

CALIFORNIA LAW GUIDE

Financial Elder Abuse and Trust Contests in California

How an elder financial abuse claim and a trust contest work together, with the deadlines, remedies and cases.

By Eric Ridley, attorney, Ridley Law · Updated September 2026 · Read online with live links: ridleylawoffices.com/financial-elder-abuse-trust-contests-california/

A trust rewritten shortly after someone financially exploited your parent isn't just a trust dispute in California, it's often financial elder abuse too, and the law treats that combination as more serious than an ordinary family disagreement over an inheritance. By the time most families realize what happened, the money is already gone and the trust has already changed. California gives victims and their heirs remedies for that combination that an ordinary trust contest doesn't offer on its own.

Short answer: A trust change procured from a vulnerable parent can be attacked two ways at once: as a trust contest, which usually must be filed within 120 days after the trustee's notice (Prob. Code § [16061.8](#)), and as financial elder abuse under Welf. & Inst. Code § 15610.30, which has four years from discovery (§ [15657.7](#)). The abuse claim adds mandatory attorney fees, possible double damages under Prob. Code § 859, and disinheritance of the wrongdoer under § 259.

120 days

to contest a trust after a § 16061.7 notice (Prob. Code § 16061.8)

4 years

to bring a financial elder abuse claim, from discovery (W&I § 15657.7)

2x

the value taken, under Prob. Code § 859

~40%

of elder theft in bank reports involved adult children (FinCEN, 2024)

What counts as financial elder abuse

Welfare & Institutions Code § 15610.30 defines financial elder abuse broadly, and it reaches further than most people expect. It covers taking, secreting, appropriating, obtaining, or retaining an elder's (or dependent adult's) property for a wrongful use or with intent to defraud. Critically, it also covers taking property through undue influence, even without traditional fraud. The statute doesn't require the elder to have died first, and it doesn't require a criminal conviction. A civil claim for financial elder abuse can proceed on its own, based on a preponderance of the evidence.

The statute applies to anyone: a stranger who befriends an isolated senior, a caregiver who "borrows" from a bank account, or a family member who quietly redirects assets through a trust amendment. That last category is where financial elder abuse and trust litigation most often collide.

How it intersects with trust disputes

A trust amendment that disinherits some beneficiaries in favor of one, arranged by the person who benefits, timed around a cognitive decline or period of dependency, is often both a candidate for an undue influence trust contest and a financial elder abuse claim. The two theories aren't mutually exclusive. In fact, pleading both is common practice, because they draw on overlapping evidence (isolation, control, dependency, and inequity) but offer different remedies.

Financial elder abuse claims can also reach conduct that a pure trust contest can't. If a trustee or agent under a power of attorney drained accounts, sold property below value, or diverted income before ever touching the trust document itself, that conduct falls squarely under § 15610.30, regardless of what the trust itself says. In other words, you don't need a defective trust document to have a viable claim. Bad conduct with the money is enough on its own.

	Trust contest	Financial elder abuse claim
What it targets	The validity of the trust document itself	Taking, secreting or retaining an elder's property for a wrongful use or with intent to defraud, including through undue influence (Welf. & Inst. Code § 15610.30)
Needs a defective trust document?	Yes, the document is what's challenged	No; conduct with the money is enough
Evidence	Isolation, control, dependency and inequity	The same overlapping evidence
Attorney's fees	Each side generally pays its own lawyers	Mandatory once financial abuse is proven by a preponderance of the evidence (Welf. & Inst. Code § 15657.5)
Pleaded together?	Often, with the abuse claim	Often, with the contest

Enhanced remedies set this apart

This is the part that makes financial elder abuse claims strategically important, not just an alternative label for the same fight. Under Welfare & Institutions Code § 15657.5(a), a plaintiff who proves financial elder abuse by a preponderance of the evidence is entitled to attorney's fees and costs, and where clear and convincing evidence shows recklessness, oppression, fraud, or malice, the limits that otherwise cut off the elder's pain-and-suffering damages after death do not apply (§ 15657.5(b)). That's a real departure from the general American rule where each side pays its own lawyers, and it changes the economics of litigation for families who can't otherwise afford to fight over what was taken.

