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FIGHTING SENIOR POVERTY THROUGH LAW

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# Strengthening Multidisciplinary Partnerships to Achieve Better Housing Outcomes for Older Adults

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Justice in Aging is a national organization that uses the power of law to fight senior poverty by securing access to affordable health care, economic security, and the courts for older adults with limited resources.

Since 1972 we've focused our efforts primarily on fighting for people who have been marginalized and excluded from justice, such as women, people of color, LGBTQ+ individuals, and people with limited English proficiency.

# Justice in Aging's Commitment to Advancing Equity

## To achieve Justice in Aging, we must:

- Advance equity for low-income older adults in economic security, health care, housing, and elder justice initiatives.
- Address the enduring harms and inequities caused by systemic racism and other forms of discrimination that uniquely impact low-income older adults in marginalized communities.
- Recruit, support, and retain a diverse staff and board, including race, ethnicity, gender, gender identity and presentation, sexual orientation, disability, age, and economic class.

# Housekeeping

- All on mute. Use Questions function for substantive questions and for technical concerns.
- Problems with getting on to the webinar? Send an e-mail to trainings@justiceinaging.org.
- Find materials for this training and past trainings by searching the Resource Library, justiceinaging.org/resource-library. A recording will be posted to Justice in Aging's Vimeo page at the conclusion of the presentation, vimeo.com/justiceinaging.

Want to receive Justice in Aging trainings and materials?

# ***Join Our Network!***

Go to justiceinaging.org and hit **"Sign up"** or send an email to info@justiceinaging.org.

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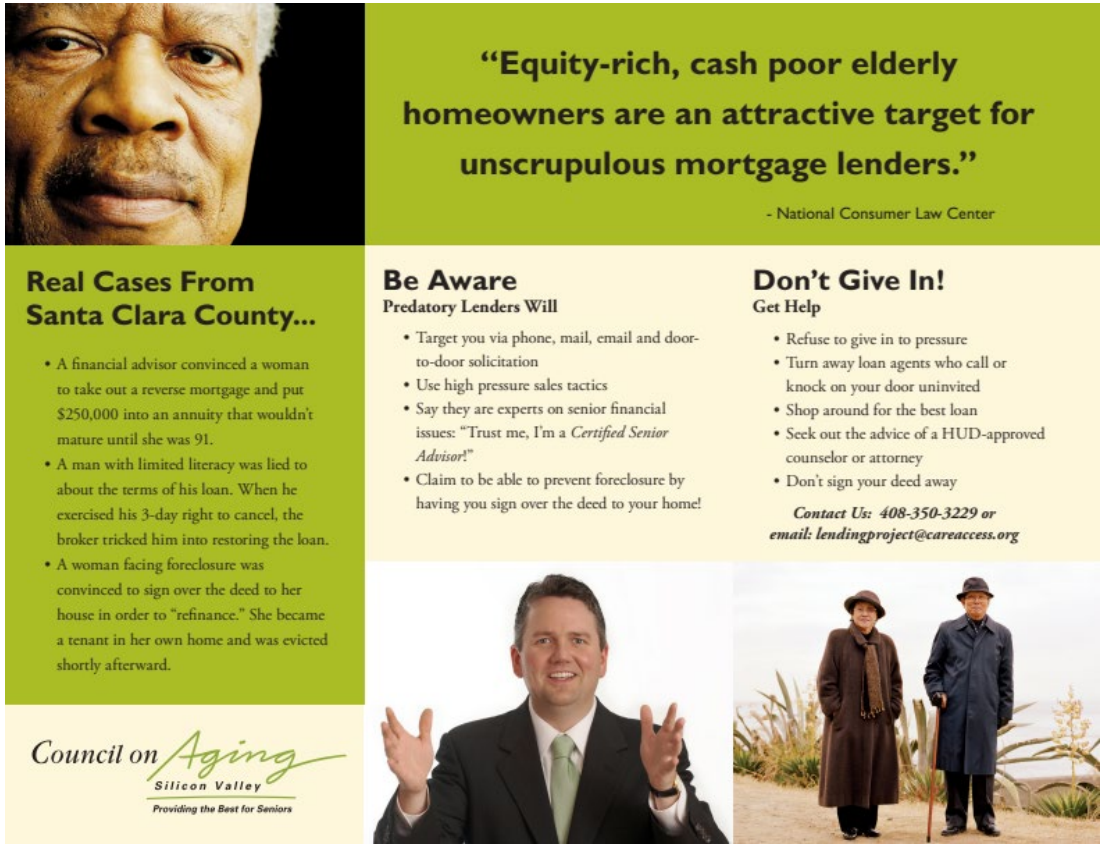
# From the Ashes: A Partnership Born Out of Frustration and Failure

## The Fair Lending Project for Seniors



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# Ms. B's Story

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# Before Working Together, Misconceptions Should be Identified and Addressed

# Things Attorneys Have Said to Me

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"Your job is to do all the things we don't want to do."

