

**Thank you, Mr. Chairman, and Members of the Judiciary Committee, for allowing me to share my testimony in opposition to Bill # 984 with you this morning [March 4, 2013].**

My name is Marjorie Partch. I am a writer and graphic designer, and I was my mother's primary caregiver following a minor stroke, from 2003–2010. Our family home is in Norwalk, Conn. I have been personally concerned about the overall Constitutionality of Probate Court proceedings for approximately 2 1/2 years, as a result of my mother's Involuntary Conservatorship, Fraudulently initiated by a nursing home in Wilton, Conn., Wilton Meadows, which succeeded in bypassing my legitimate authority as my mother's Durable Power of Attorney, Health Care Representative, Attorney-in-Fact, and Pre-Designated Conservator ~ all without Due Process, in the Norwalk-Wilton Probate Court in July 2010.

In pursuing the restoration of my mother's Constitutional Rights and my legal representation of her ~ in order to bring her home where she belongs, and to bring suit against Wilton Meadows ~ I have brought several Civil and Criminal Complaints regarding my mother's Case-in-Point [**Exhibit A**]. The Chief State's Attorney's Office is currently investigating the nursing home and very likely the Officers of the Probate Court for Medicaid and other Fraud. In addition, Assistant Attorney General Michael Cole, the Chief of the Antitrust and Government Program Fraud Department has also requested Whistle Blower status for an investigation of the Probate Court System [**Exhibit B**].

The State Auditors' Office claims, however, that they do not have the jurisdiction to authorize such an investigation. (My question is: Then who does?) It remains to be seen whether or not the Attorney General's Office will investigate the Probate System regarding my mother's Case-in-Point, and my larger Complaint regarding the Unconstitutionality of the new Probate Rules of Procedure [**Exhibit C**]. I have also brought this larger Complaint and request for investigation to both the Judiciary Committee and the Regulations Review Committee.

In addition to these concerns, I would like to point out the immediate concern that various new Probate Legislation and Rules are being rushed into becoming State Law, without proper consideration, apparently because the State of Connecticut, and the Probate Courts in particular, are currently in the national limelight due to questions surrounding the Newtown Massacre, and the State's sealing of the Medical and Probate Records of the alleged shooter, Adam Lanza [Exhibit D].

The State of Connecticut is embroiled in this controversy for a variety of reasons, and surely it is self-evident that any new Statutes deserve thorough evaluation, and the fully informed consideration of as-yet unavailable but pertinent facts ~ until these records are released.

It would be Unconstitutional for the State to revise Probate Laws at this time, when so many questions remain as to the causative factors behind the Newtown mass murder and suicide, including Probate proceedings for the commitment of Adam Lanza; as well as the other pending investigations I have mentioned. Surely, it would far more prudent to limit the scope of their unregulated authority in the meantime, rather than expanding it.

It seems fair to say, that if reforms in Gun Safety Laws have not yet been implemented in the wake of the December 14 shootings, other changes to State Statutes can also wait until all the relevant facts are in.

Additionally, given that there are several opposing Probate Bills (e.g., #487) and a proposed Amendment to the State Constitution (HR #17) yet to be evaluated by the General Assembly, it would stand to reason that these various Legislative efforts should be integrated, rather than introduced and perhaps passed in conflict with one another. This also should not just be a race to the finish line, but a thoughtful process, especially when there is so much demand for Guardianship / Probate Reform across the country [Exhibit E], given the Courts' unchecked authority, with absolutely no accountability, to terminate the Constitutional Rights of perfectly innocent, law-abiding United States Citizens. The Citizens of Conn. deserve to be notified of the

threats posed to their Constitutional Rights in the New Probate Rules of Procedure, in statewide press releases with explanatory notes from neutral experts in Constitutional Law, and not just empty reassurances from self-serving private Elder Law Attorneys.

Given the many cases of impropriety in Conn. Probate matters that have come to light in recent years ~ who knows how many more lurk in the shadows of these closed-door proceedings ~ full consideration of Constitutional safeguards for our Citizens must be explored before any *greater* autonomy or authority is conferred upon these "Courts," which currently function entirely without accountability or oversight. We have had too many mishandled cases, such as the wrongful Conservatorship Daniel Gross [Exhibit F], which had to go to the U.S. Supreme Court five years after his death to achieve "Justice" ~ and a new Rule of Law: Probate Court–Appointed Conservators and Attorneys can finally be sued for wrongdoing. But too many more cases linger in recent memory, if not the legal textbooks: That of Mary Gennotti, who mysteriously re-married her abusive ex-husband with an "X" after she had been conserved; her brother Robert Jetmore's case; and of course the notorious case of Samuel Manzo's inheritance of the Josephine Smoron Farm [Exhibit G]. Even with no legal question as to his being the rightful heir, and the public censure of the Probate Judge and formal reprimand of the Court–Appointed Conservator / Executor in question, Attorney John Nugent, the case is still languishing in Legal Limbo ~ as is my mother's. This is Kafka Meeting Dickens in the 20th Century Constitution State.

I personally know of at least a dozen highly questionable Probate cases in Southern Conn. But there is nowhere to turn, but a prohibitively expensive Civil Appeals process. This is especially prohibitive when the Probate Officers are able to seize the assets in question without Due Process FIRST. They are in essence permitted to commandeer the assets, in order to defend their claim to the assets, leaving the family and friends of the person targeted for Guardianship, or "Conservatorship," to raise additional funds to defend the Constitutional Rights of the

individual in question. Meanwhile, the "Conserved Person" is isolated behind lock and key ~ literally imprisoned, WITHOUT DUE PROCESS, while they and their rescuers are at the mercy of all the attendant expenses and delays of Civil Due Process. That process should be required to terminate a Citizen's Constitutional Rights, not to RESTORE them after the fact.

Here lies the issue, going back probably throughout all 300 years of the Probate Courts' existence: the complete, and unacceptable, lack of accountability and oversight of these quasi-Judicial entities. This must be addressed, before any greater authority is conferred upon these State-sanctioned, but unregulated and unsupervised agencies. If they are not subject to oversight by the State, then what are the Probate Courts? A fourth branch of Government? If they are empowered and authorized to exist by the State, then Probate Courts must be regulated by the State, because the State is responsible for their existence.

