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The Fortress Part One of Five: Unacknowledged and Unprotected. (/web/20200101074426/https://www.dailykos. The-Fortress-Part-One-of-Five- Unacknowledged-and-Unprotected)



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2019/08/23 · 14:30

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The Oakland County Probate Court in Pontiac, Michigan

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A Michigan court tasked with protecting its most vulnerable citizens has become home to a growing number of sexual abuse cases, drug and alcohol abuse, exploitation, robbery and neglect.

By Gretchen Rachel Hammond

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In the frigid, early morning of March 25, 2019 Michigan Attorney General Dana Nessel held a press conference announcing a task force primarily charged with reforming a court system rooted in medieval English law.

According to state and national activists, it's a system that has been left unchecked for decades and is now so broken that it has led to unprecedented judicial overreach and the eradication of the constitutional, civil and human rights of thousands of Americans who suffer from resulting neglect, isolation, abuse, torture and theft on a massive scale, allegedly at the hands of the same individuals assigned to protect them.

Both in Michigan and nationwide, the system is called "guardianship" and/or "conservatorship." When an individual is declared unable to manage their own affairs by a probate or family court judge, he or she becomes a "legally incapacitated ward." Although they are complete strangers to each other, a court-appointed professional guardian or conservator assumes control over every aspect of their ward's life.

That includes their homes, mail, bank accounts, retirement and social security income, IRAs, life and health insurance, wills and trusts, property, passports, driver's licenses and voter registration cards.

Guardians also dictate where their wards will live, whether they can own a cellphone or a computer, where they may or may not go, who they are and are not allowed to see and what they are or are not allowed to eat.

In fact, any personal, professional and medical decisions are no longer legally the ward's own, including requests to doctors to dispense or withhold medication, and whether a Do Not Resuscitate (DNR) order should be enabled and enforced.

Michigan's professional guardians and conservators are culled from a pool of county public administrators, estate and probate attorneys or private guardianship companies.

In as little as a year, wards have been rendered completely indigent and reliant upon social services and benefits such as Medicaid. Their homes are gone, as are their savings accounts, IRAs, investment accounts, cars, personal belongings, keepsakes, heirlooms, jewelry and even their clothing. Every dollar of their social security, disability income or pensions falls under the control of their guardians with the exception of an allowance as low as \$60 per month.

Inevitably, it's the developmentally disabled and exponentially growing senior populations who are the most affected. Advocates for both groups claim that guardianship, by design, results in a "civil death" for those who are subjected to it and that, although free from any charges of wrongdoing, a person under guardianship has less rights than an imprisoned felon.

Pro-guardianship organizations claim such statements are histrionic; that a guardian has simply assumed the rights and decisions of their wards as a protective barrier against those who would exploit them.

However, across the country, wards and their families have come forward with stories detailing the brutality and horror of a life under guardianship, that belong more in a ruthless, dystopian autocracy than the American experience. In a country where personal freedoms and the rule of law are sacrosanct, incredulous listeners repeatedly ask, "How can this possibly be true? How can this possibly be legal?"

In Michigan, it is not only legal but shockingly easy for an individual to suddenly find themselves under a guardianship. It is a process that begins with a two-page petition filed in a county probate court with no corroborating medical evidence of incapacity and, often, without the knowledge of the prospective ward or their families.

A Life Sentence

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In the hours before Nessel's press conference started, a small group of these families gathered on the broad sidewalk outside the entrance to her offices in Lansing, Michigan. Among them were retired teachers, artists, business owners and homemakers. Black, white, working- and middle-class, they were staunch Republicans, centrists and far-left Democrats, devout Christians and equally outspoken atheists.

Once-strangers from wildly different backgrounds, they have been united into a small army fighting a daily war so impossible, so emotionally and financially devastating, that only the tiniest shreds of optimism keep it alive.

Optimism brought them to Nessel's office, where, huddled together in heavy

coats holding signs emblazoned in multicolored lettering, they hoped to finally be heard, believed and for something to be done about what they say is unfettered corruption inside Michigan's probate courtrooms that has terrorized entire communities, no matter their racial, religious, financial or social backgrounds. Even the families and friends of American icons Aretha Franklin and Rosa Parks have been affected.

Families of individuals under guardianship and conservatorship claim that, during a hearing that typically lasted under four minutes, their loved ones were stripped of their freedom by the state's probate judges with no due process, no jury present and scant testimony offered via the opinion of a probate and estate attorney who had no medical or psychological training.

Wards are then removed from their homes and spend their days inside a long-term care or assisted living facility, placed in a lockdown ward or hidden behind the front door of group homes both licensed and unlicensed, sometimes in subhuman living conditions. Guardianship reform organizations assert that it is a life sentence for the innocent in which they are drugged and isolated from those who challenge the presiding judge and appointed guardian by fighting for their loved one's release.

