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The Fortress Part Four of Five: The Consequences of Protecting Justice (/web/20200616124655/https://www.dailykos. The-Fortress-Part-Four-of-Five-The-Consequences-of-Protecting-Justice)



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A Michigan court tasked with protecting its most vulnerable citizens has become home to a rolling series of controversies, ranging from sexual exploitation, robbery and neglect.

By Gretchen Rachel Hammond

Editor: Christie Chisholm

Research: Gretchen Rachel Hammond, Slone Terranella, Ellen Chamberlain and Hope Winkles

Forensic investigator: Tim Mulholland, CFE, MSAF

On a Saturday evening this past April, a group of people gathered inside a home in the suburbs of Detroit.

Seated around a living room table, feasting on various pot-luck dishes, they chit-chatted about an array of topics from the mundane to the political. At first appearance, it looked like a regular meeting of a light-hearted book club with a unique membership comprised of wildly different social and religious backgrounds representing a microcosm of a divided America.

Their opinions as Trump supporters, centrists and liberals often led to intense but good-natured debate until plates and differences were set aside in favor of the topic which united them into a group they call SOS-Probate.

Jayne Collins was living a perfectly contented life in Colorado until a petition for guardianship of her mother Nancy, filed in the Oakland County Probate Court, tore her family apart and forced her back to Michigan. Now, she lives at home caring 24/7 for

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Fortress-Part-Four-of-Five-The-Consequences-of-Protecting-Christine-Abood-is-a-retired-teacher-and-the-daughter-of-a-late-prominent-Detroit-attorney-However-that-didn-t-stop-Oakland-County-Probate-Judge-Linda-S.-Hallmark-from-appointing-Public-Administrator-John-Yun-as-guardian-over-Christine-s-mother-Gloria-Sullivan-After-Abood-complained-to-the-Michigan-Attorney-General-about-Yun-s-treatment-of-her-mother-she-says-Hallmark-reprimanded-her-and-restricted-visits-to-her-mother-When-Gloria-passed-away-in-October-2018-Abood-couldn-t-be-at-her-bedside-Shortly-before-her-death-Gloria-was-moved-from-the-nursing-facility-where-she-d-been-placed-by-her-guardian-Abood-says-that-Yun-s-office-told-her-they-didn-t-know-where-her-mother-was-A-2018-Republican-candidate-for-State-House-of-Representatives-of-Michigan-s-District-16-Jody-Rice-White-and-her-husband-Jeff-found-themselves-hurled-into-the-Oakland-County-Probate-Court-after-Michigan-Adult-Protective-Services-APS-investigators-filed-a-2012-petition-for-conservatorship-of-Jeff-s-father-John-Presiding-Judge-O-Brien-named-Fraser-as-John-s-Special-Fiduciary-After-John-passed-in-2014-Fraser-became-Personal-Representative-of-the-estate-The-White-family-splintered-and-Jeff-began-a-prolonged-fight-for-the-removal-of-Fraser-As-the-case-continued-unresolved-with-legal-bills-mounting-Rice-White-grew-from-supportive-spouse-into-outspoken-activist-On-social-media-and-to-state-legislators-she-demanded-the-Oakland-County-Probate-Court-be-subject-to-accountability-Randy-Asplund-s-fight-is-not-in-Oakland-County-but-the-probate-court-in-adjoining-Washtenaw-However-his-struggle-is-common-to-those-of-Oakland-County-families-In-December-2017-Washtenaw-Probate-Court-Judge-Julia-Owdziej-declared-his-then-92-year-old-mother-Roberta-legally-incapacitated-and-placed-her-under-the-guardianship-and-conservatorship-of-two-local-attorneys-After-he-challenged-the-guardianship-in-court-Asplund-was-forbidden-from-seeing-his-mother-He-is-still-engaged-in-an-endless-legal-fight-to-restore-both-his-and-Roberta-s-rights

Nancy, who she had fought to free from isolation in the lockdown unit of a Bloomfield Hills nursing facility.

Collins says Nancy was kept there against her will by her then-guardian, former Oakland County Public Administrator Jennifer Carney. Presiding over Nancy's case, Oakland County Probate Court Judge Daniel A. O'Brien eventually replaced Carney with former Public Administrator Thomas Brennan Fraser, who Collins maintains still casts an omnipresent shadow over herself and her mother.

Just before Memorial Day weekend, Nancy's nurse faxed a request to Fraser's office for in-home hospice care services. Collins says Fraser did not reply. On June

4, Fraser filed a petition with O'Brien requesting "an immediate hearing and order that Nancy appear and then be immediately transferred to a medical facility."

Christine Abood is a retired teacher and the daughter of a late, prominent Detroit attorney. However, that didn't stop Oakland County Probate Judge Linda S. Hallmark from appointing Public Administrator John Yun as guardian over Christine's mother, Gloria Sullivan. After Abood complained to the Michigan Attorney General about Yun's treatment of her mother, she says Hallmark reprimanded her and restricted visits to her mother.

When Gloria passed away in October 2018, Abood couldn't be at her bedside. Shortly before her death, Gloria was moved from the nursing facility where she'd been placed by her guardian.

Abood says that Yun's office told her they didn't know where her mother was.

A 2018 Republican candidate for State House of Representatives of Michigan's District 16, Jody Rice-White and her husband Jeff found themselves hurled into the Oakland County Probate Court after Michigan Adult Protective Services (APS) investigators filed a 2012 petition for conservatorship of Jeff's father, John. Presiding Judge O'Brien named Fraser as John's Special Fiduciary.

After John passed in 2014, Fraser became Personal Representative of the estate. The White family splintered and Jeff began a prolonged fight for the removal of Fraser. As the case continued unresolved, with legal bills mounting, Rice-White grew from supportive spouse into outspoken activist. On social media, and to state legislators, she demanded the Oakland County Probate Court be subject to accountability.

Randy Asplund's fight is not in Oakland County but the probate court in adjoining Washtenaw.

However, his struggle is common to those of Oakland County families.

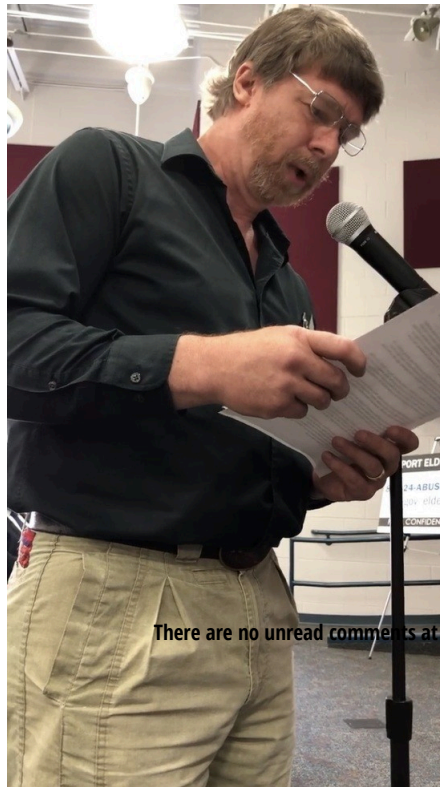
In December 2017, Washtenaw Probate Court Judge Julia Owdziej declared his then-92-year-old mother Roberta legally incapacitated and placed her under the guardianship and conservatorship of two local attorneys. After he challenged the guardianship in court, Asplund was forbidden from seeing his mother. He is still engaged in an endless legal fight to restore both his and Roberta's rights.



L to R. Jody White, Christine Abood and Jayne Collins.
Image courtesy of Christine Abood



L to R Gloria Sullivan and Chris Abood.
Image courtesy of Christine Abood



Randy Asplund speaks at Elder Abuse Task Force Listening Tour.
Image courtesy of Christine Abood.

Even though Asplund and his attorney ground their arguments in Michigan statute, Asplund says Owdziej refuses to hear them. Instead, he adds, she not only cedes to her appointees, but takes their unsubstantiated accusations against Asplund at face-value. He has taken his case all the way to the Michigan Court of Appeals, where it is currently pending.

Victoria McCasey spent 30 years with her partner Conrad running a Christmas tree farm from their home in Holly, Michigan. They never chose to marry. When Conrad suddenly took his own life in 2016, McCasey had to replace mourning his loss with a fight to hold onto everything the couple worked for after Oakland County Probate Judge Jennifer Cullen appointed Fraser as Personal Representative over Conrad's estate. Since Michigan does not recognize common-law marriage, Fraser claimed McCasey had no standing as an heir. He evicted her from the home she and Conrad built together and sold both it and the tree farm off at well below market value.

After Mimi Brun won a two-year battle to free her mother Virginia Wahab from the guardianship and conservatorship of former Oakland County Public Administrator Jon Munger, she was finally able to take back her back to their Oak Park, Michigan home from the nursing facility in which Wahab had been isolated from Brun. Brun says that her mother subsequently begged her never to leave her with strangers. Wahab passed away on April 25, 2019. Brun filed a lawsuit against the nursing facility, claiming the false imprisonment of her mother. It was dismissed in the Oakland County Circuit Court and refiled in the probate court, which occupies the same building. The case is currently pending in O'Brien's courtroom.

