

SENIORLAW CENTER

PROTECTING THE LEGAL RIGHTS OF SENIORS IN NEED SINCE 1978

TESTIMONY BEFORE THE HOUSE AGING & OLDER ADULT SERVICES COMMITTEE

Public Hearing: Impact of Aging Baby Boomers

February 6, 2008

Presented by

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Thank you for the opportunity to speak to you today about the impact of aging baby boomers on the Commonwealth. I appreciate your interest in this important issue, and I am pleased to provide an attorney's perspective on the critical legal issues facing this population.

My name is Sue Wasserkrug, and I am the director of the Pennsylvania SeniorLAW HelpLine, which provides free legal counseling, information and referrals to older Pennsylvanians (age 60 and above).

The HelpLine is a project of SeniorLAW Center, a Philadelphia-based nonprofit organization that protects the legal rights of seniors through direct legal representation; advice, information and referrals; community outreach and legal education; professional training, and advocacy. Founded in 1978 and celebrating its 30th anniversary this year, SeniorLAW Center has served over 200,000 low-income seniors in need of legal assistance, including victims of elder abuse and financial exploitation, elders facing housing crises, and grandparents raising grandchildren, as well as in consumer and personal planning matters, through its many programs and services.

SeniorLAW Center is particularly committed to serving the most vulnerable seniors in our community, including ethnic and cultural minorities, limited English speakers, and those who are homebound. We have outreach materials in eight languages, including Spanish, French, Chinese, Russian, Vietnamese, Cambodian, Korean and Gujarati.

The HelpLine is SeniorLAW Center's first and only statewide project, serving senior citizens in all 67 counties of Pennsylvania. (The distribution of calls by region is illustrated in a map that follows this testimony.) As you probably know, Pennsylvania has the fifth highest number – 2.4 million – and the third highest percentage of senior citizens in the nation. One out of every five people in Pennsylvania (20%) is age 60 or older, and by the year 2020, that figure is expected to be 25 percent of the total population – more than 3 million people.

Since its inception four years ago, the HelpLine has provided quick and easy access to much-needed legal information, advice and quality referrals, for all older Pennsylvanians, regardless of any barriers they might have, such as poor health status, geographic or social isolation, inability to travel, lack of a support network, limited English proficiency or, of course, low income. This model of delivering legal services to seniors is favored by the U.S. Administration on Aging, and seniors themselves, according to recent studies.

Seniors can call the HelpLine from the privacy of their home, Monday through Friday, 10 AM to 4 PM. After a brief screening, they are scheduled to speak with an experienced attorney who can answer their questions, advise them on legal remedies available to them, and, if necessary, refer them to another source of legal assistance, such as a legal aid office or local bar association.

Typical questions to the HelpLine include:

- ◆ “My husband just went into a nursing home. When will they take my house?”

- ◆ “My son died, and my daughter-in-law won’t let me see my grandchildren. Do I have any rights as a grandparent?”
- ◆ “I co-signed a car loan for my grandson and he stopped paying. Am I responsible?”
- ◆ “What is a power of attorney, and do I need one?”
- ◆ “My landlord says I have to move out by the end of the month. Can he do that?”
- ◆ “I have a lot of debt, and I don’t think I can pay it all. Will my children inherit my debt?”
- ◆ “I paid a contractor to repair my roof and it still leaks. What can I do?”
- ◆ “My children want me to transfer the title to my house over to them, so they won’t have to pay inheritance tax when I die. Should I?”

As you can see, older Pennsylvanians are faced with legal problems across the full spectrum of civil law. (The breakdown of calls by legal issue is illustrated in the chart that follows this testimony.) Some problems fall into the category of “elder law” – i.e., wills and estates, and Medical Assistance for nursing home care – an issue I imagine you’ve heard much about during these hearings. Some legal issues disproportionately affect seniors, issues such as grandparent custody and visitation, and intergenerational financial matters. But senior citizens are subject to the same multitude of injustices that all vulnerable populations experience: food and housing insecurity, mounting debt, and abuse, neglect and exploitation.

