



Disability and Guardianship Project

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January 29, 2020

Hon. Hannah-Beth Jackson
c/o Bill Dean
California State Senate
Sacramento, CA 94249

Re: Denial of Access to Justice in Probate Conservatorship Proceedings

Dear Senator Jackson:

I am writing to alert you that many seniors and adults with intellectual and developmental disabilities are being denied access to justice in probate conservatorship proceedings in California.

Thousands of people with cognitive disabilities are forced to participate in probate conservatorship proceedings each year. These proceedings threaten to take away their fundamental rights to make decisions regarding residence, medical care, finances, sex, marriage, social life, etc.

1. Many of them are not given an attorney and therefore are required to defend themselves – something which their disabilities prevent them from doing;
2. When an attorney is appointed, many of them are not qualified to handle these types of cases;
3. Some of the attorneys do not defend their clients but actually argue against their client's wishes and actively surrender their rights;
4. There is no accountability for these attorneys because the clients are unable to appeal and they lack the ability to file complaints against the attorneys with the State Bar.
5. As a result, these individuals are denied access to justice and many are forced into conservatorships when they don't need one or they are harmed by overly broad orders which infringe on areas where they could make their own decisions with appropriate support.

This bill would ensure that all conservatorship respondents have competent attorneys who will act as zealous advocates for their wishes and who will defend their rights.

This vulnerable population needs legislative champions to provide leadership to address and solve this problem. We know that you care deeply about seniors and people with disabilities and therefore hope that you will consider authoring or co-authoring this bill.

Respectfully,

Thomas F. Coleman
Legal Director
(818) 482-4485

p.s. For more information, see: <https://spectruminstitute.org/counsel.pdf> We have written to you several times. (See attached letters) This bill will help solve many of the problems identified in a 2015 report to the Judiciary Committee. <https://spectruminstitute.org/judiciary-report.pdf>



April 9, 2014

Hon. Hanna-Beth Jackson
State Senate
Sacramento, California

Re: The Need for Legislative Audit and Oversight of
the Limited Conservatorship System in California

Dear Senator Jackson:

I am writing to you in your capacity as Chair of the Senate Judiciary Committee. That committee's jurisdiction includes legislation affecting or revising the Probate Code.

The Probate Code is one of the statutory schemes that established a Limited Conservatorship System in California – for the protection of adults with developmental disabilities. That system is operated by the Judicial Branch of government. This is little, if any, monitoring of this system or participation in this system by agencies of the Executive Branch.

Three separate cases came to the attention of our Project that prompted us to examine how the Limited Conservatorship System is operating. We conducted a "mini audit" of that system in Los Angeles County. Our findings are contained in a Pre-Conference Report that will be distributed to various agencies and individuals prior to a series of four conferences we will conduct to examine flaws in the system and identify ways to remedy those flaws.

I am taking the liberty of sending this Pre-Conference Report (and the agendas of the four conferences) to you for review. I believe that you, as someone who cares deeply about protecting the rights of vulnerable classes of people, will be surprised and disappointed by what you read.

Perhaps you would like to send someone from the Judiciary Committee staff to attend some or all of these conferences as an observer, so you can get a first hand report of the situation.

I would be pleased to speak with you or your staff at any time about this ongoing problem.

Yours truly,

A handwritten signature in blue ink that reads "Thomas F. Coleman". The signature is fluid and cursive, with the first name "Thomas" and last name "Coleman" clearly distinguishable.

Thomas F. Coleman
Legal Director
(818) 482-4485 (direct)

March 20, 2015

Hon. Hannah-Beth Jackson
Chair, Senate Judiciary Committee
State Capitol, Room 2187
Sacramento, California 95814

Re: Oversight Hearing on the Role of the Courts in Protecting Vulnerable Adults

Dear Senator Jackson:

You were the first public official we wrote to after we started discovering that limited conservatorship proceedings in California were routinely violating the rights of adults with intellectual and developmental disabilities. In that letter of April 9, 2014, we made two requests: (1) for you or your staff to attend one or more of the conferences we were convening to look deeper into these problems; or (2) to speak with us so we could brief you about the deeply disturbing patterns of injustice we found emerging.

To this date, we have not received a reply to our letter. So we are reaching out to you and to the Senate Judiciary Committee again. This time we come with more than a few preliminary observations and a handful of concerns. We come with a report that contains our findings after having conducted a year-long intensive study of the way in which limited conservatorships are processed by judges, court-appointed attorneys, court investigators, and regional centers. The 10-page report, titled "*Limited Conservatorships: Systematic Denial of Access to Justice*" will be officially presented to the Judiciary Committee at the hearing on March 24. Along with it, the committee will receive a document titled "Exhibits to Report" which contains 72 pages of background materials supporting the report's findings.

When we inquired about having a scheduled time slot at the hearing to make a presentation, we were informed by your staff that the agenda was already full. We were advised that we could speak during the public comment period, so that is what we plan to do.