A Task Force of Their Own

During the run-up to last year's election, Brun and Collins met with then-candidate for Michigan Attorney General Dana Nessel, who pledged to do what her predecessor had refused and take their complaints about the Oakland County Probate Court seriously.

During a March 25 press conference at her office in Lansing, she announced (<https://web.archive.org/web/20200616124655/https://wwmt.com/news/state/attorney-general-dana-nessel-launches-elder-abuse-task-force>) the creation of an Elder Abuse Task Force and, with the participation of Michigan Supreme Court Justices Richard Bernstein and Megan Cavanaugh, presented nine reforms to Michigan's guardianship system as among their primary goals.

Although attendance to the press conference was restricted, Asplund, McCasey, Abood, Rice-White and her husband Jeff went to Lansing anyway. There, alongside families fighting probate cases in both Oakland and Wayne counties, they carried signs demanding an investigation of Michigan's probate courts and asked Nessel's staff if they could join the event.

They were refused.

The group was disillusioned, but members forced themselves to remain hopeful. They seized upon Nessel's announcement of a series of events in counties across Michigan, which she called a "Listening Tour," during which victims of elder abuse and their families could be heard.

SOS-Probate called a meeting in April to decide on strategies for ensuring they had a presence, at each of the listening sessions, in order to push Nessel and her staff into an investigation of the courts.

As this unlikely taskforce of their own began to reminisce about their cases and discuss options as to what could be done to ensure that history was not repeated with other families, the psychological and emotional damage wrought from each of their tumultuous ordeals was brought to the surface. What had begun as pleasant conversation was reduced to bitter arguments, and the meeting was closed with a set of conflicting ideas but no answers.

The Endless Cycle

These family members, like so many others in Oakland County and across Michigan, feel helpless.

In trying to find legal counsel for themselves or their loved ones, they scoured the State Bar of Michigan's website and methodically contacted each on its substantial list of estate, probate and elder law attorneys.

According to numerous families who spoke with this investigation, if their case has anything to do with the Oakland County Probate Court, attorneys either decline to represent them or ask for an exorbitant retainer. Two such attorneys stated that the reason was a high probability of facing punitive sanctions or a disciplinary investigation, by the Michigan Attorney Grievance Commission, for challenging a probate judge's appointee.

Instead, families spend day-after-day desperately seeking help from the Attorney General, and, since their cases involved public administrators appointed as guardians and conservators, State Public Administrator Michael Moody.

According to families who have reached out to Moody, the March, 2018 email response Abood received, after a call detailing her complaint with Yun, was typical

From: Michigan Attorney General <mtag@michigan.gov>
Date: March 5, 2018 at 10:04:50 AM EST
To: 'Christine Abood' <christineabood@gmail.com>
Subject: Citizen Response

March 5, 2018

Christine Abood
christineabood@gmail.com
Citizen Inquiry #2017-0204120

Thank you for your February 15th e-mail regarding your mother's guardianship. I understand that you believe that your attorney, the court appointed guardian, and the probate judge have acted improperly in regard to your mother's guardianship. Because guardianships are under the exclusive supervision of the probate court, you can obtain a new attorney and appeal the decision of the probate court regarding your ability to visit your mother. If you are unable to afford an attorney, you may be able to get assistance from the Michigan State Bar at the following website <https://michiganlegalhelp.org>. If you believe your attorney has acted improperly, you may file a complaint with the Attorney Grievance Commission at (313) 961-6585. If you believe the probate judge has acted improperly, you may file a complaint with the Judicial Tenure Commission at (313) 875-5110.

I hope this information is helpful to you. Thanks again for your inquiry.

Michael E. Moody
State Public Administrator
Public Administration

Response from State Public Administrator Michael Moody to email complaint from Christine Abood.
Document courtesy of Christine Abood.



Members of SOS Probate protest outside Michigan Attorney General Dana Nessel's office. March 25, 2019.

Image courtesy of Christine Abood.

Abood and the other families have also tried local newspapers, police stations, Michigan State Police posts, Oakland County Prosecutor Jessica Cooper, the Detroit office of the Department of Justice, the State Court Administrator's office, the Oakland County Board of Commissioners, the office of Michigan's Long Term Care Ombudsman and the entire roll call of Michigan house members and senators.

But, when not ignored entirely, the families are told to “get an attorney.”

And the cycle begins again.

Meanwhile, complaints to the Michigan Attorney Grievance and Judicial Tenure Commissions have not been investigated.

An “Excellent Reputation”

On behalf of the group, Collins sent a November 2017 email to Cooper’s office requesting a meeting to discuss “concerns and experiences of crimes against seniors.”

The following month, a clearly irritated Cooper replied, “I am in receipt of your November 20 demand for a personal meeting. It is extremely important to note that when it comes to physical abuse or financial fraud against seniors, the perpetrator, in the vast majority of these cases, is someone the senior knows, loves or trusts.”

“So, good luck with your troubles in Probate Court,” Cooper concluded. “And best of luck with your group. When and if you become more established, you will become aware of just how active we are in the senior community. We’ll be happy to send you one of our brochures.”

Dear Ms. Collins:

There are no unread comments at this time.

Please be advised that I am in receipt of your November 20 demand for a personal meeting to tell all me about all of the wonderful “ideas and plans” the prosecutor of Wayne County has to “fight against the scourge of elder abuse”. Please be further advised that this fight has and continues to be a priority of my administration. My office is well beyond the “plans and idea” stage.

I received a second missive demanding to know why I didn’t prioritize your request and respond to you in the two days prior to the Thanksgiving break to schedule such a meeting. As you surely know, an Oakland County Deputy was murdered over the Thanksgiving Holiday. Aside from the shock and grief of losing one of our own, I had and have many responsibilities to attend to regarding this incident.

Unlike my colleague from Wayne County who has over 300 murders a year occurring in Detroit alone, I take a hands on approach to the prosecution of cases. I am told that my personal review of these cases and the excellent training I give to my assistant prosecutors at this office is one of the many reasons the citizens of Oakland County rest easy knowing that they live in one of the safest communities in the State, if not the nation. Our felony conviction rate is over 97% and we are affirmed on appeal in 99% of our cases. I believe, however, that the excellence and professionalism of our various police agencies and our positive working relationship with law enforcement is the major reason for the lower crime rate.

I am an active and proud member of the Oakland County Association of Police Chiefs. The ability to have open and frank discussions and to appear together at numerous community functions is fundamental to the public well-being.

Turning to the protection of our seniors, we do in fact have a Special Victims Unit.

When I became the Prosecutor nine years ago, I consolidated the Elder Abuse Unit with the Domestic Violence Unit and the Child Abuse unit. All of the prosecutors in this unit have been cross trained and receive continuous specialized training.

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8/23/2019

Gmail - Fwd: Response from Prosecutor Cooper

Moreover, we have programming and presentations especially designed for seniors to help prevent fraud and identity theft. We also have programs to discuss the parameters of physical abuse. Both my Chief Assistant, Paul Walton and I personally make these presentations on a regular bases. Paul is at various senior centers and community meetings at least two and frequently three times a week. We have even made presentations in Detroit and were invited to come to several others, because Wayne County does not have such programming. It is extremely important to note that when it comes to physical abuse or financial fraud against seniors, the perpetrator in the vast majority of these cases is someone the senior knows, loves or trusts.

So, good luck with your troubles in Probate Court. And best of luck with your group. When and if, you become more established, you will become aware of just how active we are in the senior community. We’ll be happy to send you one of our brochures.

Sincerely,

Jessica R. Cooper
Prosecuting Attorney
Oakland County
1200 N. Telegraph Road
West Wing - Bldg. 14 E
Pontiac MI 48341



Full response from Oakland County Prosecutor Jessica Cooper to Jayne Collins 12/4/2017.
Document courtesy of Jayne Collins

By the summer of 2018, Rice-White was leading a contingent of family members to twice-monthly Oakland County Board of Commissioners meetings held in an interconnecting assembly hall at the same Pontiac, Michigan address as the probate court itself.

During the three-minute-per-person slots allotted for public comment, Rice-White and the others told their stories.

The Oakland County Probate Court judges began to take notice.

A July 10, 2018, letter to Oakland County Commissioner Hugh Crawford was signed by Hallmark, O'Brien, Callaghan and Oakland County Probate Court Chief Judge Kathleen Ryan.

"Recently a great deal of misinformation has been disseminated regarding the Oakland County Probate Court," the judges wrote. "Unfortunately, judges have limited ability to respond due to judicial canons."

They concluded by encouraging commissioners to attend Wednesday Motion Day proceedings or to watch a video of them "in the office of our Probate Court Administrator Edward Hutton."

Rice-White was undeterred. She and the group continued to show up at Commissioners' meetings. By the fall, their message was finally having an impact.

An October 8, 2018, letter from Commissioner Chair Michael Gingell to the Michigan State Court Administrator's Office noted that the commissioners had "received numerous complaints in the last several months from individuals regarding the Oakland County Probate Court's management of estate and guardianship matters."

