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### A Case Study: The Astor Trial – An Interview with the Prosecutor

In late December, Anthony Marshall, the only son of the late Brooke Russell Astor, and Francis X. Morrissey, an attorney, were both sentenced to a state prison term of one to three years for defrauding and stealing from the legendary philanthropist. Although the trial involved an extremely high profile victim and the loss of millions of dollars, the case exemplified many aspects typical of elder abuse cases involving financial exploitation. NCEA recently interviewed the prosecutor who initiated the investigation and served on the trial team, New York County Assistant District Attorney Elizabeth Loewy, about the trial, the verdict, and the Office's specialized elder abuse prosecution unit.

NCEA: A case of this magnitude must have taken a Herculean effort to bring to trial and prosecute. In a recent interview, expert witness attorney Alex Forger indicated that he alone spent hundreds of hours analyzing documents in preparation to give

testimony. Can you share some sense of what it took to bring the case to trial? What were the major obstacles?

Ms. Loewy: Alex Forger, a renowned trusts and estates attorney and former head of the American Bar Association Commission on Law and Aging, was one of our expert witnesses. We were fortunate that he was so thorough in his efforts to prepare for his testimony. Mr. Forger familiarized himself with trusts and estates documents covering five decades. The Court permitted him to testify about professional practice standards of trusts and estates attorneys. Dr. Gene Cohen, a well-respected geriatric psychiatrist, was another significant expert witness who was permitted to give his opinion about Mrs. Astor's mental capacity. These were only two of the 73 witnesses we called in this six month trial.

[The] Astor [case] did entail a great deal of work. But most elder abuse prosecutions require tremendous effort and sometimes creativity on the part of the prosecution. Without a doubt, I believe these are among the most challenging cases to prosecute, especially when the case involves abuse or exploitation committed by the elder's family member or fiduciary, such as an attorney pursuant to a power of attorney. As a prosecutor, you expect to encounter issues that are common to domestic violence cases, such as the reluctant and fearful victim who is less than enthusiastic about testifying. Added to the mix in these cases are the formidable obstacles related to older victims who are either unable or unavailable to testify, either because of mental impairment or death. Any time you are not able to call your victim as a witness, the investigation and the trial will take more time – almost by necessity. With respect to a victim's mental impairment, this is usually the reason why they were targeted. And the prosecution will have to establish evidence related to the victim's lack of consent through other means, usually through circumstantial evidence. Many of my elder abuse

investigations have taken years to resolve – it's not uncommon. But naturally they didn't generate this level of attention.

The Astor investigation began in late 2006, the defendants were indicted in late 2007, and we started picking a jury in March of 2009. The trial lasted for six months. The investigation involved scrutinizing a mountain of documents – not just one or two wills, but about 32 wills and codicils over five decades, several powers of attorney, as well as filings from the guardianship proceeding and Surrogate's Court. This evidence was important to establish Mrs. Astor's intent with respect to her longstanding estate plan, as she was unable to testify when we first started to work on the case and had passed away before the trial began. This is a common strategy that we employ in cases of elder financial exploitation. Additional steps we took to glean Mrs. Astor's intent and demonstrate her lack of capacity included reviewing voluminous medical records, analyzing bank records, interviewing her doctors and nurses, speaking to her longtime friends and employees and to her attorneys as well. This was necessary to gain a sense of her intentions and her capacity to make decisions.

NCEA: Have other cases you've prosecuted lasted this long?

Ms. Loewy: Well, I've never had a trial that lasted six months! There was a good bit of criticism about the length of the trial – some of it was good-natured. One of the NY papers even ran a cartoon depicting the jurors as aging in their seats and asleep, which was amusing but inaccurate. We kept an eye on the jury and they appeared attentive throughout the trial. As a prosecutor, you can't try your case based on what the press is saying. An article or two quoted well-known defense attorneys who were critical of the way we were putting on our case, but they hadn't set foot in the courtroom. We had a plan with respect to how to

prove our case, and we weren't going to change our strategy or allow ourselves to be distracted based on opinions of the pundits. At one point, we were criticized not just for calling too many witnesses, but for bringing in celebrities such as Barbara Walters and Henry Kissinger, as though we were doing it for the titillation factor. Not so. As I said, when you can't call the victim to the stand, but there are close friends and associates who have significant, relevant information to share with respect to the victim's mental capacity, or lack thereof, at important times – this is the way you build your case. Each witness played a vital and important role in helping the jury to assess the big picture with respect to Mrs. Astor's mental state. Another important aspect of the evidence were the many statements made by the defendants, such as letters and conversations Marshall had with his mother's doctors regarding her diagnosis of probable Alzheimer's disease.

Another challenge in this case was the fact that many of our witnesses were represented by counsel. Logistically, scheduling time with any of these witnesses meant scheduling with not one person but two or more. One reason for this was that there were two civil actions which were proceeding concurrently with the Astor investigation and trial. One was a guardianship proceeding, which has since been resolved, and the other a Surrogate's Court action – which is still ongoing.

