

## **Spectrum Institute -- Disability and Guardianship Project**

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Judge Wynne Carvill  
Presiding Judge  
Alameda County Superior Court

Re: Conflicts of Interest and Ethics Violations Involving LAS and the Superior Court

Dear Judge Carvill,

I was disappointed to learn that Legal Assistance for Seniors (LAS) will continue to have its monopoly on court appointments to represent proposed conservatees and conservatees who have assets. This is due to your decision to continue the court rule that gives all such appointments to LAS.

When we met with you in person a few months ago, you informed Tony Chicotel and me that you had advised LAS that its monopoly on appointments would end as soon as you could get a new court rule in place. You asked us for suggested language for such a rule and we sent it to you.

Now we have been informed that there will not be a new court rule and that LAS will continue to receive all of these lucrative appointments.

This is not only disappointing but it is disturbing because this cozy arrangement would appear to violate both legal and judicial ethics.

LAS has a memorandum of understanding with the court to run the self-help clinic. Staff of LAS assists many petitioners to initiate probate conservatorship proceedings. Then, once they are initiated, LAS receives appointments to represent an opposing party (the proposed conservatee) in some of these cases. This is either an actual or a perceived conflict of interest.

As presiding judge, you have been aware of this “dual role” of LAS, and yet you have allowed the court rule to remain in place to give them exclusive appointments to represent conservatees and proposed conservatees. This would appear to be a violation of judicial ethics. It must be an ethics violation for a judge to establish or perpetuate an arrangement where a legal services organization is providing advice or representation to opposing parties in a case.

In the next few weeks, I plan to bring this problem to the attention of the California Supreme Court and to ask the Court to refer the matter to its Committee on Judicial Ethics Opinions for

a formal opinion on whether the arrangement established by the Alameda County Superior Court is a violation of judicial ethics. I also plan to submit the matter to the State Bar of California with a request that it open a formal inquiry into the “dual role” that LAS plays in many of these probate conservatorship cases.

Perhaps this is something that you or the rules committee of the superior court did not consider when a decision was made recently to allow the current practices involving LAS and court appointments to continue.

You may want to refer the matter back to the rules committee for reconsideration or you, as presiding judge, may want to exercise your authority to put a stop to this practice. One way would be not to renew the MOU for the self-help clinic which, I understand, ends in about one month. Another way would be to fulfill your promise to repeal and replace the court rule that gives all appointments to LAS to represent conservatees and proposed conservatees who have assets.

If you decide to take corrective action to eliminate these actual or perceived violations of legal and judicial ethics, I would appreciate learning of it.

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