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Mr. Coleman:

I am the Legal Services Manager of Alta California Regional Center (ACRC), a nonprofit corporation organized and existing pursuant to the laws of the State of California and contracted with the State of California to provide services and supports to individuals with developmental disabilities. Part of my responsibility at ACRC is to manage and provide oversight of conservatorships of regional center clients, including reviewing newly proposed conservatorships and monitoring clients under existing conservatorships. Based upon my years of experience in this role, I believe that the current conservatorship law and procedures in California are insufficient to protect the rights of individuals with developmental disabilities.

At our agency, for example, approximately 80% of our conserved clients are under general conservatorship, and not, as you might imagine under limited conservatorship, an arrangement which was designed specifically for Californians with developmental disabilities. And the law and probate courts treat general and limited conservatorships quite differently.

For example, proposed general conservatees are not provided a court-appointed attorney, as are proposed limited conservatees. Further, the Probate Code does not require the regional center to assess the proposed conservatee and file an assessment report for general conservatorship petitions, whereas this is mandatory for limited conservatorship petitions. The net result is that in general conservatorships, the probate courts are deprived of objective test data reflecting the proposed conservatee's level of intellectual and adaptive functioning, as well as the regional center's recommendations regarding conservatorship, in making these incredibly important decisions.

Moreover, I have concerns over the qualifications and focus of the court-appointed attorneys assigned our clients for limited conservatorship petitions. I have personally met court-appointed attorneys who represent themselves as Spanish speaking whose Spanish is so poor that they are unable to communicate with their Spanish-speaking clients. More concerning is the lack of familiarity and training of court-appointed attorneys about individuals with developmental disabilities and their rights. It is my understanding that an individual's attorney should advocate for the client to retain

his/her civil rights. In practice, the court-appointed attorneys I have seen nearly always support removal or restriction of their own client's civil rights. I'm unaware of why this should be different for an individual with a developmental disability.

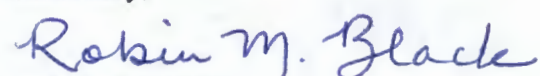
Additionally, petitioners and their attorneys are often unaware of the legal requirement to serve a copy of conservatorship petitions on the regional center at least 30 days prior to the conservatorship hearing. Savvy courts will not allow conservatorship hearings to proceed until after they receive proof the regional center has served at least 30 days before the hearing. However, I have seen multiple instances of courts granting conservatorship petitions without the regional center receiving notice, much less recommendations—this typically occurs in smaller counties.

Also, in my opinion, the presumption of attorneys and probate courts that parents and family members are always suitable conservators for their relatives with developmental disabilities should be reversed for our clients' protection. In my experience, even the most well-meaning and loving family member, once given conservatorship authority, can easily make decisions which unduly restrict the rights of the conservatee, and at worst, can seriously compromise the individual's health and safety. And the court's statutory biennial review of conservatorships (which does not always occur) has historically been insufficient to prevent this type of abuse.

Finally, conservatorship is not the least restrictive method of providing assistance and protection to individuals with developmental disabilities. Probate Code Section 1821(a)(3) requires conservatorship petitions to list all "alternatives to conservatorship considered by the petitioner or proposed conservator and reasons why those alternatives are not available." In reality, petitioners can simply check a checkbox on the petition form and need provide no explanation whatsoever of why the alternatives were not available. ACRC continues to recommend that clients and families consider and exhaust the use of less restrictive methods for providing assistance and protection to individuals with developmental disabilities before even considering seeking conservatorship. Such alternative methods include, but are not limited to, supported decision making, regional center funded services and supports, the regional center planning team process, powers of attorney, written consents for disclosure of records/information, and assignments of educational decision making rights. I note, however, that local school districts, juvenile dependency courts, and probate attorneys do not share this perspective.

Should you have any questions in this regard to this letter, please do not hesitate to contact me.

Sincerely,



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