\* \* \*

My mother was a public high school English teacher in Norwalk for 20 years, retiring in 1994. She is now 82 years old, and currently the victim of an Involuntary Conservatorship fraudulently brought by Wilton Meadows Nursing Home in Wilton, Conn., who claimed that my mother had no Durable Power of Attorney, Attorney-in-Fact, Health Care Representative, or Pre-Designated Conservator. The facility knew full well that I held all of these authorities, but preferred to work with a real estate attorney as my mother's Conservator, upon their discovery of assets in her name. These assets can be valued at \$6-800,000, depending on the market value of the home we have shared since 1970; which depends in turn upon the "selling condition" in which the Court-Appointed Conservator is marketing our home for sale. Until the discovery of the assets in my mother's name, the facility had been trying to push my mother out of their care, given the impending expiration of her Medicare coverage ~ following their failure to provide adequate rehabilitation for the major stroke that she had experienced earlier in 2010. But upon

the discovery of assets in her name, Wilton Meadows reversed their discharge plans, and determined to keep my mother, as well as her assets [Exhibit A].

The entire bill for services at Wilton Meadows could not be said to be more than \$100,000 before the Conservator qualified my mother for Medicaid. Wilton Meadows has even been reimbursed by now, by garnishing my mother's State pension (leaving the [unnecessary] mortgage unpaid). For nearly nine months now, my mother, and our home, and I have all been approved for her transfer to home care under the Medicaid Program "The Money Follows the Person," with the approval of the Southwestern Conn. Agency on Aging. But the nursing home, Wilton Meadows, has been delaying this transfer ~ along with my appointment as her Co-Conservator with a well known Westport attorney, Rick Ross ~ with endless Objections based on nothing but their fraudulent hearsay allegations. These Objections have been entertained in the Probate Court *ad nauseum* for the past year, since the recusal of the initial Probate Judge, who ignored my Objections when I pointed out that I held the Durable Power of Attorney, etc. The interminable delays amount to a *fait accompli* for Wilton Meadows, according to the Assistant Attorney General now monitoring our Probate Hearings.

As I mentioned above, in addition to several Civil Actions, I have requested a Criminal Investigation of Fraud from the Chief State's Attorney's Office, and that is currently underway; and also for Whistle Blower status from the Attorney General's Office. Assistant Attorney General Michael Cole has requested this status from the State Auditors, but as of last Wednesday, that approval did not appear to be forthcoming. The Administrative Auditor I spoke with claimed that the State Auditors do not have the "jurisdiction" to recommend that the Attorney General's Office undertake an Investigation of the Probate System and their New Rules of Procedure. My question is then: Who Does? Does this mean that the Conn. Probate Courts are immune from Criminal Investigation and Prosecution? If the Chief of the Antitrust and Government Program Fraud Department cannot conduct an Investigation ~ because of lack of

jurisdiction ~ then what are the Probate Courts, exactly? A fourth branch of the State (and Federal) Government, immune to any oversight? Where are the Checks and Balances?

I have raised these questions to the State Auditors [Exhibit H], and I am raising them now to the State Legislature, through the Judiciary Committee. The Administrative Auditor with whom I spoke last week advised me to look here, to the Legislature, for resolution and change.

As I have said, I have also requested a full Legislative Review of the new Proposed Probate Rules of Procedure to be conducted in light of the obvious conflicts between these "New Rules" and Constitutional Law. This certainly cannot be left to the discretion of the State Supreme Court, given the "rubber stamp" that they have just issued in November.

**The 14th Amendment of the U.S. Constitution** clearly outlines the limits on States' interference with Constitutional Rights, which obviously transcend any "Rules" of our "self-regulated" and locally State-sanctioned Probate Courts:

**Section 1.**

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

I hereby recommend and request that all the activities of the Probate Courts of Conn., past, present and proposed, be subjected to Constitutional Scrutiny by a Special Committee, to be appointed by the Judiciary and Regulations Review Committees.



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Office of The Attorney General  
State of Connecticut

February 7, 2013

The Honorable John C. Gerogasian  
The Honorable Robert M. Ward  
Auditors of Public Accounts  
210 Capitol Avenue, Rooms 114 & 116  
Hartford, CT 06106

Attn: Stephen R. Eckels, Deputy Auditor

*RE: C-13-1645 – Marjorie Partch – Alleged Elder Abuse by Probate Court System*

Dear Messrs. Ward and Geragosian:

Attached you will find a complaint that our office received from Ms. Marjorie Partch regarding her mother, Dorothy S. Partch, a resident at Wilton Meadows Health Care Center and actions taken by the Probate Court System.

We are referring this complaint to you for whatever investigation pursuant to Conn. Gen. Stat. §4-61dd or action as authorized by Conn. Gen. Stat. § 4-61dd (b) you deem appropriate.

Very truly yours,

Michael E. Cole  
Assistant Attorney General  
Chief, Antitrust and Government Program Fraud  
Department

MEC/sm  
Enc.

cc: Patricia Wilson, Administrative Auditor

EXHIBIT B

## MOTHER'S PLANS TO COMMIT ADAM LANZA MAY HAVE DRIVEN MASSACRE



By BREITBART NEWS (COLUMNISTS/BREITBART-NEWS) 18 Dec 2012 (15) POST A COMMENT (/BIG-GOVERNMENT/2012/12/18/REPORT-FOX-NEWS-FLASHMAN-LANZA-COMMITTED#COMMENTS)

According to Joshua Flashman, 25, an acquaintance of the Lanza family and son of a pastor at an area church, Adam Lanza may have snapped (<http://www.foxnews.com/us/2012/12/18/fear-being-committed-may-have-caused-connecticut-madman-to-snap/>) due to his mother's plans to involuntarily commit him. "From what I've been told," Flashman said to Fox News, "Adam was aware of her petitioning the court for conservatorship and (her) plans to have him committed. Adam was apparently very upset about this. He thought she just wanted to send him away. From what I understand, he was really, really angry. I think this could have been it, what set him off."

