**Romance Scams – When Clients Face More Than Just a Broken Heart**

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1. Introduction
2. Agenda
3. What is a Romance Scam?
4. Why are people falling for Romance Scams?
	1. Epidemic of loneliness ([Surgeon General’s Advisory](https://www.hhs.gov/about/news/2023/05/03/new-surgeon-general-advisory-raises-alarm-about-devastating-impact-epidemic-loneliness-isolation-united-states.html); [NY Times](https://www.nytimes.com/2023/04/30/opinion/loneliness-epidemic-america.html?unlocked_article_code=1.bk0.AV5X.USwjiVhs-X_h&smid=url-share))
		1. 27.6% of U.S. households are 1 person living alone ([U.S. Census data](https://www.census.gov/library/stories/2023/06/more-than-a-quarter-all-households-have-one-person.html))
		2. Overall, 30% of U.S. adults are single (including 25% of men and 39% of women over age 65) ([Pew Research Center data](https://www.pewresearch.org/social-trends/2020/08/20/a-profile-of-single-americans/))
		3. Fastest growing age cohort falling victim to Romance Scams are those 65+ ([Federal Trade Commission Data](https://www.ftc.gov/news-events/data-visualizations/data-spotlight/2023/02/romance-scammers-favorite-lies-exposed))
	2. The human need to connect and feel loved ([Psychology Today](https://www.psychologytoday.com/us/blog/sapient-nature/201401/the-need-love%29))
	3. Lack of familiarity and comfort with modern dating norms and technology
	4. “Love bombing”
5. Case Study #1: Edwin and Alice
	1. Case Study #1 Issue Spotting
		1. Criminal (federal & state)
			1. Money laundering - 18 U.S.C. § 1957; § 18-5-309, C.R.S. - human trafficking money, illicit drug money, organized crime money, terrorism money
