



Disability and Guardianship Project

Disability and Abuse Project

9420 Reseda Blvd. #240, Northridge, CA 91324

(818) 230-5156 • www.spectruminstitute.org

October 26, 2015

Chief Justice and
Associate Justices
California Supreme Court
350 McAllister Street
San Francisco, CA 94102

Re: Administrative Supervision of State Bar of California
(Access to Justice for Litigants with Developmental Disabilities)

To the Court:

We are writing to the court in its capacity as the administrative oversight body to the State Bar of California. Under California's constitutional framework, the State Bar is a public corporation which is an arm of the California Supreme Court.

Through the State Bar, the Supreme Court administers the admission, regulation, and discipline of members of the State Bar. This is a separate and distinct function from the Judicial Council of California which has constitutional authority to adopt rules and standards governing litigation in the state courts.

Because the State Bar is an arm of the Supreme Court, the actions and inactions of the State Bar are ultimately subject to the supervision of, and regulation by, the Supreme Court.

The State Bar sometimes convenes task forces to address issues involving access to justice. Spectrum Institute has written twice to the President of the State Bar asking for pro-active measures to address the denial of access to justice for people with intellectual and developmental disabilities in limited conservatorship proceedings. (<http://disabilityandabuse.org/pvp/>)

We did not receive a response to either letter. We are requesting that the court encourage the State Bar to convene a Task Force on Access to Justice in Limited Conservatorship Proceedings. The Task Force would focus on ways to improve advocacy and defense by court-appointed attorneys in such cases so that clients with special needs truly receive access to justice.

The State Bar regulates continuing education providers who conduct educational programs for attorneys. It has authorized the Los Angeles County Bar Association to give such credits to attorneys who attend Mandatory PVP Training Programs – seminars that the Los Angeles County Superior Court requires court-appointed attorneys to attend in order to remain on the Probate Volunteer Panel. Only attorneys on that panel are appointed to limited conservatorship cases for which they are paid for their services.

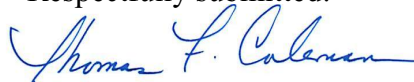
We have recently written to the Executive Director of the State Bar, asking that an audit of these seminars for the past few years be conducted by the State Bar. Our own audits have disclosed that the seminars are consistently deficient. The seminars are the focus of a complaint to the United States Department of Justice because they contribute to the failure of these attorneys to provide their clients access to justice as required by the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973. We are requesting the court to monitor how the State Bar responds to our request for a thorough audit of these seminars. The letter to the State Bar is available online at: www.spectruminstitute.org/state-bar/complaint-against-lacountybar.pdf.

The problems we have described to the State Bar never come to the attention of the Supreme Court or the Court of Appeal through the normal appellate process. When litigants with developmental disabilities are denied access to justice due to ineffective assistance of counsel, they have no appellate recourse. The nature of their disability prevents them from filing or pursuing an appeal on their own. Their court-appointed attorney will not file an appeal to challenge his or her own deficient performance. When someone else attempts to appeal, the appeal is dismissed for “lack of standing” because it is not the personal rights of the appellant that have been infringed. (Conservatorship of Gregory D. (2013) 214 Cal.App.4th 62) Thus, appeals on these issues are never heard or decided at the appellate level. This is a problem unique to limited conservatorships. The appellate process is available to aggrieved parties in every other type of litigation.

As a result of these special circumstances, it is only through its role as administrative overseer of the State Bar of California that these problems can come to the attention of the California Supreme Court. We therefore urge the court to exercise its administrative oversight authority to encourage the State Bar to address the denial of access to justice for litigants with developmental disabilities in limited conservatorship cases.

For more information about access to justice for such litigants, please refer to the enclosed brochure that describes a White Paper we recently submitted to the Department of Justice titled “Due Process *Plus*: ADA Advocacy and Training Standards for Appointed Attorneys in Adult Guardianship Cases.”

Respectfully submitted:



Thomas F. Coleman

Legal Director

Spectrum Institute

tomcoleman@spectruminstitute.org

cc: Ms. Elizabeth Rindskopf Parker
Executive Director
State Bar of California