



Disability and Guardianship Project
Disability and Abuse Project

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December 23, 2018

Supervisor Nathan A. Miley
Board of Supervisors
Alameda County
1221 Oak Street, Suite 536
Oakland, CA 94612

Re: Conservatorship Reform

Dear Supervisor Miley:

It has come to our attention that you are convening an educational event focused on the need for reform of the probate conservatorship system in California. We commend you for this. Political leadership on this issue is rare.

We have been studying all aspects of the probate conservatorship system in this state for some five years now. Based on legal research and factual investigations, we have concluded that the conservatorship system is badly broken. All moving parts of the system are failing. Many participants – whether in the private or public sectors – are not fulfilling their constitutional and statutory duties. This includes judges, judicial administrators, court investigators, court-appointed attorneys, public defenders, capacity assessment experts, regional centers, and conservators. State legislators are not fulfilling their oversight responsibilities either. One short oversight hearing every ten years is not enough.

We have tried to engage public officials about this massive problem for several years. This includes officials at the federal, state, and local levels of government. It includes officials in all three branches of government. The response mostly has been that of avoidance, denial, or delay.

We do not point to a problem – and we have pointed to many – without offering specific solutions. Despite the fact that we have done most of the work for these officials by identifying problems and offering solutions, the response has been minimal.

This is why it is so refreshing to see a local public official taking the initiative to shine a light on the broken conservatorship system. Acknowledgment is just the first step of a long reform process that could take many years, even with support from officials in the three branches of state government. If there continues to be resistance or deliberate indifference, as now exists, it could take even longer.

We highly recommend that you and other officials who attend this private movie screening and educational forum should become familiar with our reform efforts. That is best accomplished by browsing through our website and reading materials that capture your interest.

For a sample of what we have been doing, I recommend the following sections of our websites:

- 1) The “what’s new” page describing our advocacy activities:
<http://disabilityandabuse.org/whats-new.htm>
- 2) Our Digital Law Library on Guardianship and Disability Rights:
<http://spectruminstitute.org/library/>
- 2) A recent report submitted to the California Supreme Court:
<http://spectruminstitute.org/ethics/>
- 3) Reform recommendations submitted to the Chief Justice:
<http://spectruminstitute.org/steps/>
- 4) A complaint to the Sacramento Superior Court:
<http://spectruminstitute.org/Sacramento/>
- 5) A presentation made in South Korea to the World Congress on Adult Guardianship:
<http://disabilityandabuse.org/spotlight-on-california.pdf>
- 6) Our complaints to the United States Department of Justice:
<http://spectruminstitute.org/doj/>
- 7) A report to the Judiciary Committee of the California Senate:
<http://spectruminstitute.org/judiciary-report.pdf>
- 8) A proposal made to the California Judicial Council:
<http://spectruminstitute.org/attorney-proposals/>
- 9) The draft of a new bill that would improve the performance of court-appointed attorneys:
<http://disabilityandabuse.org/right-to-counsel-bill.pdf>

This is just a sample of what we have been doing. These proposals would achieve modest but much needed reforms. But what really must occur is a complete overhaul of the probate conservatorship system – one that keeps many, if not most, seniors and people with disabilities out of court and instead using an assisted decision-making alternative. That type of a system is being developed in Australia. <https://sydneyhealthlaw.com/tag/assisted-decision-making/> We need a system to support people by giving them help, not one that takes over their lives, strips them of fundamental rights, and drains their estates by paying exorbitant fees to conservators and attorneys in endless litigation.

If you or any other elected or appointed official in California would like to discuss these matters further, we are available to work with you to move California forward to a better future for seniors and people with disabilities.

Respectfully,



Thomas F. Coleman
Legal Director

p.s. We would be very grateful if you would communicate with Los Angeles County Supervisor Sheila Kuehl to share with her what you are doing in Northern California to identify and expose these problems. We could use a champion for conservatorship reform here in Los Angeles County.