

## **FINANCIAL LITERACY FOR A CLIENT WITH SPECIAL NEEDS**

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### **I. What is financial literacy?**

#### **a. Definition**

Financial literacy is essentially the ability to understand finance. Specifically, financial literacy refers to the set of skills and knowledge that allow someone to make informed and effective financial decisions for lifetime financial security.

While most people appreciate the need to understand basic budgeting, make informed decisions on financial instruments (including mortgages, credit cards, and insurance), and save for retirement, most studies show that fewer than half of all Americans can answer what many would consider basic questions on these topics. Indeed, this is not only an American problem; most governments that have studied the issue have found their citizens unprepared to make basic and essential financial decisions. The governments of Canada, the United Kingdom, and Australia (as well as the Organization for Economic Cooperation and Development – which includes most of the world’s developed nations) have reported a similarly dismal state of financial literacy. While this outline focuses largely on the United States, the level of financial knowledge in other industrialized nations is just as bad.

#### **b. Statistics**

Surveys studying financial literacy consistently report disturbing numbers and trends. Recent data suggests that less than 30% of U.S. adults view their personal financial knowledge as “very good” or better. 43% of Americans have saved less than \$10,000 for their retirement (excluding the value of their home and those with defined-benefit plans). 54% of Americans have less than \$25,000 saved.

The average American household carries \$10-12,000 in credit card debt and has nine credit cards. Prior to the recent financial reform act that attempted to reign in credit card fees, Americans were paying between \$20-25 billion each year in late and over-the-limit fees. 45% of American college students are graduating with more than \$3000 in credit card debt.

26% of all Americans admit to not paying bills on time. And 93% of Americans give themselves a grade of “C,” “D,” or “F,” in evaluating their own financial knowledge. Perhaps the most telling statistic stresses the need for attorneys working with seniors to get involved: 43% of adults with low levels of financial literacy live in poverty, compared with 4% at the highest level of financial literacy.

### **c. Impact**

Problems related to financial literacy disproportionately impact senior citizens. Older Americans have more to lose and less time to recover from bad financial decisions. Furthermore, reentering the workforce after even a debilitating loss is impossible for many seniors. Elders are disproportionately targeted (to an extremely high degree) by financial scams. And retirees must ensure that their money lasts and that they make the best choices possible.

## **II. What types of clients are impacted?**

### **a. Disabled individuals**

Elder law attorneys often work with individuals experiencing moderate to severe forms of disability, ranging from the developmentally disabled, the physically handicapped, to those with dementia. While creating a trust or guardianship addresses the primary legal need, it does not help a person live under the strictures of a trust or guardianship. An attorney’s legal responsibility may end with the creation of documents, but the moral responsibility includes financial education so the impacted person not only survives, but thrives.

### **b. Inexperienced**

The loss of a spouse is devastating emotionally, but can also be devastating financially. In addition to the existence of financial instruments without survivors’ benefits, the spouse who died may be the one who controlled the finances and made all the decisions. The life expectancy for women is higher

than men, and many men were the family's primary wage earner, bill payer, investor, and retirement planner. A surviving spouse – often a woman – may have no necessary financial experience to live alone.

Again, an elder law attorney may be called upon to draft a Medicaid qualifying trust, or even a power of attorney for a health surrogate. But the client may not have the minimal training to effectively use these instruments without further education and assistance.

Many elder law attorneys also work with special needs trusts. All beneficiaries of a special needs trust should receive ability-appropriate financial training. But the need is particularly acute when a trust is dissolved and the beneficiary receives a lump sum of cash. In addition to needing basic financial education, such individuals may be particularly vulnerable to predation.

**c. Prone to predators**

Older Americans have greater access to large amounts of cash than any other demographic group. As a group, the current generation is more trusting, friendlier, and open to conversation with a stranger than younger generations. Lack of sophistication with computers invites spam and other forms of predation. Loneliness often causes poor decisions.

For these and related reasons, senior citizens are disproportionately preyed upon by criminals. An older person who suffers financial loss has less time to recover than a younger person. Embarrassment over falling for a scam results in these crimes being underreported – and the perpetrators being able to find their next victim.