"We are requesting that the State Court Administrator's Office seek further information regarding these matters," Gingell concluded, "and advise the Board as to whether you have or will be opening an investigation into these complaints."

Two weeks later, former Wayne County Probate Court Judge and State Court Administrator Milton Mack, Jr. sent Gingell a reply, which was copied to Ryan.

"This office received a series of complaints regarding the Oakland County Probate Court several months ago," Mack wrote. "In reviewing the cases, we found no evidence of mismanagement or any failure to follow Michigan's statutes or court rules relative to the handling of estates and guardianship cases. I determined this office would take no further action. Nothing has changed that would cause me to reconsider that decision."

Mack summarized by stating, "you can be proud of the fact that the Oakland County Probate Court has an excellent reputation."

In March 2019, this investigation sent a FOIA request to the State Court Administrator's Office to request the details of Mack's investigation and how his conclusions were reached.

After 10 days, the request was denied.

Michigan Supreme Court
State Court Administrative Office
Michigan Hall of Justice
P.O. Box 30048
Lansing, Michigan 48909
517-373-6128

Milton L. Mack, Jr.
State Court Administrator

October 23, 2018

Mr. Michael J. Gingell
Chairman
Oakland County Board of Commissioners
Bldg. 12E
1200 N. Telegraph Rd
Pontiac, MI 48341

Re: Oakland County Probate Court

Dear Chairman Gingell:

Your letter to SCAO Region VI Administrator Jennifer Phillips relative to complaints concerning the management of estate and guardianship matters by the Oakland County Probate Court has been referred to me for a response. This office received a series of complaints concerning the Oakland County Probate Court several months ago. We conducted a review at that time to determine whether this office should take any action under MCR 8.113.

In reviewing the cases, we found no evidence of mismanagement or any failure to follow Michigan's statutes and court rules relative to the handling of estates and guardianship cases by the Oakland County Probate Court. We could find no merit to any of the assertions in the various complaints. Because we could find no evidence that the Oakland County Probate Court was not adhering to ethical and legal standards, I determined that this office would take no further action. Nothing has changed that would cause me to reconsider that decision.

Thank you for bringing your concerns to my attention. You can be proud of the fact that the Oakland County Probate Court has an excellent reputation. According to our performance metrics, the Oakland County Probate Court is one of the best in the state in the timely resolution of cases.

Sincerely,



Milton L. Mack, Jr.
State Court Administrator

cc: Kathleen A. Ryan
Chief Judge, Oakland County Probate Court

Copy of letter sent to the Oakland County Board of Commissioners by State Court Administrator Milton Mack, Jr.

Document courtesy of the Oakland County Board of Commissioners.

Jailed After Gesticulating

While Mack's response seemed to satisfy the Oakland County Board of Commissioners, at least one of the probate court judges made his feelings about Rice-White's appearances before the Board abundantly clear.

On the morning of September 13, 2018, O'Brien noticed her sitting in the gallery of his practically empty courtroom. As always, Rice-White was attending a hearing in support of her husband Jeff, who appeared on behalf of himself and their children. A video (<https://web.archive.org/web/20200616124655/https://www.youtube.com/watch?v=6xVakMLUvNg&lc=z22ztfhrvey5ecuacdp4350wb1qsg0xnansmbvibz5w03c010c>) of the proceedings was subpoenaed by Rice-White's attorney.

Without the money to afford legal representation, Jeff requested an accounting from Fraser as Personal Representative of the White estate. Although Fraser was not in the courtroom, he was represented by Bloomfield Hills attorney Joseph H. Ehrlich.

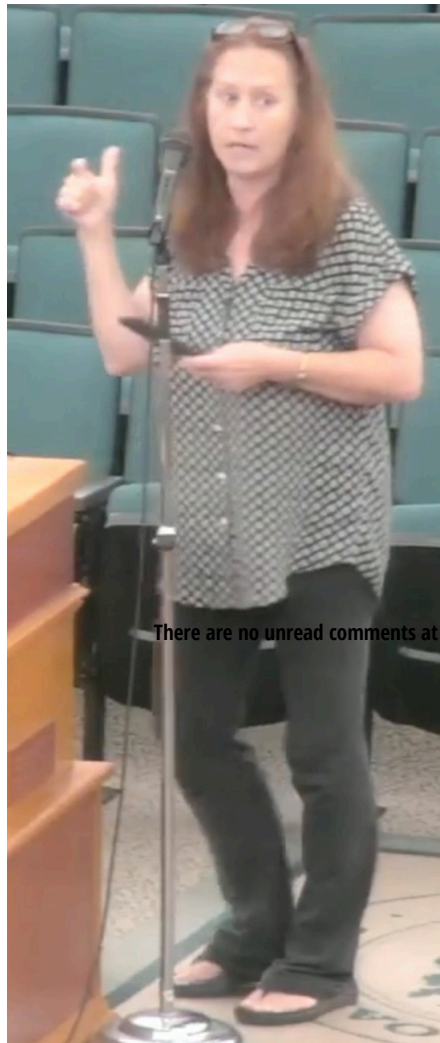
"I'm very unhappy with the results of this whole ordeal for four years," Jeff told O'Brien. "I am speaking with others at the County Commissioner level and the state level."

"We are fully aware, here at the Oakland County Probate Court, of your complaints, and your wife's complaints and so many other people's complaints [to] Commissioners," O'Brien replied. "And that's OK. Whatever, the more the merrier over there. Knock yourselves out."

"I just wanted to let you know of my unhappiness with the court..." Jeff began.

"I already know, Mr. White," O'Brien interrupted. "I'll have it written on the file [that] 'Jeff White and Jody White, who's not a party to this case...'"

"You don't have to bring my wife into this," Jeff said.



Jody Rice White at an Oakland County Board of Commissioners meeting.
Image from Board of Commissioners video.

"I don't have to bring her in?" O'Brien replied, growing increasingly irate. "She's pushed herself in on her own! I didn't ask for it. Why's she here today? When she's over there at the Commissioners' auditorium and sending out her emails, they aren't just about her children."

When Jeff accused Fraser of being "dishonest," Rice-White silently waved her assent from the gallery.

"You know what?" O'Brien declared to Jeff. "Your wife better stop her gesticulating and all her antics back there, or I will have her arrested and thrown in jail for Contempt of Court. You warn her because you're going to be visiting her in jail if she doesn't knock it off."

"I'm done being threatened by you," Rice-White told the judge as she left the courtroom.

"If she ever comes in here again and acts up in any way, I will hold her in Contempt," O'Brien fumed. "And she will be put in handcuffs and thrown in jail. And you can get a copy of this transcript and you can publish it to the world for all I care."

While O'Brien and Jeff were still arguing over what was or was not said at the Board of Commissioners' meetings, Rice-White went to the probate court administrative counter asking to file a complaint against the judge. An

employee at the desk summoned the Oakland County Sheriffs.

In a subsequent witness statement, the employee called Rice-White's behavior "unsettling" and added that she was afraid "her movements would breach my personal space."

A squad of sheriffs led by Deputy Paul Thieme found a deflated Rice-White in a nearby restroom. In his arrest report, Thieme claimed that Rice-White was "screaming hysterically."

"I instructed [her] that she was to leave the building or she would be issued a Disorderly Conduct Citation," Thieme wrote. "She then proceeded to walk down the building screaming 'Don't touch me. Don't assault me.'"

Rice-White began making her way toward the court's north exit, flanked by three deputies with Jeff following. Rice-



Judge Daniel A. O'Brien

White claims she was suddenly pushed to the floor by the two officers behind her, who then picked her up under each arm with such force that her feet left the floor and led to substantial bruises under Rice-White's arms.

Court cameras, positioned throughout the entire building, and along the length of the corridor in which the incident occurred, captured both the hearing and the moments prior to Rice-White being escorted out. However, according to Thieme's own statement, the arrest itself cannot be seen "because of the camera angle."

In his account, O'Brien stated that he witnessed a portion of events outside his courtroom.

"Jody White seemed somewhat tense," he wrote. "I did not hear yelling."

"Although the situation did not appear to be heading in that direction when I left," the judge concluded, "I was not surprised at all when I heard Jody White was arrested. Based on my observations of [her] poor behavior in my courtroom the past several months, it is clear that she is prone to dramatic, histrionic and disruptive behavior without warning and whenever something is said with which she disagrees."

Rice-White was charged with Disorderly Conduct and Felony Resisting Arrest.

The Unexpected Jury Trial

Even though she was offered a plea bargain by the Oakland County Prosecutor, Rice-White was determined to take her case all the way to a jury trial.

"Litigants in the probate court are grieving and desperate," she said before the trial. "I want attorneys at this probate court to help and not take advantage of or financially exploit them. It's not about me. I'm not the only one who's been attacked because a judge didn't like what litigants are doing. My husband and I know our rights, but I have never seen a jury trial when it comes to a probate issue. There's going to be one now and there must be one, because we're not in a world where we are all treated equally."

