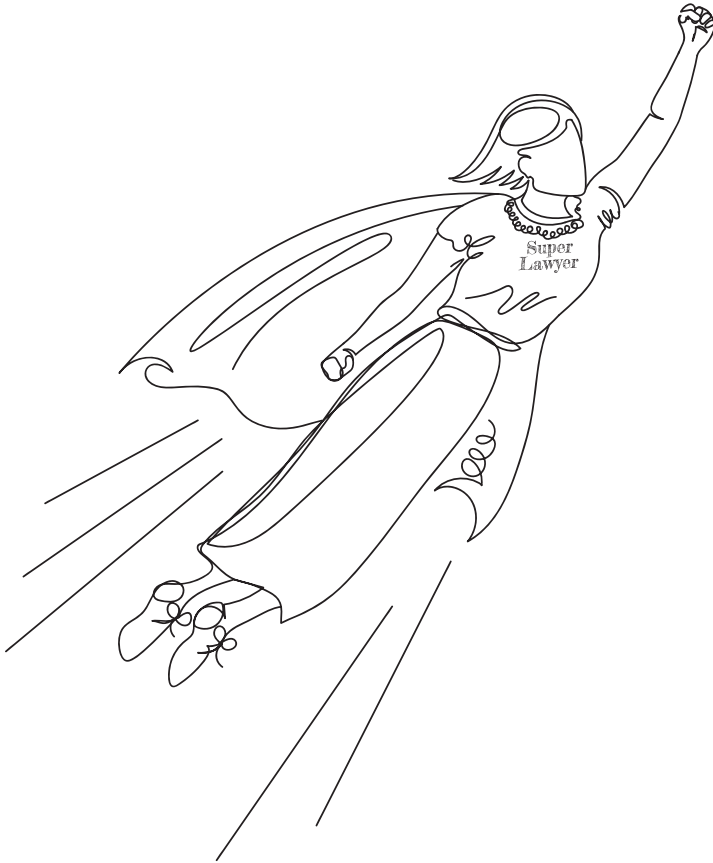


HOW LAWYERS SAVED THE DAY FOR SENIORS

True Retirement Stories



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Nothing contained in this book is to be considered as the rendering of legal advice for specific cases, and readers are responsible for obtaining such advice from their own legal counsel. This book is intended for educational and informational purposes only.

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Introduction

These stories are all true, having occurred during my forty years of being an attorney representing retired people. Some are difficult and painful; others are amusing. My purpose in telling them is two-fold.

First, I want to let you know that you are not alone as you face life changes. Second, you need to know that planning ahead can avoid or minimize problems. A little planning can go a long way toward living the “good life” rather than collecting regrets. My goal is to help you make the last phases of your life as seniors fun and enjoyable. If it was not much fun before, now it is your turn to enjoy life.

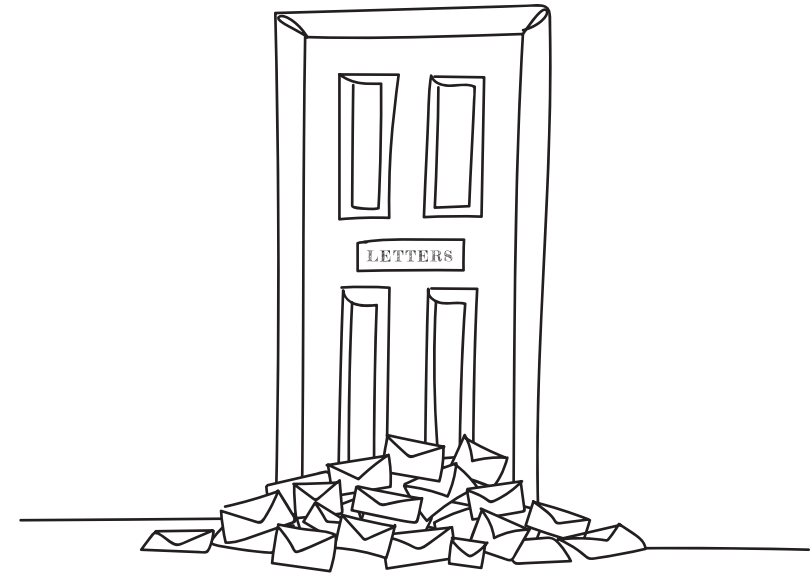
Be sure to look into the last section for “Tips and Resources.” These might contribute to a more secure future for you and your loved ones. As they used to say in the television program Dragnet: “Ladies and gentlemen, the stories you are about to hear are true. Only the names have been changed to protect the innocent.”

“It is utterly false and cruelly arbitrary to put all the play and learning into childhood, all the work into middle age, and all the regrets into old age.”

– Margaret Mead

“Old age is no place for sissies”

– Bette Davis



No One Noticed (for four years) that Uncle Andy Died

Owen hated his life. He was fifty-three years old, overweight, separated from his wife Sally, and estranged from his kids. He worked in an office at the grocery store one mile away. He had shared a condo with his Uncle Andy for five years. His life was work, live with Uncle Andy, bowl Tuesday nights, and watch TV.

In the early years of living with Uncle Andy, it was a good deal for both of them. Owen paid no rent. In exchange, he helped Andy, who was in his 80s, with shopping, cooking, and cleaning up. Andy was Owen's favorite uncle: a bachelor, retired electrician, loved to fish, and was great company. They both were loners and got along fine.

The Tuesday after Memorial Day, a hot one that year, Owen was more or less on autopilot as he trudged upstairs to Andy's apartment after work to look in on him. Owen never imagined that Andy would go downhill so fast, but in the last two months, he refused to use his hearing aid, became incontinent, and needed help getting out of a chair. He refused to see a doctor, of course. His reason: "They can't fix old." For the last two days, Andy has been in bed with a bad cold.

