

Conservatorship Town Hall

A forum sponsored by grassroots conservatorship reform advocates

Presentation of Thomas F. Coleman, Esq.

<https://spectruminstitute.org/town-hall-comments.pdf>

- **Create Statewide Monitor** The probate conservatorship system is operated by 58 independent superior courts throughout California. There is almost no accountability through the normal appellate process. There is no statewide administrative supervision. The judicial branch does not even know how many conservatees are under its “protection” at any given time. There should be a statewide position in the executive or judicial branches to monitor how the superior courts process and adjudicate probate conservatorship cases. For more information, see: <https://spectruminstitute.org/op-ed-counting.pdf>

- **Clarify Code of Judicial Ethics.** Judges should be deciding probate conservatorship cases. They should not be involved in recruiting, appointing, training, coaching, supervising, disciplining, and paying the attorneys who appear before them in these proceedings. This poses a conflict of interest. The California Code of Judicial Ethics should be amended to clarify that such practices constitute a violation of the code of judicial ethics. For more information, see: <https://spectruminstitute.org/ethics/>

- **Develop CRAFT Pilot Project.** The Judicial Council should create a pilot project called CRAFT – a Conservatorship, Representation, Administration, Funding, and Training program. It would adopt the same basic operating principles as the DRAFT program in juvenile dependency proceedings – a successful program where the management of appointed dependency court attorneys in 20 counties is centralized at the state level. For more information, see: <https://spectruminstitute.org/craft-program.pdf>

- **Enact Legislation on Right to Counsel.** Probate Code Section 1471 should be amended to achieve the following objectives: (1) affirm the right of conservatees and proposed conservatees to retain counsel of their choice; (2) require the

appointment of counsel for those litigants who have not retained counsel; (3) clarify that the role of counsel is to act as a zealous advocate for the client; (4) direct the State Bar to develop performance standards for such attorneys; and (5) require that counsel be appointed in appellate proceedings for conservatees who are not already represented by counsel. For more information, see: <https://spectruminstitute.org/counsel.pdf>

- **Strengthen Enforcement of the ADA.** The Americans with Disabilities Act and its state-law equivalent (Gov. Code Sec. 11135) apply to court proceedings. But the judicial and executive branches of government act as though courts are exempt from these laws. The Judicial Council should amend the California Rules of Court to clarify that judges may have ADA duties even without a request. For more information, see: <https://spectruminstitute.org/2019-ada-compliance.pdf> The Department of Fair Employment and Housing should investigate and remedy ADA violations in conservatorship proceedings. See: <https://spectruminstitute.org/2019-fehc.pdf> Its Council should clarify how the ADA applies to court proceedings. For more information, see: <https://spectruminstitute.org/fehc-regulations.pdf>

- **Regulate Payment of Attorney Fees.** Judges are authorizing excessive attorney fees to be paid from the assets of conservatees. Public funds are being used to pay for legal services for indigent conservatees without any quality assurance controls. The Judicial Council and Legislature should address these serious problems. See: <https://spectruminstitute.org/review-team.pdf>



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