Her trial began on June 24, 2019, in the Oakland County Sixth Circuit Court. Presiding Judge Leo Bowman was an admitted (https://web.archive.org/web/20200616124655/https://www.theoaklandpress.com/news/bowman-recuses-self-in-prosecutor-s-case-against-novi-judge/article_00b25b67-bfb8-5210-9e4e-e83439515e5a.html) close, personal friend of Oakland County Prosecutor Jessica Cooper.

However, the next four days seemed to be going well for Rice-White.

Her attorney poked holes in the inconsistent accounts of the Oakland County Sheriff's witnesses and made the argument that Rice-White had been targeted because of her attempts to shed light on the Oakland County Probate Court.

In his cross examination of O'Brien, he questioned whether the judge's behavior from the bench was impartial and noted that the missing video of Rice-White's arrest called Cooper's case into doubt.

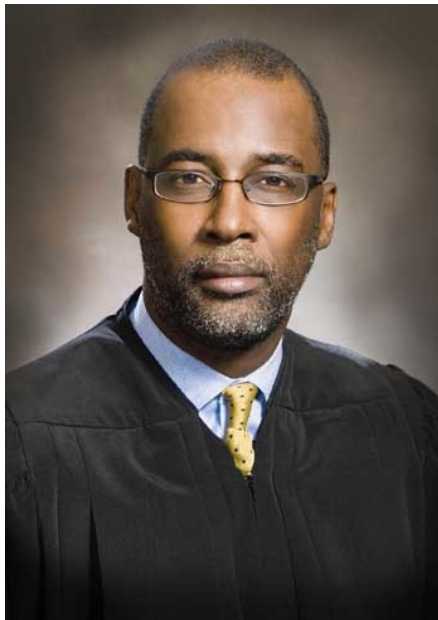
However, before the jury went into deliberation on the afternoon of June 28, Bowman gave them a series of instructions that broadened the definitions of Rice-White's charges and essentially negated the defense presented by her attorney. Before the jury returned, at least a half-dozen sheriffs appeared in the courtroom and flanked Rice-White.

She was found guilty.

Even though she was free on bond, Bowman had Rice-White immediately thrown into the Oakland County Jail while awaiting her July 30 sentencing.



Jody Rice White following her arrest.
Image by Gretchen Rachel Hammond



Oakland County Sixth Circuit Court Judge Leo Bowman
Image courtesy of Oakland County Sixth Court

Inexplicably, given the non-violent nature of her conviction, she spent five days in solitary confinement and three weeks in the jail's maximum security division.

"They want to silence me," Rice-White said from jail. "I knew that from day one."

Bowman sentenced her to three years' probation and ordered her to undergo mental health treatment. Rice-White is also forbidden from entering the probate court building or mentioning any matters or individuals pertaining to her case on social media.

She says she intends to appeal the conviction.

"Is She Even Listening?"

The remaining members of SOS-Probate were floored.

"Jody was assaulted by courthouse sheriffs after a probate judge took issue with her using her First Amendment rights with the Board of Commissioners," Collins says. "And they still threw her in jail. It is extremely disturbing. As victims of probate corruption. These kinds of tactics have been getting worse in that court. We have to stand up to them because they cannot be tolerated."

While Rice-White was in jail, the rest of SOS-Probate made sure her story was told during Nessel's Listening Tour. Jeff, Asplund and Abood attended one such event in Kalamazoo, Michigan, on July 9.

Just as with Oakland County Commissioners' meetings, they were each limited to three minutes. Jeff told Nessel and Michigan Supreme Court Justice Megan Cavanaugh that guardians, trustees and conservators were part of a "shadowy threat which lurks within our court system."

"These folks are pillaging estates, busting up families and shattering our lives," he said. "I questioned a judge's decision. Everyone told me I was facing an uphill battle. I truly believe he is complicit. It was an illegal arrest and my wife is now facing two years in jail."

Just before Abood could show Nessel and the rest of the audience photographs of the bruises Rice-White sustained during her arrest, time ran out and she was told to stop. She presented them anyway and the audience applauded her.

SOS-Probate members were not the only ones who spoke up at the Listening Tours. At events held between June 21 and August 12 in cities across Michigan, numerous people shared accounts of their own alleged probate court experiences that were similarly disturbing.

Nessel's Listening Tour responses concerning public administrators centered around a few scant themes including reminders that they were not appointed during her tenure and that in taking roles as guardians and conservators, they have been acting outside of their job descriptions.

On August 23, Nessel suddenly announced (<https://web.archive.org/web/20200616124655/https://www.detroitnews.com/story/news/local/michigan/2019/08/23/nessel-relieves-4-lawyers-state-appointed-duties-administer-certain-estates/2099647001/>) that Fraser, Yun, Oakland County Public Administrator Jennifer Carney and Macomb County Public Administrator Robert Kirk were to be relieved "of their appointments."

She did not clarify as to whether that included their guardianship and conservatorship cases.

In 2017, Clarkston, Michigan attorney Jon Munger was fired by then-Attorney General Bill Schuette after local news station WXYZ reported (<https://web.archive.org/web/20200616124655/https://www.wxyz.com/news/local-news/investigations/7-investigators-demand-answers-as-probate-official-tries-to-avoid-camera>) that a group of Public Administrators had worked with a local realtor to open deceased estate cases without notifying next of kin.

However, as of August 1, 2019, Munger was still taking deceased estate alongside guardianship and conservatorship cases at the Oakland County Probate Court. **There are no unread comments at this time.** It remains to be seen as to what her August 23 announcement regarding Carney, Yun and Fraser will achieve.

To date, Nessel has only one charged one conservator with a crime. Shortly before she kicked off the Listening Tour in Kent County, a Lake City, Michigan woman, Kari Ann Yakes (44), was charged

(<https://web.archive.org/web/20200616124655/https://www.mlive.com/news/grand-rapids/2019/06/woman-accused-of-embezzling-from-father-under-her-care.html>) with felony embezzlement from her father.

No public administrators or professional guardians have been charged with a crime. The Michigan Supreme Court and Michigan Judicial Tenure Commissions have yet to enact any disciplinary proceeding against probate court judges.

SOS Probate members believe Nessel is deliberately stalling.

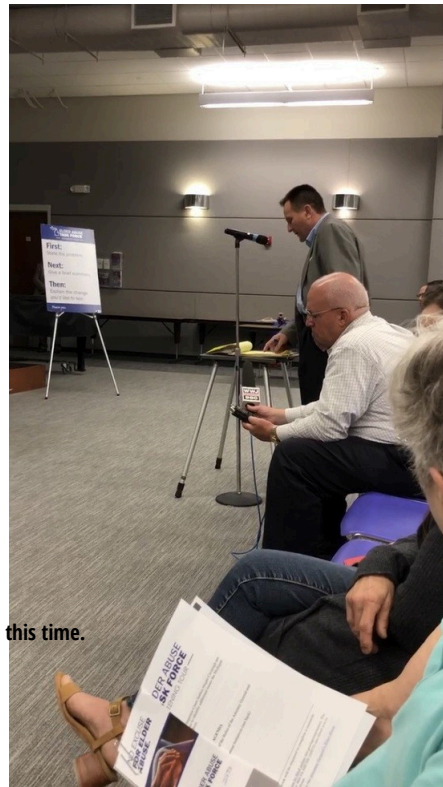
"She wants to look like she is doing something without really doing anything," Abood says. "Why? She couldn't even say the word 'fired.' It sounds like she wants to send these public administrators on a vacation!"

"We know full well that she is protecting her own profession by sticking to the narrative that it's all the fault of the families," McCassey asserts. "I'm appalled that Nessel would go down that road. Is she even listening to us? She needs to do her job and go into the courts to find the real corruption. She's knows damned well that this is rampant, not only in Michigan but throughout the whole country, and she's acting like a puppet."

"After all the stories she's been told by people standing in line at these Listening Tours, I really do not know what she is waiting for," Collins adds. "Oakland County Public Administrators are ripping people off to the tune of millions of dollars every year, but we are not seeing justice at all. How difficult can it be to look for that criminal activity?"

Indeed, at a July 26 Listening Tour stop in Bangor Township, Nessel noted that the probate reform initiatives laid out by the Task Force on the same day it was announced were "not rocket science."

"What I was seeing were shorter hearings [for guardianship] that involved less thought and deliberation than I had seen sometimes in hearings that involved traffic tickets," she added. "I thought that was so wrong. We've seen instances of guardians who have 500 or more wards. We believe moving somebody from their home should be a last



Jeff White (at the microphone) speaks at Elder Abuse Task Force Listening Tour.
Image courtesy of Christine Abood

resort. We're going to continue and review and update our initiatives over the next several months, and I think we are going to see more progress made involving the issue of elder abuse in this state than we have, probably, the last 30 or 40 years."

Guardian Inc. and The First Task Force

Nessel's Task Force is the third such attempt in Michigan to reform the handling of guardianship and conservatorship cases in the state's probate courts.

The first was a 1996 Task Force created

(<https://web.archive.org/web/20200616124655/https://courts.michigan.gov/Administration/SCAO/Resources/Documents/Publications/Reports/gdntaskrpt.pdf>) by the Michigan Supreme Court after a series of troubling findings were uncovered concerning a Detroit private guardianship company, Guardian Inc. of Wayne County.