Opening the door to the apartment, Owen called out his usual:

“Uncle Andy, I’m home! Are you?” He waited for the expected response, “It’s about time you showed up, dumbbell.” Silence. Owen called again. All he heard was the air conditioner grinding away. He walked down the hallway to Uncle Andy’s bedroom. The door was closed. Owen knocked. “Uncle Andy, are you OK?” No answer. Owen opened the door and peeked in, not wanting to wake him if he was asleep. He quietly walked into the room and saw Andy in his single bed, looking at the ceiling. Owen asked, “Are you feeling better?” No response. Owen stepped closer and touched his hand. It was cold. Andy was dead. Owen straightened the blue plaid bedspread over Andy, covered him up to his shoulders, backed out of the room, and quietly closed the door.

Now what to do? This was bowling night. He heard Joe, his co-worker and bowling buddy, in the parking lot hitting his horn. Owen grabbed his bowling gear and raced down the stairs to Joe’s car. Maybe getting out of the house would help “it” come to him what he should do about Andy.

Owen returned home at midnight. He was exhausted. He still hadn’t figured out what to do. If he called anyone right now, there would be a big commotion and lots of strangers with questions that he wasn’t sure he could answer. He decided to wait until morning. By Friday, Owen was still waiting for a flash of insight as to what he should do. He had no clue. The weekend came and went. Now it was getting too late to call someone, because they might think there was something wrong and wonder why he hadn’t called right away. Owen decided to just leave Andy’s bedroom door closed.

Owen never opened the bedroom door again. The neighbors noticed a horrible smell during that first summer coming from Andy’s condo. Owen told them he had used mouse poison, and a mouse must have died in the wall. Sally called Owen every few months and always asked to speak with Andy. Owen made excuses each time as to why Andy could not come to the phone. Owen ignored Andy’s mail except for utility and tax bills, which he paid. He tossed the rest of the mail, including regular dividend checks, into a box unanswered.

One spring, four years after Andy died, Owen came down with the flu that was going around work. He went home sick on Friday and did not show up to work on Monday or Tuesday. Co-worker Joe called, but all he got was the answering machine. Wednesday, Joe went to Owen’s

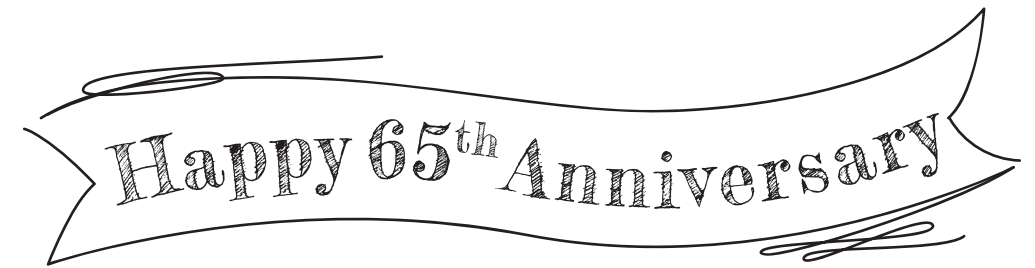
condo at lunch time . No one answered the door. He counted four newspapers on the doormat. Back at work, Joe asked Grace, the office manager, to call Owen’s emergency contact person.

That person was Sally, Owen’s estranged wife. Grace called her. Sally hadn’t talked with Owen since Christmas. She drove over to the condo that evening, knocked on the door, and after a few minutes, used the spare key Owen had given her years ago. She found Owen on the couch, so sick he was unable to get up. The place was a mess with dirty dishes on the living room floor and every surface in the kitchen. The one neat area in the condo was a living room corner table covered with a box full of unopened letters, each addressed to Andy. Sally called 911 for an ambulance to take Owen to the hospital. When it arrived, one of the EMTs went looking through the condo for prescription bottles to see what Owen might be taking. The EMT opened Andy’s bedroom door.

Owen recovered from the flu and was charged with Andy’s murder. The murder charge was later dismissed, but while the criminal charge was pending, he was fired from his job at the grocery store.

— TIPS —

- * *Stay connected with older loved ones through regular phone calls, visits and emails.*
- * *When someone dies at home but not in the presence of a medical-care provider, call the county coroner. Immediately!*
- * *Create a “safety net” for a senior who lives alone. One simple step is a daily call, email, or text between the senior and the friend. If the contact is missed, the friend can follow up with a visit or enlist a neighbor of the senior to find out why.*



We Can't Say "No" (and are Running Out of Money)

That August Sunday, George and Alice were still distressed after the party the previous day. Now in their 80s, they had just celebrated their 65th wedding anniversary in the back yard the day before.

All the family was there: their three children Roberta, Wes, and Sara, seven grandkids, and four great-grands. The grandkids decorated the yard with streamers draped from tree to tree. The great-grands played tag, blew bubbles, dug in the sandbox, and then collapsed. George and Alice sat in the shade visiting with everyone. Occasionally someone would go to the kitchen to get food and drinks. On each of Roberta's three trips, she filled her red plastic Solo cup with the cooking sherry she knew her mom stored under the sink.

Later in the afternoon, just as George anticipated, Roberta sauntered over to visit with him when no one else was around. She is their oldest, fifty-one, pretty, and way overweight. Roberta has been divorced for ten years and struggles with her unhappy life. She works at a call center and lives with her unemployed daughter Kathy in an apartment five blocks from George and Alice. Roberta has been hinting for weeks that she needs a new car. Today she tells her father she has decided on a Ford

Focus. She tells him it will only cost \$25,000 with the “add ons” she likes. Roberta asked if they could go together to the bank this coming Thursday, her day off, to get the money. George put her off, saying he first needed to talk to Alice.

In the last two years, George and Alice have been asked more and more to help their family. Bill, their grandson with two young children, was between jobs, so he asked them to pay his rent. They did so for six months. They paid two years of college expenses for Kathy, Roberta’s daughter, who then dropped out of school and plays video games. One of the great-grands, Bill’s three-year-old Sam, fell out of a tree and broke his collar bone. Bill and his wife had no health insurance and asked George and Alice to help with the \$12,000 bill. Again they had said “Yes.”

