

ANNOUNCEMENTS

RECOGNITION

T&B Represented in 2020 'Super Lawyers' Listings

Super Lawyers, a listing of outstanding attorneys who have attained a high degree of peer recognition and professional achievement, selected the following shareholders for 2020: David L. Case, Estate Planning & Probate, Estate & Trust Litigation; Alisa J. Gray, Estate Planning & Probate, Estate & Trust Litigation; Richard G. Himelrick, Securities Litigation, Business Litigation; Christopher R. Kaup, Bankruptcy; Leonard J. Mark, Family Law, Personal Injury-General (Plaintiff), Personal Injury-Medical Malpractice (Plaintiff); Robert D. Mitchell, Securities Litigation, Business Litigation, Real Estate (Business); and Robert A. Royal, Business Litigation, Closely Held Business.

Super Lawyers' "Rising Stars" list consists of attorneys who are 40 years old or younger or who have practiced law 10 or fewer years. For 2020, the following shareholders and associates were recognized: Timothy Bode, Business Litigation, Civil Litigation, General Litigation, Personal Injury-General; Nora L. Jones, Estate & Trust Litigation, Elder Law; Jacob A. Kiser, Civil Litigation, Real Estate, Banking; May Lu, Mergers & Acquisitions, Closely Held Business, Business/Corporate; Ashley Zimmerman Marsh, Land Use/Zoning, Real Estate; Justin P. Nelson, Estate & Trust Litigation, Estate Planning & Probate, Elder Law, Appellate; Krista J. Nielson, Real Estate, Banking, Civil Litigation, Business Litigation, Bankruptcy; Andrew W. Saag, Real Estate; Gaya Shanmuganatha, Business Litigation, Civil Litigation (Defense); Ace Van Patten, Creditor Debtor Rights, Bankruptcy, Civil Litigation, Real Estate; and Michael A. Wrapp, Real Estate, Business/ Corporate, Banking, Civil Litigation.

MOVING UP

Firm Promotes Associate Schube to Shareholder



EVAN P. SCHUBE was promoted to Shareholder at Tiffany & Bosco in July 2020 after joining the firm as an Associate in January 2018. Evan's litigation practice focuses on real estate, construction, and lending matters and includes a broad spectrum of clients ranging from real estate professionals and investors to institutional lenders. Whether the case is suited for a pre-litigation resolution or a trial, Evan focuses on achieving

his clients' goals in an efficient and effective manner. Evan earned his Juris Doctor from the Sandra Day O'Connor College of Law at Arizona State University.

NEW FACES

Three New Associates Join Firm



ELISE B. ADAMS joined the firm in September 2020 as an Associate. She practices primarily in civil litigation. She received her Juris Doctor from the Sandra Day O'Connor College of Law at Arizona State University. While in law school, Elise served on the Executive Board of *Jurimetrics: The Journal of Law, Science, and Technology* as Senior Articles Editor. She also worked as a research assistant, focusing mostly on administrative law within

executive agencies, and interned for the Narcotic and Dangerous Drug Unit of the Department of Justice. Elise is dedicated to serving the community, as evidenced by her donating over 400 hours of pro bono time during law school. Before joining Tiffany & Bosco, Elise worked as a Law Clerk for Chief Judge Peter B. Swann and Vice Chief Judge Kent E. Cattani of the Arizona Court of Appeals, Division One. In her free time, she enjoys hiking with her collie, Jax, and traveling internationally.



ZACHARY R. CORMIER joined the firm in February of 2020 as an Associate. He focuses his practice in commercial and financial litigation, employment-related litigation, and consultation with employers on labor and employment-related compliance, policy, investigations, and the vast array of employment-related decisions that arise for employers. Zachary has several years of experience in defending large and small employers in litigation

involving discrimination, breach of employment contract, and wage and hour claims of all kinds in front of administrative agencies, state courts, federal courts, and in private arbitration. He has been recognized several times as a Rising Star by *Super Lawyers* in the area of employment litigation. In his free time, Zachary is something of a music junkie and loves listening to and playing all different kinds of music.



KRISTINE M. RIZZO joined the firm in July 2020 as an Associate. Kristine's areas of practice include commercial and business litigation, professional liability defense, construction law, and tort defense. Before joining the firm, Kristine practiced law in Michigan for seven years with a focus on civil litigation, including insurance defense and commercial disputes. She graduated from the University of Michigan in 2009 with a

Bachelor of Arts in Political Science. She received her Juris Doctor from Western Michigan University Cooley Law School in 2012.

