 579–592.
- Triebel, K. L., & Marson, D. C. (2012). The warning signs of diminished financial capacity in older adults. *Generations: Journal of the American Society on Aging*, 36(2), 39–45.
- 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. *Neurology*, 73(12), 928–934.
- U.S. Government Accountability Office, (2004). Guardianships: Collaboration needed to protect incapacitated elderly people. (GAO-04-655). Retrieved from http://www.gao.gov/new.items/d04655.pdf
- U.S. Government Accountability Office, (2010). Guardianships: Cases of financial exploitation, neglect and abuse of seniors. (GAO-10-1046). Retrieved from http://www.gao.gov/assets/320/310741.pdf

- U.S. Government Accountability Office, (2011). *Incapacitated adults: Oversight of federal*fiduciaries and court-appointed guardians needs improvement. (GAO-11-678). Retrieved from http://aging.senate.gov/letters/d11678.pdf
- Uekert, B.K., Keilitz, S., Heisler, C., Ulrey, P. & Baldwin, E.G. (2012). *Prosecuting elder abuse cases: Basic tools and strategies*. Williamsburg VA: National Center for State Courts
- Uekert, B.K., Keilitz, S., Jones, T, Baldwin, E.G., Ulrey P. &, Heisler C. (2012). *Prosecution guide to effective collaboration on elder abuse*. Williamsburg VA: National Center for State Courts
- Vu-Dinh, K. (2010). Reforming power of attorney law to protect Alaskan elders from financial exploitation. *Alaska Law Review*, 27(1), 1–26.
- Washington State Office of Attorney General (2008). *Vulnerable adult initiative, 2008 final report*. Olympia WA: Author.
- Washington State Office of Attorney General (2008). Vulnerable adult abuse investigation manual for law enforcement. Olympia WA: Author
- WestlawNEXT (2010). 50 state statutory surveys: Physical and financial abuse of the elderly.

 Thomson Reuters/West.
- Whitton, L. S. (2007). The new Uniform Power of Attorney Act: Balancing protection of the principal, the agent, and third persons. In *Proceedings of the 41st Annual Heckerling Institute on Estate Planning*. Newark, N.J.: Matthew Bender.
- Whitton, L.S. (2008). The Uniform Power of Attorney Act: Striking a balance between autonomy and protection. *Phoenix Law Review*, 1, 343-364.
- Wiglesworth, A., Mosqueda, L., Burnight K., . Younglove T., and Jeske D.(2006).. Findings from an elder abuse forensic center. *The Gerontologist* 46 (2), 277-283.

Widera, E., Steenpass, V., Marson, D., & Sudore, R. (2011). Finances in the older patient with cognitive impairment. "He didn't want me to take over." *JAMA*, *305*(7), 698–706.

Wood, S., & Liu, P.-J. (2012). Undue influence and financial capacity: A clinical perspective.

Generations: Journal of the American Society on Aging, 36(2), 53–58.

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