Law enforcement officials involved in the investigation told Fox News that rage at his mother over "future mental health treatment" was a factor being examined in the investigation. The *Washington Post* reported earlier that Nancy considered moving to Washington state to put Adam in a special school.

Flashman said that Nancy Lanza, Adam's mother, had filed paperwork to have him committed. No court had heard about Adam's case yet, which would have been the next step in involuntarily committing him.

Flashman also connected Adam Lanza to Sandy Hook Elementary School; Nancy was close friends with the school's principal and psychologist, whom he murdered. She also reportedly worked with first graders and kindergarteners at the school. Flashman explained: "Adam Lanza believed she cared more for the children than she did for him, and the reason he probably thought this [was because] she was petitioning for conservatorship and wanted to have him committed. I could understand how he might perceive that — that his mom loved him less than she loved the kids, loved the school. But she did love him. But he was a troubled kid and she probably just couldn't take care of him by herself anymore."

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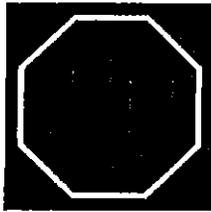
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# EXHIBIT E

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## *NASGA's Open Letters to Congress and the White House and Other NASGA Writings*



*Protecting Our Citizens From Unlawful and Abusive (*

### **Reform of Unlawful and Abusive Guardianships and Conservatorships and Abuse by Courts and Fiduciaries**

Guardianship, a form of civil commitment, can be dangerous to the health and wealth of all Americans! It has grown in epidemic proportion, and threatens the vulnerable elderly, disabled – and even the veterans of the current war on terror.

Historically, protective proceedings were described as "lunatic" proceedings. Today, "guardianizing" an innocent vulnerable person for nefarious purposes is becoming increasingly easier due to the generally vague and incomplete language of the law.

"Incapacitated" now replaces "incompetent" in a number of state statutes, thereby exposing even persons with minor or temporary physical disabilities to a complete and potentially permanent loss of life, liberty and property, most often to the day they die.

Many proceedings involve rights violations and lack of due process at the inception. Once "guardianized," a "ward of the state" does not even have the right to complain! These "wards" are treated as chattel.

## the Courts

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When the family fights to protect their loved ones, they are maligned and treated as interlopers. They feel betrayed by government, after being forced into useless litigation which can run through generations (like Dickens' "Bleak House"). Many families are bankrupted and left drained emotionally and physically, possibly never to recover.

Although the states have "protective" statutes in place, which require "least restrictive alternative" and "family first," those basic elements are not adhered to in most cases; the courts will often appoint professional fiduciaries instead. These third-party strangers then engage in exorbitant overbilling and easily bleed the estates for their own self-enrichment. Their fee applications are rubberstamped by uncaring, overworked or corrupt judges. Advance directives, wills and trusts can be ignored or overturned without concern for rules of procedure or evidence.

In the present economy, criminal activity by fiduciaries is increasing. A few states have begun to enhance criminal penalties for guardians and other fiduciaries.

**Guardianship abuse is clearly elder abuse and exploitation and must be recognized as such.**

While the original purpose of guardianship was to "protect" and "conserve," those elements appear to have been forgotten. Despite the growing trend and availability of community services, court-appointed fiduciaries will quickly remove wards from their homes for purposes of sale (sometimes to insiders at low prices), and dispose of their wards' personal property (often destroying irreplaceable photographs and family heirlooms in the process). Wards are forced into nursing facilities for the rest of their lives, against their will, despite family objections. When families complain, corrupt guardians often restrict or stop visitation altogether, effectively isolating their wards, causing them to feel abandoned or unloved by their family. Brainwashing techniques can be employed at this juncture. Judges most often allow the cruel isolation, relying on conclusory statements by fiduciaries against family, who are often prevented from defending themselves against these unproven allegations accepted by a judge as evidence, contrary to law.

Government, professional organizations and media have been reporting on guardianship problems for more than 20 years now, during which time guardianship has grown into a new major industry. In fact, guardianship is replacing family law as the new "bread and butter" of the organized Bar. Although the major problems - lack of monitoring and oversight - have long been

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pointed out, they continue unabated. The time spent studying and discussing the problem has not brought any significant protection to the increasing number of innocent victims of fiduciary exploitation. The future for Boomers is bleak unless talk is replaced by action.

A growing problem is the "emergency" or temporary guardianship, which easily morphs into a permanent guardianship. There is often no notice prior to "hearings," which can take but five minutes, while control of a person's life and property is quickly given to strangers by the courts.

There is no accountability - neither the appellate process nor the grievance process provide relief to victims or their families desperately trying to free them.

Guardianship has become a lifetime sentence to innocent people who have committed no crime, yet are afforded less rights and liberties than convicted felons.

In an appalling and paradoxical twist, when a ward's assets are fully drained by the fiduciary, the newly indigent ward becomes the financial responsibility of the American taxpayer, who now is forced to pick up the tab for the ward's remaining lifetime care through Medicaid. One of the indisputable ironies we are presenting here for resolution is the fact that the American taxpayer was also supposed to be protected by guardianship law, but has now become a victim as well.

Because complaints to various agencies and officials - both state and federal - fall on deaf ears, Congressional intervention is critically needed to force reform.

Our Table of Contents highlights the specific problems of unlawful and abusive guardianship and conservatorship.

See "[An Open Letter To Congress and the White House](#)"

## A Review of Unlawful

## 'Emergency' Guardianships

The Medicaid crisis grows more critical every day and threatens our recovering economy. Rather than government concentrating on eliminating Medicaid fraud and making the system more efficient, the people fear government's efforts to plug the Medicaid drain will cause them reduction of services.

Although various state attorneys general are now pursuing actual provider fraud more vigorously, another gaping hole exists, allowing billions of dollars of loss to the economy and although well known, remains unplugged and flowing freely.

The legislative intent of state protective statutes is to:

- GUARD the protected person from harming him/herself or anyone else;
- CONSERVE the person's assets (with prudent investments); and
- PROTECT the taxpayers from the ward becoming a public charge.

State courts have jurisdiction to appoint fiduciaries to protect individuals who are adjudicated as "incompetent." State courts, however, are not monitoring or adequately monitoring the activities of those fiduciaries, who are left free to misuse, misapply, or manipulate the law for their own self-enrichment.