George and Alice just can’t say “No.” They are starting to panic about having enough money for their own future. Before talking with Alice, George added up the last two years of “helps” for the family. He was shocked that they exceeded \$50,000! None of it was or would be returned. George knows that he and Alice don’t have that kind of money to give away. He also knows that requests for more will keep coming.

George and Alice are private people. The only person they confide in is Eliza, Alice’s sister, who lives out of town and calls like clockwork every Sunday at 8 P.M. They told Eliza about the party and Roberta’s request for new-car money. They asked her if she had any ideas on how to stop granting requests without hurting everyone’s feelings. Eliza didn’t. She mentioned a friend, age ninety, who asked a court to order that someone manage her finances and pay all her bills. Eliza said that her friend stopped having financial worries and avoids any family pressure. Perhaps that would work for George and Alice, she said.

Monday morning, George called to make an appointment with an elder-law attorney. They met the attorney a week later and concluded it would be a good idea to ask a court to appoint someone to handle their finances and protect them from having to say “No” to all the family requests. It took a few months but the court appointed a professional conservator named Sharp to handle their finances. Now when asked for money, George or Alice just say, “You need to talk to Sharp. It is out of our hands.” What a relief.

— TIPS —

- * *Consider having a court appoint a conservator to remove exposure to financial exploitation.*
- * *Arrange for a duplicate copy of all financial statements (from banks, brokerages, credit unions, etc) to be mailed to the senior’s financial agent named in the Financial Power of Attorney.*

— RESOURCES —

- * *Certified Elder Law National Attorney Directory: National Elder Law Foundation (nelf.org)*



Is it Time to Move?

One Tuesday morning, just like every day after breakfast, Addie sat in her easy chair by the front window with her coffee and newspaper. Twenty minutes later she wanted a coffee refill but just could not get out of the chair. This had happened a few times before when she sat too long. Her left leg, which she broke in a bicycle fall at age fifteen, was too painful to stand on now that she was ninety-two. Thankfully she had a phone on the table next to her chair. She called Fred, her recently retired next-door neighbor of twenty years, who came right over to help. What a nice man.

Addie took her time before calling June, her daughter. She knew calling Fred for help all the time would get old for him. She figured this call to June would probably change her life, and she wasn't sure if it would be in good ways.

Addie's ability to get around has been getting worse for years. She used a cane, but only occasionally. It made her feel old. Her grandson Bill gave her a cane with a sword hidden inside to make it more fun. Didn't work. Addie left the cane behind when she walked out the front door. She fell going down the stairs, landed at the bottom, and broke the

same leg—and in the same spot—she had broken when she was fifteen. She was not allowed to leave the hospital without a walker. She hated the ugly thing. She refused to use it at home, but did take it when going out. After the accident they took away her driver's license, stranding her at home. Addie resented the way her life turned out. Acknowledging that she is now stuck in her home just depresses her more. She fell again two months ago after making her bed, and now this—stuck in a chair!

Addie did not like being dependent on June, her only child. An energetic sixty-two-year-old, June is “the best daughter ever,” but she has a busy life filled with her husband Gordon, their kids and grandkids, and her accounting business with six employees. Every Sunday June comes to the house to refill Addie's pillbox, and then the two of them drive to church. After the service they go to June's house for dinner and cards with Gordon and occasionally the grandkids and great-grandkids. At 4:30, like clockwork, Gordon drives Addie back to her home across town. Whenever Addie asked for extra help from June, it always felt like an imposition, so she hesitated to ask.

This call to June means Addie will have to move. It breaks her heart to think about moving from her home of forty-five years. She knows she does not have the energy to sort through and dispose of all her things. Just the thought of change is too overwhelming. Still, Addie has considered other housing possibilities and even wrote a list when she returned from the hospital. She opened the little drawer in the table next to her chair and read the list again...

1. Stay in my own home.

This is where I am now, so forget that choice.

2. Stay home with more help from June and Gordon.

June is very busy with her family and work. I never really enjoyed Gordon's company, so that's not such a good choice. The grandkids are working, have young families, and don't have the time. This choice is not practical.

3. Stay in my home with paid help.

Don't know how to find the right person or agency. What will it

cost? Can I afford it? I wonder if this might work out. How am I going to find out?

4. Move out. Live in a place with more help.

Where to? to June's home, to a senior apartment, to assisted living or a nursing home? Would the place be huge or home-like with fewer than ten people?

She thought again about which idea would be best for her. She worries about making the “wrong” move and how to pay for any of them. No matter, something has to change. It was 9:15 A.M. June would be at work now. Addie picked up the phone.

June's response was better than Addie anticipated. June said she has been worried about her mother living alone and wanted to help but did not know how. June apologized for seeming to nag Addie. She didn't mean to. It was just an expression of her frustration of not knowing what to do. At the end of the call June said she would clear her work calendar for the rest of the week. They agreed June would pick up Addie at noon to take her to June's home for a few days. They could then work together to decide the best living arrangement for Addie.

Immediately after hanging up the phone, June called Marilyn, her estate planning attorney, and asked for help. Marilyn recommended that June and Addie first contact a “care management” consultant to discuss Addie's options and gave her a reference and phone number. She told them what to expect: the consultant would evaluate Addie's needs and preferences. Then the care manager would recommend alternatives that might suit Addie. They would probably need to figure out how to stretch Addie's financial resources. Marilyn offered to meet with June and Addie to consider ways to pay for Addie's change in living arrangements. June realized knowing more about the financial piece would make it easier to make a decision—and give both of them peace of mind. June made an appointment with Marilyn for Thursday and arranged to see the care manager the next day. She was ready to go pick up Addie.

She arrived at Addie's just before noon. Addie called Marilyn, the attorney, to give her permission for June to participate in their meeting. Addie packed a few clothes and her meds. She moved her house plants to the kitchen sink. They loaded the car with Addie's suitcase—and the

walker—and then asked Fred to keep an eye on the place for a few days.

June and Addie drove to Anton's, their favorite restaurant, for a celebratory lunch before seeing the care manager. They were relieved having taken the first step toward creating an enjoyable future for Addie.

