

A FAMILY GUIDE TO PURSUING
ELDER ABUSE & NEGLECT LAWSUITS

IN CALIFORNIA
PERSONAL INJURY & WRONGFUL DEATH CLAIMS AGAINST ELDER CARE PROVIDERS



BERMAN & RIEDEL, LLP
ATTORNEYS AT LAW

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PREPARED TO YOU BY:

BERMAN & RIEDEL, LLP
ATTORNEYS AT LAW

Berman & Riedel, LLP has recovered over \$100 million in verdicts and settlements and earned national recognition for our success in wrongful death actions.



DO I HAVE A CASE?

Do you suspect your loved one has been the victim of abuse or neglect at the hands of a negligent, abusive, or neglectful healthcare provider such as a nursing home, residential care facility for the elderly, assisted living facility, rehabilitation center, hospital, or an in-home healthcare provider? Your priority is certainly aimed at stopping the abuse or neglect and ensuring your loved one's safety and well-being if it's not too late. Your next course of action may be holding the responsible party accountable.

California offers many forms of protection for seniors and dependent adults. When someone's negligence or intentional action causes your loved one harm, your family may have a personal injury claim under California's elder abuse laws.

COMMON TYPES OF ELDER ABUSE AND NEGLECT

Elder Abuse and neglect cases can come in many forms. You may have a case if your loved one was subjected to any of the following types of abuse and/or neglect. Each is listed with common examples, but this is certainly not an exhaustive list.

NEGLECT

- Failure to monitor and protect from health and safety hazards
- Failing to provide care to prevent fall incidents
- Failure to turn and reposition resulting in pressure sores (bedsores)
- Failing to report injuries or ensure prompt treatment
- Improper administration of medication
- Withholding, denying, or delaying medical care
- Failing to prevent a resident from wandering/elopeing
- Failing to provide necessities of life such as adequate food
- Allowing a senior to remain in unclean clothing or unsanitary conditions

PHYSICAL & SEXUAL ABUSE

- Slapping, striking, or hitting
- Use of an object to cause harm
- Confinement
- Forced penetration or oral copulation
- Kicking or punching
- Use of physical or chemical restraints
- Rape or sexual assault



EMOTIONAL ABUSE

- Insults and name-calling
- Isolation
- Exerting control of a senior's transportation or communication
- Threats
- Humiliation

FINANCIAL

- Stealing a senior's personal belongings or money
- Not allowing a senior access to their finances
- Forging documents
- Deceiving a senior into giving money or belongings

TRUST YOUR INSTINCTS

Acts of elder abuse/neglect are not always obvious, especially when it affects vulnerable seniors with dementia or those without a voice of their own. Trust your instincts and call Berman & Riedel, LLP if you even so much as suspect abuse or neglect. Consultations are FREE OF CHARGE. If we believe that there may be a rightful claim, we will investigate your case.

**CALL 858-302-4264 TO
SPEAK DIRECTLY TO A PARTNER**



WHO CAN SUE FOR ELDER ABUSE IN CALIFORNIA?

The next step in determining if you have a case is verifying you are eligible to bring an elder abuse action. The following people can file an elder abuse lawsuit:

- The senior or dependent adult who suffered the abuse or neglect
- The victim's family (in the case of a wrongful death claim)
- The victim's personal representative
- Family members with power of attorney
- A guardian or conservator of an elder or dependent adult who is incompetent
- Family members who witnessed the abuse

If the victim is no longer living, the personal representative of the estate, heirs (family), or successors in interest may be eligible to file a wrongful death and/or survival action.

IMPORTANT TO KNOW:

In California, a victim of elder abuse and/or neglect who has suffered death as a result of abuse and/or neglect may still be entitled to bring a claim against the responsible party/parties even after their death. Such claims are oftentimes brought together with a wrongful death claim brought by the surviving family. *But be aware that time is limited to file a claim.*

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WHO CAN BE HELD ACCOUNTABLE FOR ELDER ABUSE?