When you review the report and exhibits, you may conclude that the issues they raise warrant more than a two-minute presentation during public comment. We would welcome having an official place on agenda, perhaps at the end of the scheduled speakers. If not, we invite you to send these documents, or a link to them, to the currently scheduled speakers, asking them to devote some of their remarks to the issues raised in these documents – particularly those most relevant to their own missions. (<http://www.spectruminstitute.org/judiciary-report.pdf>) - (<http://spectruminstitute.org/exhibits.pdf>)

These documents are being sent to the Capitol media today. We are letting them know that we will be available to answer their questions one-half hour prior to the hearing, or immediately afterwards.

We know that the role of legislative oversight is taken seriously by the Judiciary Committee. People with intellectual and developmental disabilities – and those who advocate for them – will certainly appreciate having some of your oversight responsibilities directed, perhaps for the first time in a very long time, to the limited conservatorship system.

We are available to you and your staff as your time permits.

Respectfully,



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March 24, 2015

Hon. Hanna-Beth Jackson
Chair, Senate Judiciary Committee
State Capitol, Room 2187
Sacramento, California

Re: Oversight Hearing on the Role of the Courts in Protecting Vulnerable Adults

Dear Senator Jackson:

When we became aware of the oversight hearing, we viewed it as an opportunity to share our concerns with the committee about the ongoing and systematic violations of the rights of limited conservatees.

The California Legislature had good intentions when it created the limited conservatorship system in 1980. Responsibility for operating this system was entrusted to the Judicial Branch. No agency in the Executive Branch was given a role in monitoring the system. The unfortunate and unforeseen result is a system that routinely violates the rights of thousands of adults with intellectual and developmental disabilities. It is also a system that fails to fulfill its obligations under Title 2 of the Americans with Disabilities Act – federal requirements for state and local courts adopted by Congress in 1990.

The limited conservatorship system has been operating on “auto pilot” for decades. Since appeals are virtually nonexistent, appellate courts never have opportunities to correct errors and abuses by judges and court-appointed attorneys in the superior courts. Each county court functions without oversight.

There are more than 40,000 adults with developmental disabilities who have open conservatorship cases in California, with 5,000 new limited conservatorships being added each year. Nearly 31 percent of these cases are under the jurisdiction of the Los Angeles County Superior Court.

After three conservatorship cases came to our attention about two years ago, each with its own set of egregious violations of constitutional and statutory rights, we decided to study the limited conservatorship system as a whole. We placed heavy emphasis on Los Angeles County since that is where we are located, but we also reviewed statewide policies that govern the system. For more than a year, we have gathered statistics, reviewed large numbers of court files, attended training programs, filed public records requests, conducted interviews, convened conferences, and solicited the opinions of various professionals.

Our first report – *Justice Denied: How California's Limited Conservatorship System is Failing to Protect the Rights of People with Developmental Disabilities* – was sent in May 2014 to the Chief Justice and many other state and local elected officials. Since then, we have published many other reports and commentaries. When they are examined individually, they are alarming. When viewed together, they show a system in need of immediate review, ongoing monitoring, and major operational corrections.

We urge the California Legislature to create a Joint Select Task Force on Access to Justice in Limited Conservatorships. We believe that such a Task Force will confirm the disturbing findings of our own studies and reports, while it would broaden the review of the system to all 58 counties. We would like an opportunity to discuss the merits of convening such a Task Force with you when your time permits.

Respectfully,



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April 7, 2015

Senator Hannah-Beth Jackson
Capitol Office State Capitol, Room 2032
Sacramento, CA 95814

Re: Oversight Hearing on March 24, 2015

Dear Senator Jackson:

I wish that I had been able to attend the hearing you convened on March 24, 2015 to hear about problems faced by elders and dependent adults. I could not attend, as I was working, providing clinical psychotherapy to dependent adults and other victims of crime.

As Executive Director of the Disability and Abuse Project, I worked with my colleague, attorney Thomas F. Coleman, to produce several documents that detail multiple, ongoing and egregious violations of the rights of individuals with intellectual and developmental disabilities in the context of limited conservatorship proceedings. These were made available to the Judiciary Committee both prior to and during the hearings.

I wish that we had been invited to speak to the Committee. We have been working daily on the problems of limited conservatees and proposed limited conservatees for over a year.

From Tom's description of the hearing, as confirmed by a student intern who watched the video of it, I understand that virtually nothing was said about the role of the court in protecting people with developmental disabilities.

I am requesting that you hold another hearing, not focused on elders, but focused on people with developmental disabilities. Such a hearing could focus on two topics: (1) abuse, both in terms of better planning for risk reduction and better response when abuse does occur; and (2) the operations of the courts in processing limited conservatorship cases.

Prior to such a hearing, we would be happy to work with your staff to identify witnesses who can provide testimony about specific problems and about patterns that have been observed as well as make proposals on risk reduction, agency response to abuse, and limited conservatorship reform.

Thank you for your attention to this letter. I look forward to receiving your reply.

Sincerely,

A handwritten signature in red ink that reads "N. J. Baladerian, Ph.D.".

Nora J. Baladerian, Ph.D.