— TIPS —

- * *When a person is still mentally sharp, have them sign a "Power of Attorney" where they nominate a first and alternate family member or friend to make financial and health decisions for them when they are unable to help themselves.*

— RESOURCES —

- * *Certified Care Managers National Directory: Aging Life Care Association (aginglifecare.org)*



The "Cop Kids" Patrol (and Return my Husband)

It was July. Buck, aged seventy-seven and demented, had taken to sneaking out the front door and disappearing, even though his wife, Connie, kept it locked.

Connie and Buck had lived in the same house for the last twenty-five years. It was on a quiet street in a neighborhood filled with young families. Connie, a petite, energetic seventy-year-old, retired elementary teacher, made special friends with five kids on their street. She loved hearing their laughter as they played their games. Buck, a retired engineer, took daily walks, usually with Connie but sometimes with one of the neighbor kids. Buck was a big affable man, six feet tall, grey hair, about 220 pounds, and strong. He still dressed as if he were going to his office to work. His favorite walking buddy was Amy, their ten-year-old next-door neighbor. When walking with Amy, they always took the same circular route, including his old bus stop, where they sit to watch at least one bus pass before they returned home.

When Buck wandered, he kept going until tired, then walked into any house with an unlocked door and asked for a ride home. He terrified people with his sudden intrusion into their homes. Three times,

the police picked him up and brought him home. They warned Connie she had to “do something.” Buck’s wanderings were dangerous. He could be hit by a car or shot as an intruder.

After the third police encounter, Connie came up with the idea of a “name tag” for Buck to wear with his name and a phone number to call. It actually worked on the first day he wore it. Ten minutes after Buck disappeared, the phone rang. He had entered the caller’s home while they were eating breakfast. Buck sat down as if he had been invited. Connie drove four blocks to pick him up and thanked the nice couple. She hoped the name tag would be a solution!

But her hopes evaporated a few days later. Connie locked the front door before taking her shower. She left Buck in the living room watching the morning news. When she finished dressing and entered the living room, she saw the open front door. Buck was gone. She grabbed her cell phone, took the car and drove up and down nearby streets. Her cell rang. She pulled over and took the call. The police. Buck had entered another home. She went to the station to pick him up and received another warning.

Connie was at her wits end. She couldn’t watch Buck every minute, and the police were becoming impatient. What was next? Buck’s arrest? Just then, Amy came over asking for Buck to go walking with her. Connie asked Amy in for a few minutes and shared her worries with the girl. Amy suggested that during summer vacation she and the other kids could help. Whenever any of them saw Buck out by himself they would simply bring him back home. They could call themselves “Cop Kids.” That evening Connie went to her craft room and made a special badge for each of the five kids.

Amy came by the next morning, again asking to walk with Buck. Connie gave Amy her special badge. Amy pinned hers on with pride and took the rest to distribute to her other four pals. Amy and Buck took off chatting like birds.

Amy’s plan succeeded. The Cop Kids took their job seriously. During the next two weeks, Connie kept score. The five kids found and returned Buck seven times. Still, Connie stressed out over the problem of managing Buck. Summer vacation would end for the children. She lost sleep with her anxiety.

The third week, Buck managed to get past the Cop Kids and boarded

the bus he used to take to work. Someone found him downtown, near his old office, wandering in the street. The police brought him back and told Connie this was the last time. Buck had become a danger to himself, they said, and if she did not do something the legal system would step in.

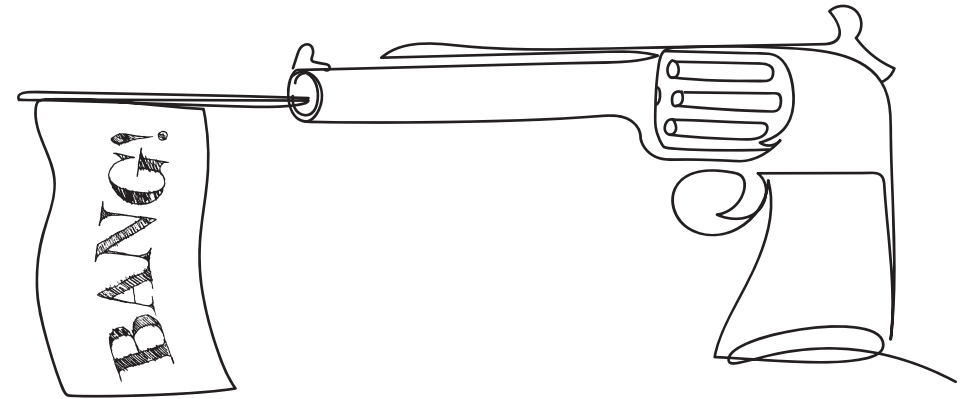
The next day, Connie called Buck’s doctor’s office and asked for help. They suggested a care management company called Super Senior Life. They told her that Buck’s wandering and dementia was not uncommon and they had found Super Senior Life to be helpful to other families with similar issues.

Within the week, Connie and Buck met with Super Senior Life, who suggested three things: to hire someone to stay with Buck whenever Connie did errands; to supply Buck with a G.P.S. monitor to wear all the time; and to replace the door locks with a system Buck could not open.

Connie hired Super Senior Life to do all three of these things. Within a week, everything was in place. The new arrangements had the desired effect of protecting Buck while relieving Connie’s anxiety.

— RESOURCES —

* *Certified Care Managers National Directory:
Aging Life Care Association (aginglifecare.org)*



Shoot Me

Carl often told me he would shoot himself before ever going to a nursing home. If that didn't work I was to be his back-up plan and shoot him.

Carl was my neighbor, his house next door to mine. He lived alone ever since his wife Nancy had died two years ago. He had no children. After her death he became a recluse. His friends had died or moved away. He did not drive and only left the house to go to the grocery store five blocks away. Carl prided himself on being independent and refused to ask for help from anyone. For doctor appointments, he would take a cab. At age eighty-one he fit the mold of a "grumpy old man." I had known him for four years, and now I was the only one to help. If I called him every day to see how he was, he would not answer the phone. If I stopped by after work, it would just make him mad. So I settled for Saturday visits.