Present Michigan statute is supposed to protect a ward's statutory rights, such as the right to request a limit on the guardian's powers or attend a guardianship hearing. However, attorneys state that judges are routinely ignoring it. Multiple efforts to strengthen the statute, through legislative recommendations made by successive guardianship and senior task forces, have failed.

We Don't Have a Say?

A freelance artist and illustrator, 58-year-old Randy Asplund has been forbidden from seeing his mother Roberta for the past eight months. During her recovery from brain surgery, a 2017 petition for guardianship and conservatorship was filed against Roberta in Ann Arbor's Washtenaw County Probate Court. Presiding Judge Julia B. Owdziej declared Roberta incapacitated and, eventually, placed her under the guardianship and conservatorship of two estate and probate attorneys.

Roberta remains under their control and has been isolated from Randy since November 2018, when he tried to bring a legal challenge against the court's decision to appoint them. Meanwhile, Asplund says his mother's home has been stripped and her belongings sold off or trashed. He is presently appealing the case and fighting to stop the sale of her house.



Michigan Attorney General Dana Nessel

There are no unread comments at this time

"These are people needing to be investigated, prosecuted and jailed," Asplund says. "Laws are ignored and violated by the courts. The judges use their power to ensure that professional fiduciaries prevail in court, and the ward is almost never able to escape a guardianship or conservatorship."

But, on March 25, all that was supposed to change with Nessel's formation of an Elder Abuse Task Force.



Protesters outside Dana Nessel's offices
March 25.

Image Courtesy of Christine Abood

Standing outside Nessel's office, Asplund and his fellow protestors were met with curious glances by passing members of the media hurrying to the press conference. While Asplund managed to tempt a journalist

(<https://web.archive.org/web/20200101074426/https://www.detroitnews.com/story/news/local/michigan/2019/03/25/elder-abuse-group-expected-address-guardianships-financial-fraud/3269813002/>) or photographer into a brief, reluctant conversation, others in the group followed the invited members of the media inside the lobby and begged to be allowed to join the event.

Retired Detroit teacher Christine Abood was among them.

In 2016, her mother Gloria was placed under the control of Oakland County Public Administrator John Yun who put her in a Novi, Michigan, nursing facility.

Abood and her sons say they were unable to be at Gloria's bedside on the night she died because she had been moved and Yun didn't know where she was.

"I will never forget that, never," Abood says. "He was supposed to care for her and he didn't even know where she'd been moved? Why?"

It was a question Abood raised during a 45-minute back-and-forth argument with Nessel's staffers, who refused her and the other families access to the press conference. She left the lobby, throwing her arms up in exasperation.

"They told us to watch it on Facebook!" She cried to the others. "This is about our families. We've been waiting and pleading for something like this and we can't be a part of it? We don't have a say?"

An Unacknowledged Narrative

The only victim of elder abuse who was allowed inside the event to tell his story, and so become a focal point for subsequent media coverage of the announcement, was Dennis Burgio (71) who was robbed of his life savings by a close friend.

Nessel emphasized that the majority of elder abuse was perpetrated at the hands of family and friends, a line later echoed by the state's pro-guardianship lobbyist, the Michigan Guardianship Association (MGA).

Flanked by Michigan Supreme Court Justices Richard Bernstein and Megan Cavanaugh, Nessel stated that they had been brought on board to address Michigan's guardianship system. However, investigations into alleged abuses perpetrated by probate attorneys acting as court-appointed guardians and conservators were never raised and neither Bernstein nor Cavanaugh discussed the prospect of Judicial Tenure Commission investigations into the actions of probate judges.

Michigan Supreme Court spokesman John Nevin told UpNorth Live (<https://web.archive.org/web/20200101074426/https://upnorthlive.com/news/local/attorney-general-dana-nessel-launches-elder-abuse-task-force-03-25-2019>) "we don't have specifics regarding instances with wrongdoing."

This, despite the families of those victims having called and emailed both Nessel's office and that of her predecessors to alert them, as well as filing complaints with both the Michigan Attorney Grievance and Judicial Tenure Commissions.

Their complaints, the families assert, were ignored or dismissed; part of an agonizing cycle during which they have been routinely brushed aside not only by the Attorney General's office but local police, county prosecutors, the State Court Administrator, the Detroit office of the Department of Justice and even local media outlets.

"They tell us to 'get an attorney,'" Abood says.

It is something easier said than done and, according to national advocates, a challenge common to most families fighting probate cases across the country.

"I've been told by local attorneys [that] they wouldn't take my case because the corruption is too much to prevail," Asplund notes.

"I had to go from Ann Arbor to Lansing to find an attorney who did not usually appear in front of my judge or who relied on the court for business," he adds.

Perplexed as to why they were not invited to the press conference, Asplund, Abood and the rest of the families gathered their collective optimism around an iPhone with the clearest signal and cheered when Nessel announced a set of nine, initial reforms to the way the Michigan's probate courts treat the state's most vulnerable.

"We know what the problems are," Nessel said. "So much of being able to cure the problem is to be able to better identify it, how often it's happening and where."

But there was so much more to the story.