Incorporated in 1989, Guardian Inc. was given guardian and conservatorship powers over 600 wards by the Wayne County Probate Court's judges.

In 1995, after a complaint alleging that a ward's home had been sold for \$500 to the mother of a Guardian Inc. employee, then-Michigan Attorney General Frank Kelley and the Wayne County Probate Court appointed Detroit attorney John Chase, Jr. to conduct an investigation and full audit of Guardian Inc.'s records.

~~There are no unread comments at this time.~~
Bloomfield Hills, Michigan attorney Joseph P. Elmer, who has been retained by both Munger and Fraser in troublesome Oakland County Probate Court cases, represented Guardian Inc. during Chase's investigation. In reporting his findings, Chase determined "a gathering" of malfeasance and negligence on the part of Guardian, Inc. as well as an appearance of self-dealing and conflict of interest.

Guardian Inc.'s president was sentenced to 30 months in jail after she pled guilty to embezzlement and tax fraud.

The Michigan Supreme Court Task Force on Guardianships and Conservatorships, that resulted from Guardian Inc.'s crimes, consisted of a 25-member panel that included probate court judges such as Mack, probate court registers and staff members, both houses of the Michigan Legislature, relevant executive branch agencies, several advocacy groups, the State Bar Association, academia, and members of the probate bar.

In 1998, the Task Force made 11 recommendations

(<https://web.archive.org/web/20200616124655/https://courts.michigan.gov/Administration/SCAO/Resources/Documents/Publications/Reports/gdntaskrpt.pdf>) that included the enforcement of minimum ethical standards for professional guardians and professional conservators alongside a change in statutes and practice with regards to accounting and the sale of real estate.

In 2000, then-Michigan Supreme Court Chief Justice Elizabeth Weaver created the position of Guardianship Ombudsman, who was supposed to investigate complaints received from wards or family members. However, after only seven months (<https://web.archive.org/web/20200616124655/http://www.tcsg.org/guard.htm>), the position was terminated and has never been reinstated.

The Granholm Task Force

In 2005, then-Governor Jennifer Granholm announced

(https://web.archive.org/web/20200616124655/https://www.michigan.gov/formergovernors/0,4584,7-212-57648_21974-118808--,00.html) the creation of a Task Force on Elder Abuse "to review current state efforts to prevent and prosecute elder abuse and provide recommendations to develop a plan to generate public awareness on the scope of elder abuse."

The 15-member panel included Wayne County Prosecutor Kym Worthy (a former colleague of Nessel's), Blue Cross Blue Shield of Michigan, a Genesee County judge, two elder law attorneys, a representative of the medical community and the Area Agency on Aging.

Ironically, the Task Force's August 2006 list of recommendations

(https://web.archive.org/web/20200616124655/https://www.michigan.gov/documents/miseniors/GovTaskForce_186155_7.pdf) the Task Force report



Former Michigan Governor Jennifer Granholm
Image from Michigan.gov

(https://web.archive.org/web/20200616124655/https://www.michigan.gov/documents/miseniors/GovTaskForce_186155_7.pdf) recalled those of its Michigan Supreme Court predecessor nearly a decade earlier.

"The State Court Administrative Office should identify resources and implement the recommendations of the 1998 Michigan Supreme Court Task Force on Guardianships and Conservatorships," the report stated. "Not all of the recommendations of [that] report have been implemented."

It was a generous statement, considering only one of the 11 had.

Additional findings included the adoption of legislation to make the isolation of a vulnerable adult a crime of abuse and a limitation on the rights

removed from an incapacitated person. Once again, most of the recommendations stalled in the Michigan legislature and were never implemented.

Meet the New Boss.

When Nessel announced her Task Force on March 25, she acknowledged that both of its predecessors had left "gaps to be filled" and added that because of its supervisory role over all Michigan courts, the state's Supreme Court would, once again, take a lead role in guardianship reform.

Its nine, primary initiatives include the requirement of a full hearing during emergency petitions that include the ward and medical testimony, the development of statutory basic rights for ward family members, a review of the process regarding a guardian's removal of wards from their homes and a limit on the number of wards-per-guardian.

Wards and their families were omitted from the list

(https://web.archive.org/web/20200616124655/https://www.michigan.gov/documents/ag/Elder_Abuse_Task_Force_Members_650200_7.pdf) of at least 50 Task Force member offices and organizations.

They include the State Bar of Michigan Probate and Estate Planning Section, APS, the State Court Administrator's office, the AARP, the Eaton, Kent and St. Clair County Probate Courts; and the Michigan Sheriff's Association.

Other notable members include Elder Law of Michigan, which operates a pooled trust (used to store assets in order to allow individuals to qualify for Medicaid benefits)—a brainchild of Michigan probate attorneys Alan May and Thomas Trainer.

Task Force member Guardianship & Alternatives Inc. was founded by Rana Lechlitner, who, alongside Oakland County Public Administrator Jennifer Carney and real estate broker John Bippus, sit on the board of the Michigan Guardianship Association (MGA).



Michigan Attorney General Dana Nessel
Image from Office of the Attorney General

The MGA is also included on the Task Force.

Following Nessel's announcement, MGA Board Vice-President Georgia Callis gave a March 26 interview (<https://web.archive.org/web/20200616124655/https://www.michiganradio.org/post/professional-guardian-reacts-states-new-elder-abuse-task-force>) to Michigan Public Radio and declared the MGA's intention to push back against some of the proposed reforms.

"Rather than the Task Force looking at guardians as being the enemy, we're hoping [to] be able to educate them to realize that we are the last safety net that this state has," Callis said. "Most people don't realize that professional guardians work for free for about half of their caseloads."

"It's really hard to ask a tiny population of people to get a license or register when you're expecting them to work for free," she asserted. "So long as there's enough staff, I don't think there should ever be a cap on the number [of wards] that an individual should have."

"We're saving the state of Michigan hundreds of millions of dollars," Callis concluded. "Instead, we feel like, now, a Task Force is going to micromanage and cast a negative eye towards what we're doing. They don't realize that the manipulation, the exploitation and neglect is how I get my clients. Unfortunately, it's usually a family member or a neighbor that's the bad guardian."

~~There are no unread comments at this time.~~

In response to this investigation, the MGA released a brief statement.

"The Michigan Guardianship Association is an active member of the Attorney General's Elder Abuse Task Force and looks forward to working with members of the Legislature and other interested parties to improve upon the guardianship profession in the State of Michigan," the organization wrote. "We stand committed to ending elder abuse in this state while protecting our most vulnerable citizens."

The Disgruntled Ten Percenters

The narrative that it's family members rather than professional guardians or judges who abuse the vulnerable has been part of an overriding theme repeated not only in Michigan but nationwide, by defenders of the nation's guardianship system and the courts that dispense it.

In Las Vegas, after families and local media organizations, including the *Vegas Voice* (<https://web.archive.org/web/20200616124655/https://www.thevegasvoice.net/nevada-legislature-happenings/just-in-judge-steel-today-freed-two-more-victims-from-for-hire-guardian-april-parks-financial-exploitation-and-abuse>) and KTNV (<https://web.archive.org/web/20200616124655/https://www.ktnv.com/news/contact-13/fraud-and-embezzlement-alleged-in-guardianship-lawsuit>), began to relate horrifying stories about the treatment of vulnerable individuals by private guardian April Parks and others, the Nevada Supreme Court ordered the creation of a panel to determine where the system had gone so very wrong.

At a July 2015 public meeting (https://web.archive.org/web/20200616124655/https://www.youtube.com/watch?v=1fcFuqo9Z_0) of the panel, private guardian and former Clark County Public Administrator Jared Shafer declared, "It's not the guardians you've got to be aware of, it's family members."

His statement stunned and outraged families in attendance who were victims of Parks and had loved ones whom, they claimed, were neglected and died while under Shafer's own guardianship.

Shafer collectively described them as the "Ten percenters who didn't get what they wanted."

Three years later, Parks pled guilty after a federal indictment ([https://web.archive.org/web/20200616124655/http://ag.nv.gov/uploadedFiles/agnv.gov/Content/News/PR/PR_Docs/2017/16AGJ151-IND-\(Parks__April\)-001..pdf](https://web.archive.org/web/20200616124655/http://ag.nv.gov/uploadedFiles/agnv.gov/Content/News/PR/PR_Docs/2017/16AGJ151-IND-(Parks__April)-001..pdf)) listed more than 200 felony charges including the theft of "approximately \$559,205.32 from 150 victims."

Marcia Southwick is a Director of the National Association to Stop Guardian Abuse (<https://web.archive.org/web/20200616124655/https://stopguardianabuse.org/>) (NASGA).

"A few disgruntled families' is one of these lines that's used over and over again," she says. "Once a guardianship proceeding starts, there's a presumption that the family is in the wrong. If an elder has money and a guardian wants it, they blame the family."



L to R Catherine Falk and Marcia Southwick.

Image courtesy Marcia Southwick.

