

Elder abuse in COVID-19 era takes physical, psychological and financial forms, says lawyer



BY [David Kitai](#) / 22 Apr 2020

The COVID-19 pandemic could see a worrying rise in elder abuse cases, says one personal injury lawyer.

Jasmine Daya, Managing Principal of Jasmine Daya & Co. Lawyers, sees three avenues for elder abuse arising out of the pandemic: physical abuse, psychological abuse and financial abuse. Daya's concerns follow the technical definition of elder abuse in Ontario: the physical, psychological or financial mistreatment of a senior.

"Seniors are being impacted first, from a health perspective, they are in the highest risk category if they contract the virus there are dire consequences," Daya, whose practice revolves largely around elder abuse cases, says. "Second, they're being put in isolated situations heightening their fear and anxiety, and third they're being targeted by fraudsters who are taking advantage of their isolation, fear, anxiety, and perhaps they're less aware about digital dangers. So, they're being taken advantage of from that perspective."

She notes, though, that personal injury lawyers can seek damages in all three types of abuse from the facilities these seniors live in or the caregivers they relied on.

"If an individual is residing at a long term care facility, it is very likely that in a lot of these situations, if there is elder abuse, there is civil liability that could attach and that's where someone like me comes in," Daya says.

On the question of whether care facilities or caregivers can be held responsible for seniors in their care contracting the virus, Daya says that after the pandemic has passed there will be some responsibility for the facilities that failed to provide an appropriate level of care that resulted in these seniors contracting the virus.

She says care homes failing to take efforts to ensure psychological, as well as physical, wellbeing might be liable as well. She says care homes should make every effort possible to keep seniors psychologically engaged and well.

As for the risks of financial fraud, Daya says the liability for care homes arises in cases where they may hand a resident a device and leave them to use it unsupervised, allowing them to fall victim to online scammers.

Seniors are already the most targeted group for fraudsters and Daya says that in an environment of widespread anxiety, isolation and boredom, seniors are more vulnerable than ever to a whole range of scams.

Daya says she's seen scams ranging from offers to purchase personal protective equipment online, to false solicitations for donations to the WHO or a fake pharmaceutical company promising a "miracle cure." As well, she's seeing a steady uptick in your run-of-the-mill extortion scams.

These instances of elder abuse through financial fraud make it particularly hard to pursue justice. They're often operated outside of Canada, and even if the fraudsters can be tracked down, the path to criminal or civil recourse is difficult at best.

Daya says that already overstretched long term care facilities need to toe a difficult line, especially between ensuring their residents stay psychologically well and keeping them safe from online predators. A cell phone or iPad might be the solution to one issue, but the cause of another. She says the liability in all these questions of physical, psychological and financial abuse will have to be sorted out on a case by case basis.

"I believe that we're in uncharted territory in every aspect of COVID-19 and we'll have to see what the courts deem as being appropriate in the circumstances," Daya says. "But generally speaking, when I hear cases involving elder abuse with seniors, I'm going to go all the way for them as long as it takes...Because the stories that I hear the ones that I actually start a lawsuit on are ones that are so egregious, that those situations, in my personal opinion, should not have occurred."