



Disability and Guardianship Project

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September 21, 2018

State Bar of California
Commission on Access to Justice
Hon. Mark A. Juhas (chair)
180 Howard Street
San Francisco, CA 94105

Re: Request to Modify the California Code of Judicial Ethics;
A Role for the Commission on Access to Justice

Dear Judge Juhas:

Spectrum Institute has just written to the Supreme Court pursuant to the court's jurisdiction under Article VI, Section 18(m) of the Constitution. That provision gives the court authority to establish a Code of Judicial Ethics to regulate the conduct of judges – both on and off the bench.

Based on research we have been conducting over the past six years, we are requesting the Court to modify the Code to clarify that judges may not operate or direct a legal services program involving attorneys who appear before the judges or their courts in individual cases.

The report we have submitted to the Supreme Court is enclosed. We are also enclosing our letter to the Executive Director of the State Bar and a set of prior communication with the bar association about the denial of access to justice for people with cognitive and communication disabilities who are involved in probate conservatorship proceedings.

Some time ago, I was in communication with the staff of the Commission on Access to Justice. I also participated in a telephone conference call with members of the Executive Committee. Unfortunately, the Commission did not take any action on the requests of Spectrum Institute.

We are approaching the Commission again. We would like the Commission to support our request to the Supreme Court to modify the Code of Judicial Ethics to clarify that judges may not operate or direct a legal services program involving attorneys who appear before the judges or their courts in individual cases. Such judicial control of legal services – through selection of attorneys, appointment to cases, issuing fee orders, reappointments in future cases, and coaching the attorneys regarding their advocacy and defense practices – gives more than an appearance of impropriety. Our research in Los Angeles demonstrates that such judicial control has a direct and adverse effect on the ethics of and performance by appointed attorneys – all to the detriment of clients.

Respectfully,

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