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GOOD WORKS

Autumn/Winter 2020 T&B Staff Community Involvement



uring these unprecedented times of need, Tiffany & Bosco remains steadfast in its commitment to being a leader and making a positive impact through a broad spectrum of programs and initiatives.

JANUARY

In January 2020, the firm's Staff Committee raised \$415 for Project Veterans Pride. Project Veterans Pride is a non-profit organization that provides transitional housing and resources to homeless veterans so that they can regain their honor, dignity, and pride in order to be able to return to being self-sufficient and productive members of society.

FEBRUARY

In February 2020, the firm's Staff Committee provided attorneys and staff the opportunity to dedicate their time to Blue Star Moms of the Southwest Valley, which is a local chapter of the Blue Star Mothers of America, Inc., a non-profit veterans service organization in central Arizona.

The local chapter originated in December 2009, was chartered in April 2010, and continues to be a strong organization made up of proud mothers who have a desire to promote patriotism and who currently have or previously had children honorably serve in the military.

Tiffany & Bosco employees worked together to write cards that were sent to active military personnel serving overseas.

MARCH

In March 2020, the firm partnered with The Salvation Army Phoenix Metro in support of its Easter Basket Drive, collecting Easter baskets containing toys, activity books, candy, and other items for children in need. Attorneys and staff also made monetary donations to this worthwhile cause. Since its local Arizona founding in 1893, The Salvation Army Phoenix Metro has brought help and healing to the hungry and hurting.

Each March, the firm usually participates in an NCAA March Madness bracket challenge to build camaraderie among Tiffany & Bosco employees. Although this year's NCAA tournament was cancelled, Tiffany & Bosco seized the opportunity to turn

its annual tradition into a fundraiser to help benefit the community.

Rather than filling out brackets composed of college basketball teams, participants selected legallythemed movies, which were seeded based on their "audience score" on Rotten Tomatoes. In each round. a movie would advance based on a random drawing. Ultimately, Tiffany & Bosco employees donated \$515 to the Centers for Disease Control and Prevention Foundation. The donations sent to the CDC Foundation were used to fund medical supplies, increase lab capacity, deploy emergency staff to U.S. public health agencies, and provide support to vulnerable communities.

JUNE

Additionally, in June 2020, the firm raised \$350 for the Phoenix Rescue Mission's Code Red Water Drive! The fundraiser is designed to help people in need during the summer months. Temperatures during the summer months in Phoenix soar into triple digits and homeless men, women, and children in the community need help to survive the blistering heat. The Phoenix Rescue Mission is a place of hope, healing, and new beginnings for men, women, and children struggling with homelessness, addiction, and trauma.

ANNOUNCEMENTS

PROFESSIONAL AND PERSONAL ACHIEVEMENT



PAMELA L. KING-SLEY, in an effort to provide guidance to non-employment law practitioners during the pandemic, presented virtually in April 2020 to members of the Maricopa County Bar Association in a program titled, "COVID-19: The New Workplace

JODI R. BOHR and

Normal for Employee Leave."

LANCE R. BROBERG is serving on the Maricopa County Superior Court's Civil Department Task Force – Innovation Subcommittee. The subcommittee



explores using procedures and technology to resolve cases in a way that maintains access to the courts and promotes the

right to a jury trial while facilitating alternatives to the now-unavailable jury trial. Lance was also a panelist for the Continuing Legal Education webinars entitled "The Future of Civil Trials," which focused on how civil jury trials are likely to be conducted in the COVID-19 environment, and alternatives that are both in place and envisioned that may permit more economical and efficient resolution of cases. In addition, Lance is serving as plaintiff's counsel for a series of mock jury trials to be conducted live and virtually in Maricopa County to determine how the courts may best be able to navigate the current and post-COVID-19 environment.



SARAH K.
DEUTSCH coauthored "A Sleight
of Hand: Why
Non-Traded Real
Estate Investment
Trusts are Becoming

an Increasingly Frequent Subject of Securities Litigation and Arbitration," which was published in the Arizona State University Sandra Day O'Connor College of Law *Corporate and Business Law Journal* in June 2020.



ALISA J. GRAY and JAMES A. FASSOLD presented several pro bono seminars on mindfulness and time management for the staff attorneys

at the Florence Immigrant & Refugee Rights Project.

ALISA J. GRAY was recognized by *AZ Business* in its 2021 issue of *AZ Business Leaders*.