On those Saturday afternoons, we would share a beer and chew the fat about the old days. His only other regular visitor was Marcy, the cleaning lady, who came on Thursdays.

One day, Marcy called me at my office to tell me Carl was on his way

to the hospital. When she had unlocked the front door that morning, she found him unconscious on the floor. She called 911. The ambulance, she said, had just left.

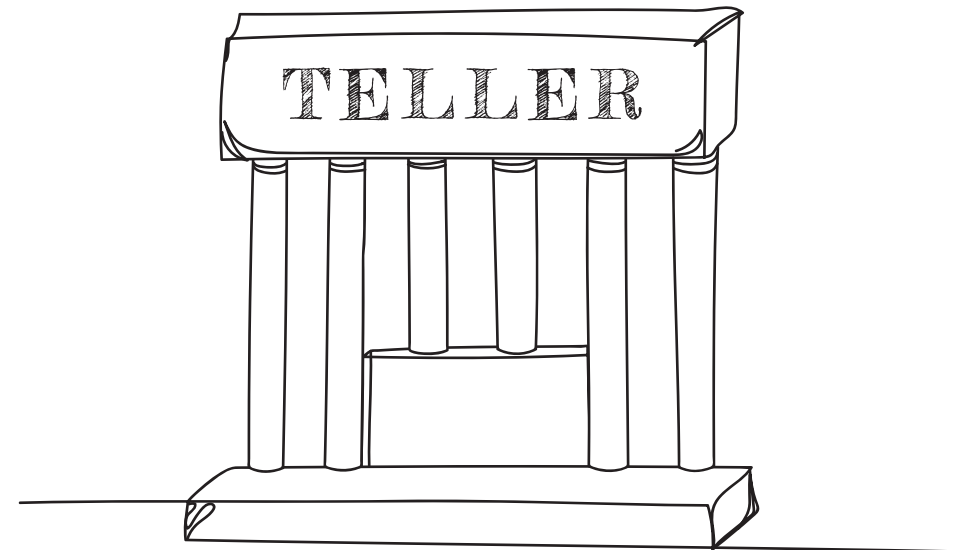
Carl was in the intensive care unit at the hospital for over a month. I learned he had been on the floor for three days before Marcy found him. I regretted profoundly that I had not called him more frequently despite his wishes. I visited him in the hospital every day. He was transferred to a rehabilitative care facility to help him regain his strength. That lasted three weeks. Carl refused to participate in the activities to regain his strength so in his weakened state he was confined to a wheel chair. The last stop for Carl was a nursing home. Carl loved to read. I brought him westerns and visited weekly. Each visit Carl asked that I take him home. He hated it there. He just wanted to go home and resume his old routine and live alone. It never happened. Carl died six months to the day after his fall.

— TIPS —

- * *Stay connected with older loved ones through regular phone calls, visits and emails.*
- * *Get to know your neighbors and check on them when you see something does not look right. This is especially important when you know they live alone.*
- * *Create a “safety net” for a senior who lives alone. One simple step is a daily call, email, or text between the senior and the friend. If the contact is missed, the friend can follow up with a visit or enlist a neighbor of the senior to find out why.*

— RESOURCES —

- * *Certified Care Managers National Directory: Aging Life Care Association (aginglifecare.org)*



What Happened to Our Money?

Kathy was shocked when she read her mother's monthly bank statement. How could it be that there was only \$100 left? Where did the other \$50,724 go? The family was planning to use the money to pay for care to assist her mother Harriet, aged eighty-six. She was having trouble walking and was so forgetful that she could not be left alone.

Harriet's second husband of thirty years, Rick, aged eighty-four, was a retired mechanic. He was doing his loving best to provide daily care but wasn't comfortable helping Harriet bathe, and he was a terrible cook. Rick relied on his step-daughter Kathy to help with bathing Harriet, cleaning, finances, and shopping. It was getting too much for both of them. Kathy, a professional geologist and in her sixties, was still working. She lived twenty minutes away. Harriet's other child, a son named Bob, aged sixty-two, visited his mother twice yearly, once on her birthday and once at Christmas even though he lived two blocks away. When asked to help, he always said he was too busy running his plumbing company.

The date of the big withdrawal happened to be two days after Harriet's 86th birthday party. About thirty people—friends, neighbors,

and family— had come to celebrate. Even Bob came and brought his mother a gift. At least five of the guests approached Kathy to say they were concerned that Harriet was not her usual self. She could not remember who anyone was, including her son Bob. Harriet told the same story over and over. “Did you know, I baked peanut butter cookies today for the neighbor girl, Margie? She is six, you know.” When most of the guests were gone Bob asked Kathy why his mother didn’t recognize him. Kathy explained that in the last month Harriet had become more difficult to care for because of her increasing dementia. She told Bob she was looking into hiring care givers to come into the home to help. If that didn’t work out, she feared Harriet may end up in a nursing home. Bob asked how much a nursing home cost. Kathy was not sure but thought it would be at least five thousand dollars a month.

The birthday party had been early in the month. Looking at the bank statement Kathy could see the \$50,724 had been withdrawn two days after the party.

Kathy asked a neighbor to sit with Harriet while she and Rick went to the bank to find out who withdrew the money. The clerk told them it had been Bob. The clerk explained that the account was in the names of Rick, Harriet and Bob. Harriet’s social security number was the tax identification number for the account. Bob’s name was also on that account even though his name did not appear on the statements. Rick remembered that, years ago, when he and Harriet had set up the account, Harriet suggested adding Bob, just in case they were out of town and needed someone to pay bills.

While still at the bank, Kathy called Bob. She told him they were at the bank and asked him why he had taken the money. He replied that his mother always told him that the account was to be his inheritance when she died. Then he said, “To be honest, I thought if you used that money for her care, I would inherit nothing, and that does not seem fair. So I took the money.” Kathy was flabbergasted, but tried to speak with a normal voice. She asked Bob to return the money immediately. They needed it to pay for Harriet’s care. He said no.

