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November 25, 2014

Mr. Craig Holden  
President, State Bar of California  
Lewis, Brisbois, Bisgaard, & Smith  
221 N. Figueroa Street, Suite 1200  
Los Angeles, CA 90012

Re: Task Force on Limited Conservatorships

Dear Mr. Holden:

In August I wrote a letter to the State Bar President and the Board of Trustees with a request that a Task Force on Limited Conservatorships be convened. (See the enclosed letter.) The purpose of the Task Force would be to investigate whether public defenders and court-appointed attorneys are fulfilling ethical duties, adhering to professional standards, and following constitutional requirements for effective assistance of counsel in limited conservatorship proceedings.

Some counties use the services of public defenders in such cases, while other counties appoint private attorneys to represent adults with developmental disabilities in limited conservatorship cases. An analysis of the performance of court-appointed attorneys in Los Angeles County shows that serious deficiencies exist in the performance of such attorneys and that the training of the attorneys is deficient as well. Because some of the problems with the Limited Conservatorship System are systemic and pertain to defects in statutes and court rules, it is likely that conservatees in other counties are also receiving ineffective assistance of counsel.

I invite you, and new members of the Board of Trustees, to visit a page on our website with more information about the problems we have identified with attorney performance in these cases. See: [www.disabilityandabuse.org/pvp](http://www.disabilityandabuse.org/pvp) The problems with the Limited Conservatorship System are much greater and run much deeper than the performance of attorneys. A new report by the Coalition for Compassionate Care of California confirms the findings of our own report, *Justice Denied*, that such problems involve the practices of judges, court investigators, and Regional Centers, as well. (See the enclosed press release about the new report, *Thinking Ahead Matters*.)

This issue should be placed on the agenda of a meeting of the Board of Trustees. I recently spoke to an advisory committee of the Judicial Council and would be pleased to make a similar presentation to the State Bar Board of Trustees. (See the enclosed Daily Journal news story.)

Very truly yours,

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 legible.

THOMAS F. COLEMAN  
Legal Director



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August 29, 2014

Louis J. Rodriguez  
President, California State Bar  
c/o Public Defender  
320 W. Temple Street  
Los Angeles, CA 90012

Re: Request for a State Bar Task Force on Limited Conservatorships

Dear Mr. Rodriguez:

The Disability and Abuse Project has been studying the Limited Conservatorship System in California. Limited conservatorship proceedings are used to determine whether to appoint a conservator for an adult with a developmental disability, and if so, which rights to take away from the conservatee. People are generally conserved as young adults and remain conserved for life.

Earlier this year we issued a report – “Justice Denied: How California’s Limited Conservatorship System is Failing to Protect the Rights of People with Developmental Disabilities.” That report (online at [www.disabilityandabuse.org/conferences/justice-denied.pdf](http://www.disabilityandabuse.org/conferences/justice-denied.pdf)) found systemic failures and numerous rights violations committed by judges and the attorneys they appoint to represent limited conservatees.

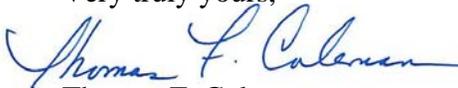
A new report, released in the form of an educational guidebook, details constitutional infringements and ethics violations by these court-appointed attorneys. Breaches of confidentiality and loyalty and conflicts of interest are allowed to occur – indeed they are affirmatively encouraged – by policies and practices of the Probate Court in Los Angeles. They may also be occurring in other counties throughout the state. (See: “A Strategic Guide for Court Appointed Attorneys in Limited Conservatorship Cases” which is found online at [www.disabilityandabuse.org/pvp](http://www.disabilityandabuse.org/pvp)).

We are asking that the Board of Trustees to convene a Task Force on Limited Conservatorships to look into this matter. The Task Force could make recommendations on how to improve the performance of attorneys who represent limited conservatees and recommend changes in policies and practices to guard against constitutional and ethical violations of the type documented by our studies.

Thousands of limited conservatees are affected by these practices. These vulnerable adults do not have the ability to file complaints against the system in general or against specific attorneys appointed to represent them in individual cases. We are therefore making this request on their behalf. We hope that our request is favorably received by the Board of Trustees and that appropriate action is taken.

cc: All Trustees

Very truly yours,

  
Thomas F. Coleman  
Legal Director

# Conservatorships reviewed

*Judicial committee mulls whether to recommend that the state revamp training*

By Paul Jones  
Daily Journal Staff Writer

**S**AN FRANCISCO — A judicial committee may recommend the state revamp judge and attorney training in the wake of a disability rights group's allegations of problems with how California courts award parents and guardians control over developmentally disabled people.

That's the potential upshot of a meeting Friday by the Judicial Council's Probate and Mental Health Advisory Committee, where judges heard from attorney and disability rights advocate Thomas F. Coleman of the nonprofit Disability and Abuse Project. Coleman said he's uncovered numerous problems with the handling of conservatorship cases, and he wants a special task force to investigate alleged conflicts of interest in the manner in which courts treat developmentally disabled parties.