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## **Elder Financial Protection Network Receives Federal Deposit Insurance Corporation Chairman's Award**

In December, in celebration of the 75th Anniversary of the Federal Deposit Insurance

Corporation (FDIC), Chairman Sheila Bair recognized six organizations from each of the FDIC's six regions with the Chairman's Award for Innovation in Financial Education. The honorees were selected based on innovation and excellence in financial education that led to measurable results and potentially replicable best practices. Jenefer Duane, Founder and CEO of the Elder Financial Protection Network (EFPN), accepted the award on behalf of the San Francisco-based organization.

Ms. Duane believes that the timing of the Chairman's Award could not have been better as it coincided with the beginning of EFPN's ten year anniversary, and highlights the good relationship that the EFPN has with the FDIC and other financial institution regulatory agencies. Shortly after its formation in 2000, EFPN, was able to demonstrate to the FDIC that elder financial abuse prevention should be included in the nationwide financial literacy initiative under the Community Reinvestment Act. This inclusion has been instrumental in increasing elder financial abuse awareness through collaboration with several hundred banks and credit unions. Clearly, elders benefit from financial security, and as Ms. Duane said, "Financial institutions also benefit from their elder customers' deposits remaining in the bank and not falling prey to financial predators." EFPN has made great progress in developing models to protect seniors from financial abuse not just in California, but nationally, and the Chairman's Award is a reflection of its successful replication. Through collaboration with NBC Bay Area, EFPN will soon be launching Be Wise University, a series of six free fifteen-minute podcasts classes on topics such as frauds and scams, legal issues, hiring in home help, etc.

"The Chairman's Award is an acknowledgement of the FDIC which sends a message to our country's banking industry that elder financial abuse prevention is a national priority," noted Ms. Duane.

After a decade of working to promote elder financial abuse awareness and prevention with support from the FDIC, she said, "This is the cherry on top."

EFPN is a non-profit organization located in San Francisco-based collaborative partnership of financial institutions, law enforcement agencies, non-profit organizations, professional and trade associations, and social service providers dedicated to the prevention of financial abuse of the elderly and dependent adults in California. To learn more, visit [EFPN online](#), or read the article appearing in the [November 2009 NCEA E-News](#).

Special thanks to Katie Wolinski of the University of Delaware Center for Community Research and Service for submitting this article.

## Online Resources for Caregivers

With increasing numbers of elders living longer, more and more aging caregivers find themselves providing care for extended periods of time. Several new resources to support caregivers -- and ultimately enhance the well-being and quality of life for elderly care recipients -- are now online:

### Implementing a Community-Based Program for Dementia Caregivers: An Action Guide Using REACH OUT

This program was developed in collaboration with the University of Michigan's Institute of Gerontology, the Centers for Disease Control and Prevention, and the National Association of Chronic Disease Directors. The guide is intended for use by state and local agencies that offer or plan to develop services for older adults with dementia, including State Units on Aging, senior centers, home health agencies, etc. The publication details the evidence-based REACH OUT (Resources for

Enhancing Alzheimer's Caregiver Health: Offering Useful Treatments) program. Research on the effectiveness of the approach demonstrated improvement in overall caregiver health and depression, lower levels of caregiver burden, and a decrease in anger towards care recipients. According to the authors, the REACH OUT evidence-based approach may be broadly applied to other types of aging services programming development and evaluation. [Click here](#) to access the guide.

### Ask Medicare Website

The "Ask Medicare" website features two new resources. The first is a link to a [Caregiver's Broadcast video](#) on YouTube that explores one family's experiences and discusses programs and services available for caregivers and care recipients.

In addition, [The Caregivers Resource Guide](#) provides information on and links to services and programs available for caregivers and care recipients through the HHS Administration on Aging, HHS Centers for Medicare & Medicaid Services and other state and local programs.

Additional resources are accessible from the [Ask Medicare Caregiver Information web page](#).

### Videocaregiving.org

[Videocaregiving.org](#) is a new web site by Terra Nova Films featuring a series of streaming educational videos for family caregivers. Brief video clips highlight both practical caregiving skills as well as emotional issues and interpersonal dynamics that are part of the caregiving experience.

James Vanden Bosch is the founder and executive director of [Terra Nova Films](#), a not-for-profit video

production company specializing in aging and caregiving issues, including elder abuse.

## Administration on Aging to Host Reauthorization of Older Americans Act Listening Forums

The reauthorization of the Older Americans Act is scheduled for 2011. To gather input from key stakeholders, the Administration on Aging (AoA) will convene a series of listening forums throughout the country during the coming months. Members of the aging services network, policymakers, and the public, particularly older Americans, are invited to share their insights and concerns on significant issues.

