

JEFFREY T. NEILSON^{1,2,5}
JOSEPH P. GARIN^{1,2,3,5}
PHILLIP E. SELTZER^{1,2}
J. WILLIAM EBERT¹
KALEB D. ANDERSON¹
DAVID A. CLARK¹
ANGELA T. NAKAMURA OCHOA¹
JESSICA A. GREEN¹
PETER E. DUNKLEY¹
MEGAN H. HUMMEL^{1,10}
DAVID T. OCHOA¹
ERIC N. TRAN^{1,6}
JULIE A. FUNAI¹
AMBER M. WILLIAMS¹
KAREN KAO¹
LISA J. ZASTROW^{1,12,13,14}

LAW OFFICES

Lipson | Neilson

Attorneys and Counselors at Law

9900 COVINGTON CROSS DRIVE, SUITE 120
LAS VEGAS, NEVADA 89144

TELEPHONE (702) 382-1500

TELEFAX (702) 382-1512

www.lipsonneilson.com

E-MAIL: dochoa@lipsonneilson.com

BARRY J. LIPSON
(1955-2003)

THOMAS C. COSTELLO²
DAVID B. DEUTSCH³
STEVEN H. MALACH^{1,9}
DAXTON R. WATSON⁹
KAREN A. SMYTH^{1,4}
C. THOMAS LUDDEN⁹
STUART D. LOGAN⁹
SANDY D. GLAZIER⁹
MARY T. SCHMITT SMITH²
MICHAEL H. ORCUTT⁹
MICHAEL C. CURMAN^{2,*}
MICHAEL A. ROBBINS^{2,9}
ALBERT L. HOLTZ^{2,9}
BARRY L. HOWARD^{2,9}
HAL C. OSTROW^{2,9}
SHAWN Y. GRINNEN²
CARLY R. KOLO^{2,8}
DAVID G. MICHAEL²
COREY I. RICHTER⁹
BRENT DEMMITT⁹
JOHN J. BROWDER^{8,11}
CHRISTINA M. DIMICHELE¹

- 1 ADMITTED IN NEVADA
- 2 ADMITTED IN MICHIGAN
- 3 ADMITTED IN ILLINOIS
- 4 ADMITTED IN NEW YORK
- 5 ADMITTED IN COLORADO
- 6 ADMITTED IN CALIFORNIA
- 7 ADMITTED IN MASSACHUSETTS
- 8 ADMITTED IN MARYLAND
- 9 ADMITTED IN ARIZONA
- 10 ADMITTED IN WISCONSIN
- 11 ADMITTED IN IDAHO
- 12 ADMITTED IN OKLAHOMA
- 13 ADMITTED IN NORTH DAKOTA
- 14 ADMITTED IN MISSOURI
- * OF COUNSEL

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FILED

JUL 05 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

Elizabeth A. Brown
Clerk of the Supreme Court
201 South Carson Street
Carson City, NV 89701

Re: *In the Matter of the Creation of A Commission to Study the Creation and Administration of Guardianships*
ADKT 507

Dear Ms. Brown:

Please accept the following in response to the request for written public comment on the above referenced matter.

These comments are specific to the First Interim Report of the Guardianship Commission Attachment B (Statewide Guardianship Rules) Topic 6, Ex Parte Communication.

From Attachment B it is not clear if the rule is intended for ex part communications generally or ex parte communications from the State Compliance Office. If intended for ex parte communications from the State Compliance Office, it raises the question if ex parte communications that reach the Judge's Chambers but not the Judge would then be directed to the State Compliance Office and perhaps filtered or go through some analysis on whether they should be sent by the Compliance Office to the Judge.

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Page 2

Next the rule reads that the ex parte communication “may be received and reviewed by the court under the provisions of this rule if such communication raises a significant concern about a guardian's compliance with his or her statutory duties and responsibilities, or the Protected Person's welfare.” Who determines if the communication raises a significant concern about a guardian's compliance? If the Judge makes the determination would they not have already violated the rule by receiving and reviewing a communication that did not raise a significant concern?

Have due process concerns been weighed by the Committee if the Court can take action on the communication and setting a hearing on the communication is optional?

What are the potential administrative and financial costs to the Court if the Court is mandated to notify “all parties of record” of both permitted and prohibited communications?

If the rule applies to any ex parte communication generally and not just ex parte communications from the Compliance Office, how should the Court treat communications that could both be interpreted as potentially harassing or potentially informative of significant concerns about a guardian's compliance. For example, reports can come from persons already in conflict with the guardian: the guardianship may have related cases involving lawsuits regarding the person in need of protection's rights in contract with third parties, or the guardian themselves may be having disputes with neighbors or others that are aware of their status as a guardian. How should the court treat information from Defendant or Neighbor in that situation? Does having an ex parte communication rule establish a policy toward more disclosures and therefore more protections for those that may be accused of harassing the guardian? Would it be more beneficial to elaborate on the categories of individuals that could petition the court regarding the need for a guardianship or for the need to review the status of a guardianship?

I hope these comments prompt helpful discussion on the topic, and I overall support the changes to the guardianship process.

Very truly yours,

LIPSON NEILSON P.C.

/s/ David T. Ochoa

DAVID T. OCHOA

Bar #: 10414