Punitive damages are available where the conduct meets the standard under [Civil Code § 3294](#) (W&I § 15657.5(d)). Separately, [Civil Code § 3345](#) can triple a fine or civil penalty, but only in actions to redress unfair or deceptive practices against seniors, with specific findings, so it rarely applies to a family trust fight. For families who've watched a lifetime of savings disappear, these remedies can matter as much as recovering the underlying assets.

Why these remedies matter beyond the money

Fee-shifting and enhanced damages aren't just about making the estate whole. They change who can afford to bring the case in the first place. A trust contest alone can be a slow, expensive fight where the wrongdoer, often already in control of the assets, has more resources to outlast the family. Elder abuse remedies push back on that imbalance.

Double damages and disinheritance

Two Probate Code remedies often matter more in a trust case than the Elder Abuse Act itself. Under Prob. Code § 859, a person who wrongfully takes trust or estate property in bad faith, by undue influence in bad faith, or through elder financial abuse is liable for twice the value of the property recovered, on top of returning it (*Asaro v. Maniscalco* (2024) 103 Cal.App.5th 717). The Courts of Appeal disagree on bad faith: *Levin v. Winston-Levin* (2019) 39 Cal.App.5th 1025 required it for undue influence, while *Keading v. Keading* (2021) 60 Cal.App.5th 1115 held no separate bad-faith finding is needed when the property was taken through elder financial abuse.

Under Prob. Code § 259, a person proved by clear and convincing evidence to have financially abused the decedent, in bad faith and with recklessness, oppression, fraud or malice, while the decedent was substantially unable to manage their finances or resist undue influence, is treated as having died first. They take nothing under the trust they helped write.

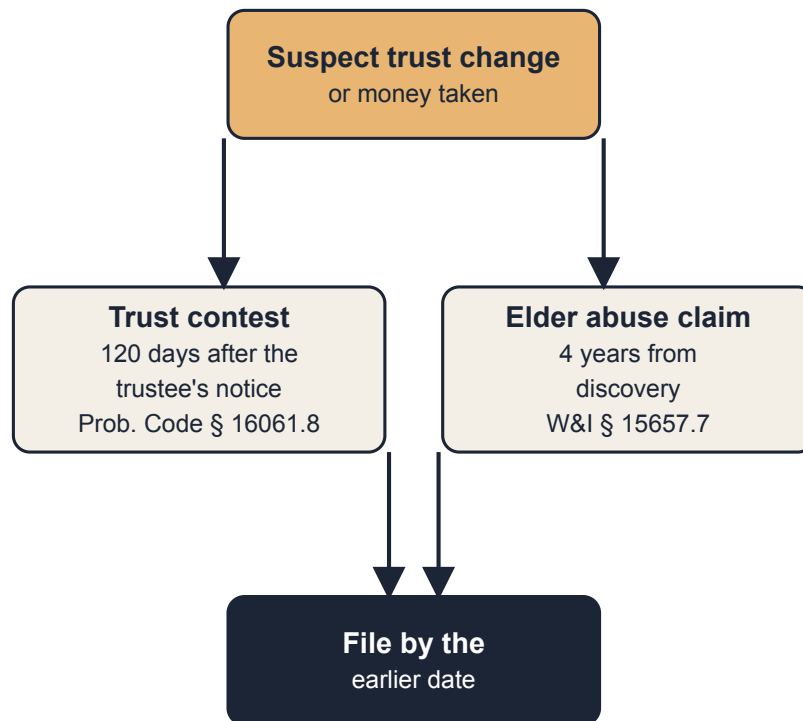
Standing to bring the claim

An elder abuse claim can be brought by the elder while alive. After death, it belongs first to the personal representative; if there isn't one, or the representative refuses or is the one accused, an intestate heir, successor in interest or interested person can bring it ([Welfare & Institutions Code § 15657.3\(d\)](#)). A trust beneficiary can

qualify (*Asaro*, above). While the parent is alive, an adult child can't sue on the parent's behalf without authority to act, such as being trustee, agent or conservator (*Tepper v. Wilkins* (2017) 10 Cal.App.5th 1198). This matters in trust litigation because the person who would most want to bring the claim, the elder, is often the one who died or lost capacity before anyone discovered what happened. Without this rule, the wrongdoer could simply wait out the victim.