Here is a listing of the dates selected for states served by the following AoA Regional Support Centers ([click here](#) to see a listing of states served by each Regional Center):

- February 18th in Dallas for AoA Regions IV, VI, VII and Title VI representatives
- February 25th in Washington, DC Metro Area for AoA Regions I, II, and V
- March 3rd in San Francisco for AoA Regions VIII, IX, X and Title VI representatives

In addition, a separate listening forum will be held at the NCOA/ASA Annual Conference in Chicago on March 16th.

More information will soon be available through the AoA eNewsletter and eNews Alerts. [Click here](#) to subscribe.



## Request for Presentations: Fifth Annual New York City Elder Abuse Conference

On June 2, the Fifth Annual New York City Elder Abuse Conference will be held at The New School Institute for Retired Professional in New York. This year's event is entitled: *Don't Walk Alone: Interdisciplinary Collaborations to Improve the Impact of Interventions in Elder Abuse.*

Conference planners are now seeking proposals for workshops representing a wide spectrum of disciplines, including, but not limited to, social work, psychology and psychiatry, law, finance, medicine, religion/spirituality, policy, education, research, and media.

According to the sponsors, the conference "will focus on recent legal, clinical, mental health, and medical developments in the identification and prevention of elder abuse and new strategies for intervention. Presentations concerning interdisciplinary perspectives on capacity and competency, incidence of domestic violence, and implications for serving older adults within the continuum of family violence, developments in human rights that impact on older adults, family dynamics and the intergenerational aspects of elder abuse, developments in mandatory reporting, and other advocacy initiatives are of particular interest.

Sponsors are also seeking submissions for the keynote address "which will focus on compassion fatigue while emphasizing self-care when working with abused older adults."

Proposals should include a 300-word abstract summarizing the proposed presentation, three learning objectives, and a brief presenter biography and suggested resources. Presentations are 90 minutes, and may be grouped to create

interdisciplinary sessions and enable panel discussions." Submit proposals [via email](#). For questions, please contact Mara Schechter 718-286-1540 or by [email](#). **Deadline for submissions is January 29, 2010**

## Online Resources for Legal Services

Following are a number of new resources for both legal service providers as well as consumers on issues related to elder abuse, neglect, and exploitation as well as consumer protection.

### Stetson University Elder Consumer Protection Program

The [Elder Consumer Protection Program](#) at Stetson University College of Law serves as a progressive and evolving resource, to both professionals and the public, on general and legal topics regarding current and developing matters in the area of elder consumer protection. Directed by Rebecca C. Morgan and managed by Slade V. Dukes, the Program is housed within the College of Law's Center for Excellence in Elder Law.

The Program offers personalized guidance and assistance by reviewing and responding to elder consumer related inquiries received directly or through the National Center on Elder Abuse (NCEA). The Program's website was recently revised and updated and now includes access to all available videos and brochures, as well as access to the Statutory Update Resource database and Consumer Inquiry Direct Submission feature.

### *Statutory Update of Adult Protection and Elder-Related Laws*

In collaboration with National Committee for the Prevention of Elder Abuse (NCEA grantee), the Program annually monitors and compiles statutory information on individual state and federal adult

protection and elder-related laws for the NCEA. [The Statutory Update Resource Database](#) includes the following information for each state/entity:

- Identification of each state's or entity's local legislative or governmental website;
- Step-by-step Instructions for accessing each state's or entity's current statutory listings;
- Process by which each state or entity enacts legislation;
- A listing of each state's or entity's 2007 and 2008 adult protective statutes as identified (which includes statutory number, statutory title, statutory language, and identification of any statutory changes).

Additionally, the Statutory Update page links to the [Additions and Deletions Quick Reference Guide](#).

This guide highlights, for easy reference and identification, those statutes for each state or entity that changed between 2007 and 2008.

#### *Consumer Inquiry Online Submission Form*

The revamped website now includes an [Online Consumer Inquiry Form](#) to submit questions or concerns about general or legal matters regarding elder consumer protection and elder financial exploitation:

- All technical assistance inquiries are carefully reviewed.
- Best efforts are made to provide a timely response.
- Responses will be provided either by telephone, e-mail, or U.S. Mail.
- Best attempts are made to provide useful and detailed assistance and guidance (e.g., reference to educational, informational and instructional resources; referral to legal or community social assistance agencies; referral to local or state lawyer referral services or entities; referral to an appropriate local/state/federal regulatory agency).

Special thanks to Slade V. Dukes, Esq., for submitting this article.

### **The National Legal Resource Center**

The National Legal Resource Center (NLRC) was developed by the Administration on Aging "to empower legal and aging services advocates with the resources necessary to provide high quality legal help to seniors who are facing direct threats to their ability to live independently in their homes and communities." The NLRC recently launched its [new web site](#) which provides a single portal for advocates and professionals in aging and law to access a wide array of information and resources.

According to Omar Valverde, NLRC Project Officer, "A highly significant innovation includes the ability for legal and aging service providers to directly request intensive case consultation and training on the most difficult and pervasive legal issues facing older persons, through an easy online request process.