JAMES A. FASSOLD was recognized by AZ Business in its "Top 100 Lawyers in Arizona for 2020" and in its 2021 issue of AZ Business Leaders.

JAMES P. O'SULLIVAN and MAY



LU co-chaired the webinar "COVID-19: Key Insights to the State and Federal Assistance Programs and Timely Tips from the Trenches

 Practical Strategies to Survive and Thrive in Uncertain Times" for the State Bar of Arizona.



MAY LU has been appointed one of the Vice-Chairs of the Middle Market and Small Business Committee of the American Bar

Association's Business Law Section (MMSB). MMSB's mission is to serve corporate and transactional lawyers who counsel small and mid-sized

enterprises controlled by families, entrepreneurs, and private equity groups or venture capital firms. Her three-year term as Co-Vice-Chair will begin in September 2020.



KELLY L.
MENDOZA was
re-appointed as
the Chair of the
Arizona State Bar
Family Law Practice
and Procedure

Committee for 2020-2021.



GIANNI PATTAS
was appointed to a
three-year term with
the State Bar's Fee
Arbitration Program.
The purpose of the
program is to provide

a forum for the binding arbitration of fee disputes. Gianni will serve as an arbitrator and hold fee arbitration hearings and issue awards. Gianni was also appointed to a three-year term with the State Bar's Ethics Advisory Group, which provides assistance to the State Bar and its members in the resolution of questions of professional ethics arising from time to time. In addition, the Ethics Advisory Group provides non-binding ethical guidance to and for the benefit of Arizona attorneys.

AMY D. SELLS, an appellate practitioner, was nominated by the Arizona Appellate Practice Section's Executive Council, and elected by her peers, to serve as Member-at-Large for the 2020-2021 term.

GAYA SHANMUGANATHA was elected to serve as President of the State Bar of Arizona's Young Lawyers Division (YLD) for the 2021-2022 term. Gaya is currently serving as YLD's President-Elect and previously served a two-year term on YLD's Executive Council as a Maricopa County District Representative.

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LEGAL MATTERS

Appealing Options

Fortify your litigation team with appellate counsel

BY AMY D. SELLS

id you know that appellate lawyers are more than just brief writers and oral advocates who step into a case on appeal? Think of appellate lawyers as a tool in your litigation arsenal that can be used as much or as sparingly as needed from the inception of a dispute through



trial and beyond. Services provided by an appellate lawyer can range from consulting on legal briefs and advising on discrete legal issues, to acting as co-counsel and second-chairing a trial. Together, a trial lawyer and appellate lawyer can provide enhanced representation, cost savings,

and improved results, both in the trial court and on appeal.

What distinguishes appellate attorneys from others?

Appellate lawyers view cases in terms of substantive law and are distinctly skilled at researching, writing, and oral advocacy. They are dispassionate, logical thinkers who evaluate factual evidence objectively, and distill and explain legal principles to the court concisely and persuasively, both in writing and orally. Although other lawyers may share these attributes, adding an appellate lawyer to your team frees up the trial attorney to focus on developing the factual case and making the best fact presentation at trial.

How can an appellate attorney contribute to your case?

There is no need to wait until your case has been decided to take advantage of an appellate attorney's expertise. Appellate lawyers can assist litigators at every stage of the dispute:

Pre-suit: identifying claims and defenses and preparing initial pleadings.

Pre-trial: preparing or defending motions to dismiss and motions for summary judgment.

At trial: preparing or defending motions in limine, motions for judgment as a matter of law, jury instructions, and verdict forms, preserving the record for appeal by raising appropriate objections, and addressing last-minute issues that could otherwise distract trial lawyers.

Post-trial: preparing the judgment, obtaining a supersedeas bond, and identifying issues for appeal.

What types of cases warrant an appellate attorney's expertise?

Adding appellate counsel to your litigation team makes strategic sense in complex cases where multiple lawyers



are already involved; cases of significant business value, carrying a risk of high financial exposure; cases involving complex facts or legal issues that require extensive analysis and streamlined presentation; and cases involving legal issues of precedential significance. Engaging appellate counsel can also broadcast to opponents that your client takes the case seriously and is prepared to appeal or respond to an appeal if necessary.

Will it be costly to add an appellate attorney?