Two deadlines, and the shorter one controls

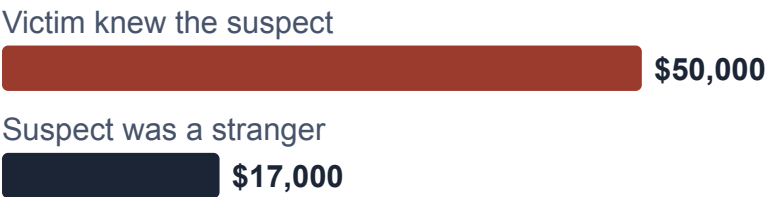
A trust contest and an elder abuse claim run on different clocks, and the safe assumption is that the trust contest deadline governs any attack on the trust document itself.



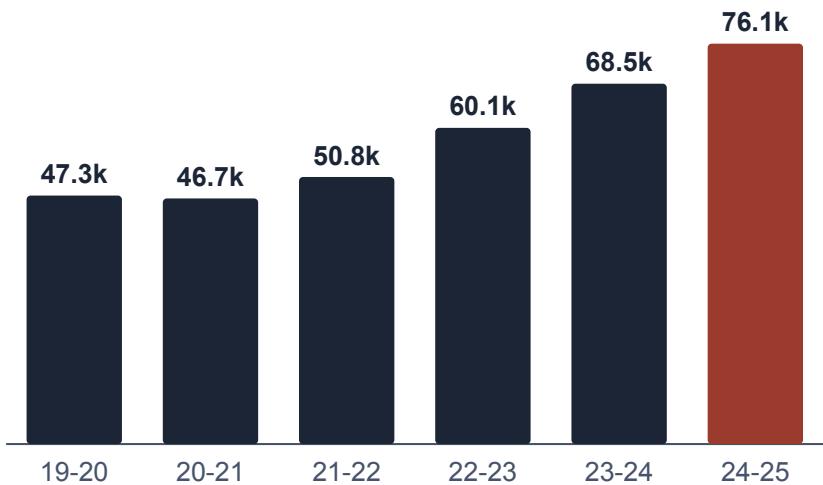
Once a trustee serves the notice required by Prob. Code § 16061.7, a beneficiary generally has 120 days to contest the trust, or 60 days from receiving a copy of the trust terms requested during that window, whichever is later (§ 16061.8; see [trust contest deadlines](#) and [what to do when you receive a trust notice](#)). An elder abuse claim has four years from the date the plaintiff discovered, or should have discovered, the abuse (W&I § 15657.7), and the Court of Appeal held that period was tolled while the victim was incapacitated (*Asaro*). Don't rely on the longer period to undo a trust amendment. Calendar the 120 days the day the notice arrives.

How often is the abuser family?

Often. Banks reported adult children as the perpetrators of elder theft in nearly 40 percent of the cases FinCEN reviewed, and the CFPB found average losses were about three times larger when the victim knew the suspect.



FinCEN's 2024 analysis covered bank reports filed from June 2022 to June 2023 (FinCEN). The CFPB figures come from 2013 to 2017 reports: about \$50,000 when the older adult knew the suspect, \$17,000 when it was a stranger (CFPB). California's county Adult Protective Services agencies have seen financial abuse allegations climb every year since 2020:



Federal fiscal year	Financial abuse allegations	Confirmed
FFY 19-20	47,277	15,365
FFY 20-21	46,728	17,320
FFY 21-22	50,791	19,615
FFY 22-23	60,115	24,751
FFY 23-24	68,517	28,370
FFY 24-25	76,147	32,208

Source: California Department of Social Services, SOC 242 reports (our sums of the statewide rows). For the full set of statutes, criminal penalties and bank reporting rules, see California elder financial abuse laws.

Connecting the dots in your case

If you suspect financial elder abuse tied to a trust change, the investigation usually needs to cover both tracks at once. Was the trust document itself the product of undue influence, and did the person controlling finances commit abuse independent of the document? Untangling that takes a close look at bank records, the timing of the trust change, and who had access to your parent during the relevant period.

If the wrongdoer is currently serving as trustee, an immediate trustee removal petition may be necessary to stop ongoing harm while the abuse and contest claims are litigated. Waiting for the full case to resolve while the person you suspect keeps signing checks is rarely the right call. And because beneficiary rights include the right to trust accountings and information, refusal to provide basic financial records is often the first hard evidence of what's been hidden. If a trustee stonewalls a reasonable request for an accounting, that refusal itself tells you something.