The NLRC is a collaborative project involving five national non-profit organizations with longstanding involvement in legal and aging services:

- [National Senior Citizens Law Center](#)
- [National Consumer Law Center](#)
- [The Center for Social Gerontology](#)
- [The Center for Elder Rights Advocacy](#)
- [The American Bar Association-Commission on Law and Aging](#)

To learn more about the NLRC, read [November 2008 NCEA E-News](#) article on the project.

## [The Astor Trial, continued from p. 2](#)

At every turn, the defense attempted to paint this case as a civil action that was inappropriately pursued and litigated in Criminal Court. My Unit has been prosecuting cases involving the abuse of power of attorney documents for over a decade. And some folks may not realize that when this case was referred to us in 2006, it was because a highly respected handwriting expert, Gus Lesnevich, had determined that the signature on Mrs. Astor's Third Codicil appeared to be a forgery. I'm not aware of any prosecutor's office that routinely refers forgery allegations to a civil forum.

NCEA: In talking with advocates and professionals around the country, it is clear that many believed a great deal was riding on the outcome of this trial. Did you feel additional pressure because of that?

Ms. Loewy: Perhaps I was naïve, but this surprised me a bit. I did feel pressure preparing the case for the grand jury. For me, the indictment itself was a significant accomplishment. I wasn't thinking about the repercussions of an acquittal or whether it would have a chilling effect on elder abuse prosecutions. Perhaps I was in denial but I am heartened that this case may serve to be an incentive for other law enforcement professionals who serve older or impaired clients.

NCEA: How do you feel about the sentences handed down?

Ms. Loewy: I respect the jury's verdict. The defendants both received state time sentences of one to three years. I think justice prevailed. Marshall is an 85 year old defendant with no prior criminal record who now faces state prison. Morrissey is also an older defendant who, at 67, not only received a state time sentence, but will automatically be disbarred. This case also represented Morrissey's first arrest, although he

was suspended from the practice of law in the 1990s for an unrelated matter. That's a whole other story.

## **New York County's Specialized Elder Abuse Prosecution Unit**

The NCEA also had the opportunity to speak with Ms. Loewy about the development of New York County's Specialized Elder Abuse Prosecution Unit, and how this enhances the prosecution of elder abuse crimes.

Ms. Loewy: Originally, domestic violence and elder abuse cases were merged in one unit. In 1995, elder abuse prosecutions were referred to a separate program within the Special Prosecutions Bureau. The Elder Abuse Unit now handles cases vertically, which means that one prosecutor will work on the case from start to finish -- from the original complaint through the resolution of the case by a plea of guilty or trial.

NCEA: Do all of the prosecutors in this unit work exclusively on elder abuse cases?

Ms. Loewy: No. Other than me, the prosecutors who work on these cases receive specialized training and develop expertise in elder abuse issues, but they work on other types of cases as well. This is true of most of the assistant district attorneys (ADAs) who work in specialized units (such as the Sex Crimes unit, etc) in my Office.

In addition to receiving specialized training in elder abuse issues, ADAs also cross train others (APS, civil attorneys, police, doctors, social service agencies, etc.) and we invite speakers from those entities to train our legal staff. The unit has two detectives from the New York Police Department who specialize in elder abuse cases and receive special training. We are also fortunate to have forensic accountants available to the Unit to assist on financial fraud investigations involving senior

victims. As we have seen in other specialized prosecution units, the increased training and experience enhances our abilities to deal effectively with these cases.

NCEA: In closing, would you like to share any additional thoughts?

Ms. Loewy: The Astor convictions were the result of hard work achieved by a team. First and most important, the case was brought by DA Robert Morgenthau and continues under our new DA, Cyrus Vance, Jr. I feel fortunate to work in an Office where issues related to elderly victims are made a top priority. The support of the executives in my Office is the reason there was a trial. The talent and dedication of co-counsel, ADA Joel Seidemann (Senior Trial Counsel) and ADA Peirce Moser, as well as the lead Detective Don Kennedy, were instrumental in our ability to successfully prosecute the case. Although the Astor case involved a well-known and wealthy victim, it shares many of the elements and dynamics of elder abuses cases that happen every day, everywhere to regular folks. In talking about the Brooke Astor case, I hope that advocates can use its lessons to raise the visibility of the issue of elder abuse. And that perhaps prosecutors and law enforcement around the country will be encouraged by the result of the trial.

Any questions may be referred to [Assistant District Attorney Elizabeth Loewy](#).

Note: The defense in the case has issued a notice of appeal. Mr. Marshall and Mr. Morrissey will not begin serving their sentences until after a decision is made on the appeal.

## Online Resources for Public Awareness

### “Age Strong! Live Long!” Older Americans’ Month Materials Now Online

Annually, the month of May is nationally recognized as *Older Americans’ Month*. This provides an excellent opportunity to raise public awareness of elder abuse, neglect, self-neglect, and exploitation.