"Don't you want to go to law school so you can make a real difference?"

"I went to school one more year than you did, so I get the final say."

"Do social workers all have chips on their shoulders because they wanted to go to law school but couldn't get in?"

"I only want to talk to lawyers from now on. I'm done talking to non-lawyers."

# Things Social Workers Have Said to Me

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"You're a mandated reporter, if the client is harmed it's your fault."

"You're just a heartless lawyer who doesn't care about the client."

"The client has capacity, you just don't want to help them."

"You just don't understand what the client needs."

"The client told me they did want to move forward with legal assistance, you must not have taken the time to listen to them."

# Demystifying the Work: Legal Services vs Case Management/Social Services

- What DO these providers do?
- What DON’T these providers do?

# Legal Services (LS) (1 of 6)

**Who?**

Attorneys, paralegals and other support staff

- All staff at a legal services agency regardless of their title must follow the State Bar Rules for Professional Conduct (Rule 5.3 Responsibilities Regarding Non-Lawyer Assistants)

# Legal Services (LS) (2 of 6)

**Types of legal intervention**

- Counsel and advice, including:
  - Document preparation
  - Self-representation planning
  - Procedural timeline explanations
  - General information on applicable rights
- Representation in front of agencies and courts
- Negotiation
- Areas of law affecting older adults: Housing, Elder Abuse, Estate Planning, Public Benefits, Consumer, Bankruptcy and more!

# Legal Services (LS) (3 of 6)

- **What they DON'T do:**
- Any and all legal assistance to an individual? NO
  - LS providers can assist in certain areas of law, but usually not all areas of law -State Bar Rules for Professional Conduct, Rule 1.1 Competence

# Legal Services (LS) (4 of 6)

**What they DON'T do:**

**Legal support to anyone in the community? NO**

- LS providers are often restricted to certain demographic groups (seniors 60+, dependent adults, low-income, etc)
- A LS provider is limited by the parameters of the organization's mission, programs and its funding sources. Each LS provider has unique areas of law and unique populations that it serves
- Familiarize yourself with your LS provider's Scope of Services! Don't be afraid to ask as funding/programs change from year to year

# Legal Services (LS) (5 of 6)

**Are they Mandated Reporters? NO**

- LS providers are not mandated reporters. In fact, they are not allowed to breach their client confidentiality even if they believe their client is at risk. State Bar Rules for Professional Conduct Rule 1.6 Confidential Information of Client

# Legal Services (LS) (6 of 6)

**Client Capacity**

- LS providers have to have a client who has the capacity to instruct them and participate in their own case
- There is no bright line test for capacity.
  - E.g. a person with substance abuse issues may have capacity at certain times of they day or a person may have a medical condition that can be treated to clear up their capacity
  - The rules for legal capacity also depend on what the person is trying to achieve.  The standard to execute a trust is higher than to execute other documents
  - A diagnosis of dementia does not necessarily mean that a person no longer has capacity to work with an attorney

# Case Management and Social Support Services (1 of 3)

**Who?**

- Social Workers
- Licensed Clinical Social Workers
- Case Workers
- Case Managers
- And many other titles, depending on the CBO

# Case Management and Social Support Services (2 of 3)

**What DO we do:**

- Meet with clients (in office or at home)
- Create service plans (housing, health, safety)
- Connect to community resource referrals
- Care coordination
- Advocacy
- Vital document procurement
- Crisis intervention and assessment

These services create necessary linkages to direct support for clients such as obtaining benefits, enrolling for one-time financial support such as rental assistance, securing housing, and many others.

# Case Management and Social Support Services (3 of 3)

**What DON'T we do:**

Just like LS providers, Case Management and Social Services Providers are limited by the parameters of each individual program that dictate eligibility requirements and availability of services.