The Oakland County Fortress

It's never a good idea to be running late on a Wednesday at The Oakland County Sixth Circuit and Probate Courts, both housed in a stark complex of white and beige structures on 1200 North Telegraph in the Detroit, Michigan, suburb of Pontiac.

Ritualistically called "Motion Days," each courtroom has a hefty tally of cases that can be called and over in just a few minutes—far quicker than it takes to get inside what local historians once described as a "fortress."

With the exception of jurors, employees and attorneys, cell phones or recording devices are strictly forbidden. Videos of probate court proceedings must be ordered in advance and can only be watched in the court's administrative offices. Probate court documents are not subject to Michigan's Freedom of Information Act (FOIA) and can only be reviewed at the court's sole public computer or purchased at the cost of \$1-per-page plus a service fee.

Behind its walls to public access, Oakland County Probate Court Chief Judge Kathleen A. Ryan, and Judges Linda S. Hallmark, Daniel A. O'Brien and Jennifer Callaghan rule on a list of issues including adult guardianships/conservatorships for incapacitated individuals.

Although in the same building as the Sixth Circuit, their courtrooms operate autonomously from it and with little or no oversight, with the exception of rulings occasionally overturned by the Michigan Court of Appeals. Despite some of those cases revealing shocking judicial actions, in the last 30 years, there have been no formal investigations of an Oakland County Probate Court judge.

True to its description, the court has been as unassailable as the majority of decisions made with a single stroke of a judge's pen on an order finding a person to be legally incapacitated. According to the wards, their family members, attorneys, and local and national advocates who were interviewed for this investigation, the consequences of that order are devastating and lifelong.

Lunatics and Idiots

The practice of guardianship has been traced back

(<https://web.archive.org/web/20200101074426/http://www.guardianship.org/IRL/Resources/Handouts/Comparative%20Perspectives%20-%20England%20and%20Wales.pdf>)

to 1270 England, when King Henry III “assumed control over the estates of lunatics and idiots.”

As with other laws exported to former British colonies that are still practiced in some form, although the language has changed, the basic principles of guardianship in the United States remain the same.

It is a system about which the majority of Americans remain hopelessly uneducated and there are resulting instances in which it has proven to be ripe for abuse.

In Florida, professional guardian Rebecca Fierle was recently accused (<https://web.archive.org/web/20200101074426/https://www.abcactionnews.com/news/state/rebecca-fierle-woman-accused-of-causing-death-resigns-as-professional-guardian-in-florida>) of executing DNR orders on her wards without the knowledge or consent of her wards or their family members. One of her wards choked to death after she ordered his feeding tube to be capped off.

In Nevada

(<https://web.archive.org/web/20200101074426/https://www.ktnv.com/news/contact-13/april-parks-others-plead-guilty-in-guardianship-exploitation-case>), New Mexico (<https://web.archive.org/web/20200101074426/https://www.abqjournal.com/898385/who-guards-the-guardians-a-5-part-series-by-diane-diamond.html>), New York

(<https://web.archive.org/web/20200101074426/https://citylimits.org/2018/06/05/they-say-legal-guardians-ripped-them-off-and-the-state-ag-let-them-down/>), Florida, (<https://web.archive.org/web/20200101074426/https://www.fox4now.com/news/local-news/naples-woman-says-she-was-imprisoned-in-guardianship-case>) Pennsylvania (<https://web.archive.org/web/20200101074426/https://www.readingeagle.com/news/article/unguarded-montgomery-county-couples-trust-betrayed>), Ohio (<https://web.archive.org/web/20200101074426/https://www.newarkadvocate.com/story/news/local/2019/03/02/ohios-guardianship-laws-leave-seniors-vulnerable-abuse/2953376002/>), Texas

(<https://web.archive.org/web/20200101074426/https://www.sacurrent.com/the-daily/archives/2018/04/23/half-of-texas-adult-guardianship-cases-violate-reporting-rules-official-testifies>) and California

(<https://web.archive.org/web/20200101074426/https://www.latimes.com/local/la-me-observe13nov13-story.html>), to name a few, shocking cases have emerged that, together, form an almost identical pattern of behavior. In exercising their powers of protection, professional guardians and conservators have forced individuals and even couples from their homes and into nursing or assisted living facilities.

Estates that were once worth millions are systematically drained through massive over-billing, unreported expenses or outright theft. Homes in which wards have lived and raised a family for decades are seized and looted by the state. Guardian accountability and reporting requirements, inconsistent from state to state, are not properly followed or disregarded entirely.

Alongside Florida, in Texas and Nevada, such inattention led to wards who died while under guardianship

(<https://web.archive.org/web/20200101074426/https://www.opposingviews.com/category/man-finds-27-urns-storage-unit-then-things-take-bizarre-turn>).

(<https://web.archive.org/web/20200101074426/https://www.opposingviews.com/category/man-finds-27-urns-storage-unit-then-things-take-bizarre-turn>)

Litigation costs for families are colossal and can stretch into years. When families try to seek help from local law enforcement, a city prosecutor, Attorney General or Department of Justice (DOJ) office, they're sent packing.