The theme of this year’s observance is, *Age Strong! Live Long!* The Administration on Aging has created a series of materials to support state, community, tribal, and other organizations in conducting public awareness activities. Visit the [AoA Online Press Room](#) to access and download the official logo, poster, and other materials.

For suggestions on raising awareness of elder abuse in your community and to download tip sheets, fact sheets, and other resources, visit the [NCEA Join Us in the Fight Against Elder Abuse](#) web page.

### Office of Victims of Crime Announces Theme for Annual Observance

The 2010 National Crime Victims’ Rights Week (NCVRW) will be observed from April 18th-24th. This year’s theme is “Crime Victims’ Rights: Fairness. Dignity. Respect.” The colors are yellow, orange, red, blue, and black. According to the Office of Victims of Crime (OVC), “the theme recognizes the ideals that are critical to the decades-long struggle for justice by victims and advocates.”

NCVRW provides an opportunity to draw attention to the unique issues that older victims of crime face. Annually, OVC produces a comprehensive and practical resource guide to assist individuals and



organizations in planning public awareness activities. The 2010 guide will soon be available. To review materials from previous years or to register for email notifications of NCVRW news and events, visit the [NCVRW Web page](#).

## Online Resources for Training: The National Elder Rights Training Project 2010 Podcasts

The National Consumer Law Center recently posted its agenda for the National Elder Rights Training Project 2010 Webinar schedule. Topics that may be of interest include loan mod scams, consumer fraud, and undue influence. The series begins on January 20th and run through July 14th. All webinars are on Wednesdays at 2pm EST unless otherwise noted. They are also open to the public and there is no charge.

Podcasts from the 2009 series are currently available online also. For more information or to register, visit the [National Consumer Law Center Web site](#).

## Office on Violence Against Women Funding Opportunities

There are several open solicitations for grant-funded projects through the Department of Justice Office on Violence Against Women (OVW).

### OVW Fiscal Year 2010 STOP Violence Against Women Formula Grant Program

"By statute, the STOP Program supports communities in their efforts to develop and strengthen effective law enforcement and prosecution strategies to combat violent crimes against women and to develop and strengthen

victim services in cases involving violent crimes against women."

Of note, elder abuse training is one of the priority areas identified in this year's solicitation.

The solicitation requires that both a "hard" (paper) copy of the submission and an electronic submission through the Office of Justice Programs Grant Management System (GMS) be received by the application deadline.

#### Important dates:

- Applications deadline: 8:00 p.m. E.T. on January 28, 2010.
- All applicants should register online with GMS by January 14, 2010.

For more information, visit the OVW [STOP solicitation Web page](#).

### OVW FY 2010 Court Training and Improvements Program

While elder abuse, neglect, and exploitation is not a specific priority area, the Court Training and Improvements Program supports court and court-based initiatives that aim to improve civil and criminal court functions, enhance court infrastructure and improve court responses to victims of sexual assault, domestic violence, dating violence and stalking.

#### Important dates:

- Applications deadline: 8:00 p.m. E.T. on February 9, 2010.
- Letters of intent to apply should be submitted by January 26, 2010.
- All applicants should register online with GMS by January 26, 2010.

#### Pre-Application Conference Calls

- February 3, 2010: 2 p.m. – 4 p.m. E.T.

For more information, visit the [Courts Program Web site](#).

## OVW FY 2010 Legal Assistance for Victims Grant Program

While elder abuse, neglect, and exploitation is not a specific priority area, this program seeks to strengthen civil and criminal legal assistance programs for adult and youth victims of sexual assault, domestic violence, dating violence, and stalking who are seeking relief in legal matters arising as a consequence of that abuse or violence.

### Important Dates:

- Applications deadline: 8:00 p.m. E.T. on February 4, 2010
- Letters of intent were requested by January 21, 2010.
- All Applicants should be registered with GMS by January 21, 2010.

For more information, visit [the Legal Assistance for Victims program website](#). For assistance with the requirements of these solicitations, contact OVW at (202) 307-6026.

## State News

### California: Two Significant Elder Abuse Lawsuit Decisions

#### *Jury Awards \$7.75 Million in Arellano v. Fillmore Convalescent Center*

The family of a 71 year old stroke victim, Maria Arellano, was awarded \$7.75 million in an elder abuse lawsuit on December 11, 2009. Arellano was residing at the Fillmore Convalescent Center in Ventura County, California in 2006 when her family noticed that she was bruised. Arellano's family

alleged that they reported this to the management, but no investigation was undertaken. Due to this lack of action, the family set up a hidden camera in Arellano's room and caught employee Monica Garcia abusing Arellano.