Operating the proceedings as a profit-making enterprise under color of law, the court-appointed fiduciaries can financially deplete a ward's estate, create a false indigence, and leave the ward's lifetime Medicaid care to the taxpayers, even though the protective statutes are supposed to prevent the ward from becoming a public charge.

Simply put, without total monitoring and oversight, the states' "protective" plans can be operated like "The Protection Racket."

We are asking Congress to deal with misuse of the "protective" statutes because:

- 50 states with 50 different sets of laws have long failed to protect their citizenry from unlawful and abusive guardianships and

conservatorships, despite numerous studies, meetings, and hearings over the years;

- Federal rights and protections are being ignored by state-court judges;
- Federal funds are involved; and\_
- 
- Baby Boomers, turning 65 this year, constitute 28% of our population today.

See "[An Open Letter To Congress and the White House -2](#)"

## **The Fleecing of Medicaid and the American Taxpayer**

It is not just Medicaid fraudsters who are filing claims with government and cheating the taxpayers. Exploited guardianships are a direct and growing menace to the health and wealth of our vulnerable elderly and disabled - and to our nation's economy!

The "conserve" directive of guardianship law is all but totally ignored in a growing number of courts across the country. Judges, the ultimate decision makers and protectors of wards of the state, fail to monitor their appointed fiduciaries and guardian cases adequately, permitting unethical guardians to deplete their wards' assets by means of excessive, exorbitant and even fraudulent fee billings for legal, administrative or nonexistent "services."

Without meaningful oversight by court administrators and strong law and enforcement by the legislative and executive branches, previously ample estates can be systematically "protected" into indigence. The guardians then place these wards on Medicaid for the remainder of their lives - leaving the American taxpayers holding the bag.

This appalling practice is not Medicaid fraud *per se*. It is, however, an unaddressed breach of fiduciary duty, resulting in an unforeseen and improper load on the Medicaid system and an unlawful burden on the American taxpayers who are supposed to be protected against this very thing happening - a primary purpose of the "protective" statutes.

Additionally, the excessive cost of needlessly supporting individuals who don't belong on Medicaid threatens those persons without adequate assets who need essential Medicaid services, which are now jeopardized by threatened budget cuts during our country's economic crisis.

See "[An Open Letter to Congress and the White House -3](#)"

## **Boomers Beware of Guardianship Abuse and Conservatorship Abuse**

**PICTURE THIS:** A knock on the door - the police are there to forcibly take you from your home - in handcuffs if you protest! You don't know why; you're not a criminal! By the time you find out what's going on, you're no longer in control of your life, liberty or property; and you have not been served with any legal documents of any kind!

That -- and more -- happened to NASGA member Danny Tate, a young and vibrant musician/composer in his '50s. When he was finally served with a notice to come to court on a later date, he had no control over his assets, could not hire a lawyer, and the judge refused to give him any adjournment to get help! The conservatorship - built on fraud by his estranged older brother

and brother's lawyer - and aided and abetted by the judge, devoured his \$2.5 million estate and plunged him into debt. The conservator made sure the lawyers were paid, but breached fiduciary duty by not paying Tate's obligations, including his child support payments, and home and health insurance. When Tate complained in open court that the conservatorship harmed him, the judge admonished and shut him down.

Similarly frightening scenes play out all across the country today: the beginning of a potentially lengthy and emotionally, financially, and physically draining nightmare, which can leave the victims pauperized, drugged to death, or in inadequate Medicaid facilities at taxpayer expense.

This growing profit industry, milked by professionals and nonprofit organizations alike, is operated under color – and cover – of law, ironically described as “protective” statutes and commonly known as “guardianship” and/or “conservatorship proceedings.”

### Welcome to “The Protection Industry.”

You're on the victim list if you don't know your rights and don't learn how to protect yourself against this growing menace which feeds on greed.

See:

**Boomers Beware of Guardianship Abuse**

and

**Boomers Beware of Conservatorship Abuse**

## **Judicially Sanctioned Financial Exploitation of Vulnerable Elderly and Disabled Citizens**

## by Non-Family Court-Appointed Fiduciaries

The recent MetLife study<sup>11</sup> on the comprehensive subject of elder abuse once again focuses on theft by family members rather than by court-appointed fiduciaries<sup>12</sup> who too freely liquidate entire estates by means of exorbitant or fraudulent billings and proceedings.

The cold reality is that keeping the focus and the spotlight on families<sup>13</sup> enables the continued milking of the helpless by "professionals" appointed by the courts to protect them. How can MetLife and others almost completely overlook this entire category of elder abuse? How can Congress continue to ignore it, especially after GAO's<sup>14</sup> September 2010 report<sup>15</sup> clearly substantiating this growing problem?

"Most of the allegations we identified involved financial exploitation and misappropriation of assets. Specifically, the allegations point to guardians taking advantage of wards by engaging in schemes that financially benefit the guardian but are financially detrimental to the ward under their care. Also, the allegations underscore that the victim's family members often lose their inheritance or are excluded by the guardian from decisions affecting their relative's care."

NASGA has addressed guardianship<sup>16</sup> abuse by fiduciaries in three previous white papers to Congress and the White House<sup>17</sup>; yet, when any legislator has come forward to champion the cause of guardianship reform and propose legislation, the focus of said reform continues to concentrate on family members as guardians and is limited to suggestions of grants for certification, training, background checks – none of which addresses the growing threat of professional for-profit and "not-for-profit" fiduciaries freely bleeding their victims into indigence and onto Medicaid, at the expense of the currently unsuspecting taxpayers.

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[1] "Elder Financial Abuse: Crimes of Occasion, Desperation, and Predation Against America's Elders," June 2011, <http://www.metlife.com/mmi/research/elder-financial-abuse.html>

[2] Nonfamily members, court-appointed guardians and attorneys.

[3] NASGA acknowledges that sadly, and perhaps more than ever due to the current economic conditions, some families do financially exploit and abuse their vulnerable elderly and/or disabled through misuse of powers of attorney and other financial controls or even in guardianships and conservatorships, while fiduciary abuse has become an actual industry. We applaud media's growing attention to the general category of "elder abuse" and increasing response of various state legislators.