Kathy relayed the call to Rick. He looked both defeated and worried. On the drive home, they decided to file a complaint with the police to see if they could get the money back. Rick called the police and was told nothing could be done because Bob’s name was on the account.

The news devastated Rick. That bank account was the only money available to pay for his wife’s care. He knew he could not continue caring for Harriet on his own even with some help from Kathy. He had two choices, neither of which he wanted to make: Ask Kathy to quit her job and help him as full-time care giver. Or sell their home of thirty years, with the flower and vegetable gardens they enjoyed. They would move into a retirement home that provided care giving support and pay for it with the money from the house sale.

The next day when Kathy stopped after work to help out, Rick told her he had listed the house for sale. They sat at the kitchen table and cried. The future they wanted for both Rick and Harriet to live out their days in the home they loved had disappeared.

— TIPS —

- * *Consider having a court appoint a conservator to remove exposure to financial exploitation.*
- * *Arrange for a duplicate copy of all financial statements (from banks, brokerages, credit unions, etc) to be mailed to the senior’s financial agent named in the Financial Power of Attorney.*
- * *For all titled assets, check who is the titled owner. Titled assets include: bank accounts and lock boxes, Certificates of Deposit, Money Market accounts, investments, annuities, vehicles, deeds.*

— RESOURCES —

- * *Certified Elder Law National Attorney Directory: National Elder Law Foundation (nelf.org)*



The Rejected Two-Day-Old Power of Attorney

Jim Dresser was surprised to see Bev Knight in his waiting room. Jim, an estate planning attorney, had helped Bev and Don Knight set up their wills fifteen years ago. At the time the Knights preferred a simple estate plan and decided against using a family trust. Jim wondered why Bev was here without Don.

Jim invited Bev into his office. His assistant brought him the “Knight” file containing their estate planning documents. Bev told Jim she needed help to access the family accounts to pay bills that were piling up. Don had been in the hospital for six weeks with cancer, she said, and his doctors had told them he had two weeks to live.

Don was seventy years old, a retired state police officer. He always took care of the family finances. Bev, age sixty-six, was a homemaker who had never worked outside their home. Don enjoyed paying close attention to their investments in two different brokerage firms. He was proud that during thirty-five years of marriage their portfolio now amounted to \$1 million. That was his goal: have enough money set aside so they would not have to worry about money for the rest of their lives. Don kept the accounts in his name only. That way he only needed

his one signature when doing business. It was just easier, he felt. The only account in both names was a small checking account for household expenses that never held more than two thousand dollars.

Bev was in a state of panic because she did not have the money to pay the bills. She had called both brokerage companies to see how she could get money out. They told her she was not on the accounts and they would only talk with her if she had Don's financial power of attorney—signed by him—giving her the right to access them. So she went home and found the financial power of attorney forms that she and Don had signed in Jim Dresser's office fifteen years ago. Neither firm would accept it, saying the form was too old.

Bev asked Jim how she could start paying the bills. Jim asked if Don was too ill or too drugged to know what was going on. Bev answered no. She visited Don every day. They had talked about their finances, and he apologized that only his name was on the accounts. Jim suggested that Don sign a new financial power of attorney giving Bev the right to act on Don's behalf. That should satisfy the brokerage firms. Jim offered to take the new form to the hospital the next day for Don to sign.

There were flowers on every surface in Don's hospital room except the bedside tray when Jim and Bev came the next day. Don joked with Jim about making hospital visits. After catching up on one another's family news, Jim felt confident that Don was mentally alert. They talked about the need for a new power of attorney form and went over the one adopted by the state legislature two years ago. Don signed and Jim notarized his signature.

Jim and Bev returned to his office. He made her copies and gave her the original to take to the brokerage firms. Two hours later, Bev was in tears when she called Jim to tell him neither place would accept it. Jim was livid and called both firms on Bev's behalf. The first broker said she had no authority to accept it. Jim asked to speak to the firm's attorney so they could straighten out the problem. He was told that the attorneys were not available. They would only speak with him if he sued the brokerage firm. He got the same run-around from the second firm. Jim was taken aback. He called again, this time asking to speak with the manager. The answer was the same. No they would not honor the power of attorney and would be sending him a letter within the seven days as required by law telling him why. One firm mentioned that they

would accept a power of attorney form prepared by their own attorneys and offered to email to his office. The form did not arrive for a day, and when Jim took the form to the hospital for Don to sign it, it was too late. Don was unable to sign any documents; he was in a coma and never recovered.

Bev had no choice. After Don's death the only way for her to access the brokerage accounts and other assets titled in just Don's name was to probate his estate by filing his Will with the local probate court and ask to be appointed as the personal representative [sometimes called executor] of Don's estate. It took two weeks for the Judge to sign the order giving Bev the legal power to gather the brokerage accounts and other assets.

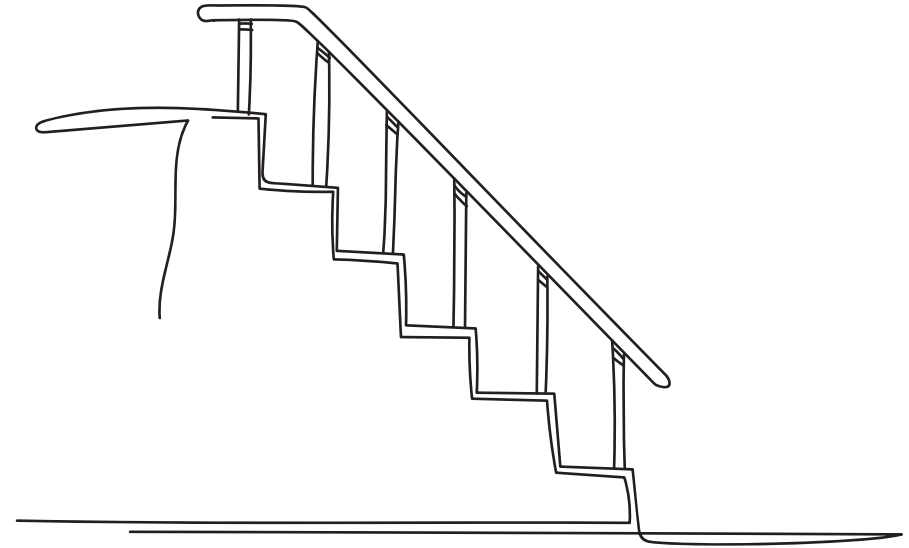
Six months after Don's death, Bev returned to Jim's office to update her estate plan now that she was a widow and she had settled Don's estate. After her recent experience, she decided to create a family trust so that her children would never be in a similar impossible position.

