

# **ESTATE TRAFFICKING IN THE PROBATE ENVIRONMENT**

**KasemCares Elder Abuse Prevention Conference**



**Rick Black – April 15-16, 2019**

**Executive Director – Center for Estate Administration Reform (CEAR)**

**Leader - Clark County (Nevada) Adult Guardianship Abuse Victims' Coalition**

**Lead Clark and Nye County Nevada court records investigation 2013-2015 and gained the Nevada Attorney General investigation into fraudulent guardianships**

**Investigated over 500 cases nationwide and advised over 1,500 victims and survivors.**

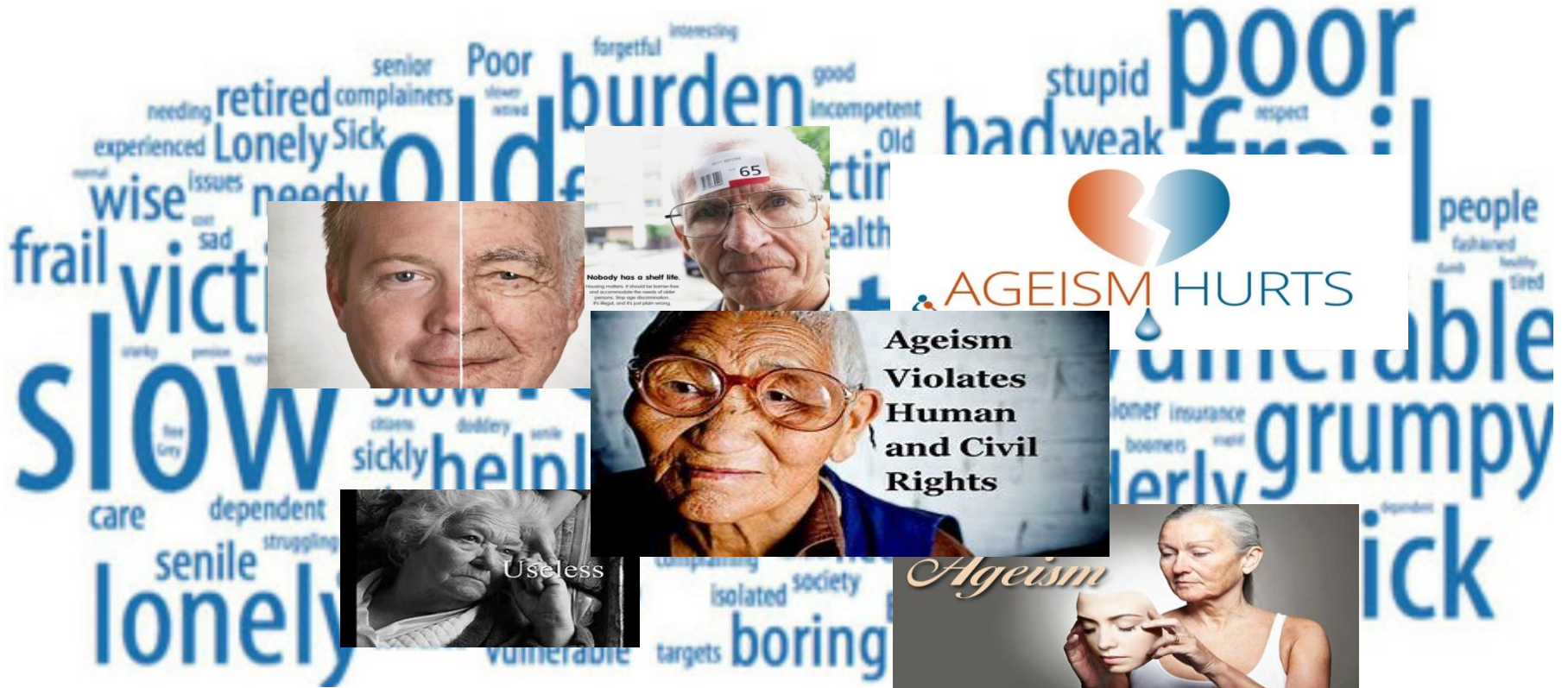
19825 N Cove Road, Suite B176

Cornelius, NC 28031

[cearrick@gmail.com](mailto:cearrick@gmail.com)

[www.cearjustice.org](http://www.cearjustice.org)

(804) 564-5330



**Ageism permeates society, our courts, and those charged with protecting seniors and the disabled.**

The graphic features a blue background with several sharks swimming. In the center, there are silhouettes of people: one with a cane, one in a wheelchair, and two sitting at a table. Surrounding these are various industry labels in red text with white outlines. The central text is in large yellow font with a white outline.