Southwick recalls that even before a series of articles (<https://web.archive.org/web/20200616124655/https://www.abqjournal.com/898385/who-guards-the-guardians-a-5-part-series-by-diane-dimond.html>) by Diane Dimond in the *Albuquerque Journal* helped expose the heinous actions of a group of New Mexico court-appointed guardians, she and other families from the state had approached Sen. Gerald Ortiz y Pino (D-Albuquerque) who was committed to helping guardianship victims.

"Each time he would talk about it, the guardianship lobbyists went ballistic," Southwick says. "They didn't want any changes made."

When a 2013 Task Force was commissioned to study New Mexico's guardianship system, Southwick asserts that family members requested to be involved since their loved ones had been impacted.

"They wanted information about their parents' medical care and finances to be more transparent," she says.

However, family member involvement was ruled out.

"The Task Force's conclusion was that families could not have any input because it would interfere with a guardian's job and that they had a conflict of interest because they were inheriting estates," Southwick explains. "But, on the Task Force were a notorious guardianship company and attorneys. I'd say at least half of its membership were people making money off elders in guardianship."

Following Dimond's investigation, a second Task Force was commissioned. It was discovered (<https://web.archive.org/web/20200616124655/https://www.abqjournal.com/1300256/new-guardianship-law-offers-more-protections.html>) that two guardianship companies had embezzled millions from their wards. In 2018, a guardianship reform bill was passed into law that Southwick calls "not perfect, but a start."

No Rational Purpose

The consequences of the "gaps" left by Michigan's first two Task Forces were illustrated among the 2,278 Oakland County Probate Court cases reviewed by this investigation.

In a 2014 case

(<https://web.archive.org/web/20200616124655/https://cases.justia.com/michigan/court-of-appeals-unpublished/2014-316915.pdf?ts=1418821394>) filed in the Michigan Court of Appeals, Patricia Sutter, the wife of Fraser ward Joseph Sutter, alleged that the public administrator "declined to take advantage of Veteran Affairs (VA) benefits for Joseph, incurring costs of approximately \$600,000 against Joseph and [Patricia]; removed Joseph's life support without a court order; terminated life support without consulting [Patricia] and refused to allow [her] to visit Joseph."

The Michigan Court of Appeals concurred with Fraser's only defense that Patricia "lacked standing" in the case, since Fraser's fiduciary duties extended only to Joseph and not her.

"Nothing in statute provides any kind of fiduciary duty by the guardian to an heir, spouse, or other interested person," the court wrote.

Three years later, a 55-year-old man named Rick was subject to an Oakland County petition for guardianship filed by a social worker who claimed a severe brain injury had resulted in "cognitive deficits and a lack of insight."

Rick's objections resulted in a contested hearing. Presiding Judge Hallmark appointed Yun as Rick's guardian. One year later, Rick's wife filed a petition to remove the public administrator.

In a May 2018 report, his Guardian ad Litem wrote, "[Rick] represents to have minimal contact with his wife of 27 years, that he was allotted one hour to spend with her on their anniversary, less than on Christmas Day, and he is routinely denied the opportunity to have non-overnight dinners. He additionally represented that he has not seen his grandchildren in over a year and has restricted visits even with his father."

Regardless of the outcome of the petition," the report concluded, "there is no rational purpose to restrict visitation with his family and the same may be having a deleterious effect on his demeanor."

Punished Through Isolation

In other Oakland County probate court cases, the use of isolation and the restriction of visitation as a punishment, both to family members and wards who have challenged a guardian or conservator's authority, are disturbingly prevalent.

In obtaining court orders to allow that isolation, Yun, Fraser, Carney and Munger have labeled family members and even friends from church communities as troublemakers. They are accused of perceived belligerence to nursing facility staff, of upsetting their wards or of being an impediment to their work. However, such accusations have rarely been accompanied by any evidence outside of the opinion of the guardian.

In 2016, a 70-year-old Southfield man named Anthony, his son Jason and Jason's wife, Jacqueline, were all placed under guardianship after Michigan Adult Protective Services (APS) filed petitions on Anthony and, then, Jason and Jacqueline one month later.

Anthony and Jacqueline became Carney's wards. Jason was given to Yun.

In Yun's accounting, a December 2016 line item noted that Carney "Does not want our ward around hers. [Jason] is upset he cannot live with his 'wife' [the quotation marks were deliberate on the part of the public administrator] Carney will not allow the two to live together. Per Jen, Ward has been taking advantage of his father and his wife's finances."

There is no indication that Yun investigated Carney's claims rather than simply taking her word for it.

Although Jacqueline was able to remove Carney as a guardian, Anthony and Jason still remain under probate court control.

During this investigation's December 2018 visit to the Pontiac, Michigan unlicensed group home, in which Jason had been placed, he expressed deep unhappiness with Carney's restrictions.

"I don't know what the reason is," he said at the time. "She claims I took all my dad's money and stuff, but I didn't do it. I haven't seen my dad in over a year. I'm trying to figure out how I can see him. I miss him. I cry. Especially around the holidays, it really gets to me."

A Daughter's Mission

Catherine Falk, the daughter of legendary actor Peter Falk, has traveled from state-to-state, relentlessly pursuing legislation to stop the isolation of the vulnerable from their families. Catherine's work is rooted in an emotionally and financially shattering course of events that began in 2008 when her stepmother (given conservatorship of Peter by the Los Angeles Superior Court) denied the right for Catherine and her sister to visit their father, who was ailing from advanced dementia.

Despite her best attempts to remedy the situation in court and a legal battle that cost her in excess of \$100,000, Catherine was isolated from her father for the last three years of his life.

When Peter passed on June 23, 2011 Catherine was unable to be at his bedside. She was never informed of his hospitalization or even his death and burial. Like the Oakland County families, Catherine poured her heartbreak into a mission to ensure that her devastation would not be experienced by any other wards or their families.

"My case was really mild compared to everybody else's," she says. "When you're going through it, you think that you're the only one. You think you're alone and that nobody else could possibly be going through the torment that you are. When you step away from it, you realize that there are millions of people in the same or worse circumstances. Doing nothing is being part of the problem."

In order to be part of the solution, Catherine founded the Catherine Falk Organization (<https://web.archive.org/web/20200616124655/https://catherinefalkorganization.org/>) and began to work with NASGA on legislation that requires the conservator of an incapacitated individual to keep the family updated on the individual's health, hospitalization, passing and burial arrangements.

In order to curtail the isolation of wards, the bill requires guardians to seek a court order to stop visitation by family and others close to the ward.



Catherine Falk. Image courtesy of The Catherine Falk Foundation



Peter Falk. Image by Rex Features

"When you're in a system that is like floating in a tank filled with giant sharks, you feel hopeless, helpless and completely powerless," Catherine says. "No child ever expects to be put in a situation where they can't talk to their parent."

Catherine and NASGA took the bill and her personal testimony to legislators nationwide.

Despite its undeniable benefits to the concept of family, and minimal effects on a guardianship system that state governments seem determined to preserve, to date only 20 states are considering it.

For Catherine, such results have been as disheartening as they have a stark illustration of the kind of power pro-guardianship lobbyists like the National Guardianship Association can wield.

"I thought I would be able to come in with my father's name and connections and be able to move mountains and fix a broken system," Catherine acknowledges. "We're outnumbered by the guardian industry, which is so much bigger and so much more powerful than advocates can be. When I go in and

testify across the United States, I'm always greeted by these organizations that are pro-guardian who try to shut me down."

Suing the Fortress

In Michigan, one attorney was given a sharp lesson in the power of the industry when he tried to charge its fortress through a federal lawsuit filed in the state's Eastern District Court.

Bradley Geller is an Ann Arbor attorney who has spent his career as a former Long-Term Care Ombudsman and Director of the Michigan Center for Law and Aging, working toward the recognition, expansion and implementation of legal rights of older adults.

In February 2019, Geller filed an amended version of a lawsuit (<https://web.archive.org/web/20200616124655/https://www.docketbird.com/court-documents/USA-vs-See/QUI-TAM-COMPLAINT-filed-by-Bradley-Geller-against-Michigan-State-of-Receipt-No-FL001835-Fee-400-SSch-pages-21-30-not-provided/mied-2:2017-cv-13233-00001>) he began 16 months earlier in the state's Eastern District Court. His action named, as defendants, the State of Michigan, Governor Gretchen Whitmer, Attorney General Dana Nessel, Michigan Supreme Court Chief Justice Bridget McCormack, Michigan Department of Health and Human Services (MDHHS) Director Robert Gordon, Michigan Department of Licensing and Regulatory Affairs (LARA) Director Orlene Hawks and all 83 of the state's probate courts.

Defendants also included May, an attorney and shareholder with the Troy, Michigan firm Kemp Kleinfelder. ~~There are no unread comments at this time!~~ May was interviewed as part of a 1987 Associated Press report (<https://web.archive.org/web/20200616124655/https://www.apnews.com/4c1eedcb2002530127118972b3f7c05c>) in which he admitted to having 400 wards under his guardianship none of whom he visited.

Alongside May, Geller named Munger, Carney, Fraser and Yun among others who have acted as professional guardians and/or public administrators.