**III. Why should an attorney be involved?**

Because every survey reports Americans have a low financial literacy and are unprepared to make basic life decisions, this important topic has recently received a great deal of attention. States are adding financial literacy to required curriculum in public schools, many non-profit organizations are working with various constituencies, and the new Consumer Financial Protection agency is expected to create programs, particularly for those buying their first house or getting their first credit card. These are admirable and important efforts, but none are directed towards older Americans or speak to their unique challenges.

An elder law attorney may be the last person standing between a senior citizen and financial disaster. A client's needs do not end after a legal document is drafted. Probating a will and turning over the assets to someone unprepared for making basic financial decisions can be analogized to handing someone a loaded gun without ensuring that they have received training in firearms.

Even if an attorney is not about to release a large sum of money to a client, the elder law attorney may be in a better position than anyone to see a person struggling with basic financial issues, experiencing diminished capacity, or falling victim to predators. Guiding a patient towards greater financial literacy is a way to ensure all the needs of a client are being met. Of course there is no question that generously assisting a client above and beyond the acute need for an attorney can result in a client returning with more work. And a client with a sound financial foundation may have greater need for an attorney (as well as the ability to pay) than a client struggling to make ends meet.

#### **IV. What is meant by financial literacy?**

##### **a. Traditional view: Basics for life**

The world in 2011 presents a series of challenges for people without a sound grounding in financial literacy. Substantially everyone needs to understand the basic skills of budgeting, balancing a checking account (or at least understanding what it takes not to become overdrawn), and paying bills. Today, it is not only easier and cheaper to pay bills on-line, it is also safer because on-line bill paying minimizes the risk of Identity Theft. Many older clients are uncomfortable with computers and have never been trained to pay bills on line. But that is really only the beginning.

Everyone also needs to understand how to read a credit report, to check it annually, and to understand the significance of a credit score (and how to improve it). Choosing credit cards and using them efficiently are much harder than ever before. Retirement can mean the start of a new and exciting life, so there is still a need to understand mortgages (and reverse mortgages), home equity loans and lines of credit, car loans, and even the basics of interest rates.

Elders need to consider a vast array of financial products including annuities (in an astonishing number of variations), CDs, IRAs, money market accounts, and other investment vehicles. In order to work with a financial

planner, everyone should understand what options the financial planner is offering, and the ramifications of each choice.

Retirement and advancing age requires estate planning, probate avoidance, and tax minimization. While attorneys can ably counsel clients on these matters, it takes a certain degree of financial literacy for a potential client to even recognize that they need professional assistance.

b. Elder Law Perspective: Avoiding Scams

We know that seniors are disproportionately targeted by scammers. We do not, however, know how bad the problem is because the cases are underreported and the definition of “elderly” varies from state to state. While fraud is not reserved for a single age group, the U.S. Department of Justice reports that certain scams are more likely to be committed against the elderly, including:

1. Prize and Sweepstake Fraud: This generally involves informing the victim that they have won (or could win) a valuable prize. But first the winner must send in money to cover taxes or processing fees.
2. Investment Scams: Particularly in an era of low interest rates and diminished stock returns, seniors are particularly vulnerable to these scams. Although most people know that if an offer sounds too good to be true, it probably is – the greater the need, the less the skepticism.
3. Charity Contributions: The current generation of seniors is particularly generous. Scammers prey upon this desire to help by soliciting donations to nonexistent charities or religious organizations.
4. Home and Automobile Repairs: Scammers represent themselves as qualified tradesmen and recommend “emergency” repairs, often requiring an advanced deposit. Some of the worst examples of this occur immediately after a hurricane or other natural disaster. Dishonest auto mechanics often urge clients to agree to unnecessary and/or overly expensive repairs.
5. Grandma/Grandpa Scam: Generally calling from Canada to the United States, the perpetrators get personal information about the victim, often from a Facebook page, call the senior citizen, and faking a bad connection, claim to be a grandchild stuck in Canada on a roadtrip with

a broken-down vehicle. The scammers then ask their “grandparent” to wire money using Western Union or MoneyGram. The FTC recently fined MoneyGram \$18 million for ignoring that at least \$84 million had been transferred suspiciously as a part of this scam.