Perhaps the single most pressing legal problem that older Pennsylvanians encounter involves their financial well-being. Consumer issues are the single largest category of calls to the HelpLine, comprising a full 25 percent of seniors’ legal concerns. Sometimes callers have an overwhelming amount of debt, resulting from high medical costs, insufficient income, or adjustable rate mortgages. These individuals struggle to keep up with their payments and realize that one additional expense – perhaps something as simple as one high heating bill – will topple

the balanced budget they have created, and they wonder what safety net will be available to them. Other callers are unable to make their minimum payments but, trying to do the right thing, send what they can to their creditors, only to be harassed and threatened with court action – or worse. Still others are farther along in the collection process and might even have a judgment – or two or three – against them.

Seniors call the HelpLine hoping we can give them an answer to make the problem go away. And, in fact, sometimes we can – when, for example, the debt is disputed based on error, identity theft or some other fraud, or the loan was predatory, or the senior is judgment proof, living in rental housing, with nothing but Social Security for income and no other assets. We guide these callers through the steps of writing a dispute or “cease contact” letter, while explaining that court action might, nevertheless, ensue. In many cases, however, seniors are genuinely in debt and they either own a house or have a modest amount of savings. In such cases, the legal system does not offer a solution. Where bankruptcy might be an option, invariably the senior’s income is just over the limit for the local legal aid office, or that office does not handle bankruptcy (not all do), and the cost of a private attorney is prohibitive.

Many of these seniors are unaware of the various benefits available to them, either as seniors or as low-income Pennsylvanians: benefits such as food stamps, property tax and rent rebates, subsidies for Medicare Part D costs, and the array of services available through Area Agencies on Aging. Although we are a legal service, we often provide information and education on other programs and services that assist seniors, be they low income or otherwise vulnerable.

Another type of consumer problem that we regularly see at the HelpLine can be described as financial exploitation. Seniors frequently co-sign loans for adult children and grandchildren,

only to be left with the bill. Sometimes adult children fraudulently obtain credit cards in a senior parent's name, or convince a parent to add them to a checking account – ostensibly for help paying bills – until suddenly Junior has a brand new car and there is no money left for roof repairs. Not surprisingly, these exploited seniors have no desire to take legal action against their children. Or, maybe they do, but Junior has driven that brand new car to California and cannot be found.

Perhaps the worst of these exploitation cases is the one in which a child convinces a parent to put the home in the child's name, and then the child decides he no longer wants the parent living there. It is absolutely heartbreaking to have to tell a senior citizen – often a widow or widower – that she or he is no longer the legal owner of the house she or he has lived in for decades. On the other hand, it is extremely gratifying when the HelpLine can inform seniors of the legal consequences of actions they are considering, and thereby avert potential disaster. Plenty of seniors seek exactly this type of counseling: Should I transfer my house? Do I need a will? What is a power of attorney? What type of assistance is available to me?

Everyone has legal concerns as they grow old. Aging baby boomers will face these issues not only for themselves but also for their parents, as life expectancies continue to rise. Access to legal information and assistance enables individuals to age in place, independently, in control, with dignity and with peace of mind. The thousands of seniors who have found the Pennsylvania SeniorLAW HelpLine in the few short years we have existed consistently express profound gratitude for the service we provide. Callers tell us things like: “You have eased my mind and given me options to help me make a decision,” “This is the first time I’ve gotten any help from anybody with this problem,” “Even though I don’t like the answer, I’m really glad to know what

the law says,” and “You’re really helping people because there’s limited access to legal information.”

The increasing numbers of aging Pennsylvanians will, inevitably, increase the need for services such as the Pennsylvania SeniorLAW HelpLine. Currently, we are able to serve only about one-third of those who call, although we recently expanded our capacity somewhat with a panel of volunteer attorneys. We at SeniorLAW Center hope to continue to address the critical legal needs of the increasing population of older Pennsylvanians as the baby boomers join those ranks.