Garcia was criminally charged and pleaded no contest to simple battery. According to her attorney, she will no longer be working in nursing homes, and was placed in a work release program. The verdict split the liability among the three defendants: Garcia, 20 percent; the Fillmore Convalescent Center, 40 percent; and the owner Eduardo Gonzalez, 40 percent. Of the \$7.75 million, \$2.75 million was awarded in actual damages and \$5 million in punitive damages. As the family was investigating Arellano's abuse, they met another resident, Daniel Sanchez, who, like Arellano, was a non-verbal stroke victim, whose family also suspected abuse. Sanchez has since died, but his family has filed a lawsuit that is expected to go to trial this month.

#### *FINRA Cites Elder Abuse, Triples Award*

A Financial Industry Regulatory Authority (FINRA) arbitration panel awarded 95 year old David Wolfson \$1.6 million dollars in a case against StockCross Financial Services, Inc., of Beverly Hills. The claim alleged misconduct and self dealing by StockCross and two of its brokers, Thomas B. Cooper and Peter L. Boorn. The complaint stated that the brokers recommended overly risky and unsuitable investments, and they "encouraged and invited Mr. Wolfson to leverage the equity in his home with a reverse-mortgage transaction to utilize as investment capital."

Mr. Wolfson had been Mr. Cooper's client for 20 years, until Mr. Cooper dropped the account in 2008. According to the lawsuit, Mr. Cooper "quit because he had bilked nearly all of Mr. Wolfson's assets—including the equity in his home, all his cash reserves, all his emergency/medical cash

reserves and even the insurance money Mr. Wolfson received to replace his automobile—and there was nothing left to churn.”

In a rare decision, the FINRA panel cited elder abuse in the award, which under California law entitled Mr. Wolfson to triple the damages. He was awarded \$320,000 in compensatory damages and \$960,000 in elder abuse damages, in addition to over \$300,000 in various legal fees. StockCross plans to file a motion to vacate the decision, but FINRA arbitration decisions have proven very difficult to overturn.

### **Florida: Elder Crime Practitioner 2010 Training Agenda Available**

The Florida Attorney General's Office has designed a series of courses that address issues that are particularly valuable in understanding seniors, crimes perpetrated against them, investigative techniques, and development of prosecutorial cases. For those individuals who want an extensive background in elder issues, the Attorney General's Office offers the Florida Elder Crime Practitioner Designation. To learn more about the 2010 agenda, preview [the curricula booklet online](#) , or visit the [homepage](#) and click on "Florida Elder Crime Practitioner Designation Training.”

Special thanks to Margaret Boeth of the Florida Attorney General's Office for submitting this information. For questions, [click here](#).

### **Iowa: New Regulations Expand Categories of Mandatory Reporters**

On January 1, 2010, new elder abuse regulations took effect in Iowa. These regulations define “gross negligence” as a form of abuse, and expand the categories of workers in health care settings who are identified as mandatory elder abuse reporters to include food service workers and housekeeping

staff. These new regulations were recommended by the Iowa Department of Inspections and Appeals, and the Legislature's Administrative Rules Review Committee voted unanimously to allow these new regulations to take effect despite strong opposition from the state's hospital and nursing home industries.

### **New York: An Age for Justice: Elder Justice Now Part of Flaherty NYC Film Series**

On December 14th, an elder justice public awareness video produced by WITNESS and the National Council on Aging (2009) was shown as part of the Flaherty NYC film series. *An Age for Justice: Elder Justice Now* is a 16 minute film featuring powerful and poignant testimonies from victims of elder abuse, their family members, and advocates throughout the U.S. The film was one of three WITNESS projects showcased at the discussion forum held in New York City's East Village.

According to Kelly Matheson, WITNESS Program Coordinator for North America, the event was successful and the film was well-received. Producers are currently scheduling viewings at senior centers throughout New York and California.

WITNESS, founded in 1992 by musician and activist Peter Gabriel and the Reebok Human Rights Foundation, “uses video and online technologies to open the eyes of the world to human rights violations. WITNESS empowers people to transform personal stories of abuse into powerful tools for justice, promoting public engagement and policy change...” The organization has partnered with grassroots organizations in over 60 countries. To learn more about the video project, read the articles in the [May and November NCEA E-News](#). For more on WITNESS, [WITNESS](#).

## Texas: The Giving Tree/Be a Star Program

In partnership with area banks, over the past holiday season, about 50 APS caseworkers from the Texas Department of Family and Protective Services' Abilene and Midland regions distributed gifts to nearly 650 clients. APS and Western National Bank teamed up to sponsor The Giving Tree/Be A Star project by placing trees with paper ornaments on them in the bank's offices in Big Spring and Coahoma. Each paper ornament had the name of an elderly or disabled resident and a wish list of items for that person such as an electric blanket, a baseball cap, or slippers.

For years Child Protective Services have placed the same types of trees in area banks to gather presents for children, and in 2002 APS recognized that this could also be used to bring some holiday cheer and assistance to the elderly and disabled. As many of the elderly clients live alone and have little income, a gift can make quite a difference for them. The community responded to this need and every one of the clients on the tree received a gift.

