

System for Appointing PVP Attorneys Needs an Overhaul

by Thomas F. Coleman

“Thinking of becoming a PVP?” That was the opening line of an advertisement from the Los Angeles County Bar Association for a lunch seminar scheduled for March 12, 2015. The promotion was sent to attorneys on the email list of the Trusts and Estates Section.

The initials “PVP” stand for Probate Volunteer Panel, which is a list of attorneys from which judges appoint lawyers to represent people in conservatorship and guardianship cases. The pay is modest – \$125 per hour from county funds – but with enough appointments, it can add up. Some attorneys make \$100,000 or more a year from PVP appointments.

When I saw the promotion, I signed up right away – not because I want to serve as a PVP attorney, but because the Disability and Guardianship Project is monitoring the PVP system. Part of our review is focusing on whether people with developmental disabilities receive effective assistance of counsel in limited conservatorship proceedings.

I have attended several PVP trainings – events which are mandated by the Probate Court and which are conducted by the County Bar Association. I have reviewed the written materials from other trainings. What I have discovered, both in person and through reading documents, has been very disappointing. ([A Missed Opportunity: Training Program Fails to Help Attorneys Fulfill Obligations to Clients with Developmental Disabilities](#); and [PVP Trainings - Part 1](#); and [PVP Trainings - Part 2](#))

Because of my previous experience, my expectations were low when I entered the ballroom at the Millennium Biltmore Hotel in downtown Los Angeles. However, I had a glint of optimism because Judge Maria Stratton is the new Presiding Judge of the Probate Court. Perhaps she will make some long-overdue changes in the limited conservatorship system.

As she started to speak, I sat up, turned on my [digital recorder](#) and started to take notes. She and other speakers began to raise issues that have simmered for years and that have been swept under the rug by “the system.” Problems that were unflattering to the court were now being aired openly, not only by some of the panelists but by the Presiding Judge herself.

The good news is that a new era of transparency is beginning. The bad news is that the PVP system is in much worse condition than I had previously thought.

Virtually any lawyer can get on the PVP list. When they apply to be on the panel, attorneys certify they are qualified. No one checks to see if they truly are. There is no monitoring or even spot checking on this.

Once an attorney is on the list, the attorney is on it forever. There is no system to take attorneys off. However, there is a “black list” procedure where an individual judge can prevent an attorney from getting appointed to any conservatorship case in his or her courtroom. The attorney is not informed. Each judge has unilateral veto power. No reason must be given.

The Probate Examiner’s office selects attorneys for specific cases. Names of 210 attorneys are supposed to be rotated. However, that does not appear to be happening, since some attorneys get dozens of appointments while others get none, or perhaps one or two a year. Panelists grumbled about this.

There is no procedure to file complaints about attorney misconduct. If one attorney sees a PVP attorney violating ethics, there is no internal administrative method to handle this awkward situation.

Some judges press PVP attorneys to step out of their role as an advocate and defender of their client’s rights. They want the attorneys to disclose information to the court that may be adverse to the client. Judge Stratton admonished attorneys to refuse the temptation to do so even if they get flack from these judges.

Kudos to Judge Stratton for her candor about these problems and for encouraging the other panelists to share their concerns. Openness to criticism and a willingness to change are the first steps to reform.

Hopefully, if she keeps her leadership position for a while, Judge Stratton will have enough time to apply the same process to all other aspects of the limited conservatorship system. The elimination of Rule 10.85 giving attorneys a “dual role” should be first on the list. The role of a PVP attorney should be protecting the rights of clients, not helping judges resolve cases. ♦♦♦

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