



## Disability and Guardianship Project

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September 21, 2018

Advisory Committee on the  
Code of Judicial Ethics  
Hon. Richard D. Fybel (Chair)  
455 Golden Gate Avenue  
San Francisco, CA 94102

Re: Request to Modify the California Code of Judicial Ethics;  
Review by the Advisory Committee

Dear Justice Fybell:

Spectrum Institute has just written to the Supreme Court pursuant to the court's jurisdiction under Article VI, Section 18(m) of the Constitution. That provision gives the court authority to establish a Code of Judicial Ethics to regulate the conduct of judges – both on and off the bench.

Based on research we have been conducting over the past six years, we are requesting the Court to modify the Code to clarify that judges may not operate or direct a legal services program involving attorneys who appear before the judges or their courts in individual cases.

The report we have submitted to the Supreme Court is enclosed. It shows a connection between judicial control of such legal services programs and ethical violations and deficient performance by court-appointed attorneys – resulting in adverse effects to clients with cognitive and communication disabilities.

State and national legal and judicial organizations have taken positions that judges should not be controlling the delivery of legal services. They should be deciding cases, not directing or coaching attorneys on how to advocate or defend their cases. As the report shows, there are many other options to judicial management of legal services. There are models in Oregon and Massachusetts that provide good examples of other alternatives. Even in Los Angeles County, the superior court and the county board of supervisors have transitioned away from the “old school” method of judicial management of legal services into a new era of independence of such legal services programs in areas such as mental health law, juvenile dependency law, juvenile delinquency law, and criminal law. The time has come for such a transition in the probate courts.

We request the Advisory Committee to review our request to the Supreme Court and to provide advice to the Court on the important issues raised in our report.

Respectfully,

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