Geller's lawsuit sought acknowledgement that "current practices of probate courts violate state law, deny individuals liberty without due process, deny equal protection and reasonable accommodation, lead to restraints on freedom of religion, association and on receiving appropriate medical care, and result in unnecessary institutionalization."

"The abject failure of the Michigan Supreme Court to exercise superintending control over probate courts in the face of long known and widespread abuses is a dereliction of duty," the lawsuit noted, "enabling these courts to deprive individuals of basic rights to independence, self-determination and security of possessions with impunity."

Geller says his aim was an ideological attempt to ensure the state took a long, hard look at guardianship reforms that should have been passed decades ago.

"After all our legislative, advocacy and educational efforts, it is worse now than it was 40 years ago," he notes.

"The problem isn't with the law. The problem is with judges not complying with the law and the growth of large, professional guardianship providers," Geller adds.

Michigan relies more on the guardianship of adults to a greater extent than other states," he asserts. "Individuals under guardianship have no viable means of redress. Statute says they do, but they are not available because they can't find or afford a lawyer and the judge will not acknowledge that a mistake was made. I don't know of more than a half-dozen Appellate decisions dealing with guardianship issues since Michigan became a state."

Motions to dismiss his lawsuit were immediately filed by almost all of the defendants. Rather than answering Geller's specific complaints, the motions were all variations on a theme used successfully by Fraser in 2014.

They claimed Geller's lawsuit "lacked standing."

Surprisingly, given each of the statements concerning guardianship Nessel has made since the announcement of her Elder Abuse Task Force, her office also filed a Motion to Dismiss Geller's lawsuit.

The motion used language all too familiar to wards and families entangled in her state's probate courts who say their complaints have been ignored both by her office and her predecessor.

"Michigan Court Rules provide for periodic review of guardianship by a court-appointed investigator," Nessel et al wrote. "And, if an individual requests or petitions for modification of guardianship, [the] court appointment of attorneys for representation."

On April 26, 2019, the Eastern District Court dismissed (https://web.archive.org/web/20200616124655/https://www.leagle.com/decision/infdc_o20190517c49) the lawsuit, ruling that Geller's "disappointment that his work did not bring about the changes he wished with respect to Michigan's guardianship procedures" did not constitute an "injury in fact" and that, therefore, he lacked standing.

Motions to sanction Geller and force him to pay attorney's fees were almost immediately filed by May, Munger, Yun, Carney, Fraser and the rest of the professional guardians he named. **There are no unread comments at this time.**

Geller says he is appealing the decision.

"These are tactics defense lawyers use that have nothing to do with the substance of the case," he asserts. "They draw focus from it, and it's a form of intimidation to scare off a litigant."

"It's a disgrace that the court would even consider sanctions since my lawsuit is clearly not frivolous," he adds. "It addresses constitutional and statutory violations that no one has denied exist."

The Rosa Parks Estate

Geller isn't the only attorney who has faced punishment for attempting to expose alleged corruption in Michigan's probate courts.

In 2011, Farmington Hills attorney Steven G. Cohen (<https://web.archive.org/web/20200616124655/http://cohenandassociatespc.com/>) filed a lawsuit (https://web.archive.org/web/20200616124655/http://www.nbcnews.com/id/43841815/ns/us_news-life/t/lawyer-cronies-drained-rosa-parks-estate/#.XS9kh-hKjIV) accusing two estate and probate attorneys of conspiring with a Wayne County Probate judge to drain the estate of famed civil rights activist Rosa Parks.



Rosa Parks. Image from Biography.com

Ironically, one of the defendants was John Chase, Jr., the Detroit estate and probate attorney assigned in 1995 to investigate the activities of Guardian Inc.

Before she passed away in 2005, Parks named two friend (<https://web.archive.org/web/20200616124655/https://blog.trialandheirs.com/rosa-parks-final-wishes-ignored-for-years-are-finally-restored/>) as co-personal representatives of her estate, while leaving her historic collection of personal items and memorabilia to a nonprofit she created, The Rosa and Raymond Parks Institute for Self-Development.

When the Parks family challenged her will in front of Wayne County Probate Judge Freddie Burton, Jr., he replaced Parks' nominated representatives with Chase and attorney Melvin Jefferson, Jr.

Although the Michigan Supreme Court eventually reversed Burton's decision, by then the damage was done.

"Most of the liquid assets, or all of the liquid assets of the estate are gone in attorney fees to Chase and Jefferson," Cohen told Detroit talk radio host (https://web.archive.org/web/20200616124655/https://detroit.cbslocal.com/2012/06/06/rosa-parks-estate-drama-judge-sued-in-his-own-courtroom/) Charlie Langton. "This is something that happens all the time in the Wayne County Probate Court. Basically, the system tends to rape and pillage the estates of deceased persons for their own selfish uses, and the families and beneficiaries end up with a very small amount of what was intended for them."

Cohen went on to assert that Burton should be removed from the case and the bench.

The State Court Administrator's Office asked then-Oakland County Probate Court Judge Elizabeth Pezzetti to investigate (https://web.archive.org/web/20200616124655/https://www.detroitnews.com/story/news/local/oakland-county/2016/02/11/rosa-parks-legal-dispute/80214216/). She determined that there was "no basis for the disqualification of Burton."

By 2015, Cohen was facing charges

(https://web.archive.org/web/20200616124655/http://www.adbmich.org/coveo/opinions/2018-04-20-156-28.pdf) filed with the Michigan Attorney Grievance Commission (MAGC) for attempting to have Burton removed.

Acting as the investigative and prosecutorial arm of the Michigan Supreme Court, if the commission determines a complaint against an attorney alleging misconduct warrants additional investigation, a Grievance Administrator will pass the case on to the Michigan Attorney Discipline Board, which then holds a public hearing before a panel comprised of three attorneys.

The Board is funded by dues paid by attorneys who are members of the State Bar of Michigan.

Deputy Grievance Administrator Robert E. Edick brought the Cohen case to the Attorney Discipline Board and suggested that, if the panel was unwilling to disbar Cohen, he should be "suspended for at least three years with conditions that require him to undergo a psychological exam by a medical doctor selected by the hearing panel [and] require him to draft a letter of apology to Judge Burton, John M. Chase, Jr., and Melvin D. Jefferson, Jr."

When in 2017 the panel decided upon a less-stringent 180-day suspension, Cohen appealed, claiming that his rights to due process had been violated and that the complaint was unsupported by any facts. The MAGC replaced Cohen's suspension with a formal reprimand.

The Consequences of Speaking Out

In looking back on his lawsuit, Cohen describes the reaction from his peers when he spoke out about the Wayne County Probate Court.

"They said, 'That's not smart, Steve. That's career suicide,'" he recalls with a laugh. "I told them, 'I'm just defending my client. I'm just telling the truth.'"

Cohen adds it wasn't the first time he ended up running afoul of Edick and the Attorney Grievance Commission.

Years earlier, he was involved in a smaller wills and trust case in front of then-Wayne County Probate Judge David Szymanski. At one evidentiary hearing, Cohen challenged the billing statement of a court-appointed fiduciary.

"I was going line-for-line through the billing, challenging the fees as excessive, and I asked the fiduciary to justify it," Cohen remembers. "The judge said, and this is an exact quote, 'I don't like your line of questioning and, if you continue down that road, I'm going to bury you in a hole and throw in the dirt.'"

Cohen says he filed an unsuccessful Motion to Disqualify Szymanski because of his threat.

"When Bob Edick got wind of it, he decided to charge me with misconduct in the case," Cohen claims. "He said that my challenging the fiduciary's fees was frivolous."

The disciplinary case was dismissed after Cohen had questioned only one witness.

"The case was so stupid that they wanted to get rid of it," he says. "Edick was embarrassed. He's not used to losing cases. I think the formal complaint he filed against me with the Rosa Parks case was a personally motivated action."

After Szymanski retired from the bench, he became Wayne County's Deputy Treasurer.

The repercussions Cohen faced for challenging a Michigan probate judge and his appointees are feared by a number of estate and probate attorneys who know exactly what is happening in Michigan's probate courts but are terrified to speak out.

One attorney, who agreed to talk only on condition of anonymity, has been practicing in those courts for at least two decades.

"I have been threatened with sanctions, grievance commission complaints and, even, criminal charges," she says. "I was simply trying to litigate and reveal what was going on with the manipulation and dissipation of assets. It has obstructed my ability to provide the best service to my clients."

Cohen offers an explanation as to why the prospect of a Grievance Commission hearing is so daunting. **There are no unread comments at this time.**

"The Attorney Discipline Board, and its procedures, are similar to a Star Chamber," he says. "I do not have a right to a jury trial. It's a three-attorney panel, which is worse. In my case, one of the panel members was a probate practitioner in Wayne County, another was an attorney who worked for a large Royal Oak firm, which has a lucrative probate practice. It was the worst combination I could have ever faced."

Cohen adds that he was not permitted to conduct any discovery in order to determine the Commission's case against him.

"I had to go into trial virtually blind," he asserts. "In one of the preliminary hearings, my attorney told the panel that we intended to demonstrate the truth, and the panel Chair said, 'I don't see why truth is even relevant to this case.'"