**Predators**

**Lawyers**

**Jurists**

**Financial Institutions**

**Guardians**

**Fiduciaries**

**\$1.5 trillion/yr**

**Home Healthcare**

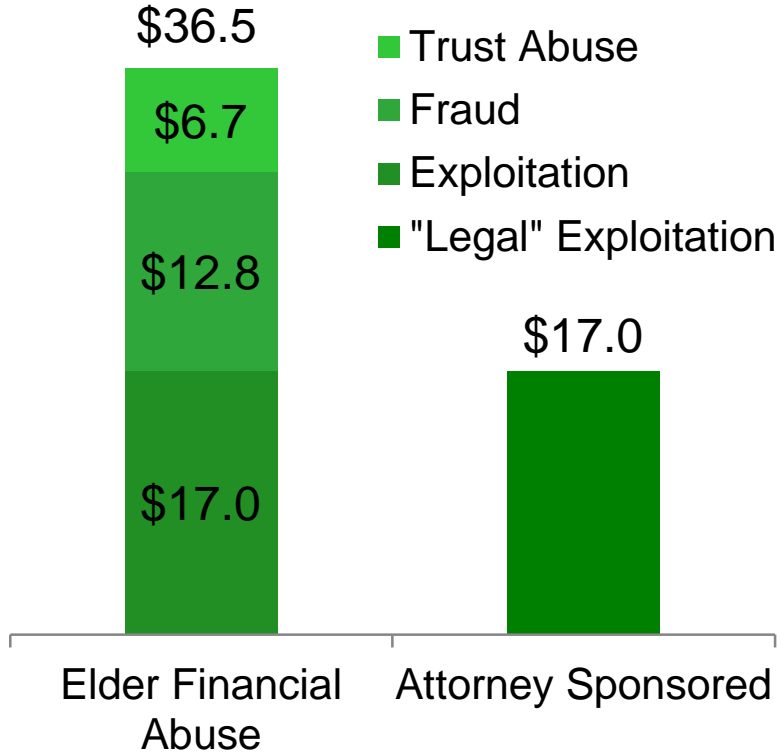
**Hospitals**

**ALF/SNF/Group Homes**

**U.S. generational wealth transfer is growing - the legal community knows it and actively pursues estates for their benefit**

# Elder Financial Exploitation

Billions



**Trust Abuse** – Theft by leveraging trust. Committed by caregivers, family, friends, faith community, conservators, lawyers, etc.

**Fraud** - Conmen/criminals who steal or scam

**Exploitation** - Businesses and charities who pressure the vulnerable into making mistakes and overpaying

\$17 billion a year from deceptive but technically legal **tactics designed to take advantage of older Americans**

**Vulnerable adults are targeted for financial exploitation**

## **What is a SAR?**

- **Suspicious Activity Report** that bank, money services, and financial institution employees file with Financial Crimes Enforcement Network(FinCEN) of the U.S. Department of the Treasury (Secret Service) on transactions over \$5,000.