While this story demonstrates the willingness of communities to give to those in need, it unfortunately also highlights the number of clients that APS serves, and the poverty within which they live. Those involved hope that the project served to raise elder abuse awareness, and will motivate community members to remember their elderly residents every day of the year. According to the APS, more than 80 percent of the cases reported involve neglect.

Special thanks to Katie Wolinski of the University of Delaware Center for Community Research and Service for compiling these updates.

## Federal Legislative Update – A Look at Legislation that May Impact the Lives of Older Americans

### The Elder Justice Act

Last October, the Elder Justice Act was accepted as an amendment to the Senate Finance Committee's version of the health care reform bill. On December 24th, a version of the bill ([Patient Protection and Affordable Care Act, H.R. 3590](#)) with the Elder Justice Act as an amendment was passed by the Senate. This is the farthest that the Elder Justice Act has advanced since the first version of the proposed legislation was introduced in 2001.

At this point, the Senate and the House of Representatives must negotiate to merge their respective versions of health care reform into one final bill to be forwarded to the President. Ordinarily, a formal "conference" would be convened involving key personnel from both Congressional chambers to hammer out a final version. However, the health care reform bill is likely to go through a less formal process known as "ping-ponging," wherein a bill goes back and forth between the House of Representatives and the Senate until a mutually agreed upon version is submitted to the President, either to be signed into law or vetoed. According to Bob Blancato, National Coordinator of the Elder Justice Coalition, this process has started. The expected scenario is that the House of Representatives will seek to make changes to the Senate version according to its (the House's) priorities, then "ping" the revised bill to the Senate for approval and submission to the President before the end of January.

"The perception is that the Senate version of the health care reform bill is the predominant version of the two," said Mr. Blancato. "The Elder Justice Act is an amendment to the Senate version. I am unaware of any strong opposition to the Elder



Justice Act. That being the case, the Elder Justice Act could very well remain in the final version.”

### Additional Legislation

*The Elder Abuse Victims Act of 2009* ([S.1821](#)), was introduced into the Senate on October 21, 2009, and was read twice and referred to the Senate Committee on the Judiciary. The bill is a companion to H.R.448 and seeks to “To protect seniors in the United States from elder abuse by establishing specialized elder abuse prosecution and research programs and activities to aid victims of elder abuse, to provide training to prosecutors and other law enforcement related to elder abuse prevention and protection, to establish programs that provide for emergency crisis response teams to combat elder abuse, and for other purposes.” It is sponsored by Senator Herb Kohl (D, WI). The bill was co-sponsored by Senator Bill Nelson (D, FL) on 10/27/2009, bringing the total to four.

On December 11, 2009, Representative Patrick Murphy (D-PA) introduced legislation to protect seniors from financial abuse and exploitation as an amendment to the *Wall Street Reform and Consumer Protection Act of 2009* ([H.R.4173](#)). The amendment, which would create an Office of Financial Protection for Older Adults, was accepted and the bill was passed in the House on that same date.

On December 3, 2009, [H.R.4193](#) was introduced by Representative Eliot Engel (D, NY-17) "to require the establishment of a Consumer Price Index for Elderly Consumers to compute cost-of-living increases for Social Security benefits under title II of the Social Security Act and to provide, in the case of elderly beneficiaries under such title, for an annual cost-of-living increase which is not less than 3 percent...." It was referred to House Committee on Ways and Means, and in addition to the

Committee on Education and Labor, for consideration.

Companion bills [H.R.3551](#) and [S.906](#), *The Senior Investment Protection Act of 2009*, seek “to protect older Americans from misleading and fraudulent marketing practices, with the goal of increasing retirement security.” The bill H.R.3551 is sponsored by Representative Paul Hodes (D, NH-2), with five co-sponsors. On September 10, 2009, the bill was introduced and referred to the Committees on the Judiciary and Financial Services for consideration of provisions relevant to each committee. On January 4, 2010, it was referred to the House Subcommittee on Crime, Terrorism, and Homeland Security. The bill S.906 was sponsored by Senator Herb Kohl (D, WI) and co-sponsored by Senator Claire McCaskill (D, MO). On April 28, 2009, the bill was introduced, read twice, and referred to the Committee on the Judiciary.

In November, 2009, Senators George S. LeMieux, (R, FL) and Amy Klobuchar (D, MN) became co-sponsors of [S.557](#). Sponsored by former Senator Mel Martinez (FL), the bill is intended "to encourage, enhance, and integrate Silver Alert plans throughout the United States, to authorize grants for the assistance of organizations to find missing adults, and for other purposes...." The bill was introduced on March 10, 2009 and was referred to the Committee on the Judiciary. Currently, there are seven co-sponsors. Companion bill H.R.632 was sponsored by Representative Lloyd Doggett (D, TX-25) on January 22, 2009, and has 22 co-sponsors.