Marcia Southwick is a Director of the National Association to Stop Guardianship Abuse (NASGA).

“It should be blatantly obvious to all who approve of this very old and very entrenched system that such overarching authority should be closely monitored to ensure that wards are safe,” she says. “However, that is not the case. Based on flimsy ‘evidence,’ a person can lose his or her fundamental rights to liberty and property and be handed off to a professional who isn’t monitored or held sufficiently accountable for the welfare of the ward and their assets.”

"A Corrupt Game"

Under Michigan statute, an incapacitated individual is someone who "By reason of mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, or other cause, [lacks] sufficient understanding or capacity to make or communicate informed decisions."

A guardian is responsible for the ward's care, custody and control. A conservator (or fiduciary), handles finances and decisions regarding assets that include managing income, real estate, savings and investments. Both positions are granted a substantial list of powers and can be given to a sole individual.

Michigan gives family members priority over court-appointed guardians who are either estate and probate attorneys, populating one of the largest sections of the State Bar of Michigan (SBM) or private guardianship companies. They are only supposed to step in only when a judge determines that family members or individuals listed on a potential ward's Durable Power of Attorney documents are unable, unwilling or unsuitable to fill the role.

Some attorneys are appointed as County Public Administrators by the Michigan Attorney General's office. Primary to their job description is to act as representatives to the estates of deceased individuals where there are no discernible heirs. Nowhere is it stated that they must also act as guardians and conservators.

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

Yet, Oakland County maintains a present list (<https://web.archive.org/web/20200101074426/https://www.oakgov.com/courts/probate/Documents/ocpc-pa-list.pdf>) of 13 public administrators who do.

In its last statewide caseload statistics for 2018, the Michigan State Supreme Court listed a total of 60,712 adults and developmentally disabled individuals under guardianship and 10,912 adults with a conservator. With the exception of Veterans (limited to ten), the number of wards each guardian can have is not mandated by state law and varies depending on the size of the county. However, figures which have showed one guardian or guardianship company with over 400 wards caused Nessel's Elder Abuse Task Force to propose limits, a measure the Michigan Guardianship Association announced

(<https://web.archive.org/web/20200101074426/https://www.michiganradio.org/post/professional-guardian-reacts-states-new-elder-abuse-task-force>)they intend to fight.

As of December 31, 2018, the Oakland County Probate Court had 7,064 open adult and developmentally disabled guardianship cases and 1,417 conservatorships.

A guardianship and/or conservatorship in Michigan begins when a petition is filed in a probate court. The two-page document can be filed by anyone, such as a relative, spouse, friend or neighbor of a prospective ward as well as an outside agency including Michigan's Adult Protective Services (APS), a nursing facility or hospital. Once filed, the probate court contracts and assigns a Guardian ad Litem (GAL) to investigate and determine what actions are in his/her best interests.

In Oakland County, the GAL is an estate and probate attorney who not only files and verbally delivers a report to a judge but acts as a surrogate prosecutor questioning witnesses and cross-examining wards and family members, regardless of whether they are represented by an attorney.

For their services, GALs are paid directly from the ward's estate.

One guardianship and conservatorship case was decided in O'Brien's packed and stuffy courtroom on the Motion Day falling on October 10, 2018.

By the time the case number was called, it was close to lunch and O'Brien had grown increasingly impatient, sternly telling any quibbling attorneys or litigants to "move it along."

The case was a contested hearing to settle the future of 76-year-old John. For privacy reasons, his last name has been excluded.

The petitioner was Matthew Martin, an external case manager for the Northville, Michigan-based care management company Senior Care Network, an organization which regularly files Oakland County guardianship petitions, who claimed John needed

24-hour care and “assistance applying for Medicaid.”

In delivering his findings as John’s GAL, estate and probate attorney Drew Carnwath recommended that O’Brien assign a public administrator to act as John’s guardian.

O’Brien asked Carnwath to recommend one himself.

Since that was a decision usually made by a judge, Carnwath was confused.

“Well, I ...” he began.

O’Brien interrupted. “So I don’t get accused of being in on some sort of corrupt game.”



Oakland County Probate Court Judge Daniel A. O'Brien
Image from Oakland County Probate Court

Concerning History

In 1987, an Associated Press investigation (<https://web.archive.org/web/20200101074426/https://www.apnews.com/1198f64bb05d9c1ec690035983c02f9f>) of guardianship practices in all 50 states first uncovered what it described as a “burdened and troubled system that regularly puts elderly lives in the hands of others with little or no evidence of necessity, then fails to guard against abuse, theft and neglect.”

In the more than three decades since, it is invariably local journalists, rather than state or federal law enforcement agencies, who have taken the pleas of wards or families allegedly victimized by private or public guardians seriously and launched their own investigations.