Thank you again for allowing me to address you today.

Attachments:

- Examples of Calls from Senior Citizens to the Pennsylvania SeniorLAW HelpLine
- Breakdown of Calls to the Pennsylvania SeniorLAW HelpLine, By Area of Law
- Distribution of Calls to the Pennsylvania SeniorLAW HelpLine, By Region

**Examples of Calls from Senior Citizens to the
Pennsylvania SeniorLAW HelpLine
1-877-727-7529
1-877-PA SR LAW**

(NOTE: All names have been changed.)

Grandparents' Rights

- ◆ *Mrs. Johnson is a 68-year-old grandmother who lives in a rural area in central Pennsylvania. Last year her only daughter died, leaving behind two young children, who are living with their father, Mrs. Johnson's son-in-law. Unfortunately Mrs. Johnson and her son-in-law never had a good relationship, and now Mrs. Johnson fears he is trying to prevent her from seeing the children – every time she plans a visit, he calls the night before and cancels. Mrs. Johnson wants to know if she has any rights as a grandmother. The HelpLine attorney told Mrs. Johnson that under Pennsylvania law, she has “standing” to petition the court for “visitation” or “partial custody” because her daughter – the parent of her grandchild – had died. The attorney explained these legal concepts in lay terms so that Ms. Johnson felt comfortable with the information, further explaining that although Ms. Johnson had standing, she might not win once she got to court – the judge would decide based on the best interest of the child. Using the HelpLine's Legal Resource Directory for Older Pennsylvanians, the attorney gave Mrs. Johnson county-specific information about Family Court, as well as the phone number for the local bar association's lawyer referral service, should Mrs. Johnson decide to retain an attorney. Finally, the attorney asked Ms. Johnson if all of her questions were answered. Mrs. Johnson replied, “Oh, indeed so! I'm glad I called you. Now I know what to do.” (SeniorLAW Center filed an amicus brief in the 2006 case of *Hiller v. Fausey*, in which the Pennsylvania Supreme Court confirmed a grandmother's right to seek custody or visitation of her grandson after the death of her daughter, the boy's mother. SeniorLAW Center worked with a coalition of child, family and elder advocates and argued that nowadays, grandparents often assume a larger role in raising children than in the past – a result of the rapidly changing nature of family structure.)*

Collection Problem

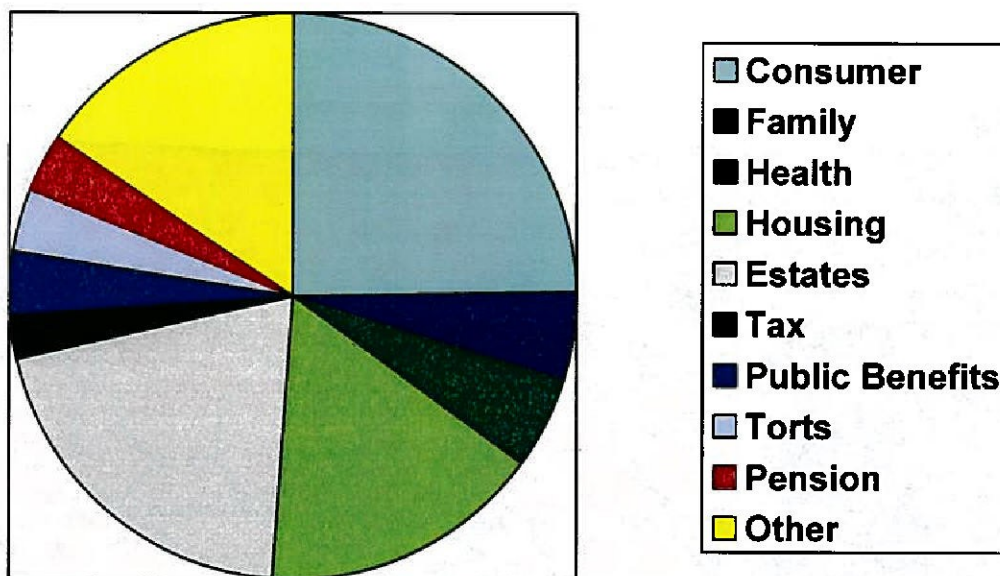
- ◆ *Mr. Rizzoli is a 73-year-old disabled veteran living in subsidized senior housing in North-eastern Pennsylvania. His wife left him years ago but the couple never divorced. He has been receiving notices from a collection agency for credit card bills in her name. Mr. Rizzoli knows nothing about these bills: he believes his estranged wife got the credit cards after she left him. He has no idea what she purchased, and he never benefited from the purchases. The other day, someone called from the collection agency and insisted that Mr. Rizzoli was legally required to pay the debt – nearly \$10,000. The person told Mr. Rizzoli that if he did not send a check for the full amount within 30 days, the sheriff would come and take all of his*

