

Probate Dispute Resolution Series

An Introduction to Conservatorships



May 10, 2022
Bette Epstein, Esq.
Hon. Barbara Johnson (Ret.)
Bruce Ross, Esq.

Today's Speakers

An Introduction



Bette Epstein, Esq.



Hon. Barbara Johnson



Bruce Ross, Esq.



Agenda

1. The Basics
2. Alternatives to Conservatorship
3. 2021 Revisions to Conservatorship Law

The Basics

Probate Conservatorship of the Person and Estate– Probate Code Section 1800, et. seq.

- Order of Preference for Appointment of Conservator – Probate Code Section 1810, et. seq.
- Citation to Proposed Conservatee – Probate Code Section 1823
- Court Investigator Report – Probate Code Section 1826
- Notice to Family Members to Second Degree

Limited Conservator for developmentally disabled adults– Probate Code Section 1828.5

Lanterman-Petris-Short (“LPS”) Conservatorships–Welfare & Institutions Code Section 5350, et seq.

- Generally to address psychiatric conditions of individuals who are gravely disabled.

Who Can initiate a Probate Conservatorship Proceeding

- Proposed Conservatee, family member, friend, state or local entity or “[A]ny other interested person” – Probate Code Section 1820

Rights a Conservator Does Not Control

- Right to Control an Allowance
- Right to Control Wages or Salary
- Right to Make a Will
- Right to enter into a transaction to the extent reasonable to provide for the necessities of life

Assets Held in Trust

Consideration of the Least Restrictive Alternative

- Appointment of Geriatric Care manager
- Appointment of Power of Attorney for Financial Management
- Appointment of Agent under Advance Health Care Directive
- Promote Transparency among family members

2021 Revisions to Conservatorship Law

(Statutes 2021, Ch. 417)

1. Increased Regulation of Professional Fiduciaries (PC §6563)
2. Mandatory Judicial Council Study of Court Effectiveness (PC §1458)
3. Change in Method of Appointment and Role of Legal Counsel for Proposed Conservatee (PC §1471)
4. Expanded Role and Duties of Court-appointed Investigator If Proposed Conservatee Does Not Attend the Hearing (PC §1851.6)
5. Broadened Court Review of Conservatorship, Investigation, Termination of Conservatorship or Removal of Conservator (PC §1826 & §1851.6)
6. Additional Safeguards with Respect to Conservatorship Hearing (PC §1863)

Questions from the Audience as Time Allows

Keep in Touch

Thank you for joining us



Bette Epstein, Esq.

bepstein@adrservices.com

Case Manager:

katy@adrservices.com



**Hon. Barbara
Johnson (Ret.)**

bjohnson@adrservices.com

Case Manager:

christie@adrservices.com



Bruce Ross, Esq.

bross@adrservices.com

Case Manager:

janet@adrservices.com

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2

August 10, 2022 at 12:00 p.m.

1 Hour MCLE Credit

Fiduciaries & Trustees: The Good, The Bad & The Ugly

Speakers



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Hon. Mary Fingal Schulte
(Ret.)



Hon. Jomoa A. Moberly
(Ret.)



Hon. Paul T. Suzuki (Ret.)

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3

November 2022

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850 Petitions & 859 Double Damages

Speakers



Bette Epstein, Esq.



Bruce S. Ross, Esq.



Hon. Marshall Whitley
(Ret.)

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