Not an automatic win

Financial elder abuse claims are powerful, but they aren't automatic wins. Proving financial abuse by a preponderance is still a real task, and the enhanced remedies that turn on recklessness, oppression, fraud, or malice require clear and convincing evidence, a higher standard than most civil cases, which takes more than suspicion. Bank statements alone rarely tell the whole story. You typically need the timeline, the relationship, and the paper trail to line up together. Some cases that look like exploitation turn out to be a genuine, documented gift. Others that look like a simple family disagreement turn out to be exactly what the statute was written for. The only way to know which one you have is to have the facts reviewed.

Talk to a real California estate attorney

If you think a parent or relative has been financially exploited and their trust changed as part of it, you don't have to sort out which claims apply on your own. I'll look at the trust, the timeline, and what the financial records show, and tell you plainly whether you have a financial elder abuse claim, a trust contest, or both. I handle petitions to the probate court, contested or not. Will and trust contests, and anything headed to trial, I refer to litigation counsel.

Talk to Eric Ridley is a free 30-minute consultation by phone or Zoom, anywhere in California. Or call [\(805\) 244-5291](tel:805-244-5291). You'll leave knowing where you stand, whether or not you hire me.

Related reading: [What counts as undue influence under Probate Code § 86](#) · [The presumption of undue influence under Probate Code § 21380](#) · [Signs a trust was changed under duress](#) · [How to contest a trust in California](#)

How to prove financial exploitation

These cases are rarely proven by a confession. They are proven by a paper trail read against a timeline, and the work is mostly gathering records before they become hard to get.

Build the timeline first

Establish when capacity began to decline and when the transfers happened. Medical records, a dementia diagnosis, a hospitalization, or the point at which someone else started driving them to appointments. Then lay the financial events on top. Exploitation shows up as a pattern where the money starts moving at the same time the person starts declining, and the person benefiting is the one who gained access.

The records that actually carry a case

Bank statements across several years, not just the period in dispute, because you need the normal pattern to show the departure from it. Cancelled checks and the handwriting on them. Wire and transfer records. Deed and title history from the county recorder. The drafting attorney's file. Medical records addressing cognition. Care facility records and visitor logs. Phone and email records showing who was present and when.

What courts respond to

Isolation from other family members before the transfers. A new or newly close person appearing late in life. Transactions the person could not plausibly have initiated, such as online transfers by someone who never used a computer. Documents signed at unusual times or locations. A sudden change in a long-stable estate plan. Gifts that leave the person unable to meet their own needs.

The presumptions that shift the work

California does not require you to prove everything from scratch in every case. [Prob. Code § 21380](#) creates a presumption of fraud or undue influence for instruments benefiting certain people, including the drafter and care custodians. Where a confidential relationship existed and the person benefited from a transaction they procured, the burden can shift. [Prob. Code § 86](#) ties the definition of undue influence to [Welf. & Inst. Code § 15610.70](#).

Three appellate decisions show how these cases are built. In [Lintz v. Lintz](#) (2014) 222 Cal.App.4th 1346, the court held that capacity to make complex trust amendments is measured under Prob. Code §§ 810 to 812 and that undue influence can be proved with circumstantial evidence; plaintiffs "are not required to prove their case by direct evidence." In [Newell v. Superior Court](#) (2024) 107 Cal.App.5th 728, a family challenging an amendment that made a caregiver the sole trustee and beneficiary kept a lis pendens on the house while the case went forward. And in [Mahan v. Charles W. Chan Ins. Agency, Inc.](#) (2017) 14 Cal.App.5th 841, the court held that using a trust as the instrument to separate an elderly couple from their money could be a taking under § 15610.30.

Why the remedy matters to the strategy

Where financial abuse is established, [Prob. Code § 859](#) provides recovery of twice the value of the property plus attorney's fees and costs in the court's discretion. That is what makes these cases economically viable when the amount taken would not otherwise justify litigation, and it is why the abuse theory should be evaluated at the start rather than added later.

One caution: because the Courts of Appeal split on whether bad faith is required (*Levin* and *Keading*, above), plead and prove bad faith whenever the facts support it.

Move early

Banks purge records. Witnesses move and memories fade. The person who could explain what happened may be declining or already gone. Nearly every one of these cases that fails, fails on evidence that existed and was not preserved.

Frequently asked questions

Is changing a trust financial elder abuse under California law?