6. **Loans and Mortgages:** Mailing lists are generated containing the names of individuals having trouble paying bills. Predatory lenders seek these people out and offer loans with exorbitant interest rates, hidden fees, and unrealistic repayment schedules, all secured by the borrower’s home.
7. **Health, Funeral, and Life Insurance, and Health Remedies:** The elderly are often concerned about paying for medical care, having the funds for a proper burial, and being able to purchase medication for illnesses. Unscrupulous salespeople sell insurance that duplicates existing policies, do not provide the coverage promised, or are entirely bogus. Scammers also market miracle cures to the elderly, that are all too often snake oil.
8. **Other Frauds:** While seniors are vulnerable to the types of fraud experienced by any age group, they are particularly impacted by telemarketers, mail fraud, and face-to-face contact. Younger people may be more comfortable with Caller ID, or savvy enough to register for the “Do Not Call” list. Scammers use mail to personalize greetings and to make official looking letters, where younger people may be better aware of the capabilities of word processing software. And the current generation of seniors, having grown up in a more polite and trusting time, are particularly prone to criminals working door-to-door.

Most of these scams occur because the senior has not been warned to be wary of these situations. Working off of a positive attorney-client relationship, elder law attorneys may be in the best position to help by offering training and education.

## **V. What can an attorney do to help?**

### **a. Resources particularly for seniors**

There are many resources available on line, and more being added each day. Unfortunately, few resources are directed specifically at the needs of senior citizens.

1. Videos for seniors on Identity Theft, financial fraud, and other scams, produced by Stetson University College of Law:  
[http://www.law.stetson.edu/tmpl/academics/elder/protect/internal-1-sub.aspx?id=7511&ekmense1=78e6e020\\_202\\_0\\_7511\\_6](http://www.law.stetson.edu/tmpl/academics/elder/protect/internal-1-sub.aspx?id=7511&ekmense1=78e6e020_202_0_7511_6)
2. Brochures for seniors on Identity Theft, financial fraud, and other scams, created by Stetson University College of Law:  
[http://www.law.stetson.edu/tmpl/academics/elder/protect/internal-1-sub.aspx?id=7633&ekmense1=78e6e020\\_202\\_0\\_7633\\_5](http://www.law.stetson.edu/tmpl/academics/elder/protect/internal-1-sub.aspx?id=7633&ekmense1=78e6e020_202_0_7633_5)
3. Fighting Fraud 101: <http://www.dfi.wa.gov/consumers/pdf/fighting-fraud-101.pdf>. Tips for older investors to spot and avoid fraud.
4. Helping Your Money Last After Your Last Paycheck – from the Washington Department of Financial Institutions:  
[http://www.dfi.wa.gov/consumers/education/seniors/money\\_last.htm](http://www.dfi.wa.gov/consumers/education/seniors/money_last.htm)

**b. Resources attorneys may find helpful**

1. Become a Certified Educator in Personal Finance for Senior Citizens and Retirees. This is an on-line certificate program designed specifically for individuals working with seniors and paid for by grants. In order to take the course you must qualify for a scholarship that will pay for the full cost of the program. The Institute for Financial Literacy also has on-line programs for senior citizens. For more information, go to:  
<http://www.financiallit.org/programs/ProjectSCREEN.aspx>
2. Warning Signs of Elder Abuse – from the U.S. Administration on Aging:  
[http://www.ncea.aoa.gov/ncearoot/Main\\_Site/FAQ/Basics/Types\\_Of\\_Abuse.aspx](http://www.ncea.aoa.gov/ncearoot/Main_Site/FAQ/Basics/Types_Of_Abuse.aspx)
3. <http://www.mymoney.gov>: Twenty two federal government agencies collaborating to offer resources to improve financial literacy

**c. General financial literacy resources**

1. American Financial Services Association’s “moneyskill” course. Intended for school age children, but very good material:  
<http://www.moneyskill.org/>

2. American Institute of CPAs “360 degrees of Financial Literacy.”  
<http://www.360financialliteracy.org/>
3. Federal Deposit Insurance Corporation “Money Smart” program.  
Eleven training modules on basic financial literacy.  
<http://www.fdic.gov/consumers/consumer/moneysmart/adult.html>