## **Consumer Finance Protection Bureau 2017 Results**

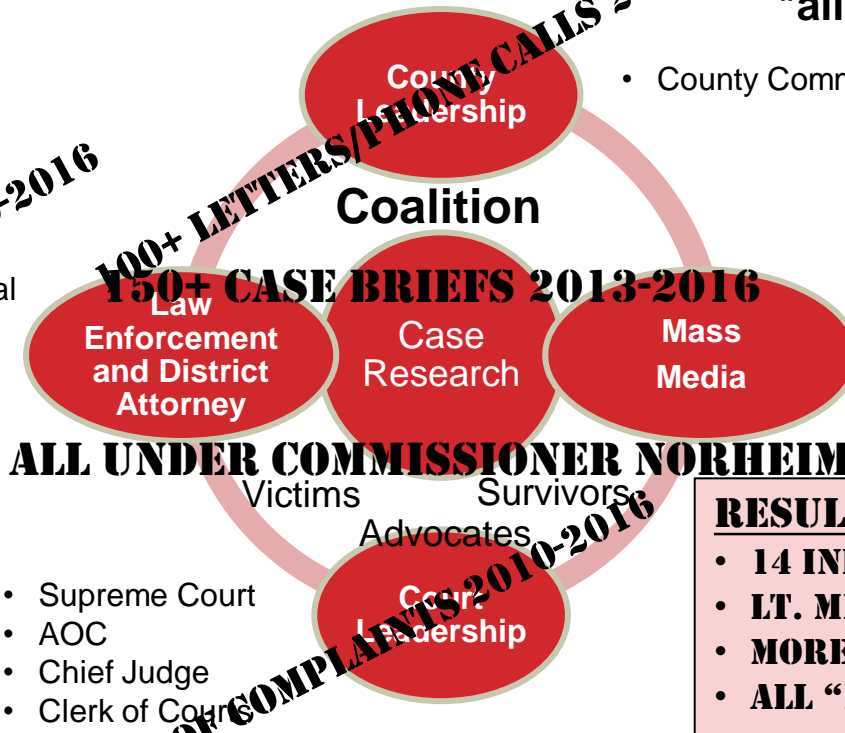
- Elder financial exploitation(EFE, 50+) SARs quadrupled from 2013 to 2017. In 2017, financial institutions filed 63,500 EFE SARs. EFE SARs represent < .2% of 3.5 million incidents.
- **2017 - 3% of the total 1.93 million SARs are EFE, yet 37% of Americans are 50+**
- EFE SARs happen at banks, credit unions, and money services businesses(MSBs). MSBs have filed an increasing SARs share(58 percent in 2017).
- **Older adults ages 70+ lost on average \$41,800. Average loss ≈ \$50,000 with known suspect**
- Financial institutions often do not report incidents to first responders. Only 28% EFE SARs were reported to APS, law enforcement, or other local authorities..



# What motivated Nevada to take action?

“All politics is local” – Tip O’Neill, former Speaker of the U.S. House of Representatives

“all probate matters are local”



100+ SEGMENTS 2014-2017

- Main print-Review Journal
- TV-KTNV ABC News
- Internet-The Vegas Voice

**RESULTS (2016-2019)**

- 14 INDICTMENTS / 12 CONVICTIONS
- LT. MELTON HEADS TO TRIAL IN MAY
- MORE INDICTMENTS UNDERWAY
- ALL “PROBATE” COURT APPOINTED

Defining a pattern and practice and shining a light on the perpetrators are the weapons of change.

# Fraudulent Conservatorships-Material Evidence

## Petitions needed to define a fraudulent conservatorships

- *Petition for Appointment of Conservatorship*
  - Claims and evidence
  - Medical evidence...how obtained...how complete
  - Estate documents
  - Assets
  - Recognition or Defamation of executor
- *Conservatorship Order(Temporary)*
  - Issue date versus initial hearing
- *Objection to the Petition for Conservatorship*
  - Claims and Evidence
- *Initial Hearing*
  - Notice, minutes and recording
  - Alleged Incapacitated Person, testimony
- *Initial Inventory*
  - Timing and Completeness
  - Bank Statements
- *Annual Accountings*
  - Timing and Completeness-Do they all reconcile?
  - Bank Statements and receipts



## ***S178, the Elder Abuse Prevention and Prosecution Act***

- Signed into law October 2017
- 94 Elder Justice Coordinators in the Dept. of Justice appointed nationwide to prosecute 50+ financial exploitation, including those under guardianship

## ***HR3758, the Senior Safe Act***

- Signed into law May 2018
- Promoted by FINRA, NASAA, and the banking industry to promote and protect banks freezing assets when suspect transactions are observed.

## ***S591, the Guardianship Accountability Act***

- Introduced February 27, 2019
- Targeted to require states report census and assets under guardianship to the Elder Justice Coordinating Council

**Federal oversight to motivate state accountability, demand support**

- Execute your will, Power of Attorney, Healthcare Directives
- **Anyone can be a victim; little redress in perverted courts**
- Advocacy/activism is a team sport. Do your research!
- **Focus on the judges and the attorneys, they empower everyone**
- Start at the top of the chain with each government entity
- **Build an alliance with local media, print and TV**
- Results come as a coalition; mercenaries fail, dissention destroys

**Thank You!**