As part of the AP’s research in Michigan (<https://web.archive.org/web/20200101074426/https://www.apnews.com/4c1eedcb2002530127118972b3f7c05c>),

journalist Mark Fritz concluded that “Many of Michigan’s elderly people are being stripped of their homes, their incomes and their most basic rights under a misused and poorly monitored legal process that varies wildly in the state’s 83 counties.”

During a brief interview with Fritz, then–Southfield Michigan attorney Alan A. May admitted to “little personal contact” with his 400 wards.

“That is not a knock. That is a truth. There is very little visitation,” May said at the time.

May is currently a shareholder at the Troy, Michigan, law firm of Kemp Klein, a number of whose former attorneys have taken or presently take on cases at the Oakland County Probate Court, including Barbara Andruccioli, Jon B. Munger and Thomas Brennan Fraser.

All three have troubled pasts.

In November 2016, Detroit ABC affiliate WXYZ journalist Heather Catallo launched a year-long investigation (<https://web.archive.org/web/20200101074426/https://www.wxyz.com/news/families-say-local-realtors-attorneys-cashing-in-on-estates-of-their-recently-passed-loved-ones>) into Andruccioli and then–Macomb County Public Administrator Cecil St. Pierre, during which it was alleged that they had partnered with Utica, Michigan, realtor Ralph Roberts in order to open probate cases on deceased estates without notifying the next-of-kin.

Although not included in WXYZ’s investigation, in 2015 Munger was listed as a defendant in a lawsuit

([https://web.archive.org/web/20200101074426/http://apps.macombgov.org/opinions/Content/Uploads/ckfpgv0zsf4__C16-2015-3258-CB%20\(July%207,%202016\).pdf](https://web.archive.org/web/20200101074426/http://apps.macombgov.org/opinions/Content/Uploads/ckfpgv0zsf4__C16-2015-3258-CB%20(July%207,%202016).pdf)) filed in Macomb County District Court in which it was alleged that he had been retained by

Roberts to open up a probate case on the deceased estate of Helen Ann Adolph. According to the plaintiffs, Munger's subsequent sale of Adolph's home was not approved by the probate court.

In October 2017, WXYZ aired a short series looking into Fraser's activities (<https://web.archive.org/web/20200101074426/https://www.wxyz.com/news/local-news/investigations/metro-detroit-woman-says-probate-guardianship-case-is-tearing-family-apart>) as guardian and conservator, highlighting the billing and treatment of his wards. Ex-Parte motions (emergency and temporary petitions and orders filed without notifying the opposing party) were entered with O'Brien in an attempt to stop the story and any images of the alleged victims' faces. After an Emergency Appeal was filed with the Michigan Court of Appeals, WXYZ prevailed on First Amendment grounds.

Andruccioli, Munger and, eventually, Fraser were subsequently fired from their roles as public administrators by the Attorney General's office. St. Pierre was suspended and then resigned.

To date, no criminal charges have been filed.

Even when public administrators are fired, since they assume the roles of guardians and conservators as private attorneys, such caseloads are unaffected and they can still be given wards.

Munger and Fraser are still accepting guardianship, conservatorship and deceased estate cases at the Oakland County Probate Court.

Munger is currently a part of celebrated musician Aretha Franklin's ongoing deceased estate case

(<https://web.archive.org/web/20200101074426/https://www.nytimes.com/2019/08/21/arts/music/aretha-franklin-estate-wills-fight.html>) since her eldest son Clarence is his ward.

Roberts and St. Pierre are also still in business. Without explanation, within months of her termination, Andruccioli was hired (<https://web.archive.org/web/20200101074426/https://www.wxyz.com/news/local-news/investigations/oakland-county-probate-judges-hire-attorney-under-criminal-investigation>) by all four judges as the Oakland County Probate Court Register and paid the highest possible salary of \$102,650.

Scorched Earth Litigation

In June 2018, the online national magazine Tablet published (<https://web.archive.org/web/20200101074426/https://www.tabletmag.com/scroll/264932/guardians-from-hell>) an investigation into Munger who, two years earlier, had been given guardianship and conservatorship over a then-92-year-old Oak Park, Michigan, woman Virginia Wahab.

The petition was filed with Oakland County Judge Linda S. Hallmark by a social worker for Lourdes Senior Community, the short-term nursing and rehabilitation center at which Wahab was receiving treatment. Lourdes sought the guardianship because of a \$32,000 past-due-bill.

Michigan law does not provide for the use of a probate court as a collection agency.

During her more than two-year fight to regain custody of her mother, Wahab's daughter Mimi Brun claimed she was denied visitation rights, had a warrant issued by Hallmark for her arrest and filed three reports with the local police department asserting that Munger had illegally entered her mother's home and looted it.

After the story was published, a July 30, 2018 bench trial on Brun's petition to terminate the guardianship and conservatorship of Munger was presided over by Hallmark. During a day-long deposition, Munger was asked how many times he had been appointed as a guardian.

"Several thousand," he replied, but could not precisely cite the Michigan statute under which a guardian is considered necessary.