belongings and sell them to pay the debt. Mr. Rizzoli wants to know what he should do. The HelpLine attorney told Mr. Rizzoli that based on the facts he related, he is not responsible for the debt, and, furthermore, that he is "judgment proof." The attorney explained that collection agencies often make mistakes when insisting that a person must pay a debt, and that this insistence can be extremely intimidating. The attorney told Mr. Rizzoli that he would probably receive a letter in the mail from the collection agency and that the letter would probably include a statement that Mr. Rizzoli should respond within 30 days or the collection agency would assume the validity of the debt. The attorney explained how to write a "validate the debt" letter, and invited Mr. Rizzoli to call back if he had any more questions. About six months later, Mr. Rizzoli returned a Client Satisfaction Survey that the HelpLine staff had sent. In it, he indicated that his problem was solved: he sent a "validate the debt" response, and so far, he had heard nothing further about the debt. Mr. Rizzoli wrote, "I appreciate all the time you spent helping me, and I think your service is wonderful."

Real Estate/Deed Transfer

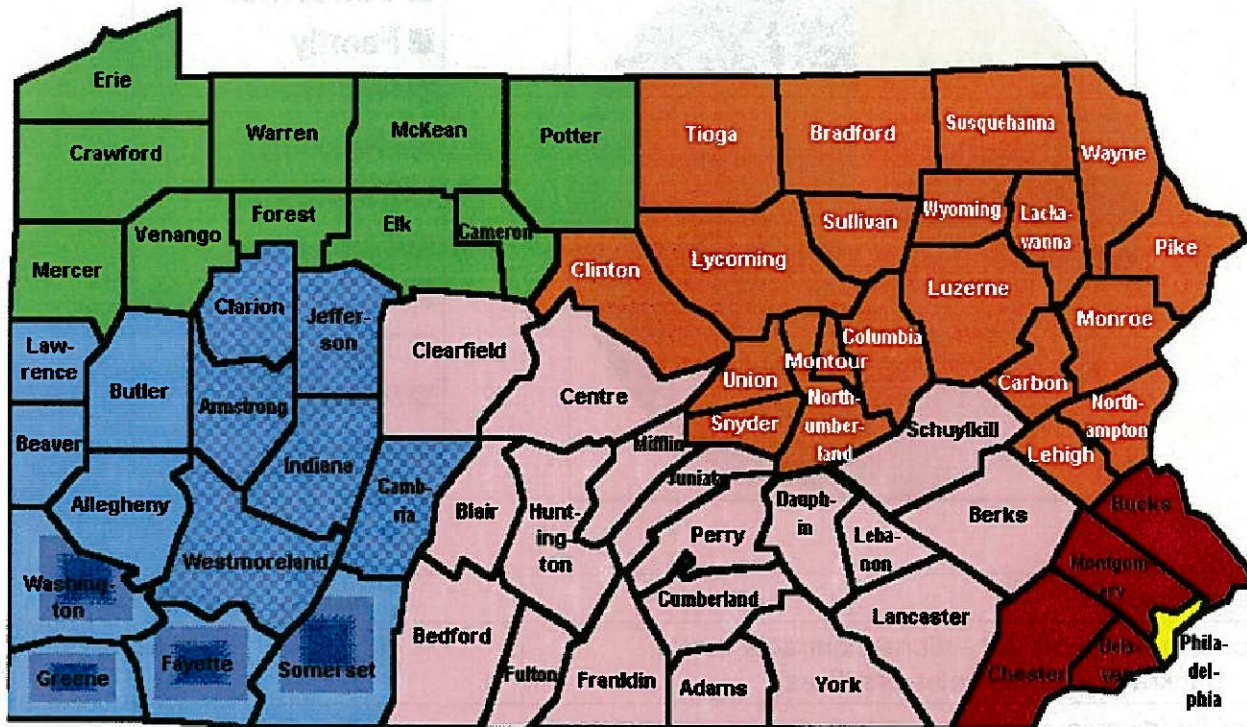
- ◆ *Mrs. Petrovitch is an 85-year-old Russian-born widow living in Erie County, in a house that she and her husband bought when they immigrated to this country. Mrs. Petrovitch's children have been pressuring her to put the house in her name, so that they won't have to pay inheritance taxes. Mrs. Petrovitch wants to know how to do this. Because Mrs. Petrovitch is more comfortable speaking in Russian, the HelpLine attorney utilized Language Line to conference a professional interpreter on to the call, at no charge to Mrs. Petrovitch. With the help of the interpreter, the attorney then explained the many potential negative consequences that could ensue if she transferred title of her house to her children, including the loss of her house and her housing security, loss of eligibility for benefits such as the property tax rebate, and, of course, a penalty if she requires Medical Assistance to pay for nursing home care within the next five