



Disability and Abuse Project
Disability and Guardianship Project

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January 23, 2018

Chief Judge Mary Ellen Barbera
Maryland Court of Appeals
50 Maryland Avenue
Rockville, MD 20850

Re: Omission of Any Reference to the Americans with Disabilities Act in the
Rules Order Issued on October 10, 2017 Regarding Guardianship Proceedings

Dear Chief Judge Barbera:

I am writing to compliment the Court of Appeals for adopting new rules regarding adult guardianship proceedings, especially the provisions dealing with performance standards and training requirements for attorneys appointed to represent respondents in such cases.

The new rules are a vast improvement over the status quo and, with one exception, can guide courts in other states on how to improve access to justice for seniors and people with disabilities in such proceedings. I have already shared the new rules with staff at the Judicial Council of California. Its Probate and Mental Health Advisory Committee is developing new rules for court-appointed attorneys in conservatorship proceedings in that state.

The exception I mentioned above is the omission in the rules of any reference to the Americans with Disabilities Act. The ADA applies to such proceedings. The performance of judges, investigators, and court-appointed attorneys is subject to the requirements of the ADA. I urge the Court of Appeals to remedy this omission with an amendment to the rules at its first opportunity. To assist the court in that regard, I am including an essay I have written on the subject, as well as a relevant guidance memo issued by the United States Department of Justice last year.

Respectfully submitted:

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Enclosures: (1) ADA commentary; (2) DOJ Guidance Memorandum