Conservatorship cases involve courts granting legal authority to guardians to take control over elements of a person's life, such as medical and financial matters. Developmentally disabled people are often subject to conservatorship cases when they reach legal adulthood and parents seek to continue caring for them. But some disability rights advocates, including Coleman's group, complain disabled people's rights are often undermined in court.

Specifically, Coleman claimed he has found problems in Los Angeles County Superior Court that include the court's decision to end the use of independent investigators who verify if a developmentally disabled person

needs to be taken care of, and to what extent. He also said attorneys who are hired by courts to represent disabled parties are pushed to provide sensitive information about their clients to the court in order to speedily resolve conservatorship matters.

"Any attorney is supposed to represent their clients' wishes and protect their clients' rights. These attorneys don't do that," he said. "A local court rule tells them they have a secondary duty ... to help the court resolve the cases ... They gather information about their clients' strengths, weaknesses, abilities and inabilities" and then present potentially damaging information to the court.

Statewide, Coleman said regional centers set up to assist disabled people are poorly equipped to provide important information about parties in conservatorship cases.

Contra Costa County Superior Court Judge John Sugiyama chairs the Probate and Mental Health Advisory Committee. Despite the Disability and Abuse Project's goal for a statewide task force to review court practices in conservatorship cases, Sugiyama and other judges said the money wasn't available, and indicated the committee wouldn't recommend such a task force to the Judicial Council. However, Sugiyama said he wanted to pursue the possibility of altering training for judges and attorneys to highlight some of the issues raised by Coleman.

"As you're aware, being a lawyer facing courtrooms that are being darkened, staff members that are being laid off, it's going to be very difficult for the judicial branch to find money to support a task force," Sugiyama said, urging Coleman to pursue the idea with lawmakers.

However, "This is what I suggest — one thing we can do immediately pertains to the training of judicial officers and

court-appointed counsel," Sugiyama said. "That is something we can enforce. We can impose the requirement on judges overseeing limited conservatorships and court-appointed counsel."

The commission members also suggested pursuing new standards for regional centers, whose reports can influence the outcome of conservatorship cases.

Coleman said he'd work with the committee to develop changes that could help address some of the issues raised by his group. That could lead to the judicial branch formally enacting new training requirements to improve protection of disabled parties' rights.

However, outside of the meeting he said he still wants a broader review of the conservatorship system.

"I feel that they are sincerely interested in seeing reform occur in some areas," he said. But "the powers that be should be able to find the money to staff such a task force. A comprehensive review is long overdue and needed."

In 2006 the judicial branch created a task force to look into general conservatorships, which mainly involve senior citizens, he said.

Coleman said he and the Disability and Abuse Project were previously successful in pushing for changes to state law that clarified a disabled person's right to vote couldn't be removed simply because they required assistance filling out a voter registration form. AB 1311 was signed by Gov. Jerry Brown earlier this year. The group has also filed a Department of Justice complaint more generally alleging the state's voter competency laws amount to literacy tests. Coleman said he might consider pursuing a Department of Justice complaint if the conservatorship system isn't more broadly reviewed.

## California Coalition Joins Call for Limited Conservatorship Reforms

### Momentum is Building for a Statewide Review

The call for reform of the Limited Conservatorship System in California just got louder with the release of a report that echoes concerns and criticisms raised earlier this year by the [Justice Denied](#) report of Disability and Abuse Project of Spectrum Institute.

The new report, titled [Thinking Ahead Matters](#) was released by the Coalition for Compassionate Concern of California, whose research was done with the assistance of disability rights and disability services organizations and agencies, such as The Arc of California, Disability Rights California, the state Department of Developmental Services, and the California State Council on Developmental Disabilities.

Both reports show that more than 40,000 adults with developmental disabilities are under a limited conservatorship. The research underlying both reports discloses major deficiencies in the procedures utilized for creating these conservatorships and for reviewing them periodically as required by law.

The failures noted in the reports require a statewide review of policies governing the Limited Conservatorship System and the practices of judges, court-appointed attorneys, court investigators, petitioners, conservators, and Regional Centers.

The failure of the Legislature to designate an agency to monitor the practices of the participants in this system forms a major part of the problem. Inadequate training of judges, attorneys, and investigators is another major deficiency. Practices vary from county to county, thereby depriving people with developmental disabilities of equal protection of the law.

The Disability and Abuse Project sounded the alarm earlier this year through reports and conferences disclosing many deficiencies in the Limited Conservatorship System. In a [presentation](#) to the Judicial Council of California in San Francisco on November 14, the organization called for a statewide Task Force on Limited Conservatorships. When an Advisory Committee cited insufficient funding as an obstacle to creating such a task force, the organization wrote a [letter](#) to the Chief Justice reiterating the need for a statewide review and suggesting possible sources for funding.

Now that the report of the California Coalition has come to light – a report that reinforces and amplifies on the findings of the *Justice Denied* report – perhaps the Chief Justice will expedite the formation of a Task Force on Limited Conservatorships. The 40,000 adults who are currently under the control of this system, and the 5,000 more who are added to it each year, deserve as much.

To access the reports and for information: <http://disabilityandabuse.org/conservatorship-reform.htm>



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