

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT JUNEAU

STATE OF ALASKA, OFFICE)
OF ELDER FRAUD AND)
ASSISTANCE,)
)
Plaintiff,)
)
vs.)
)
JAMES VERNON SIGLER and)
CARLA SUE JONES SIGLER,)
)
Defendants.)

Case No. 1JU-17-569CI

**SECOND ORDER RE:
PUNITIVE DAMAGES**

The State of Alaska moves for punitive damages and for attorney's fees.¹ The Siglers oppose. An order announcing that punitive damages would be awarded was entered on July 18, 2022. A hearing on punitive damages was held on September 12, 2022. The instant order addresses the amount of punitive damages that shall be awarded.²

The State asserts that the initial fraud (the \$250,000 check) does not, in and of itself, implicate an award of punitive damages, but that the later, larger fraud (the \$450,000 check), in and of itself and in combination with the initial fraud, does rise to the level necessitating an award of punitive damages in a significant amount. The State is seeking \$450,000 in punitive damages.

The factors that the court may consider when determining an award of punitive damages are set forth at AS 09.1.020(c). Although the statute is worded permissively ("may") the court here will consider all of the factors set

¹ Case Motion #38. A separate order shall enter regarding attorney's fees.

² Entry of the instant order was delayed due to "late-breaking" intervening litigation relating to the application to this action of the statute of limitations.

forth in the statute, although it may rely more heavily on some factors than others.

LIKELIHOOD OF SERIOUS HARM

The likelihood that elder Neva Ogle would suffer serious financial harm as a result of the Siglers' conduct was very high. Witnesses Felton and Hansten testified that Ogle was very likely to, and did, suffer serious financial harm as a result of the Siglers' conduct. This included evidence that at the time of the conduct Ogle's expenses outweighed her very low income, causing her to have to spend savings for normal living expenses. And the draining of her savings by the Siglers rendered Ogle's financial situation untenable. She was forced to sell her home to pay for her necessary care at the Pioneer Home. This is an obvious and extreme negative financial outcome for Ogle, who had wished to "age in place" in her home, which is entirely attributable to the Siglers' conduct in securing for themselves over seventy percent of Ogle's financial resources. The status of Ogle's finances was demonstrated by exhibits admitted at trial and referenced during the testimony of Investigator Carbone at the punitive damages hearing.

Ogle's age at the time of the conduct (85-87 years old) also demonstrates a strong likelihood of serious harm to her. This is because as a very elderly widow, living alone in a remote community (Yakutat) where the cost of living was high, the likelihood of Ogle incurring significant expenses for her care during her final years was very high. And the draining of her assets by the Siglers caused Ogle's greatest fear to come true—that she would run out of money before she passed away.

DEGREE OF AWARENESS

The likelihood that Neva Ogle would suffer serious financial harm was evident and foreseeable at the time of the Siglers' conduct. The Siglers had

known Ogle very well for many years. They were intimately familiar with her livelihood and lifestyle. Carla Sigler testified that she spoke frequently with Ogle about the latter's finances. The Siglers also knew that Ogle was concerned about being paid back, as evidenced by the fact that she wanted a written payback agreement, including higher monthly payments, and including the requirement that the full amount be repaid before her death. This knowledge led to the next of the Siglers' fraudulent acts, the written agreement that did essentially nothing to ensure the full and timely payback that Ogle wanted.

AMOUNT OF FINANCIAL GAIN

This factor is fairly self-evident insofar as the total amount of money that the Siglers secured from Neva Ogle is, in a vacuum, quite high - \$700,000.00 - and that it is quite high in relation to the Siglers' financial situation as a whole. Division of Retirement & Benefits employee Larry Davis testified about the significant increase in Carla Sigler's retirement benefit that was achieved through the buyback made possible by the use of Ogle's money. Davis also testified that the retirement buyback allowed Carla Sigler to retire a full decade earlier than she otherwise would have been able to do, which is an obvious and significant benefit to her. The use of Ogle's money also enabled the Siglers to pay off substantial debts, including credit card debt and debt related to the Siglers' real estate holdings (in Alaska) and the purchase of their Texas retirement home. The Siglers also expended those monies on moving costs related to their move to Texas and other personal purchases, and also used those monies to purchase things for relatives.