			2. Bank fraud - 18 U.S.C. § 1344; § 18-5-205, C.R.S. – including fraud by check
			3. Wire fraud - 18 U.S.C. § 1343; § 18-5-308, C.R.S. – wire and email fraud
			4. Mail fraud - 18 U.S.C. § 1341
			5. Identity theft - 18 U.S.C. § 1028; § 18-5-902, C.R.S.
			6. Accessory or Accomplice Liability for any of the above
		2. Civil/other issues
			1. Tax implication
			2. Risky bank customer
6. Case Study #2: Molly and Carl
	1. Case Study #2 Issue Spotting
		1. Civil/financial & practical issues
			1. Severely reduced liquid funds
			2. Scammed money unlikely to be recovered
			3. Insufficient income to cover monthly expenses
			4. Underwater reverse mortgage
			5. Real properties co-owned with scammer
			6. Credit card debt
			7. Federal and state income tax debt
			8. Medicaid qualification
7. A Note about Artificial Intelligence
	1. Ease of creating profile text and fake photos
	2. ChatGPT
	3. PixLR
8. How can we help clients affected by Romance Scams?
	1. Criminal prosecution:
		1. Wrongs to At-Risk Adults, including Financial Exploitation - 18-6.5-101, C.R.S. et seq.
		2. Encourage reports to law enforcement
	2. Theories of Recovery
		1. *Conversion* - “Conversion is any distinct, unauthorized act of dominion or ownership exercised by one person over personal property belonging to another.” *Mason v. Farm Credit of S. Colo.,* 419 P.3d 975, 983 (Colo. 2018). For a plaintiff to recover on a claim of conversion of personal property, it must be found by a preponderance of the evidence that: 1) the plaintiff owned the personal property, 2) the defendant intentionally and substantially interfered with the plaintiff’s ownership or right to possess the property, and 3) the plaintiff did not consent to the interference. Affirmative defenses offered by the defendant must be considered. *Id.*
		2. *Civil Theft* - “Civil theft requires the proof of two elements: (1) the defendant knowingly obtained control over the plaintiff’s property without authorization, and (2) the defendant did so with the specific intent to permanently deprive the plaintiff of the benefit of the property. *Tisch v. Tisch*, 439 P.3d 89, 103 (Colo. App. 2019) citing § 18-4-405 C.R.S. Affirmative defenses offered by the defendant must be considered. *Id.*
		3. *Fraud* - “In order to prove fraud, a plaintiff must establish: (1) false representation of a material existing fact, (2) knowledge on the part of the one making the representation that it is false, (3) ignorance on the part of the one to whom the representation is made of the falsity, (4) that the representation was made with the intention that it be acted upon, and (5) damage caused by the representation.” *Ballow v. Phico Ins. Co.,* 875 P.2d 1354, 1361 (Colo. 1993). Affirmative defenses offered by the defendant must be considered. *Id.*
		4. *Undue Influence* – CO Jury Inst 34:14, 34:15; A party seeking to nullify a transaction based on undue influence must show by a preponderance of the evidence that the conveyance was subject to undue influence. *Krueger v. Ary,* 205 P.3D 1150, 1154 (Colo. 2009). Undue influence that is sufficient to set aside a conveyance exists when there is a forceful assumption of a dominant influence of the grantor. In other words, “the undue influence must be such as to overcome the will of the grantor to the extent that he is prevented from voluntary action and is deprived of free agency.” *Eads v. Dearing*, 874 P.2d 474, 477 (Colo. App 1993).
		5. *Breach of Fiduciary Duty* (where POA or Trust present) – §15-10-501, C.R.S. et seq
		6. *Replevin* – “Replevin is a possessory action in which a claimant seeks to recover both possession of personal property that has been wrongfully taken or detained and damagers for its unlawful detention.” *Mason v. Farm Credit of S. Colo.,* 419 P.3d 975, 984 (Colo. 2018). See also C.R.C.P. 104
		7. *Constructive Trust* - A constructive trust arises in the presence of fraud, duress, abuse of confidence, or some other form of questionable or unconscionable conduct by which the trustee obtained property. *Timothy C. Wirt, M.D., P.C. v. Prout*, 754 P.2d 429, 430 (Colo. App. 1988). However, a constructive trust is only appropriate if there has been wrongful conduct by the party charged with the trust. *Id.*
	3. Possible Defenses
		1. *Consent*
		2. *Gift* - An inter vivos gift is valid upon delivery that causes the donor to part with control of the property. *White v. Pierson-Andersen,* 47 P.3d 724, 727 (Colo. App. 2002). The surrender of the dominion or control, in order to affect a valid gift includes the parting of possession and relinquishment of all control, both present and future, of the property to the extent that it is beyond the power of the donor to recall it. *Id.*
9. Resources
	1. Federal Trade Commission - <https://consumer.ftc.gov/articles/what-know-about-romance-scams>
	2. Federal Bureau of Investigation - <https://www.fbi.gov/how-we-can-help-you/scams-and-safety/common-scams-and-crimes/romance-scams>
	3. U.S. Secret Service - <https://www.secretservice.gov/investigations/romancescams>
	4. Internet Crime Complaint Center (partnership between FBI & National White Collar Crime Center): <https://www.ic3.gov/Home/RomanceScams>
	5. Stop Fraud Colorado - <https://stopfraudcolorado.gov/common-scams/romance-scams/>
	6. Denver DA’s office – Identity theft & fraud tips - <https://www.denverda.org/identity-theft/>
	7. How to Google reverse image search - <https://support.google.com/websearch/answer/1325808?hl=en&co=GENIE.Platform%3DDesktop>
	8. Better Business Bureau - <https://www.bbb.org/article/news-releases/21010-romance-scams-what-you-need-to-know>
	9. Fraud.org (a project of the National Consumers League) - <https://www.fraud.org/romance-scams>
	10. Equifax – [www.equifax.com](http://www.equifax.com)
	11. Experian – [www.experian.com](http://www.experian.com)
	12. TransUnion – [www.transunion.com](http://www.transunion.com)
	13. Video – Romance scammer reveals how he tricks victims - <https://www.cbc.ca/news/canada/go-public-romance-scams-1.7088334>
10. Questions