

“ABC’s of LAW”
D is for Decision-Making:
Capacity Assessment in Probate Cases

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Learning objectives:

1. To identify the various *contexts* in which the issue of capacity may arise
2. To understand *presumptions* and *burdens of proof* applicable to capacity
3. To recognize how *constitutional principles* are implicated in capacity assessments
4. To realize how disability *nondiscrimination laws* must inform the assessment process
5. To involve *qualified* experts, retained or appointed, in the assessment process
6. To establish an *appellate record* through motions, objections, and offers of proof

Primary Resource:

Thomas F. Coleman, “Capacity Assessments in California Conservatorship Proceedings: Improving Clinical Practices and Judicial Procedures to Better Protect the Rights of Seniors and People with Disabilities” (July 1, 2020)

Online at: <https://spectruminstitute.org/capacity/report.htm>

Secondary Resources:

Thomas F. Coleman, “Access to Justice Through the Right to Counsel” (November 25, 2019)

Online at: <https://spectruminstitute.org/counsel.pdf>

Thomas F. Coleman, “A Strategic Guide for Court-Appointed Attorneys in Limited Conservatorship Cases: What You Don’t Know Can Hurt You – and Your Client Too!” (September 1, 2014)

Online at: <https://spectruminstitute.org/strategic-guide.pdf>

Thomas F. Coleman, “ADA Compliance: A Request to the California Judicial Council to Clarify the *Sua Sponte* Obligations of Courts to Ensure Access to Justice” (September 24, 2019)

Online at: <https://spectruminstitute.org/ada-compliance.pdf>

Thomas F. Coleman, “Should Ethics Complaints be Filed When Facts Show that Rights to a *Loyal* Attorney and an *Impartial* Judge Have Been Violated?” (October 9, 2018)

Online at: <https://spectruminstitute.org/ethics-complaints.pdf>

* This webinar, which is part of the “ABC’s of Law” series, is sponsored by the Long Beach Bar Association in coordination with the LGBTQ Attorneys & Allies Section.

<https://spectruminstitute.org/lbba-capacity-webinar.pdf>