As asserted by the State, the financial benefit to the Siglers of having Ogle's \$700,000, above and beyond the \$700,000 itself, was between \$327,826

and \$720,805. The State is seeking \$450,000 in punitive damages, which is less than the midpoint between these figures (which is \$524,315).

DURATION OF CONDUCT & INTENTIONAL CONCEALMENT

The Siglers' conduct continued for several years, at least. The Siglers also intentionally concealed their conduct by various means including the 2014 payback agreement all the way through the trial testimony of the Siglers in this case in March 2022, which the court has already found to have been largely incredible. Carla Sigler has provided multiple different versions of what she asserts happened, in an ongoing effort to conceal the truth of her and her husband's actions. The State is correct when it asserts that the Siglers have not expressed remorse and have not backed away from their untruthful statements and testimony.

ATTITUDE AND CONDUCT UPON DISCOVERY

The Siglers filed for bankruptcy with the express goal of evading financial responsibility that may have been (and now is being) required of them in the instant action. As noted above, the Siglers have not expressed remorse and have continued to stand by their untruthful assertions.

FINANCIAL CONDITION OF DEFENDANTS

The Siglers are financially secure, in large measure as a result of the monies they got from Neva Ogle. While they are involved in a bankruptcy action in Texas, the goal of that action was to attempt to avoid financial responsibility for their actions that lead to the instant case, not because the Siglers were in dire financial straits. Carla Sigler receives retirement income of over \$5000 per month. The Siglers own their large Texas home (which has a swimming pool and which is valued at something like \$700,000) without significant debt attached to it. The Siglers also still own real estate in Alaska.

Carla Sigler was also employed as the county treasurer of Bosque County, Texas between July 2016 and shortly before the punitive damages hearing in September 2022, making between \$60,000 and \$70,000 per year.

TOTAL DETERRENCE

The instant action is the only means through which the Siglers are, or will be, required to face the consequences of their actions. They are not now, and will not be, subject to criminal prosecution by any level of government in any location. The Siglers persist in denying their actions to this very day, which sets them apart from the defendants in all other elder fraud civil actions brought by the State of Alaska, who have all settled their cases.³ The State and Ogle (and her Estate) have incurred significant expenses to prosecute the instant action from its inception by Ogle (with private counsel in both the instant matter and the bankruptcy case) to the present.

Specific and general deterrence of elder fraud in Alaska is an important goal recognized by our legislature when it enacted the elder fraud statutory framework under which the instant case has proceeded, as well as its enactment of the punitive damages' statutes presently in issue in this case. The deceitful financial maltreatment of Alaskan elders is corrosive of the values of our community at large. A message must be sent that the swindling of elders is offensive to this community. The protection of Alaskan elders is strengthened through deterrence and punishment of those who take advantage of these valuable and vulnerable citizens of our state.

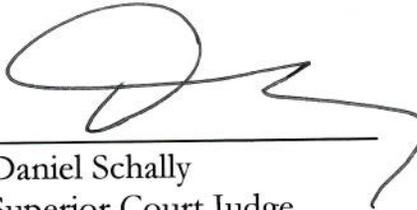
CONCLUSION

The court credits and agrees with the State's evidence and argument as presented at trial, during the punitive damages hearing, and in the large volume of briefing filed in this case. Punitive damages in the amount of \$450,000.00

³ With one single exception, involving unique and different circumstances than those here present.

shall be included in the judgment to be entered forthwith.⁴ This amount falls well within the statutory limits set forth in AS 09.17.020. This amount is awarded based on the credible financial calculations provided by the State during the punitive damages hearing.⁵

DATED this 13th day of November 2022 at Juneau, Alaska.



Daniel Schally
Superior Court Judge



Certification
Copies Distributed
Date 11-14-22
To Att. att. +
depts. - email

By AS

⁴ The court notes its awareness of the statutory requirement that half of an award of punitive damages goes to the State's general fund.

⁵ See, page 3, final paragraph.