

Alternatives To Conservatorship

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SPEAKING TODAY

Bette Epstein, Esq. has been mediating trust and estate disputes since 2000. Following a remarkable career first as a licensed Psychotherapist and then as a trust and estate litigator for over 30 years, she turned her focus to alternative dispute resolution and has been helping parties settle their disputes ever since. She is now available as a full-time mediator and discovery referee. Ms. Epstein is highly regarded as one of the Bay Area's leading probate specialists. She spent the last 28 years of her litigation career handling trust and estate disputes, contested conservatorships, elder abuse claims, and serving as an expert witness in conservatorship, trust & estate litigation proceedings. As a neutral, she brings her unique emotional intelligence, sharp legal intellect, and psychotherapy background to highly emotional probate disputes, and is able to manage and successfully resolve even the most challenging and complex issues.



CONSERVATORSHIP OF THE PERSON

- Assessment of current living arrangements to determine if appropriate
- Care manager retained by trustee or health care agent
 - Scope of authority is critical to having control
 - Oversee in-home care
 - Arrange/supervise visitation
 - Attend doctor's appointments
 - Manage medication
 - Transparency!
- Social services available to provide oversight for personal care and management of the household
- Health Care Directive if already in place or proposed conservatee has the capacity to create one

CONSERVATORSHIP OF THE ESTATE

Creation of a trust pursuant to doctrine of substituted judgment (Probate Code Section 2580, et. seq.)

Appointment of neutral
successor trustee

Power of attorney for
asset management if
already in place or
proposed conservatee
has capacity to create
one

Retention of
Bookkeeper to manage
day-to-day finances

Representative
payee/joint bank
account with trusted
family member/friend

Reverse mortgage to
allow proposed
conservatee to remain
in their home

Transparency! Secrets
create suspicion



ROLE OF COURT INVESTIGATOR REPORT

- Critical piece of information for consideration by the parties
- May include answers to questions regarding motivation for seeking changes to an estate plan, new friendships, termination of relationships, etc.
 - Some questions we wish the estate planner had asked.
- May include suggestions for alternatives to conservatorship

MEDIATION

Opportunity for everyone to express their views and hopefully reach a compromise.

The basics of how it works:

Mediation is a totally confidential process in that nothing that is said should ever be disclosed to the Court or used for purposes of impeachment

Parties are in separate Zoom or conference rooms during the mediation with rare exceptions

Information is shared regarding alternatives for addressing each party's concerns and perspective

Parties submit briefs in advance of the mediation, which may or may not be shared with other parties

Mediator meets with each party separately to listen to their perspective and try to determine their goals for resolution

The goal is to have a written settlement agreement documented and signed by the end of the session



THANK YOU

FOR ATTENDING

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