Anyone who subjects a senior or dependent adult to acts of abuse or neglect can be held accountable both in criminal and civil court.

- Skilled Nursing Facilities (SNFs)
- Residential Care Facilities for the Elderly (RCFEs)
- Post-Acute Rehabilitation Centers
- Assisted living facilities
- Home health care agencies
- Hospitals
- Health care providers including physicians, nurses, therapists, and home health aides
- Nursing home and other facility staff members



MEDICAL MALPRACTICE VS ELDER ABUSE CLAIMS

It's important to note that there are two types of claims that may be brought when a senior suffers abuse or neglect under the care of a licensed facility:

- Medical malpractice claims can be brought against health care providers who fail to deliver the recognized standard of care. These claims fall under MICRA which covers claims for professional negligence against medical providers like nursing homes.
- Elder abuse or neglect claims are brought under the Elder and Dependent Abuse Act. These claims go beyond negligence and generally require some conscious action or disregard that causes harm.

The difference sometimes comes down to assessing the degree of wrongdoing and whether it was a mistake or went beyond that. **It is important to know that these claims often overlap.** Many acts considered professional negligence are also neglect under the Elder Abuse Act.

The types of damages can differ between these types of claims. Berman & Riedel, LLP will help you understand which type of legal claim is most appropriate and the damages your loved one may be entitled to recover.

TIME IS LIMITED TO FILE A CLAIM

Be aware that you have a limited amount of time to file a claim for damages. These time frames vary depending on the type of claims that need to be made. For example, claims based on negligence against a healthcare provider usually have a strict time frame of just 1 year to bring a claim. For claims involving acts of elder abuse and/or neglect, you usually have just 2 years from the date that the acts occurred to file a claim. Some cases have overlap, and with some cases, it's difficult to recognize when the acts of abuse or neglect first occurred.

IMPORTANT: If you believe that you or a loved one may have a claim, **DO NOT DELAY**. Contacting an experienced lawyer can help you protect your rights to file a timely claim.

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WHAT SHOULD I DO NEXT?

When you suspect or know that a loved one is being abused or neglected, you may feel overwhelmed and unsure of what steps to take to protect them and their rights. At Berman & Riedel, LLP, we recommend taking the following steps as soon as possible.

TAKE STEPS TO PROTECT YOUR LOVED ONE

If your loved one is currently suffering any type of abuse or neglect, it's important to take immediate action to protect your loved one's health, safety, and legal rights.

- ✓ If your loved one's health or safety is at immediate risk, call 911.
- ✓ Speak with your loved one's primary care physician about any injuries they have suffered. If they are an associate or employee of the facility, choose an independent medical provider.
- ✓ File a complaint with the California Department of Public Health (DPH). You should be notified of an investigator assigned to your case within 48 hours. [This can be done online](#) or by calling 916-492-8232.
- ✓ Serious allegations of neglect and abuse can also be reported to the Bureau of Medi-Cal Fraud & Elder Abuse (BMFEA).



PRESERVE EVIDENCE

Your family's elder abuse lawyer will help you investigate your loved one's case and document abuse and neglect. However, it's important to preserve any evidence you can quickly.

Take notes on what you have observed, take photos of your loved one's injuries, and request your loved one's nursing home records if they are in a facility that participates in Medicaid or Medicare.

CONTACT AN ELDER ABUSE LAWYER

The next step is contacting an experienced elder abuse lawyer in California. An attorney can help you take important steps to preserve your loved one's rights and ensure they receive safe, adequate care. They will also help you build a case to hold the responsible parties accountable.

If your loved one has died as a result of suspected abuse or neglect, contacting an experienced elder abuse lawyer in California can help you investigate and build a case to hold the responsible parties accountable.



DO I NEED A LAWYER?

While you are not required to hire a lawyer to pursue an elder abuse claim, these cases are VERY complex. Elder abuse often intersects with medical malpractice and it may involve complicated rules regarding the proof necessary to establish liability.

