



June 24, 2020

Mr. Thomas Coleman
Spectrum Institute
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Palm Springs, CA 92262

Dear Tom,

Thank you for the invite to comment on the study conducted by Spectrum Institute with senior and disabled adult care professionals across California.

Spectrum Institute and Thomas F. Coleman have done an outstanding job pulling together a team of experts and practitioners from across California to consult as he has conducted extensive research and has written this report on ***Capacity Assessments in California Conservatorship Proceedings***. Its recommendations establish a path that can be used to significantly improve the current conservatorship system.

Those who read this report, and more importantly those who use this report to modify public policy, need to understand the conservatorship system across the U.S. and in California has become a business enterprise over the last 100 years. A business designed by attorneys, overseen by attorneys, and protected by attorneys. Today the guardianship or conservatorship system in the U.S. is a system more committed to serving the needs of the legal community versus protecting the public. It is a broken system.

Much has been written about the Innocence Project and the work of Bryan Stevenson and the Equal Justice Initiative. Their work freeing the innocent who are convicted felons and death row inmates using new forensic techniques and critical case reviews has garnered much attention. Fortunately the criminal system has a robust appeal and review system to allow this to happen pretty much at government expense.

The third branch of the judicial system, the equity court system, is not robust and is granted wide discretion and latitude. It is also mostly funded by the individuals and families brought before it. It is also the least understood branch of the judicial system. Too often rulings are not based on law and evidence. Given that American estates pay for this system to “help them” resolve conflicts they should have much greater say on how the system operates.

This report addresses a critical component of adult conservatorship adjudication. What process should be used to fairly and appropriately remove a person’s rights? Civil and unalienable rights, and every citizen’s right to make mistakes, are protected by the U.S. Constitution. The decision should be made with the greatest of thoughtfulness and judicial due diligence yet too often it is made with less thought than a teacher signing a hall pass for



a student. Once an emergency temporary order for conservatorship is signed there is almost never reconsideration on its appropriateness. If an unnecessary or fraudulent conservatorship is created there is almost no way out. If the conscripted individual is lucky enough to prevail the emotional, psychological, and financial impact of the experience is devastating.

We hope this report finally motivates California leadership to take action to better protect the vulnerable, their families, and their loved ones. Ensuring a person's estate documents are honored and no less restrictive options exist to ensure their protection must be a much higher priority for all California citizens and their chosen public officials.

Thanks,

Rick and Terri Black

Background

Rick Black and his wife Terri founded CEAR, the Center for Estate Administration Reform, in 2018 and have been advocating for better protections for vulnerable adults and their estates since 2013 when Terri's father, who suffered from dementia, was taken captive in Las Vegas Nevada, completely isolated from all family, and died two years later in a fraudulent guardianship. Their research and advocacy in the state from 2014-2018 brought about significant reforms and the criminal convictions of 10 professional guardians and two attorneys who routinely used guardianship/conservatorship to mask their criminal enterprise.

CEAR has counseled over 3,000 cases since 2014 and was instrumental in gaining the passage of the Elder Abuse Prevention and Prosecution Act in 2017 which was the first federal law requiring prosecution oversight by the Department of Justice on guardianship frauds. They coined the term "estate trafficking" and use the phrase "isolate the victim, defame legitimate protectors, and liquidate the estate" to describe the modus operandi on frauds orchestrated by the predatory legal community. CEAR is a 501(c)(3) located in Cornelius, NC.