Other attorneys, who have tried to seek the truth in probate court cases, have been slapped with sanctions by presiding judges.

"Paul," who asked for an alias, has been practicing for 30 years and asserted that, in 2018 alone, he has been sanctioned three times by Oakland County Probate Court judges for challenging the actions of court-appointed guardians and conservators.

"In my view, at least over the past couple of years, the judges are appointing the same people," he says. "If it gets out that these fiduciaries, appointed on a regular basis, are doing something wrong, eventually it's going to reflect on the judges."

"I'm going to stand up for what's right," Paul adds. "I will not compromise my principles for anybody, I don't care if it's a judge. They can sanction me all they want, I'll just appeal."

Geller finds it ironic that he is facing sanctions because of a lawsuit that raised the same issues that Nessel says she is committed to addressing. In rationalizing why she moved to dismiss it, he echoes the challenges faced by wards and their families.

"People don't want to believe me, regardless of the evidence," Geller asserts. "They think I'm nuts. But, if I'm crazy, the Michigan Supreme Court is crazy, too."

Reduced to Internet Conspiracy Theorists

Nonprofit advocacy groups seeking guardianship reform, that have sprung up nationwide, have found themselves similarly marginalized. Even though their leadership and spokespeople are often considered go-to sources when local media outlets have investigated the issue, they remain internet outliers prone to the same laughable disdain as government conspiracy theorists.

Yet, as late as November 2018, the Senate Committee on Aging held a series of hearings and acknowledged
(<https://web.archive.org/web/20200616124655/https://www.aging.senate.gov/press-releases/senate-aging-committee-examines-ways-to-strengthen-guardianship-programs>) receiving “appalling stories from Americans across the country regarding abusive guardianships.”

Their hearings led to a 36-page report
(https://web.archive.org/web/20200616124655/https://www.aging.senate.gov/imo/media/doc/Guardianship_Report_2018_gloss_compress.pdf) overhauling the guardianship process and the introduction
(<https://web.archive.org/web/20200616124655/https://www.collins.senate.gov/sites/default/files/Guardianship%20Accountability%20Act%20of%202018.pdf>) of the Guardianship Accountability Act.

Despite the report’s findings and even Nessel’s, eventual, agreement
(<https://web.archive.org/web/20200616124655/https://www.mt.com/news/local/michigan-attorney-general-holds-senior-summit-in-portage-to-explain-elder-abuse-task-force>) that developmentally disabled or elderly Americans under guardianship have less rights than an imprisoned felon, both local and national civil and human rights groups have been notably silent on the issue.

There are no unread comments at this time.

Southwick sees a country still refusing to believe that her organization’s work isn’t based on some form of manufactured, dystopian fiction.

“When I first started talking about courts taking away the rights of hundreds of thousands of Americans, I had doctors who were telling me that it was bullshit, that there was just no way it could happen,” she recalls. “My mother overheard me on a radio show, and she said, ‘You’ve got to stop talking like that. You sound crazy.’ I still have friends who don’t believe it.”

“The general population still does not understand that the elderly or the disabled are vulnerable to losing their rights,” she adds. “The guardians will say that they are not losing their rights but that another person is exercising them on their behalf, but it’s the same thing.”

“I’m guessing that’s why a lot of organizations, like the ACLU, won’t touch guardianship, because it’s not just a matter of giving somebody back their rights,” she asserts. “The guardians are saying that those rights haven’t been stripped from the ward but are ‘under the protection’ of the guardian, who makes decisions in the ward’s place.”

Other advocates believe the blame lies in a lack of national media coverage.

For more than nine years, Marti Oakley has been a national advocate who runs an online news outlet, the PPJ Gazette
(<https://web.archive.org/web/20200616124655/https://ppjg.me/>), while hosting the TS Radio Network
(<https://web.archive.org/web/20200616124655/http://www.blogtalkradio.com/marti-oakley>) through the open online broadcasting platform Blog Talk Radio.

“We’ve been trying, for all these years, to get guardianship stories into mainstream news,” Oakley says. “But we’ve heard from journalists that attorneys show up, there are closed-door meetings with media bosses and, suddenly, it’s off the table.”

“When it all comes down to it, this system, and the governments which empower it, have sunk so low into corruption that nobody is in it for any other reason than to make money,” she adds. “I didn’t realize, until I went to D.C., that there is no ideological difference in this issue between the right and the left. It’s one big party and the public aren’t invited. Instead, they are mocked.”

According to Southwick, members of the Baby Boomer generation have slowly come to the realization that they could enter retirement with a target on their backs. Some already have an unfortunate, firsthand education on what it’s like to be caught up in the guardianship system.

While reform group membership numbers are gradually increasing, finding funding for their work is still a challenge.



L to R: Coz Whitten-Skaife, Marti Oakley and Marcia Southwick.

Image from social media

The Struggling Optimists

In Michigan, the struggle faced by groups such as SOS-Probate is just to survive, particularly as Oakland County Probate Court attorneys and judges continue a campaign of retaliation that led to the imprisonment of one of their members and threatened another.

In early 2019, Abood met 82-year-old Dorothy "Heidi" Hawkinson while monitoring a hearing in Judge Jennifer Callaghan's courtroom.

Hawkinson, who has been under Carney's guardianship since October of last year, was removed from her Bloomfield, Michigan, home five days before Christmas. She has been at Medilodge in Rochester Hills ever since.

Heidi was just crying over and over," Abood recalls. "They took her out of her home on Christmas. How cold-hearted is that? She

doesn't have anything left but the nightclothes she was wearing when they took her."

This past April, Hawkinson filed a petition to remove Carney in which she alleged numerous violations of her rights under Michigan statute, including a lack of clear and convincing evidence that she was ever incapacitated.

Hawkinson asserted that she was denied her right to be present at the hearing in which Carney was granted guardianship and conservatorship and went on to accused her court-appointed attorney of consulting with Carney but not her.



Former Oakland County Public Administrator Jennifer Carney

Since Hawkinson was unable to leave Medilodge, Abood's fellow group member Collins offered to file it in probate court while her sister, a notary public, helped Hawkinson notarize the document.

In her response to Hawkinson's petition, Carney made the bizarre accusation that Collins and her sister must have also authored it. She cited the petition's use of legal language and added that Collins' appearance in a 2017 local news investigation (<https://web.archive.org/web/20200616124655/https://www.wxyz.com/news/local-news/investigations/michigan-families-speak-out-about-losing-to-loved-ones-to-guardianship>) into the probate court was proof of her animosity toward both herself and the court as a whole.

Carney asked presiding Judge Callaghan for a Contempt of Court order against Collins for practicing law without a license.

While that order never materialized, SOS Probate members then had to rally around Collins herself during her August 16 court appearance on Fraser's petition to remove her mother Nancy from her home.

They organized court watchers to attend the hearing alongside members of the media. According to Collins, a clearly worried O'Brien denied Fraser's petition.

He had never done so before in Nancy's case.

However, both for Collins and her mother, trouble still lies just around the corner. Within days of his loss in court, Fraser filed a petition for full guardianship of Nancy.

Collins says there is only one motivation behind Fraser's actions, and it isn't altruism.

"He wants my mom's house," she says. "That's no secret to anyone who has dealt with him before."

Indeed, numerous other guardianship cases demonstrate that the former public administrator displays a maniacal, but equally ruthless, desire to take possession of and under-sell a ward's home. Once a ward is out of the house and in long-term care or a group home, Fraser moves to evict any remaining family who are not listed on a deed. In cases where a deed does include other family members who are still on the property, he moves to set the deed aside and then files for an eviction. Once empty, Fraser files a petition to sell the property in short order.

Meanwhile, Collins and the rest of the group remain defiant in their resolve to push Nessel's Task Force into investigating alleged probate court corruption, even as they take their own steps to help other families forced into its maelstrom and educate the public.

"We all know how this feels," Abood says. "We've all fought the same fight. We've all had to face the same judges and public administrators who want to rob us blind and blame us while they do it. But they're not going to have such an easy time of it now, because we are no longer alone."

Meanwhile, while Geller has high hopes for change via Nessel's Task Force, he agrees that there must also be accountability. ~~There are no unread comments at this time.~~

"We could change the law in Michigan on paper," he says. "But that's not going to do a damn thing to ensure judges comply with it. The Task Force will put a spotlight on these probate judges. It may create, for the first time, peer pressure among the judges to comply with the law. They may be fearful of the consequences if they don't."

Carney, Munger, Yun and Fraser did not return requests for comment.

Milton Mack, Jr, Jessica Cooper, the Michigan Supreme Court and the Michigan Attorney Discipline Board did not return requests for comment.

****This investigation presented its findings to Michigan Attorney General Dana Nessel's staff on March 12, 2019. At that time, no comment was received. There have been no replies to further requests for comment.***

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Gretchen Rachel Hammond is an award-winning freelance investigative journalist based out of Chicago. Her work has won or been nominated for four successive Chicago Press Club awards, been recognized by the National Association of Lesbian and Gay Journalists (NLGJA), and covered topics such as [criminal justice](#).
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