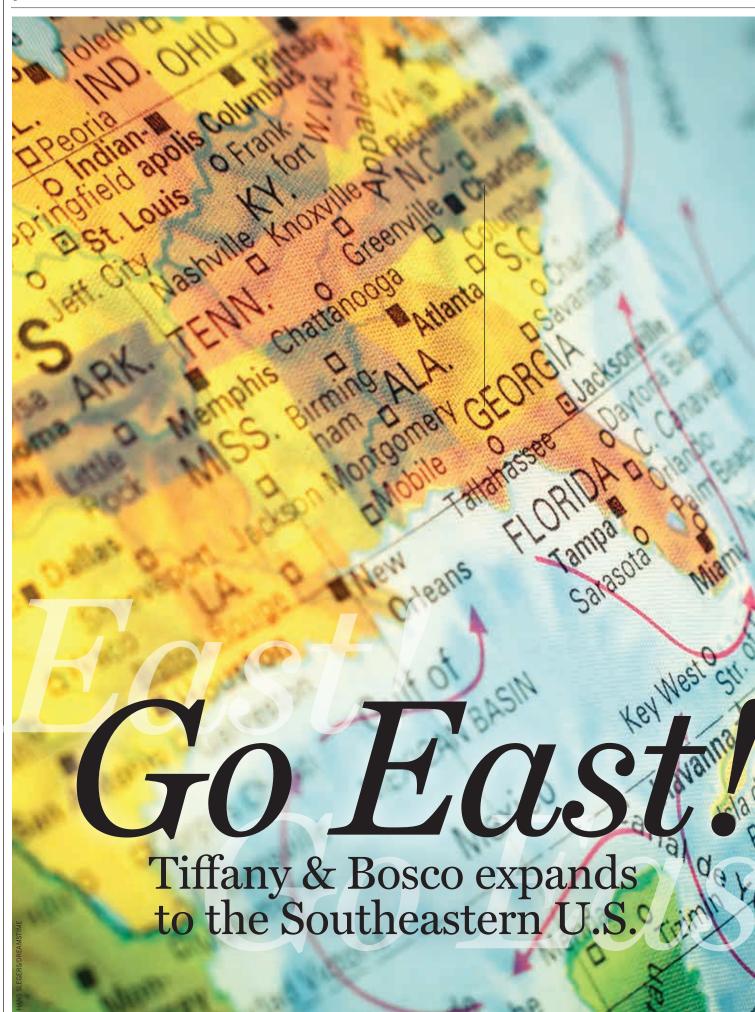
It may be counterintuitive, but appellate counsel's early involvement can change the landscape of your case and reduce your exposure and litigation costs by improving efficiencies, enhancing representation, and leading to better results. For instance, tasking appellate counsel with dispositive motions can limit the issues that must be litigated and tried, and may even resolve the case altogether.

Of course, not every case warrants a "trial team" or full-time appellate counsel of record. In fact, unlike Tiffany & Bosco, most firms do not have in-house appellate lawyers to work with their litigators. In such cases, appellate counsel can be engaged to consult on an as-needed basis, particularly in smaller cases, which makes involving an appellate consultant more financially feasible.

BUILD YOUR ARSENAL

The appellate attorneys at Tiffany & Bosco are ready to meet your litigation needs. Visit tblaw.com for more information.





GET TO KNOW US

BY STEPHEN G. COLLINS

iffany & Bosco, P.A. is moving forward again. T&B has been very fortunate throughout its 50-plus years of existence. While its roots are in Arizona, over the past 15 years its clients have graciously helped T&B grow into California, Nevada, and New Mexico. As of March 2020, T&B has taken another very large step forward.

On March 2, T&B expanded its footprint into the Southeastern United States with the acquisition of the Financial Services practice of Sirote & Permutt, P.C., a major Southeast law firm. This acquisition adds 21 attorneys and over 60 staff members to the T&B family, as well as additional offices in Birmingham, Alabama; Orlando, Florida; and Fort Lauderdale, Florida.

The attorneys in these three offices have hundreds of years of combined experience in representing large, institutional clients, as well as small, local clients in many areas of practice, including foreclosure, bankruptcy, evictions, financial and regulatory compliance, title and real estate litigation, general litigation, single-family and commercial closings, and corporate transactional services. T&B can now offer these services to clients from our other offices should they need assistance in the Southeast.

T&B's Managing Attorney, Mark Bosco, spearheaded the acquisition of the Financial Services group from Sirote, and Andy Saag and Ginny Rutledge (formerly with Sirote) are serving as the managing partners of T&B's Southeast operation.

Upon closing of the deal, Mark Bosco stated that "he and the rest of the T&B Family are honored and humbled that our clients have entrusted us to assist them in managing their mortgage and real estate assets in the Southeastern United States."