[4] Government Accountability Office

[5] "Guardianships – Cases of Financial Exploitation, Neglect, and Abuse of Seniors," September 2010, <http://www.gao.gov/new.items/d101016.pdf>

[6] "Guardianship," as used here, is meant to include conservatorship.

[7] "Reform of Unlawful and Abusive Guardianships and Conservatorships and Abuse by Courts and Fiduciaries" <http://www.AnOpenLetterToCongress.info>;  
"A Review of Unlawful 'Emergency' Guardianships," <http://www.AnOpenLetterToCongress-2.info>;  
and  
"The Fleecing of Medicaid and the Taxpayers," <http://www.AnOpenLetterToCongress-3.info>

See: [AnOpenLetterToCongress-4.info](http://www.AnOpenLetterToCongress-4.info)



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# EXHIBIT F

## Your AARP The Law

By Emily Sachar

### ■ The Law: Can court-appointed conservators be sued?

**D**aniel Gross, 85, was suffering from a leg infection when he visited his daughter in Waterbury, Conn., in 2005 and had to be taken to a local emergency room. After Gross spent nine days in the hospital, a hospital social worker asked the Connecticut probate court to appoint a conservator for him.

The judge agreed, and from there, things spun out of control. Gross was sent to a nursing home

actions because they were appointed by a probate court. The case then went to the 2nd Circuit Court of Appeals, which concluded in October 2009 that the case should be resolved in state court. In April, the Connecticut Supreme Court sided with Gross. The high court did carve out an exception—that immunity could be granted to a conservator if a probate court approves his or her actions. But it also ruled that the conservator can be sued for harm or loss to the person under conservatorship.

“The court’s decision protects older people with disabilities who have lost their most fundamental personal rights while under conservatorship,” said Stacy Canan, senior attorney for AARP Foundation Litigation, which filed a friend-of-the-court brief in the case. “The ability to sue for wrongdoing greatly improves accountability and protects individuals against abuse and neglect.” Sally Zanger, an attorney with Connecticut Legal Rights Project, added: “I hope that lawyers who are appointed to represent people will represent their clients zealously and follow their clients’ instructions.”

Attorneys for the conservator, the nursing home and the court-appointed lawyer declined to comment.

The case is expected to be referred to the trial court where it began. A jury will then decide whether to hold Gross’ court-appointed lawyer, the conservator and the nursing facility liable.

**■ What it means to you:** If you or a loved one becomes incapacitated and needs the protection of a conservator or guardian, contact your state or local bar association and learn about the guaranteed rights afforded to people under such protection. Reliable resources include: guardian-ship.org, eldersandcourts.org and americanbar.org/aging. □

Emily Sachar is a journalist and author based in Brooklyn, N.Y.

**‘He was treated like an inmate, not a patient.’**

—Carolyn Dee King, about her father’s stay in a nursing home



and kept there for more than 10 months, unable to freely visit with his family. At one point he was attacked by his roommate, a convicted felon.

“He was treated like an inmate, not a patient,” said Carolyn Dee King, Gross’ adult daughter. “His fundamental dignity was stripped away at a time when he was perfectly capable of taking care of himself and wanted to do so.”

An attorney won his release, but before Gross died in 2007, he sued his lawyer, the conservator and the nursing home. According to legal briefs, his attorney failed to challenge the conservatorship despite Gross’ request, and his conservator failed to oversee Gross’ financial affairs.

The federal District Court threw out the lawsuit in the spring of 2008, saying that Gross’ conservator and his lawyer could not be held liable for their

### ■ Ask the Experts

SHOULD THEY CHECK BOTH ARMS?



**Q** I read that blood pressure should be checked in both arms. Is that important?

**A** Yes, because if the readings for the left and right arm have very different top numbers, it could be a sign of a blocked artery. Guidelines say doctors should routinely check both arms. Unfortunately, most doctors don’t. In Britain, fewer than half of all doctors do—and it’s probably not much better here. No matter which arm had the lower or higher reading, it’s the difference that’s important. It could indicate that an artery is more blocked on one side than the other. Doctors who measure only one arm may be falsely assured that a patient’s blood pressure is normal. —Candy Sagor

**Q** I have a credit card I don’t use much anymore. Will canceling that card hurt my credit score?

**A** It could, especially if the closed account has a high credit limit. About 30 percent of your credit score is based on your balances-to-limits ratio, the amount you owe compared to your overall available credit limits. Canceling a card reduces your limits—and could lower your score. Another 15 percent of your score is based on how long you’ve held your credit card accounts; the longer you have them, the better for your score. Unless you’re burdened by a card’s annual fee, it’s best just to pay it without canceling the account and store that plastic in a sock drawer. —Sid Kuehn, MBA

Send your questions to Ask the Experts, AARP, 601 E St. N.W., Washington, DC 20004 or email ask@aarpp.org. We’ll feature answers to previously asked questions and answer the rest of your questions in future columns. Personal answers to all questions.

# EXHIBIT G

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## Probate Fight Over Southington Farm Continues

Farm Was Supposed To Go To Caretaker

November 19, 2012 | By RICK GREEN, The Hartford Courant

In a nearly empty courtroom in Hartford on Monday, a half dozen lawyers continued to fight over the dying wishes of a Southington woman who wanted to give her farm to the man who helped her care for the place for decades.

Incredibly, Sam Manzo, the caretaker, is still the loser in the Smoron Farm controversy. He lives in an unheated trailer on a farm he was supposed to inherit three years ago.

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Instead of the probate court system making sure Manzo inherited the farm — what Josephine Smoron explicitly stated in her 2004 will — the controversy drags on, bouncing about dreary courtrooms, waiting for a judge to take charge and right a monumental wrong.

"My client is in desperate need to have this go forward," Eliot Gersten, one of Manzo's lawyers, told Superior Court Judge William H. Bright on Monday morning, complaining that bills aren't getting paid. "This delay is hurting my client. He is living without heat."

The case has landed in Judge Bright's courtroom because the man appointed as conservator for Smoron, Southington lawyer John Nugent, has refused to step aside and admit his error. Nugent still controls two trusts that he set up in 2009 — unbeknownst to the dying Smoron or Manzo — that contain the estate's assets.