— TIPS —

- * *When a person is still mentally sharp, have them sign a "Power of Attorney" where they nominate a first and alternate family member or friend to make financial and health decisions for them when they are unable to help themselves.*
- * *Set up on-line payment of bills and direct deposit for checks.*
- * *For all titled assets, check who is the titled owner. Titled assets include: bank accounts and lock boxes, Certificates of Deposit, Money Market accounts, investments, annuities, vehicles, deeds.*
- * *Coordinate the beneficiary designations on life insurance, annuities and retirement accounts with the estate plan (family trust or will).*

— RESOURCES —

* *Certified Elder Law National Attorney Directory:
National Elder Law Foundation (nelf.org)*



Dave Fell Down the Stairs

Standing at the edge of the grave on a beautiful June day, looking down at his father's casket Larry Gerard was more angry than sad. His father Dave had paid the ultimate price for his stubbornness. His death left a void in the family. He was the last of his generation and had a gift for bringing the old family stories alive. Larry felt he had died too soon and unnecessarily.

Dave Gerard was a retired County Roads employee. He lived at the end of a dirt road in between the neighbor's potato field and wooded foothills. His home of fifteen years was a two-story farmhouse that had been in the family for a hundred years. He lived alone after his wife Alma died three years ago. In May a year ago, he was up on a ladder trying to unstick a painted-over second-story window. He fell and broke his leg. It never healed right and would give way without warning. When walking around the house, he moved slowly from his easy chair to the desk, then along the back of the sofa so he could get to the kitchen without falling. Stairs were hard. He used the banister to pull himself up or stop from falling forward on the way down.

Larry knew his father wasn't as safe as he could be. He offered

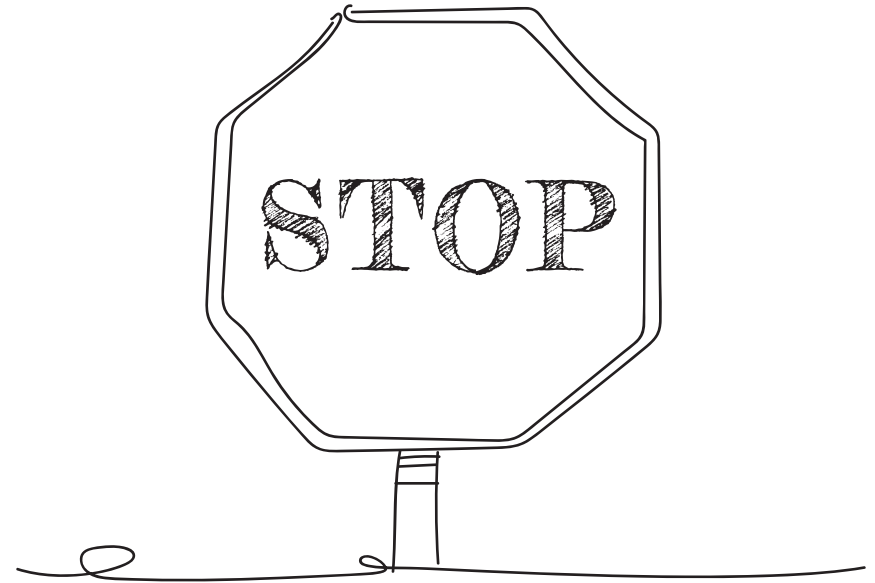
to build a ramp for the back steps. Dave said he did not need it. He refused to use a cane, refused to wear an alert, and refused to carry a phone. Larry increased his visits. He was an electrician for a prospering company and worked more overtime than he wanted. Even so, he arranged with his boss to take off the second Saturday and Sunday each month. That way he could make the three-hour drive to see his father, help with chores, and visit. The other weekends he called on Sunday afternoons to check in.

On his last visit Larry wanted to help his father move his things from the second story bedroom to the first-floor guest room, which had an adjoining bathroom. Upstairs he had to walk down the hall for the bathroom. Downstairs, he would not have so far to go for the bathroom or bother with the stairs at all. Dave refused to move. "I like the view from the second story," he said.

A week later, Dave fell down the stairs in the early morning on his way to the bathroom. The accident paralyzed him from the waist down. He could no longer walk and needed a great deal of care every day—too much for Larry to manage. Dave had to move to a nursing home. He died six months after his fall. He never returned to the family home.

— RESOURCES —

* *Certified Care Managers National Directory:*
Aging Life Care Association (aginglifecare.org)



The Stop Sign and the Bankruptcy

Tim, age seventy-seven, felt small and embarrassed sitting in the wood-paneled, high-ceiling chamber of the U.S. Bankruptcy Court. He was there because he did not see a Stop sign. Thankfully Tim and his wife Irene were not hurt. But the three people in the car he hit all had hospital stays of two to five weeks. He never dreamed that hospital bills could cost so much. Tim visited each of them in the hospital and apologized for the harm he caused.

Irene had been after Tim for a year to get his eyes checked. He thought she was just nagging as she always did. But he grimly remembered her telling him a the month before the accident that he had driven through a red light. He had put her off, reminding her that he never had a ticket and used to teach high school kids how to drive. In hindsight, maybe she was right.

Just that small mistake, driving through the Stop sign, took away the financial security Tim and Irene had set aside to help pay their expenses after they retired. Tim had worked as a mechanic and Irene was a school cafeteria worker during most of their marriage. They were so proud to have saved \$500,000 for their retirement. Their two-bedroom house

was paid off. Their only income was Social Security and Irene's small pension from the state.