He admitted to entering Wahab's home to look for "Information about ownership, assets, bills, any of the above" and to taking a painting that was hanging on Wahab's wall.

"It's very colorful. I walk around it every day in my office," Munger noted.

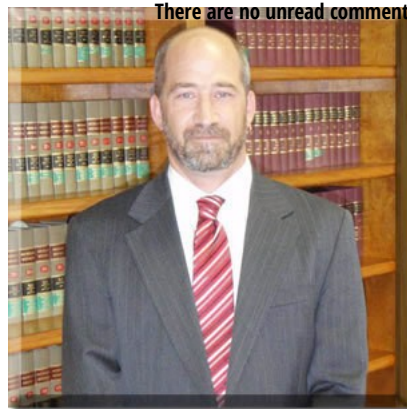
When asked if he had seen his ward lately, Munger replied, "In 2018, I doubt it."

He also admitted that he hadn't reviewed Wahab's medical records since his first visit in 2016.

After a second day of testimony, the trial was adjourned. Before it could resume, Hallmark issued an August 3 opinion and order terminating Munger as guardian and conservator.



L to R Mimi Brun and Virginia Wahab.
Image by Gretchen Rachel Hammond



Former Oakland County Public Administrator Jon Munger
Image from Munger and Associates website

There are no unread comments at this time.

"At this time, Munger has satisfactorily provided care, control and custody of Ms. Wahab," Hallmark wrote. "In all of these matters, Mimi Brun has interfered with Mr. Munger using misinformation, obfuscation and self-dealing. She has engaged in scorched earth litigation. Ms. Brun has demonstrated a complete lack of authority because she believes herself to be the victim."

"The litigation in this matter has been ongoing for two years," Hallmark concluded. "The financial and emotional costs to the ward have been significant. It is not in the ward's best interests for the litigation to continue. Her assets have been depleted but remain with the family."

Wahab was returned to her Oak Park Home. She remained under Brun's care until she passed away in April 2019.

One month later, Brun filed a lawsuit

(<https://web.archive.org/web/20200101074426/http://voiceofdetroit.net/2019/06/06/la-wsuit-alleges-mich-nursing-home-imprisoned-oak-park-senior-held-her-for-ransom/>) against Lourdes in the Sixth Circuit Court.

Lourdes was granted a Motion to Dismiss. The case was refiled in the Oakland County Probate Court where it will be heard in O'Brien's courtroom.

The Consequences of Talking

Families claim there are very few Michigan attorneys who are willing to take their cases against an Oakland County Public Administrator, and that those who do charge retainers that are far out of a family's reach.

The Oakland County Probate Court has a reputation that's no secret to attorneys practicing Michigan estate and probate law. Those who agreed to talk about the court admitted to a pervasive fear of openly criticizing any of the four judges or Oakland County Public Administrators. The attorneys claim that making such a challenge, whether in court or in public, can lead to sanctions placed against them or the possible removal of their license by Michigan's Attorney Discipline Board.

One attorney, who has defended wards and families in front of Hallmark and O'Brien, spoke on condition of anonymity and was given the alias "Paul."

"I knew of one client who has been through 60 separate attorneys, none of whom would help her," he says. "I've heard from clients whose previous attorneys were threatened."

While threats do not deter Paul from taking on Oakland County Probate Court cases, he has faced consequences for advocating for his clients.

"The judges have been sanctioning me for no reason," Paul asserts. "I had not been sanctioned in my entire career. I'm trying to enforce the law or the court rules, I always have my briefs filed and they don't care. They don't care about the law. They don't care about the facts."

"It doesn't matter what it is—an accounting, a petition to enter a home—it's the same," he adds. "I'm the one who's going to be punished because I'm challenging the judge's appointees, who they are going to protect no matter what. It's so obvious to me. Their appointees can't do anything wrong no matter how egregious it is."

Paul recalls a case in front of O'Brien during which he demonstrated proof that Fraser had committed fraud against his client.

"Judge O'Brien said, on the record, 'Don't ever mention that again!' he remembers. "He didn't say why."

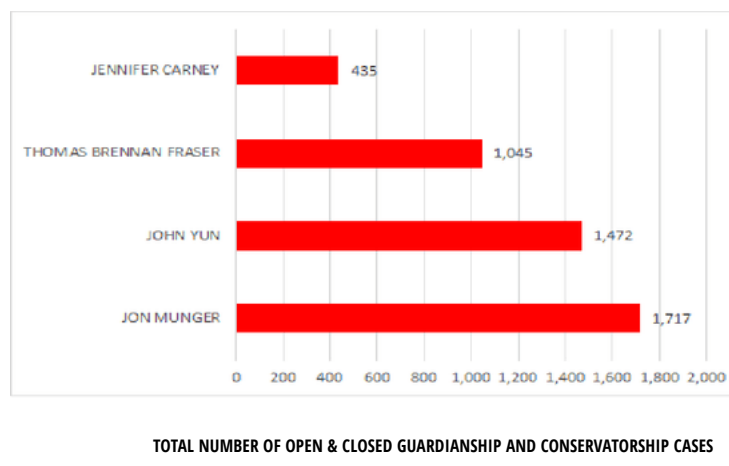
"The duty of the court is to protect the ward," Paul concludes. "These are standards that have been codified in writing, but they are breeched on a regular basis. The judges should know, for example, how many wards each public administrator has and, if they have too many, are responsible for finding somebody else. But the judges aren't paying any attention."