An experienced elder abuse lawyer can allow your family to focus on your loved one while giving your case the greatest chances of success. Here is why it's wise to work with a knowledgeable personal injury attorney to pursue an elder abuse lawsuit.

THERE IS NO CHARGE TO SPEAK WITH AN ATTORNEY AT BERMAN & RIEDEL, LLP

All consultations are free of charge. If we agree to take on your case, Berman & Riedel, LLP works on a contingency fee basis. This means we front all case costs and expenses related to prosecuting your case and we only receive reimbursement for case costs and charge attorneys' fees *if we win your case.*

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HOW AN ELDER ABUSE LAWYER CAN HELP YOU

An elder abuse attorney doesn't just handle the paperwork and negotiations; they will work to investigate your loved one's abuse, gather evidence, and fight on your family's behalf. You can have a single point of contact and trust that your loved one's case is being given the attention it deserves.

Here is what a skilled elder abuse lawyer will do for your family.

- Offer sound legal advice and guidance
- Identify parties who may be liable for your loved one's abuse or neglect
- Gather and preserve evidence
- Conduct an independent investigation into the cause of your loved one's injuries
- Work with experts to prove causation, liability, and damages
- Determine the damages available to your loved one and family
- Handle all negotiations with the insurance companies
- Present a persuasive case to a jury if a settlement cannot be reached



Your lawyer can give you the support you need while you ensure your loved one is receiving the care they deserve.

PREPARING FOR YOUR CONSULTATION

Your initial consultation with a California personal injury lawyer is your opportunity to not only find out if you have a case but also determine if the lawyer is a good fit for your family.

Your lawyer will listen to your concerns about what happened to your loved one and review any notes and evidence you bring. They will likely ask questions about the circumstances of any incidents or injuries and the type of care your loved one was receiving.

It's helpful to have a list of questions prepared ahead of your consultation. You want an injury lawyer you trust to represent your family and someone you feel comfortable will give your case the attention and expertise it deserves.

Questions you may want to ask include:

- How many years of experience do you have?
- What is your experience with elder abuse claims?
- What share of your practice is dedicated to these types of claims?
- How many of your cases result in a settlement or jury award?
- Will you be my main point of contact during the case?
- Do you think I have a strong case?
- What elements of my case do you think will be the most challenging?



HOW BERMAN & RIEDEL, LLP CAN HELP

Berman & Riedel, LLP is a prominent California law firm renowned for our success in handling personal injury, elder abuse, and wrongful death cases throughout the entire State of California. We have a particular focus handling personal injury and wrongful death claims against nursing homes and other care facilities for the elderly with **millions recovered for our clients in elder abuse claims.**

Our elder abuse case results speak for themselves.

We are willing to pursue anyone whose negligence, recklessness, or intentional wrongdoing has caused your loved one harm including licensed and unlicensed:

- Nursing Homes
- Assisted living facilities
- Residential Care Facilities
- Rehabilitation Centers
- Home care aides
- Hospitals
- Nurses
- Nursing Assistants
- Physicians
- Therapists

We also sue management and ownership companies of facilities that engage in acts of abuse and/or neglect.

Berman & Riedel, LLP has recovered over \$100 million in verdicts and settlements and earned national recognition for our success in nursing home abuse and elder abuse actions. Our distinctions include California Top Rated Lawyer for 10 years running and the prestigious top AV Rating by Martindale-Hubbel.

With our decades of success and multiple news-worthy verdicts and settlements, our law firm can be very selective in the cases we accept. If we take on your case, you can be sure **we believe in you and will not rest in aggressive pursuit of the maximum compensation your family deserves.**

At Berman & Riedel, LLP, we strive to deliver compassion, experience, tenacity, and exceptional results to every client we represent. You deserve a compassionate and experienced elder abuse lawyer on your side to fight for the justice and compensation your family needs. We are here to put our experience and reputation to work for you.

Contact Berman & Riedel, LLP today for a
FREE CASE EVALUATION.
If we take your case, you pay nothing unless we win.

