

American Screen Legend's Emotional Appeal To Congress To Stop 'Chronic Elder Abuse In America'

09/19/2015 08:21 am ET | **Updated** Sep 19, 2015

[Martha T.S. Laham](#) is a writer, consultant, and business professor at a San Francisco Bay Area college. She is the author of *The Con Game: A Failure of Trust*.

In March 2011, the 90-year-old Mickey Rooney, a national treasure and an award-winning film legend best known for his work in such classic movies as *A Family Affair* (1937), *Boys Town* (1938), and *National Velvet* (1944), headed to Capitol Hill in Washington and appeared before the Senate Special Committee on Aging to address the elder abuse problem in the United States.

"I'm asking you to stop this elderly abuse. I mean to stop it. Now. Not tomorrow, not next month, but now," Rooney urged senators. He called for the passage of a law that makes elder abuse a specific crime, which will not be tolerated in America, according to a [CNN](#) report.

Rooney was no stranger to elder abuse. In February 2011, Rooney filed a lawsuit for breach of fiduciary duty, elder abuse, fraud, and other crimes against his stepson, Chris Aber, and others, [ABC News](#) reported. Rooney alleged that Aber, and his wife, failed to meet Rooney's basic needs (food and medicine), threatened and verbally abused him, stole his money for their own use, and took control of his finances, [National Association to Stop Guardian Abuse \(NASGA\)](#) reported.

Chris Aber maintained that Rooney submitted legal filings and gave congressional testimony at the urging of Chris' estranged brother, Mark. Chris further claimed that "his brother and sister-in-law were stealing from his stepfather [Rooney], selling his possessions on eBay," according to [The Hollywood Reporter](#).

Let's take a close look at elder financial abuse that comes at the hands of family members and caregivers.

Behind Closed Doors As Mickey Rooney's situation illustrates, a family household can be a dangerous place, as elder abuse frequently happens behind closed doors in a domestic setting while committed by someone closest to the elder. Unlike strangers who commit financial crimes, relatives and caregivers who perpetrate financial crimes against the elderly are involved in an ongoing trust relationship with the victim. Oftentimes the family perpetrator will misappropriate or misuse the elderly victim's money, property, or

valuables for personal gain and to the disadvantage of the victim.

To get the elder to cooperate, the perpetrator will often coerce, intimidate, threaten, or even abuse the elder. Or the perpetrator may make empty promises of lifelong care to the elder. To ensure that no one comes to the elder's aid, the perpetrator will isolate the elder from family members, friends, and other concerned parties. The perpetrator may even convince the elder that no one else cares about him or her, except for the perpetrator.

The Roles of Mental Capacity, Consent, and Undue Influence

In the context of elder exploitation, it's important for us to determine if an older person understands or understood what he or she was doing when he or she engaged in a transaction, and whether she or he was coerced, tricked, or under undue influence by someone when the transaction took place, which brings us to the concepts of *mental capacity*, *consent*, and *undue influence*.

First, *mental capacity* refers to a person's functional skills used in his or her everyday life. Determining when an elder lacks sufficient decision-making capacity is seldom black and white. For instance, an elder may not be able to make financial decisions, but he or she may still retain the capacity to make medical decisions for him- or herself. Also, diminished decision-making capacity can be sporadic and gradual. For example, elderly people with mild cognitive impairment have good days and bad ones.

Second, *consent* occurs when you "accept or agree" to someone's proposal, according to a report entitled "[Financial Crimes Against the Elderly](#)." You need to have sufficient mental capacity to comprehend the consequences and implications of your actions for consent to be legally binding.

Third, "*undue influence* refers to a person's free will being usurped by the will of another," according to an American Bar Association publication titled "[Psychological Aspects of Undue Influence](#)." State laws on undue influence vary, but most states require proof that the victim was subjugated or controlled by the perpetrator -- in other words, the victim's free will was dismantled by the perpetrator.

Games Influencers Play

In a domestic setting, the mixed bag of tricks used to unduly influence an elderly victim are both creative and cunning, according to P. Mark Accettura, the author of *Blood & Money: Why Families Fight over Inheritance and What to Do About It*. He states that most influencers depend on a recipe of isolation, timing, and indoctrination to implement their schemes against dependent or impaired elders.

As an illustration, a typical modus operandi used by an influencer is to overmedicate the elder to the point that he or she becomes acquiescent or disoriented. The influencer then isolates the declining elder and poisons the relationships between the elder and his or her family members or friends. By manipulating and brainwashing the elder into thinking that the influencer is the only person who cares about the elder, the influencer convinces the elder that family members and others are plotting to steal the elder's money and are also

conspiring to throw the elder into a nursing home. Along the way, the influencer promotes him or herself as the elder's rescuer.

During Rooney's congressional [testimony](#), he poignantly captured the difficulties faced by older adults in an abusive situation. He stated:

“Elder abuse comes in many different forms -- physical abuse, emotional abuse, or financial abuse. Each one is devastating in its own right. Many times, sadly, as with my situation, the elder abuse involves a family member. When that happens, you feel scared, disappointed, angry, and you can't believe this is happening to you. You feel overwhelmed. [...] Because you love your family and for other reasons, you might feel hesitant to come forward. You might not be able to make rational decisions. What other people see as generosity may, in reality, be the exploitation, manipulation, and sadly, emotional blackmail of older, more vulnerable members of the American public.”

Mickey Rooney passed away in April 2014. To date, a federal law to stamp out elder abuse and bring the perpetrators to justice has not been created.