Wards in the Thousands

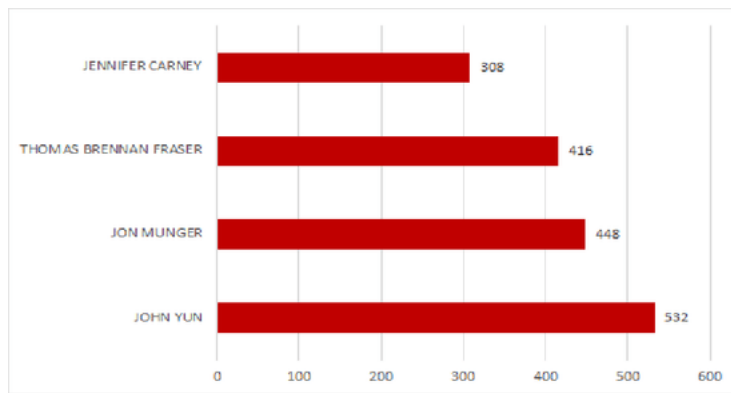
Four of the most prolific Oakland County guardians and conservators are Munger alongside Fraser, and attorneys Jennifer Carney and John Yun.

On August 23, Nessel announced a sudden decision (<https://web.archive.org/web/20200101074426/https://www.detroitnews.com/story/news/local/michigan/2019/08/23/nessel-relieves-4-lawyers-state-appointed-duties-administer-certain-estates/2099647001/>) to "relieve" Fraser, Yun and Carney of their appointments" as public administrators alongside Macomb County Public Administrator Robert Kirk. However, she did not clarify as to whether that included their roles as guardians and conservators and would not answer this investigation's request for comment.

As of August 1, 2019 Carney, Munger, Fraser and Yun had a combined total of 4,669 open and closed adult and developmentally disabled guardianship and conservatorship cases.



Their combined open caseload was 1,704.



TOTAL NUMBER OF OPEN/ADJUDICATED GUARDIANSHIP/CONSERVATORSHIP CASES AS OF 8/1/2019

Under Michigan Statute, a guardian has a “Duty to make provision for the ward's care, comfort, and maintenance and, when appropriate, arrange for the ward's training and education.” A conservator must “Preserve assets and to expend them for the support, education, care, and benefit of the individual and his or her dependents.”

There are no unread comments at this time.

Can four individuals, each with a limited number of staff members, ensure that those duties are adequately maintained?

“It’s not possible,” Paul says. “In Munger’s case, that’s why he doesn’t see his own wards, or he sends a staff member with no training at all. If you have 500 people and your interest is to get their home and pay yourself, why would you care about the ward? In my view, all he cares about are ‘where are her assets? How can I sell them? How much money can I get?’”

Public administrators who are assigned as guardians and/or conservators take their attorney and fiduciary fees out of a ward’s estate, with every action they make on the ward’s behalf—from making a phone call to listening to a voicemail—billed at an hourly rate. For example, Fraser bills at \$245 per hour. Professional guardians also receive \$83 per month per ward on Medicaid, which is taken out of the money received by a nursing facility.

The Michigan Guardianship Association has consistently lobbied for an increase, claiming that \$83-per-month is not enough (<https://web.archive.org/web/20200101074426/https://www.michiganradio.org/post/professional-guardian-reacts-states-new-elder-abuse-task-force>) given the gargantuan task of assuming the life of another person.

Paul says the responsibility is so enormous that guardians with more than 400 wards serves the guardians rather than their wards.

“When you care for another human being, it’s all day, every day,” Paul asserts. “He also has a law practice and an office to run. He has a family life. So, where’s he going to find time to care for the ward? The guardians, themselves, have a duty, as an attorney under the Code of Professional Conduct, to say, “Look, I’ve got 500 people under my care, I’ve got four staff members in my law firm. I can’t take on any more clients. I can’t do [them] justice.”

Petitioning into the Fortress

According to the University of Michigan, “Courts view guardianships as a last resort because the ability of the person to make basic decisions about his or her care, treatment, or living arrangements is being taken away.”