Andy Saag added that "T&B's Southeast team is

proud to continue providing a full spectrum of legal services to the mortgage and real estate industries."

The acquisition adds several attorneys, shareholders, and staff members to T&B who are already very familiar to the mortgage servicing industry, including shareholders Don Wright, Tony Smith, Jeff Underwood, Diane Murray, Kat Kasper, Jake Kiser, Jason Weber, and me.

The new T&B attorneys are very active in the mortgage servicing industry and in the USFN, a trade association of law firms representing the mortgage banking industry. Andy Saag is currently serving as Treasurer of the USFN and has been selected to serve on the USFN's Board of Directors for a three-year term beginning December 1, 2020. I served on the USFN Board of Directors from 2008-2013.

Don Wright has served on many consumer and business bankruptcy association boards and committees in his 35-plus-year legal career. Tony Smith is a regular speaker at seminars across the country, helping clients and colleagues in the industry navigate the potholes and blind curves of Florida's foreclosure and litigation landscape.

While at Sirote, the T&B Southeast team received the USFN Diamond Award of Excellence from 2000 to 2019, reflecting the team's attention to detail and its unparalleled commitment to its clients and the mortgage industry at large.

FOR MORE INFORMATION

on the legal services provided by T&B's Financial Services Practice Group, please reach out to Mark Bosco at msb@tblaw.com or Andy Saag at aws@tblaw.com.

COMPLIANCE



Data Set?

fter litigation begins, the e-discovery process should be viewed as an inverted pyramid—once the broad net of preservation

Electronically Stored Information has been preserved. Now what? Part II of III Gaya Shanmuganatha

has been cast, each subsequent phase concerns a smaller subset of information. An early investigation to identify custodians who have Electronically Stored Information (ESI), sources of ESI (hardware and software), key dates, and potential search terms is critical. Such an investigation (1) reduces the volume of data subject to collection, review, and production,

BY GAYA SHANMUGANATHA

(2) facilitates discussions with opposing attorneys about what ESI is or is not reasonably available, and (3) helps educate the court about why certain sources of data are not relevant or proportional to the needs of a case. The following are categories of information that you should inquire about during your early investigation.

DUTY TO PRESERVE IS TRIGGERED

PRELIMINARY IDENTIFICATION & PRESERVATION

CUSTODIANS

A custodian is an individual who creates, maintains, or stores information that is potentially relevant to a case. During the course of your investigation, document who was involved in the case. Do not worry if you preliminarily identify many people who may be connected to relevant matters—while they may be subject to a litigation hold, you will not necessarily have to produce data from all of them. Rather, through interviews, determine who is relevant to the case, who may have duplicative information, and who only has a peripheral connection to the subject matter. Then, use those interviews to determine which custodians should be subject to collection and document the reasons why.

SOURCES OF ESI

You are required to know where ESI is located and how it is stored. While not all sources of ESI will be subject to collection, it is important to be aware of them to facilitate an open dialogue with opposing parties and the court about the reasonable scope of e-discovery. Ask your custodians how they communicated (e.g., email, text, chat, or social media), what accounts they used (professional and personal), where they saved and stored data (e.g., platforms, storage devices, servers, or repositories), what types of ESI would be relevant to the case (e.g., email, voicemail, recordings, pictures, or messages), and what devices they used (e.g., cell phones, computers, tablets, laptops, or cameras). It is especially important to learn whether custodians used any personal devices or accounts. And, depending on the facts at issue, it is also important to learn whether the relevant data is active (immediately available) or archived (maintained for long-term storage but not immediately accessible).

DATE RANGES

As you talk to custodians, determine the earliest and latest dates on which each custodian can be linked to relevant matters. Identify a range of relevant dates to limit the data at issue. One date range may apply broadly to an entire case, or targeted searches may be performed by identifying particular date ranges associated with each custodian's involvement.

INVESTIGATION/EARLY CASE ASSESSMENT

The e-discovery process follows an inverted-pyramid, with each level focusing on a smaller subset of data.

COLLECTION

REVIEW

SEARCH TERMS

During your interviews, determine

PRODUCTION whether custodians used particular terms, reference numbers, or phrases when discussing relevant matters.

Also, identify who each custodian was

communicating with, both internally and externally. This information can be helpful for crafting search terms, phrases, or recipient information to limit the scope of data subject to collection. Remember, this should be an evolving process. Test your search terms, and if you get too many hits, go back to the drawing board to narrow them down.