- Speak on behalf of or make decisions for the client!
- Guarantee that an intervention will solve a legal issue
- Force clients to accept services even if we know it will help
- Obtain all services/benefits
- Manage client's finances or obtain all client's documents
- Provide all transportation

# Why Is it Important for Us to Work Together?

- Many older adult have needs beyond the scope of legal support.
- We often know the available resources better than our clients and can help them access those resources.
- Having a planned system for addressing the other needs of the client is critical in fully meeting the needs of the client.
- It is very difficult for older adults to reach out for support and we need to maximize the impact of this contact with the client.
- Clients who have their socioeconomic and material needs met are more likely to stay in the game as their legal cases progress.

# Models

- Informal
- Formal Outside Agency
- Formal Inside Agency
  - Under the direction of attorneys
  - Separate departments

# Informal

- **Staff try to assist the client informally, often going beyond their expertise and comfort zone. Staff are often also utilizing outside agencies, but are either cold referring the client or relying on personal relationships to get help for the client.**
- Pros
  - Not many. Although this is the default, it does not have any advantages over other models.
- Cons
  - Slow, inconsistent referrals.
  - Often unclear if client received any services, or what those services were.
  - Lack of coordination means duplication/confusion over roles and responsibilities.
  - Can breed frustration and distrust between the legal aid provider and outside agencies.

# Formal (Outside Agency)

- **The agency relies on Memorandums of Understanding (MOU) with community partners to refer clients outside of the agency. These can be paid or unpaid.**
- Pros
  - These can be an effective tool for assisting clients in obtaining complementary services that your agency does not offer.
  - Coordinating service delivery means consistency in delivery, timeliness in referrals and a clearer understanding of roles and responsibilities.
- Cons
  - Even with teams that get along well, there can be tension and frustration around limitations of services. There can also be an overreliance on the MOU or unrealistic expectations.

# Formal (Outside Agency) (cont'd)

- Other Considerations
  - Being proactive up front about the roles of your agency is key. Also discuss a plan of action ready for conflict resolution when needed. Act quickly when disputes around services occur.
  - Meet frequently to tackle problems before they get out of hand. Visit and revisit roles during these meetings.

# Formal (Inside Agency, Under Attorney Supervision) (1 of 3)

- **Case managers are utilized under the direction of attorneys who are handling the legal portion of the case.**
- Pros
  - Attorney/Client privilege can be more easily preserved, the work being done for the client is under the direct supervision of the attorney.
  - Carefully coordinated efforts effectively respond to the client's needs.
  - Responsibilities to the client are clearly defined. Typically there is one point person, with the case manager taking on discrete tasks.

# Formal (Inside Agency, Under Attorney Supervision) (2 of 3)

- Cons
  - Requires team players and people who are good communicators and problem solvers. Attorneys need to have a firm understanding of the role of the case manager and how to effectively assign tasks.
  - Case managers under the supervision of an attorney must follow all State Bar Rules of Professional Conduct
  - Legal aid agencies may lack the resources and programs available at social services organizations (i.e. food programs, housing programs, counseling services, etc.).

# Formal (Inside Agency, under Attorney Supervision) (3 of 3)

- Other Considerations
  - Mandated reporting follows the obligations of the legal case. Case managers are not able to report.
  - Substantive supervision of the case manager can be difficult to manage. Attorney may not have enough knowledge about case management to supervise the case manager successfully.

# Formal (Separate Department)

- **The agency has separate departments, where a client can be referred by either, but the work remains independently managed.**
- Pros
  - Less need for each department to fully understand the work of the other.
  - Case managers are managed by case managers, who fully understand the requirements of the job.
  - Cons
  - Like MOUs, tension can arise when there are unmet/unrealistic expectations.
  - Can lack the efficiency and effective coordination.

# Formal (Separate Department) (cont'd)

- Other Considerations
  - Mandated reporting obligations are clear, as each department explains their ethical responsibilities to the client.
  - Regular meetings are a must.

# How Do You Pick?

- There are a variety of factors to consider:
  - Is there an agency in your service area that is effectively providing the service? Do you already have a strong relationship with them?
  - Do you have the infrastructure to bring on case managers and have the capacity/ability to manage them?
  - What is the projected benefit to your client?
  - A SWOT analysis as well as a community survey can be critical in determining which model fits your agency best.

# Case Examples

Ms. J: *Knock, knock. Go away.* As she faced the potential loss of her home, she needed support and education so that she would not fall victim (again) to Wells Fargo.

Mr. M: *Taking it one day at a time.* As his attorneys sued his mortgage lender, he needed support as he mourned the loss of his wife.

Mr. D: *Maslow was right!* He needed his transportation, medical, and food needs met so that he could focus on winning his case.

Mr. A: *What's next?* When you find out your predatory lending client has fallen victim to two other scams.