It can be. Welfare & Institutions Code § 15610.30 covers taking an elder's property through undue influence, not just outright theft or fraud. A trust amendment arranged by the person who benefits, timed around a cognitive decline or period of dependency, can qualify as financial elder abuse in addition to being grounds for a trust contest.

What's the difference between a trust contest and a financial elder abuse claim?

A trust contest challenges the validity of the trust document itself. A financial elder abuse claim under § 15610.30 can reach broader conduct, like a trustee draining accounts or an agent selling property below value, even before or separate from any change to the trust document. Many cases plead both because they share overlapping evidence.

Can you recover attorney's fees in a financial elder abuse case in California?

Yes. Welfare & Institutions Code § 15657.5(a) requires the court to award reasonable attorney's fees and costs to a plaintiff who proves financial elder abuse by a preponderance of the evidence. That's a significant departure from the usual rule that each side pays its own lawyer.

Who can bring a financial elder abuse claim if the elder has died?

Under Welfare & Institutions Code § 15657.3(d), the claim belongs first to the elder's personal representative. If there is none, or the representative refuses or is the person accused, an heir, successor in interest or interested person, such as a trust beneficiary, can bring it. This matters because the elder, who usually has the strongest claim, is often the one who died or lost capacity before the exploitation was discovered.

Can you get triple or punitive damages in a California elder abuse case?

Punitive damages, yes, where the conduct meets the malice, oppression or fraud standard of Civil Code § 3294. Probate Code § 859 adds double the value of property wrongfully taken. Civil Code § 3345 can triple a fine or civil penalty, but only in actions for unfair or deceptive practices, so it seldom applies in a trust dispute. These remedies go beyond simply returning the assets taken.

Does the 4-year elder abuse deadline extend the 120-day trust contest deadline?

Don't count on it. The 120-day period in Probate Code § 16061.8 governs a contest of the trust itself, and the four years in Welfare and Institutions Code § 15657.7 governs the elder abuse claim. If you want the trust amendment set aside, treat 120 days from the trustee's notice as the deadline.

Can someone who abused a parent still inherit from the parent's trust?

Not if Probate Code § 259 applies. A person proved by clear and convincing evidence to have financially abused the decedent in bad faith, with recklessness, oppression, fraud or malice, while the decedent couldn't manage their finances or resist undue influence, is treated as having died first. A conviction under Penal Code § 368 has the same effect.

This is general information about California law, not legal advice for your situation.

The fee award under Welf. & Inst. Code § 15657.5 is mandatory rather than discretionary, which changes what these cases are worth. See [trust and probate litigation](#).

See also: [elder financial abuse in California by county](#), from state Adult Protective Services data.

Related reading: [Can Right of Survivorship Be Challenged in California?](#)

Related reading: [California elder financial abuse laws, remedies and deadlines](#).

SOURCES

- Welf. & Inst. Code §§ [15610.30](#), [15610.70](#), [15657.3](#), [15657.5](#), [15657.7](#); Prob. Code §§ [86](#), [259](#), [859](#), [16061.8](#), [21380](#); Civ. Code §§ [3294](#), [3345](#)
- *Asaro v. Maniscalco* (2024) 103 Cal.App.5th 717; *Keading v. Keading* (2021) 60 Cal.App.5th 1115; *Levin v. Winston-Levin* (2019) 39 Cal.App.5th 1025; *Lintz v. Lintz* (2014) 222 Cal.App.4th 1346; *Mahan v. Charles W. Chan Ins. Agency, Inc.* (2017) 14 Cal.App.5th 841; *Newell v. Superior Court* (2024) 107 Cal.App.5th 728; *Tepper v. Wilkins* (2017) 10 Cal.App.5th 1198
- FinCEN, [Financial Trend Analysis: Elder Financial Exploitation](#) (Apr. 2024); CFPB, [SARs on Elder Financial Exploitation](#) (Feb. 2019); CDSS [SOC 242](#) (FFY 2019-20 to 2024-25)

Questions about your own plan?

Ridley Law helps California families with trusts, wills, trust administration and probate from Port Hueneme, serving Ventura, Santa Barbara and Los Angeles counties. The first call is free and runs 30 minutes.

ridleylawoffices.com · (805) 244-5291

General information, not legal, tax or investment advice for your situation. Reading this guide does not create an attorney-client relationship. Ridley Law does not sell insurance or investments. You may share this PDF freely in unaltered form.