

**SENATE JUDICIARY SUBCOMMITTEE ON ADMINISTRATIVE
OVERSIGHT AND THE COURT**

**HEARING ON PROTECTING SENIORS AND PERSONS WITH
DISABILITIES-AN EXAMINATION
OF COURT-APPOINTED GUARDIANS**

STATEMENT OF
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I have tried to find judicial oversight and accountability for the failed Massachusetts Probate Court system, but the Governor fails to appoint sufficient judges; there is a shortage of clerical staff and clerks; and there is no oversight for guardians who violate SJC Rules and abuse and exploit the people whom they are designated to protect.

The Massachusetts Family & Probate Court System has been failing for some time. Now, however, with eleven more judges scheduled to leave this year, the system is near collapse. Lawyers, with whom I have discussed this situation, suggest that one seek arbitration or a private judge. When will an oversight contingency step in and take over this failed court system?

There is no level playing field – i.e., without substantial resources, one cannot confront an abusive guardianship, and even if one tries, the outcome is predetermined before stepping into the court room. On the one or two occasions that my sister and I had “representation,” this individual, charging more than \$600/hour, told us that the matter of arbitrarily forcing my mother from her home would be decided in favor of the guardian and that we should agree or face being denied access to see our mother.

We were told that said guardian was doing this out of spite and she would get away with such conduct. She brought four or five people with her and billed my mother to be subjected to unspeakable physical and emotional distress and a chemical restraint in the alleged belief that my mother would not be cognizant of her surroundings. This guardian’s rushed, ill-conceived “care plan” backfired and harmed my mother.

In my mother’s situation, and in the situations for other unfortunate individuals ensnared in the Massachusetts guardianship system (see the attached appendix), the probate court has

- 1) failing infrastructure,
- 2) severe personnel problems,
- 3) budget cuts,
- 4) lack of guardianship oversight resulting in such conduct as guardians failing to file accountings; charging excessive fees; and breaching fiduciary duties,
- 5) lack of guardianship oversight allowing guardians to use chemical restraints in violation of the Rodgers cases which have become a vehicle for assembly line involuntary psychiatric drugging orders,
- 6) judges who rubber stamp whatever a guardian presents to clear a docket, etc.

The following is a brief synopsis of the abuse that my mother endured.
This guardian

- ignored SJC Rule 1:07(7) and paid herself every month without court approval; she apparently had/has contempt for the Massachusetts Supreme Judicial Court Rules;
- engaged in accounting irregularities, refused to be transparent, and refused to turn over needed documentation for others to complete accountings. Not until I obtained a lawyer, did this so-called guardian submit a preliminary accounting two years into this “guardianship.” To date this individual has not turned over need information for completion of my mother’s final tax return;
- ignored my mother’s wishes on every level;
- ignored my mother’s repeated requests for this guardian to remove herself; apparently this person lacked/lacks the personal and professional integrity to respect my mother and treat her as a human being;
- violated such constitutional rights of my mother as notice and the right to attend hearings; my mother on more than one occasion asked to go to court to express her wishes to the judge, but this so-called guardian prevented her from going;
- left my mother without funds for medication and clothing such that my sister and I would have to cover for this neglect;
- failed to remove less than adequate caregivers; again my sister and I would have to cover for this neglect;
- failed to repair leaks from around the chimney into the living room and failed to address other home maintenance issues (see attached photos);
- removed my mother from her home and forced her to travel twice a week for 1 ½ months in the winter between non-ergonomically suited lodging in Tyngsboro and Woburn causing her sever emotional distress which exacerbated her heart conditions;
- put my mother at risk by placing her in a home with an individual who was on medication for depression and who was mandated to undergo counseling for child abuse;
- authorized a chemical restraint because my mother was distraught at being removed from her home and then placing her back into her home 1 ½ months later because the chemical restraint did not work and my mother’s cardiac issues were difficult to regulate;
- threatened my sister and myself whenever we objected to this individual’s “care” of our mother – e.g., to throw my mother into a nursing home, to deny us access to see our mother;
- engaged in unnecessary court actions to increase fees;
- used a “health care” agency liaison to protect herself from liability;

- depleted estate assets to the extent that my mother was forced to stay in rehabilitation facilities from December, 2009 until her death in March, 2010; such callous action resulted in my mother losing more than 20 pounds and succumbing to a systemic infection that was less than adequately addressed in two of the three facilities;
- failed to comprehend how sick my mother was until approximately two weeks prior to her death when this guardian had a conversation with a clinician at Newton-Wellesley Hospital. Such an epiphany came too late for my mother.

I tried to impress upon the court that forcing my mother to stay in these facilities against her will would result in her rapid decline. Apparently no one was interested. This “guardian” had the hubris to tell the judge that she and her hired physician had conducted drug experimentation on my mother while she was in one of these facilities and requested that a dosage of a medication be increased. This is perhaps the only time that I saw this judge have pause concerning this guardian’s request. The dose increase was denied and the guardian’s current dosage was not adhered to because medical parameters dictated otherwise. Apparently, this “guardian” was trying to force my mother to take a harmful medication in violation of the Rodgers cases which established that a person has “the right to refuse to submit to invasive and potentially harmful medical treatment such as the administration of antipsychotic drugs,” whether the individual is competent or incompetent.

In Massachusetts the **Rodgers cases directed against non-institutionalized individuals have “become a vehicle for assembly line involuntary psychiatric drugging orders.”** This guardian was always threatening to throw my mother into a nursing home and file a Medicaid application. Based on everything that transpired, this guardian used the legal process to intimidate my sister and me, and was far less concerned with my mother and her health than she was with getting rid of my mother’s money and family who objected to her conduct.

Unfortunately, this guardian was put in place against my instructions and those of my sister. Our alleged representation signed off on this guardian without our knowledge apparently because it was expedient for him; yet, in more than four years he has been unable to complete a basic accounting because apparently it is more advantageous to procrastinate and continue billing. There is no court oversight of lawyers functioning within the Massachusetts Family & Probate Court system. Thus, these individuals know how to take advantage of a broken, failed system and exploit said system.

I am requesting that an oversight group take over this failed probate court system as there no longer can be public confidence in such a failed judicial system. The attached appendix further discusses the failed probate court system and guardianship reform.