Investing in a robust early investigation will save you money and help you avoid potential sanctions during the discovery process. If you do not know who the key players are, where information is located, how accessible it is, and what filters can be used to limit collection, then you will most likely over-preserve, over-collect, and incur the cost of reviewing irrelevant information. Conversely, you might under-preserve and under-collect. In that case, the court may sanction you for failing to comply with your discovery obligations and order you to go through the entire process again.

Moreover, Arizona's Rules of Civil Procedure require parties to confer and actively participate in formulating a reasonable discovery plan. During that conference, each party must produce at least one representative who is familiar with the party's systems containing ESI. Parties must also discuss where ESI is located, protocols for searching and filtering it, how it will be produced, and how to reduce or shift the cost of e-discovery. Failure to follow the investigative steps above may render you unable to effectively communicate about the ESI at issue, and result in an incomplete understanding of what is feasible as you navigate the e-discovery process. And ultimately, misrepresentations or over-commitment with respect to ESI could lead to costly sanctions.

LEGAL MATTERS



How to prevent, detect, ど remedy financial elder abuse

BY CHELSEA A. HESLA

Pinancial exploitation of a vulnerable adult is a serious and underreported problem that occurs when a trusted individual

misappropriates the assets of a vulnerable adult for the exploiter's own personal gain. This is one of the most devastating forms of elder abuse, as it has the potential to destroy an individual's financial stability at a very vulnerable

stability at a very vulnerable stage of life. Consequently, preventing, detecting, and remedying such financial exploitation is paramount.

PREVENTION

Developing plans for financial

management prior to experiencing vulnerability or diminished capacity is something we should all be doing to ensure our long-term financial security. This includes developing a network of trusted peers and professionals, such

as financial advisors and accountants.

Engaging financial professionals early on is a proactive way to share information with allies who can often be the first to spot potential red flags, such as

large withdrawals or spending activity that is out of character. Financial professionals should be aware of and educated about these issues so that they can respond appropriately when red flags arise.

DETECTION

Identifying exploitation can be tricky, as the most frequent perpetrators of these crimes are often close friends, relatives, or caregivers. Therefore, one of the keys to preventing financial exploitation is knowing what to look for.

One of the most common red flags is isolation of the vulnerable adult. Other warning signs include friends or distant family members becoming increasingly involved in the vulnerable adult's affairs. While isolated, it becomes more likely that a vulnerable adult will make unexpected or unusual changes to her estate plan, such as her will or trust.

Other warning signs include inappropriate financial compensation for services such as caretaking or companionship, the vulnerable adult's reluctance to discuss financial matters, the perpetrator's refusal to share pertinent information with the vulnerable adult's close friends and family, and the

granting of access to the vulnerable adult's financial accounts, including adding the exploiter's name to existing accounts or setting up new ones.

REMEDIES

Most states, including Arizona, have harsh statutory penalties for perpetrators who financially exploit vulnerable adults. In Arizona, not only will an exploiter be ordered to pay civil damages, they can also face punitive damages up to three times the amount of original damages, as well as criminal prosecution by the Attorney General's office.

Sadly, sometimes financial

exploitation is not discovered until after a vulnerable adult has already passed away. In such cases, the exploiter can also be disinherited or required to forfeit benefits he or she may have otherwise been entitled to under the vulnerable adult's estate plan.

In recent years, Arizona has dedicated significant resources to preventing financial exploitation, including passing legislation to assist financial professionals with identifying, reporting, and preventing suspected exploitation. Similar efforts are being made at the federal level with the introduction of the Senior Security Act of 2019,

which would establish a taskforce to combat the exploitation of seniors.

Protecting one's financial stability and long-term legacy is an important part of asset management. Despite local and federal efforts to combat it, financial exploitation remains a prevalent form of elder abuse, and it is important to identify ways to prevent abuse, identify misconduct, and seek counsel if exploitation is suspected. If you think one of your loved ones is being financially exploited, or if you ever find yourself facing claims of financial exploitation, the attorneys at Tiffany & Bosco are available to assist you.

All attorneys are licensed in their home state, as well as: ¹Alabama; ²Arizona; ³California; ⁴D.C. & Maryland; ⁵Idaho; °Nevada; ¬New Mexico; °Texas; °Utah; ¹¹Georgia

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Established in 1967, Tiffany & Bosco, P.A. provides legal services to the business community, representing domestic and foreign clients on a local, national, and international basis. Tiffany & Bosco, P.A. is a member of the USFN.

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