The people he hit sued Tim asking for their medical and other expenses. When it was all over, the judge ordered Tim to pay \$1,200,000 in damages. His car insurance company only paid \$300,000.

He was in court this morning to protect the few assets he and Irene had left. They lost all their savings and would be lucky to keep their home. He felt he failed Irene by losing their retirement security. Tomorrow he would look for a part-time job as a handyman.

— RESOURCES —

* *Certified Elder Law National Attorney Directory:
National Elder Law Foundation (nelf.org)*



Mom Wants to Change Her Will

One day, Betty Woo, the receptionist for attorney Audrey Majors, picked up the phone to take a call from Sam Riner. Sam was the son of their long-time client Betty Riner. He said he was calling on behalf of his mother. She wanted to change her estate plan, he said, and disinherit her daughter. Sam said he would be coming to the appointment without his mother because she had trouble walking.

Betty told Sam his mother needed to give her approval before the lawyer would talk to him without his mother being present. Sam handed the phone to his mother. Betty heard Sam in the background telling Laura what to say. When Betty asked Laura for her address, Laura said she did not know what it was. Betty then asked Laura for her birth date and she replied she did not know that either. Sam took the phone back and insisted on setting up an appointment. Betty explained that because Laura was not able to answer basic questions, Sam would need to provide a doctor's statement indicating that she was unable to manage her personal and financial business. With that, the lawyer would consider meeting with Sam.

Years before this, Laura had signed a document stating that Sam

could discuss her financial and other affairs, but only if a doctor affirmed that she was unable to manage such personal business. Sam, who was aware of this, said he would collect the form from a doctor and bring it to Audrey's office, but he never followed through.

Sam called Audrey's office a month later. This time he set up an appointment for his mother, Laura, to meet with the lawyer. When they arrived, Sam wanted to go into the meeting with his mother. Audrey asked Sam to stay in the waiting room, as she wanted to visit with Laura alone. Both Sam and Laura asked that Sam be present. Audrey asked Laura what she wanted to accomplish in the meeting. Laura asked Audrey to talk with Sam, because he knew all the answers. Sam explained that his mother wanted to change her Last Will and Testament and disinherit his sister Ellen. Ellen had not visited her mother in the last few months, he said, so his mother wanted to give all of her assets to Sam. Audrey asked Sam to leave the room so she could talk directly to Laura without his presence. Both he and his mother wanted him to stay. Audrey explained she could not make any changes without talking with Laura in private. He left in a huff, slamming the door.

Audrey asked Laura to describe the changes she wanted to make to her will. Laura said she did not know. Audrey said, "Why did you make this appointment with me?" Laura said she did not know, but that Sam knew.

Audrey asked Laura to tell her about Ellen. Laura sat up straighter and glowed when she talked about how much she enjoyed playing "Go Fish" with Ellen's six-year-old twin boys every week. She missed the grandchildren, but thought they would be back when summer vacation was over. The family had gone to see the national parks.

Audrey again asked Laura if she wanted to change the will she signed five years ago where everything was divided equally between her two children, Sam and Ellen. Laura said no, she thought it was fine.

Audrey asked Laura if it was there was anything else she wanted to talk about before inviting Sam back into the meeting. Laura said, "No." Audrey explained to Sam that no changes would be made to Alice's will. She reviewed the conversation she had with Alice: that she did not know why the appointment had been arranged and that she wanted to leave the will as it was. Sam turned to his mother. "Don't you remember you

told me you were mad at Ellen and wanted to take her out of your will?" Laura responded, "Oh yes, I forgot." He then turned to Audrey and said, "See? That is the change my mother wants to make."

Audrey explained to Sam that making a change to her will was inconsistent with what his mother said a few minutes before. Audrey was concerned that Laura did not have the mental ability to change her will. She told him that if he disagreed, he would need to obtain a doctor's statement that she was competent to make the changes. Audrey did not mention that changes of the will in this situation might be set aside based on the possible "undue influence" Sam was exhibiting by putting words in his mother's mouth. Sam's responded, "We are leaving. You are no help to my mother. Come on, Mom, let's go. I'll find you an attorney who will do what you want."

Six months later, Audrey received a call from Ellen's attorney. Laura died and left a new will leaving her estate to Sam and cutting Ellen out. Ellen filed a lawsuit to set aside the new will based on undue influence and her mother lacking capacity to sign a will. A year later she won.

— RESOURCES —

* *Certified Elder Law National Attorney Directory:
National Elder Law Foundation (nelf.org)*

Tips and Resources

— TIPS —

- * *Stay connected with older loved ones through regular phone calls, visits and emails.*
- * *Get to know your neighbors and check on them when you see something does not look right. This is especially important when you know they live alone.*
- * *Create a “safety net” for a senior who lives alone. One simple step is a daily call, email, or text between the senior and the friend. If the contact is missed, the friend can follow up with a visit or enlist a neighbor of the senior to find out why.*
- * *When someone dies at home but not in the presence of a medical-care provider, call the county coroner. Immediately!*
- * *When a person is still mentally sharp, have them sign a “Power of Attorney” where they nominate a first and alternate family member or friend to make financial and health decisions for them when they are unable to help themselves.*
- * *Set up on-line payment of bills and direct deposit for checks.*
- * *Do not sign any documents that you don’t understand.*

- * *Consider having a court appoint a conservator to remove exposure to financial exploitation.*
- * *Arrange for a duplicate copy of all financial statements (from banks, brokerages, credit unions, etc) to be mailed to the senior’s financial agent named in the Financial Power of Attorney.*
- * *Develop a relationship with care givers. They will be less likely to harm the elder because they know someone is paying attention.*
- * *For all titled assets, check who is the titled owner. Titled assets include: bank accounts and lock boxes, Certificates of Deposit, Money Market accounts, investments, annuities, vehicles, deeds.*
- * *Coordinate the beneficiary designations on life insurance, annuities and retirement accounts with the estate plan (family trust or will).*

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