Ms: Z & Ms. P: *Zany personality or personality disorder? Collector or hoarder?* Educating attorneys about boundaries and basic psychological concepts so that they don't fall into common traps with clients.

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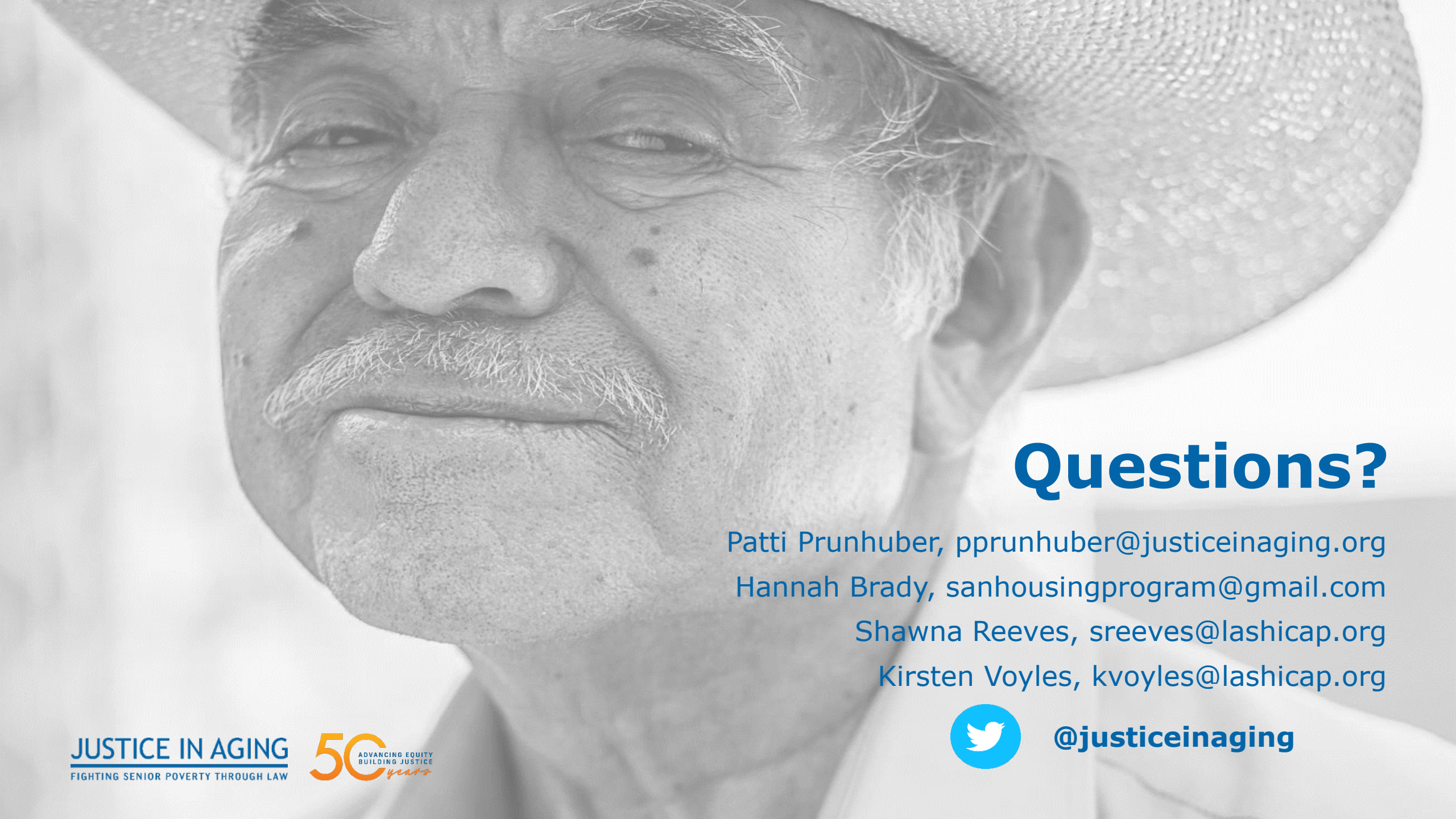
# Resources

- Fordham Law Review: Collaboration Between Lawyers and Social Workers: Re-examining the Nature and Potential of the Relationship
- One Justice/Legal Aid Association of California: Social Work Practices in California Legal Aid Organizations
- Stanford University: Legal – Social Work Collaborative
- Institute on Aging: Legal Terms for Social Workers / Social Work Terms for Lawyers



# Questions?

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