

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE CREATION
OF A COMMISSION TO STUDY THE
CREATION AND ADMINISTRATION
OF GUARDIANSHIPS.

ADKT 0507

FILED

MAY 21 2015

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY Angela
CHIEF DEPUTY CLERK

PETITION

COMES NOW the Honorable James W. Hardesty, Chief Justice of the Nevada Supreme Court, the Honorable David Barker, Chief Judge of the Eighth Judicial District Court, and the Honorable David A. Hardy, Chief Judge of the Second Judicial District Court, and petition the Nevada Supreme Court on its administrative docket to consider the creation of a Commission to Study the Creation and Administration of Guardianships in Nevada's Courts. In support of the petition, Chief Justice Hardesty and Chief Judges Barker and Hardy allege that:

1. The Guardianship process is a "legal proceeding in which a person is divested of legal autonomy and subjugated to the control of another person or entity."¹ Guardianships occur when a judge has determined that elderly and other vulnerable citizens in our society can no longer act for themselves.

¹David A. Hardy, *Who is Guarding the Guardians? A Localized Call for Improved Guardianship Systems and Monitoring*, 4 Nat'l Acad. of Elder L. Attorneys J., no.1, 2008, at 1, 7.

2. Guardianship proceedings necessarily require strict adherence to procedural safeguards and a thorough assessment of the evidence before being ordered. Thereafter, courts must be diligent in their oversight and monitoring of the ward's health, welfare and property, and the guardian's adherence to fiduciary duties in the protection of the ward.

3. Nevada's statutory scheme for the creation and supervision of guardianships in Nevada is contained in Nevada Revised Statutes Chapter 159. These statutes generally provide the procedure to commence a guardianship, the process to appoint and supervise a guardian, the requirements for administration, management, and accounting of the estate of the ward, and the conditions and timing for removal or termination of the guardian or guardianship.

4. Currently, the Eighth Judicial District Court has 8,737 open Adult Guardianship cases with an average of 66 new filings per month and 6,741 Minor Guardianship cases with an average of 66 new filings per month. The Second Judicial District Court has 892 open Adult Guardianship cases with an average of 15 new filings per month and 1,095 Minor Guardianship cases with an average of 14 new filings per month.

5. The number of elderly and vulnerable persons in Nevada is expected to increase which is likely to cause more guardianship cases in need of supervision and administration.

6. A Joint Task Force of the Conference of Chief Justices and Conference of State Court Administrators on Elders and the Courts identified several critical problems facing courts as a result of the increase in the number of elderly and vulnerable persons in need of guardianships or conservatorships, including, among others, the lack of adequate systems to account for and manage the number of cases filed, pending and

concluded each year; the adequacy of programs, training and materials to support family members who might serve as a guardian; the sufficiency in numbers and qualifications for public and/or professional guardians in many states; and the adequacy and training of judges and court staff to supervise and oversee guardianships and guardians.

7. The Joint Task Force made 8 recommendations to address the most critical problems based on promising practices being placed in use to improve the monitoring and supervision of Guardianships.

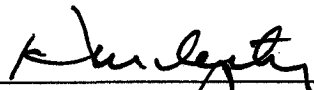
8. The Conference of Chief Justices unanimously adopted Resolution 14 endorsing the Report of the Joint Task Force and urging each state to implement the Task Force's recommendations.


9. Petitioners believe that a statewide Commission, composed of stakeholders in the public and private guardianship system, can study and make appropriate recommendations for statewide policies and procedures concerning the creation and administration of guardianships, including, but not limited to, the procedures used to provide notice and the evidence required to create guardianships, the training and appointment of guardians, the protections needed for wards and their family members, the accountability and performance required of guardians and expected of courts, the use of technology to assist in documenting, tracking and monitoring guardianships, and the identification of resources necessary to assist the court system to meet required objectives. Petitioners believe that the Commission should be required to provide its report and recommendations no later than December 31, 2015.

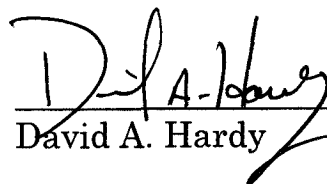
Accordingly, petitioners request that the Nevada Supreme Court place this issue on its administrative docket and proceed as it deems

appropriate to create the Nevada Supreme Court's Commission to Study the Administration of Guardianships in Nevada's Courts.

Respectfully submitted,


_____, C.J.
Hardesty


_____, D.J.
David Barker


_____, D.J.
David A. Hardy