## Calendar of Events

### **January 1 - 31**

Stalking Resource Center  
National Stalking Awareness Month  
National Observance  
Web site:  
<http://www.stalkingawarenessmonth.org/>

### **February 24 - 26, 2010**

National Partnership to End Interpersonal Violence  
Across the Lifespan  
*National Summit on Interpersonal Violence and  
Abuse Across the Lifespan: Forging a Shared  
Agenda*  
Sheraton Dallas Hotel  
Dallas, TX  
Web site: <http://www.uncg.edu/psy/npeiv/>

### **March 10-12, 2010**

Florida Crime Prevention Training Institute  
*Aging Issues: A Comprehensive Approach*  
Embassy Suites Orlando North  
Altamonte Springs, FL  
Web site:  
[http://myfloridalegal.com/webfiles.nsf/WF/MRAY-7LDQJH/\\$file/ElderCourseBook.pdf](http://myfloridalegal.com/webfiles.nsf/WF/MRAY-7LDQJH/$file/ElderCourseBook.pdf)

### **March 15 – 19, 2010**

National Council on Aging – American Society on  
Aging Conference  
*Aging in America*  
Hyatt Regency Chicago  
Chicago, IL  
Web site:  
<http://www.agingconference.org/AiA10/index.cfm>

### **March 18 - 21, 2010**

MaleSurvivor 2010 International Conference:  
*Healing and Hope for Male Survivors*  
John Jay College of Criminal Justice  
New York, NY  
Email: [YTAMassa@aol.com](mailto:YTAMassa@aol.com)

### **March 23 - 24, 2010**

Office for Victims of crime Training and Technical  
Assistance Center  
*Identifying and Responding to Elder Abuse*  
Crowne Plaza Jacksonville Riverfront Hotel  
Jacksonville, FL  
Web site:  
<https://www.seiservices.com/ovcttac2010/12IdentifyingAndRespondingToElderAbuse.asp>

### **March 24 - 26, 2010**

3rd Annual Forensic Investigations  
*From Crime Scene to Courtroom*  
Kansas City Marriott  
Kansas City, MO  
Web site:  
<https://www.saintlukeshealthsystem.org/app/classes%20slhs/communityclasses.asp>

### **April 7 - 8, 2010**

Office for Victims of Crime Training and Technical  
Assistance Center  
*Compassion Fatigue/Vicarious Trauma*  
Renaissance Pittsburgh  
Pittsburgh, PA  
Web site:  
<https://www.seiservices.com/ovcttac2010/03CompassionFatigue.asp>

**April 14 - 16, 2010**

Florida Crime Prevention Training Institute: Florida  
*Elder Crime Practitioner Designation Update*  
Embassy Suites Orlando North  
Altamonte Springs, FL  
Web site:  
[http://myfloridalegal.com/webfiles.nsf/WF/MRAY-7LDQJH/\\$file/ElderCourseBook.pdf](http://myfloridalegal.com/webfiles.nsf/WF/MRAY-7LDQJH/$file/ElderCourseBook.pdf)

**April 27 - 29, 2010**

2010 International Family Justice Center  
Conference  
The Crowne Plaza Hotel - Riverwalk  
San Antonio, TX  
Web site:  
<http://www.regonline.com/builder/site/Default.aspx?eventid=791193>

**April 29, 2010**

*Elder Abuse Conference: See It. Stop It. Prevent It.*  
Manhattan VAMC  
New York, NY  
Web site:  
[http://www.nygec.org/index.cfm?section\\_id=6#elective\\_71](http://www.nygec.org/index.cfm?section_id=6#elective_71)

**May 3 - 5, 2010**

Florida Crime Prevention Training Institute  
*Law Enforcement's Role in Elder Crime*  
Embassy Suites Orlando North  
Altamonte Springs, FL  
Web site:  
[http://myfloridalegal.com/webfiles.nsf/WF/MRAY-7LDQJH/\\$file/ElderCourseBook.pdf](http://myfloridalegal.com/webfiles.nsf/WF/MRAY-7LDQJH/$file/ElderCourseBook.pdf)

**May 7, 2010**

4th Annual Geriatric Mental Health Conference  
*Caregiving in the 21st Century: Complex Roles, Innovative Practices*  
Marriott Hotel at the Brooklyn Bridge  
Brooklyn, NY  
Web site:  
<http://www.mhaofnyc.org/advocacy/geriatric-mental-health-alliance-of-new-york.aspx>

**May 13 - 15, 2010**

The American Bar Association/National Legal Aid  
and Defender Association  
*Equal Justice Conference*  
Pointe Hilton Tapatio Cliffs Resort  
Phoenix, AZ  
Web site:  
<http://www.abanet.org/legalservices/ejc/>

**July 17 - 21, 2010**

N4a 35th Annual Conference and Trade Show  
Hyatt Regency St. Louis at The Arch  
St. Louis, MO  
Web site:  
<http://www.n4a.org/training-events/annual-conference/>

### **Credits and Contact Information**

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