The plan might have gone unchallenged if Manzo hadn't complained to court authorities, who eventually ruled that Nugent abused his position as conservator. The Southington probate judge who appointed him, Bryan Meccariello, was censured by the Council on Probate Judicial Conduct for allowing Nugent to set up the trusts, which circumvent Smoron's will. Meccariello did not run for re-election in 2010.

The trusts remain, and efforts to restore Manzo's inheritance have stalled.

Nugent "knew that Ms. Smoron had a will that left her estate to [Manzo]," the Statewide Grievance Committee concluded earlier this year, declaring that Nugent "sought to intentionally deceive and defraud Ms. Smoron." The panel, which had no power to overturn creation of the trusts, found that Nugent sought to "develop a mechanism that would give him control over Ms. Smoron's estate after her death and allow him to determine who would inherit her estate."

Despite this, Nugent is fighting attempts to resolve the mess created when Judge Meccariello ignored or overlooked Josephine Smoron's will and allowed Nugent to take the estate's assets and place them in the trusts, effectively disinheriting Manzo. Also joining the fight is Richard P. Weinstein, lawyer for a Southington developer who signed an agreement with Nugent in the fall of 2008 — while Smoron was still alive — to buy the farm. Upon Smoron's death, money from the sale of the property was to be distributed to three area Catholic churches.

The contract, which Manzo and Smoron were never told about, was never approved by probate court.

Nugent, in a court brief, argues that Manzo had failed to take care of the farm and "the creation of the trusts were necessary to protect that property." Selling off the farm had to be done in case Smoron, who was in her early 90s at the time, required "long-term hospitalization," Nugent said in the court papers.

### Related Articles

**Probate Judge In Smoron Case Drops Out Of Re-Election Race**  
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# EXHIBIT H

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Subject: PROBATE REFORMS

From: "Marjorie Partch" <map@marjoriepartch.com>

Date: Fri, Mar 01, 2013 12:42 pm

To: "Michael Bloom" <michael.bloom@cga.ct.gov>, "Jemar Smith" <jemar.smith@cga.ct.gov>, patricia.wilson@cga.ct.gov  
"Art Mongillo" <arthur.mongillo@cga.ct.gov>, "Charles Hulin" <Charles.Hulin@ct.gov>, "Atty Raphael" <raphlaw220@aol.com>, "Dean OBrien" <Dean.OBrien@cga.ct.gov>, david@uuwestport.org, "Vince Chase" <vince@shaysforussenate.com>, "Marlyn Denny" <mdenny@ghla.org>, flegon@netzero.com, "Mary Gracla" <marygracla@q.com>, AquilaFour@aol.com, "Victor Xavier" <vxavler@drcfc.org>, "Bruce Gormley" <brucego2@gmail.com>, john.langbein@yale.edu, "Dee King" <dee2king@aol.com>, Ross@RossandPasquini.com, "Peter McKnight" <petermcknight2002@yahoo.com>, "Green Rick" <RBGreen@courant.com>, david.kiner@cga.ct.gov, dan.fox@cga.ct.gov, barry.hubbard@cga.ct.gov

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Dear Mr. Smith and Friends of Probate Reform,

There are several Bills before the Judiciary Committee concerning changes to STATE STATUTES governing Probate Courts being proposed on Monday morning. We want to ask the Judiciary Committee (at 10:00 a.m. on Monday) to slow this process down, and order a Special Committee to conduct a thorough and formal Review of the Constitutionality of all the Probate Courts' activities ~ past, current and proposed.

This proposed amendment to the State Constitution looks like another excellent Idea (If we must keep Probate Courts at all), and it seems that State Representative David Kiner would be an excellent ally to work with, in effecting significant change. Hopefully he can join us on Monday morning in Room 1D at the State Legislative Office Building, 300 Capitol Avenue in Hartford.

[http://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&bill\\_num=hir17&which\\_year=2013](http://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&bill_num=hir17&which_year=2013)

I would hope this would include the requirement that the (appointed) Judges also resign their private law practices ~ and that all the recommendations of Yale Law Professor John Langbein are incorporated, especially the most important: The need to remove the profit motives from the Probate Courts' rulings.

<http://www.law.yale.edu/faculty/1766.htm>

It seems to me, again, that such profound decisions terminating vulnerable and law-abiding Citizens' Constitutional Rights should not be made without the benefit of fully trained Judges, well versed in Constitutional Law, and with the benefit of a Jury Trial, open to oversight and public scrutiny.

It also seems to me that the Statute that currently permits the Probate Assembly to "write its own Rules" requires serious review and amendment. That is the point of entry for all the abuses that are occurring ~ with the State's permission. The Probate system is consistently attempting to broaden its scope, when it must be contained and reigned in:

[http://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&bill\\_num=SB00984&which\\_year=2013](http://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&bill_num=SB00984&which_year=2013)

I will give the following as my Testimony on Monday as to why we need a sweeping Review of all the Probate Court Statutes, Rules and Procedures for their Constitutionality. I am requesting that a Special Committee be appointed by the Judiciary Committee to conduct this Constitutional Review.

This reason for this is:

The futility of seeking any oversight or Checks & Balances in the System as it is now permitted to operate. The State Auditors' Office just told me on Wednesday that they have "no jurisdiction" over the Probate Courts. If this is true, it has got to change.

~ Marjorie.

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**TESTIMONY FOR MONDAY, 3/4/12**

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Dear Ms. Wilson,

**Administrative Auditor, State Auditors' Office**

Thank you for taking the time to review my Complaint seeking Whistle Blower status, referred to you by Assistant Attorney General Michael Cole, and to speak with me on Wednesday, and for your willingness to consider additional arguments to the State Auditors, below.

I am naturally very disappointed that you have informed me that at this point the State Auditors are not planning to recommend an Investigation of my mother's Case-in-Point to the Attorney General's Office. I am baffled by your statement that the State Auditors do not have "jurisdiction" over the Probate Courts. If Probate Courts are not "State Agencies," then those of us who have been subjected to their seemingly absolute power are wondering what in God's name they are.

