

ACCOUNTABILITY

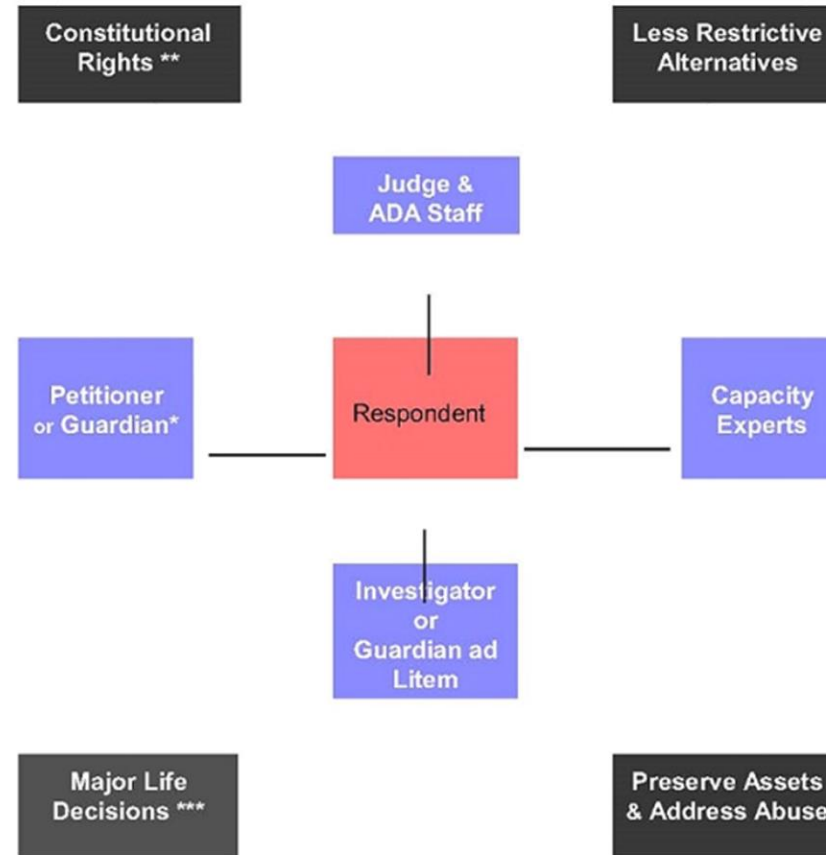
The  to Real Guardianship Reform

**A Presentation to
Guardianship Reform Advocates**

By Thomas F. Coleman, J.D.
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Respondents Need
Zealous Attorneys
To Make the System
ACCOUNTABLE

Guardianship Matrix Issues and Participants



Appointing an Attorney for All Respondents is Required by Due Process and the ADA to Ensure that People with Cognitive Disabilities Have Access to Justice

Methods to Achieve Accountability Through Effective Legal Advocacy

We Need an Army of Dedicated Attorneys
Forcing Compliance with the Law
From Coast to Coast



The Challenge



Transforming Attorneys

From Law Violators

to

Law Enforcers

A Multi-Faceted Approach

- ★ Challenge the Failure to Appoint Attorneys
- ★ Eliminate Judicial Control of Legal Services
- ★ Clarify the Role of Attorneys as Zealous Advocates
- ★ Remove the Profit Motive for Attorneys
- ★ Impose Performance Standards on Attorneys
- ★ Develop Mechanisms to Monitor “The System”
- ★ Provide Funding for Federal Oversight
- ★ Look to What Other Nations Are Doing

A Multi-Faceted Approach

★ Challenge the Failure to Appoint Attorneys



Courts in 30 States Are Sitting Ducks for ADA Complaints

Examples:

Sacramento -- Washington -- Federal DOJ

A Multi-Faceted Approach

- ★ Eliminate Judicial Control of Legal Services

Clarify the Code of Judicial Ethics:

Judges Should Decide Cases, Not Coach Attorneys



Example:
California Supreme Court

A Multi-Faceted Approach

- ★ Clarify the Role of Attorneys as Zealous Advocates



Example:

Legislative Proposal
in California

*Current Law in
Massachusetts & Maryland*

A Multi-Faceted Approach

★ Remove the Profit Motive for Attorneys



Reasonable Salaries for Non-Profit Attorneys

Reasonable Salaries for Public Defenders

“Medicare” Type Fees for Private Attorneys

Example:

Legal Aid Center of Southern Nevada

A Multi-Faceted Approach



Impose Performance Standards on Attorneys



Examples:

Self Imposed: Legal Aid Center of Southern Nevada

State Mandated: Massachusetts and Maryland

Legislative Proposal: California

A Multi-Faceted Approach

★ Develop Mechanisms to Monitor “The System”



Example:

Alameda County District Attorney:
Proposal for Conservatorship Justice Project

A Multi-Faceted Approach

- ★ Provide Funding for Federal Oversight



**Department
of Justice**

Create New Positions at DOJ to Investigate and Prosecute
Violations of the ADA by State Courts and Federal Criminal
Laws by Participants in State Guardianship Proceedings

A Multi-Faceted Approach

- ★ Look to What Other Nations Are Doing



Shift Paradigm from Substituted Decision-Making
To Supported Decision-Making As Required by
CRPD Treaty Signed by 166 Nations

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For more information:

www.spectruminstitute.org/accountability

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