years. The attorney told Mrs. Petrovitch that as a property owner, she has the right to leave her house to anyone she wants by writing a will, and that in general, giving property away does not benefit the property owner. Because of Mrs. Petrovitch's limited English skills, the attorney advised her to be extremely cautious about signing any documents that her children might bring to her. In closing, the attorney asked if Mrs. Petrovitch needed any more information, and Mrs. Petrovitch said, "To be honest, I got ten times the information I ever expected! You were very helpful. Thank you so very much." When a HelpLine advocate contacted Mrs. Petrovitch a month later to see if she had any additional questions, she indicated that she informed her children that she did not intend to transfer the house to them at this time. She asked them to respect her wishes and she believes they will.*

**Breakdown of Calls to the
Pennsylvania SeniorLAW HelpLine
By Area of Law, FY 2007**



Legal issue	#	%
Consumer (credit, collections, contracts, loans, bankruptcy, unfair sales practices)	402	25%
Family (divorce, custody, support, domestic violence)	81	5%
Health (Medicare, Medicaid, private insurance, nursing homes, living wills, health care power of attorney)	85	5%
Housing (landlord/tenant, real estate, deeds, mortgage foreclosure, subsidized housing, utilities)	262	16%
Estates (wills, trusts, powers of attorney, guardianship, probate, estate planning, joint ownership, MA)	330	20%
Tax (federal, state, local, transfer, inheritance)	41	3%
Public benefits (food stamps, Social Security, SSI, VA benefits, PACE, unemployment)	60	4%
Torts (auto accidents, malpractice)	55	3%
Pensions (defined benefit, defined contribution)	58	4%
Other (employment, neighbor disputes, immigration, criminal, life & auto insurance)	251	15%
TOTAL	1,625	100%

Distribution of Calls to the Pennsylvania SeniorLAW HelpLine By Region, FY 2006



Northwest Region - 70 Calls

Southwest Region - 355 Calls

Philadelphia - 212 Calls

Central Region - 383 Calls

Northeast Region - 237 Calls

Southeast Region - 232 Calls

Total number of calls: 1,489

Note: Colors correspond to Pennsylvania Legal Aid Network (PLAN) programs.