If the State Auditors have no jurisdiction over their potential systemic wrongdoing ~ then who does? If the Attorney General is not responsible for enforcing State Laws, and protecting our Senior Citizens from harm, then who is?

Does this mean any Probate Judge can declare any U.S. / Connecticut Citizen "Incompetent" and thereby seize all of their assets, with no accountability ~ or, as I am requesting, Criminal Investigation?

That is, if the State is going to authorize Probate Courts to exist, as it does, then there *HAS* to be some oversight ~ with consequences ~ by the State when it comes to Citizens' Constitutional Rights ~ and *THE* most fundamental Right of all in America is the Right to Due Process. For *COURTS* to systematically violate those Rights is beyond the beyond. For law-abiding Citizens to have to buy their way out of this "self-regulated" closed circle is incomprehensible ~ especially when they are prevented by their State-empowered captors from using their own funds to do so.

**There can be no Justice where there is inherent Conflict of Interest, such as we have until now tolerated in the part-time, elected Probate Judges, Court-Appointed Guardians and Attorneys standing to garner the assets of the U.S. Citizen in question, and the subsequent self-motivation to declare such Citizens incompetent, and to dismiss Citizens' express wishes and intentions, including their Duly Designated Representatives; and alternatives for their care that would better serve their needs.**

If the State refuses to monitor the highly questionable and even-now hermetically sealed and clandestine practices of the Probate Courts (let alone under their "New Rules"), then the State is conferring carte blanche upon them *TO* operate as what Yale Law Professor John Langbein so rightly describes as a racketeering franchise ~ and offering more protections to these State-assisted (or even created) predatory profiteers than to their helpless victims ~ the Citizens, especially our vulnerable Senior Citizens with assets.

<http://www.law.yale.edu/faculty/1766.htm>

~ If Probate Courts are "Not Part of the Judiciary" [please click on attached sound recording], then what are they? Exactly how then, are they authorized to terminate U.S. / Connecticut Citizens' Constitutional Rights ~ without Due Process? Why are the States conferring this questionable authority, in the form of absolute power over quality of life and even death to these non-State-regulated and undefined "authorities" or "agencies"? By authorizing the existence of these "Courts" and *NOT* regulating their practices, the State is directly responsible for the terrible harm being perpetrated against our most vulnerable Citizens in this "Fee Arrangement," as Yale Law Professor John Langbein described Conn.'s Probate Courts to the State Legislature in 2005.

The new Probate Rules Book, and recent Legislative efforts by the Probate Assembly as well, clearly demonstrate their intention to function as a risk-free hedge fund for themselves, at the expense of their victims. This is becoming their clearly stated mission; their *raison d'être*.

As soon as their "Wards" have been rendered destitute at their hands, they are placed on Medicaid, and can be relegated to any old State-run nursing home that their "Conservators" (really, State-appointed Liquidators) choose, and then the "Conservators" resign. So this can hardly be claimed to be in the best interests of the "Conserved Person."

If the extensive recordings I sent you as evidence of the Probate Court System's cynicism toward Due Process and Superior Court Procedure do not play on your computer ~ I would hope that you would recommend that this evidence be heard by someone who *CAN* hear it, before it is dismissed.

Probate Courts are currently bound by State Statute to follow Superior Court Procedure ~ and the "Transcript" of my mother's Conservatorship hearing clearly demonstrates this failure and deficiency. And even worse, the new proposed "Probate Rules of Procedure" deliberately circumvent and brazenly flout Superior Court Procedures, particularly around Notification, Rules of Evidence, Due Process, Due Diligence, and Attendance. The recordings that I sent you of the Rules Revision Meetings prove this contempt beyond any doubt ~ but if you literally cannot hear this evidence, how can you determine that it is immaterial? (I would hope that Assistant Attorney General Michael Cole and his Department would be permitted to play them ~ along with many other recordings that we can provide.)

If not as "State Agencies," perhaps Probate Courts should be regulated as a private franchise then, and subject to statutes concerning Unfair Trade Practices. That would be a significant improvement.

As It stands now, given the way Probate Courts are permitted to operate, these "Officers of the Court" automatically obtain immediate control of the assets in question by magical default; or, actually, by State-conferred Fiat ~ and then the victims' rightfully designated Representatives are challenged to come up with additional funds to defend the now "Conserved Person" and their Rights, in endless Civil proceedings, after the fact ~ when the Probate players are using the assets in question for their own self-defense. In their own "self-regulated" closed system ??? Please. With no responsibility for their own opportunistic wrongdoing? Because nobody has "jurisdiction"?

Do we have to go to the FBI, the United Nations, our local Grand Jury, or what ~ please tell me, to whom should we turn?

To say that the "recourse" is to appeal to Superior Court is a slap in the face of Reason. *THEY* should have to go through that Due Process to *REMOVE* someone's Constitutional Rights and Legal Representative in the first place; we should not have to pay out of our own pockets and wait for years to *RESTORE* those Constitutional Rights! Those Rights are guaranteed by the Constitution. They can't be snatched away behind closed doors, or traded to the highest bidder, or simply forfeited in a Battle of Attrition ~ with the Citizen's own funds being used against them.

These are not purely Civil matters. These are Criminal matters, which deprive law-abiding Citizens of their Human Rights to their Freedom and Property ~ and the end-of-life care that they legally Pre-Designate.

The State should finance the restoration these Rights, immediately and automatically, when they have been violated. Families and friends can't be expected to finance these endless Civil litigations against professional attorneys! Especially when the Ward's assets have been wrongfully commandeered to the other side of the battle.

The State must prosecute these violators to the fullest extent of the Law, *ESPECIALLY* when they are Officers of the Court violating Due Process. The State will recover enormous costs to the already over-burdened Medicaid system if it pursues this course of action ~ In our case, approximately \$700,000. Multiply this by the number of occurrences, and it is a staggering debt to the U.S. Government and American taxpayer.

This travesty is all over Facebook and the Internet. I am wondering if some additional references to the larger picture may be helpful for you in contextualizing my mother's individual Case-in-Point. Many families never even *SEE* their loved ones again ~ and the elder dies in tragic isolation, their needs and wishes neglected, feeling abandoned by their families, not even knowing that their families are trying desperately to rescue them, or at least even see them. If not outlandish hearsay accusations, such as in our case, then the usual formula is for the facility / Guardians to claim that the family "upsets" the Ward. They can essentially make any claim they choose, there being no Due Process, and no oversight.

Why are these life-destroying decisions not being made at least in the light of day of Superior Courts? With fully qualified Judges, and disinterested Juries, who do not stand to acquire the assets in question? That's a birthright of each and every American Citizen. How can our elders be deprived of this basic Human Right? In such a systemic manner? BY state-authorized entities?

Where are Citizens to turn, when Probate Courts do not follow the procedures of Superior Courts, as they are required to, by State Statute?

If there is no enforcement by the State ~ then what are we to do? Are we to seek assistance for these Civil Rights Abuses from the United Nations? The United States Government would resist any "Interference." The States would resist. Then, why are States, namely, Connecticut, the Constitution State ~ not conducting their own Investigations?

I am personally aware of several more cases in Southern Conn., and there is an advocate who probably has at least 100 cases statewide. Simply scrolling through the Probate dockets will reveal countless more. There are several extremely black-and-white cases that have been covered in depth by investigative journalist Rick Green in the Hartford Courant in the past several years, which I believe also warrant serious Criminal Investigation for Fraud:

**Please Google:**

rick green hartford courant probate

Just one example of many ~ Mr. Green actually really helped Daniel Gross regain his Rights and freedom:  
[http://articles.courant.com/2011-10-24/news/hc-green-supremecourt-1025-20111024\\_1\\_probate-court-conservators-daniel-gross](http://articles.courant.com/2011-10-24/news/hc-green-supremecourt-1025-20111024_1_probate-court-conservators-daniel-gross)

I mentioned this case to you, in connection with Judiciary Discipline. It has become a routine occurrence: Ignoring and changing the Will of a Conserved (or Deceased) Person. Isn't that Fraud?:

[http://articles.courant.com/2012-11-19/news/hc-smoron-farm-probate-20121119\\_1\\_josephine-smoron-sam-manzo-](http://articles.courant.com/2012-11-19/news/hc-smoron-farm-probate-20121119_1_josephine-smoron-sam-manzo-)

[Judge Meccariello](#)

The "Discipline":

<http://courantblogs.com/capitol-watch/this-actually-happened-in-probale-court/nugent-reprimand/>

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**AARP Covered the Precedent-Setting Gross Case Last Year (Meaning that Court-Appointed Officers Can Be Sued):**

<http://pubs.aarp.org/aarbulletin/20120708?folio=40#pg58>

**Here is the Case Law:**

<http://www.jud.ct.gov/external/supapp/Cases/AROCr/CR304/304CR42.pdf>

[http://www.narpa.org/Gross\\_v.Rell-NDRN\\_AmicusBrief.pdf](http://www.narpa.org/Gross_v.Rell-NDRN_AmicusBrief.pdf)

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**From Facebook:**

**Status Update**

**By Boomers Against Elder Abuse**

"When it comes to the elderly, there is a "national pattern of Guardians gone wild causing pain and suffering to loved ones of the victim, with no accountability to anyone. And while the family is forced to watch as the abuse is escalating and the ward is alive, family and relatives do not have 'standing' to take any actions in a guardianship/conservatorship situation. No legal authority to file a complaint and/or take any legal civil actions. We need to remember that word: STANDING. The courts can allow for 'standing' to family after the ward has departed from this earth." Sylvia Rudek, NASGA (National Association to Stop Guardianship Abuse.)

<http://www.facebook.com/boomersbeware?ref=stream>

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**Our story is on the NASGA site a few times:**

<http://stopguardianabuse.org/>

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**As well as this big-picture site:**

<http://www.estateofdenial.com/2013/02/12/editorial-exposing-guardian-devils-n-i-supreme-court-tightens-watch-of-guardians/>

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**And this story ~ another Conn. family ~ breaks my heart:**

<http://www.sosorrymom.com/>

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**Another tragic story in New York:**

<http://judicialdestructionofdorothy.wordpress.com/about/>

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Well, thank you again, Ms. Wilson, for our telephone discussion, and for your willingness to consider these additional arguments.

I am not an attorney, but I do believe the term is "Fraud Upon the Court," based on the precept that "the Judge is not the Court."

"NO APPEAL IS NECESSARY."

From my "dream language" for the new Bill we are exploring in the Legislature:

**Conservatorships and Guardianships are among the most life-altering decisions that can ever be made on behalf of any Citizen of the United States of America or the State of Connecticut. Because these decisions carry such profound implications, often even the difference between life and death, essentially terminating a law-abiding Citizen's Constitutional Rights ~ to their Freedom, their Property, their Right to choose their own Medical Care, where they live, to keep**

their homes, their associations ~ these decisions must be made with the same weight and care that we hope as a Civilized Society to bring to the imposition of any punitive criminal sentence.

Accordingly, the incarceration of any innocent, disabled or elderly Citizen in an institutional care setting, involuntarily and indefinitely, must follow the same Rules of Evidence and Due Process required for any other life sentence terminating an American Citizen's Constitutional Rights. The facts and alternatives must be weighed by an impartial and fully trained Judge in a Superior Court, who is well versed in Constitutional Law, and an impartial Jury of Peers, using all their combined powers of Due Diligence.

**Any Fraud or failure to follow Due Process and exercise Due Diligence in the making of these permanently life-altering decisions regarding the termination of any U.S. Citizens' Constitutional Rights should be treated as a Felony Crime, with swift prosecution and mandatory penalties. No Appeal is necessary, and all authorities improperly superseded shall be immediately and automatically reinstated, and any and all assets improperly seized shall be fully reinstated, with triple restitutions and damages paid to the injured parties.**

Hopefully the Chief State's Attorney's Investigation of our case underway since December 2012 will dovetail with any Investigation by the Attorney General's Office; and the Legislature's Review of the new Probate Rules Book, along with new (additional) protective Legislation as well ~ will culminate in urgently needed Reform for the sake of "The Greatest Generation." Hopefully within their remaining lifetimes, and before all their assets are bled dry. (And warning: We Baby Boomers are next.)

Sincerely,

Marjorie Partch.

203.912.3528 (c)

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