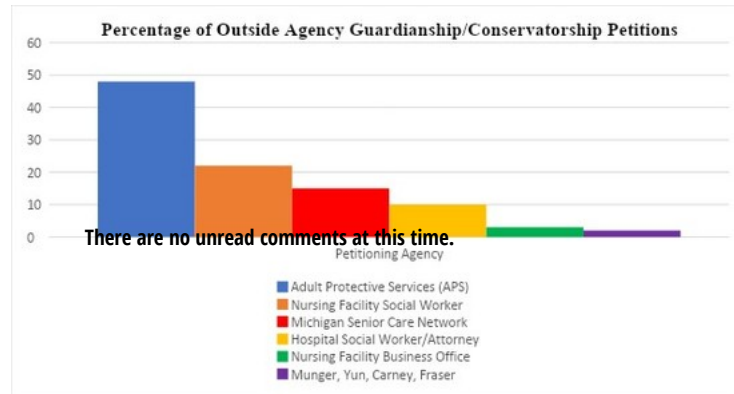
It raises the question as to why Oakland County guardians and conservators have so many wards.

This investigation reviewed 2,278 open and closed cases belonging to Munger, Yun, Carney and Fraser presided over by Hallmark, O'Brien, Callaghan, Ryan and retired Oakland County Probate Court Judge Elizabeth Pezzetti.

With two exceptions, each of the cases were the result of guardianship and conservatorship petitions filed by social workers or representatives of outside agencies, including APS investigators, the Senior Care Network, hospital and nursing facility social workers, attorneys and accounts receivables managers.

Of the petitions, the majority were filed by ten APS investigators.

The Senior Care Network is a care management organization. Among its services is assistance filing for guardianship and conservatorship, for which the organization utilizes a dedicated social worker, Matthew Martin.



Graph showing percentage of guardianship/conservatorship petitions filed by outside agencies

The petitioner must note "Specific facts about the adult's recent or condition or conduct" that leads to them to believe a guardian and/or conservator is needed.

In 95 percent of cases, petitioner answers were summarized in one or two vague sentences, or an attached paragraph, noting mental or physical ailments such as dementia, confusion, memory problems, bipolar, diabetes, depression, physical mobility and hoarding.

Other, less specific examples included:

- "Mental health hinders ability to maintain employment and make informed decisions or manage her own finances."
- "Joint weakness and mobility issues in apartment. Has issues with hoarding."
- "Altered mental status."
- "Non-engagement in mental health services."
- "Does not make sound decisions re: physical health and finances."
- "He is declining medication. Lack of insight into his diagnosis."
- "A lack of civilization."
- "Patient came in for dizziness and confusion. Incompetent to make decisions for medical care."
- "DPOA will not provide information needed for Medicaid application to nursing facility."
- "Family has not paid facility bills and there are other outstanding bills."

WARD W.H.

SCAO
COURT OF MICHIGAN
PROBATE COURT
COUNTY OF OAKLAND

PETITION FOR
☒ APPOINTMENT OF CONSERVATOR
☐ PROTECTIVE ORDER

FILE NO. [REDACTED]

Estate of [REDACTED]
Last four digits of SSN XXX-XX-10401

1. I, Carmelita M. Clendon - Adult Protective Services, am interested in this matter
Name and make this petition as Adult Protective Services - MS HAS
State interest relationship

2. The individual was born 10/30/25, resides in Oakland County
at [REDACTED]
City, state, zip [REDACTED] and has property in Oakland County.

3. An action within the jurisdiction of the family division of circuit court involving the family or family members of the above individual has been previously filed in _____ Court, Case Number _____, was assigned to Judge _____, and ☐ remains ☐ is no longer pending.

4. The individual has ☒ a power of attorney. (Specify name and address below.) Medicaid only
☐ a guardian. (Specify name and address below.)
☐ a representative payee for social security. (Specify name and address below.)

5. a. The individual is an adult unable to manage his/her property and business affairs effectively because of
☐ mental illness ☐ chronic use of drugs ☐ detention by a foreign power
☐ mental deficiency ☐ chronic intoxication ☐ disappearance
☐ physical illness or disability ☐ confinement
and either:
☒ the adult has property that will be wasted or dissipated unless proper management is provided, or
☐ the adult or his/her dependents are in need of money for support, care, and welfare and protection is necessary to obtain or provide money.
b. The adult petitioner is mentally competent but because of age or physical infirmity is unable to manage his/her property and affairs effectively, and recognizing the disability, requests the appointment of a conservator.
c. The individual is a minor who
☐ owns money or property that requires management or protection that cannot otherwise be provided.
☐ is being represented by minority.
☐ needs money for support and education, and protection is necessary or desirable to obtain or provide money.
d. I am the guardian of the ward and it is in the ward's best interest to sell or otherwise dispose of the ward's real property or interest in real property.

6. The statements in item 5 are supported by the following facts: [REDACTED] is having issues with his memory and is unable to manage his finances.
(Attach a separate sheet.)

(SEE SECOND PAGE)

NOTE: If this form is being filed in the circuit family division, please enter the court name and county in the upper left-hand corner of the form.

Do not write below this line - For court use only

FILED _____ 20 _____
Deputy Register of Probate

MCL 700.5104(2), MCL 700.5215(6), MCL 700.5314(6), MCL 700.5401, MCL 700.5404, MCR 3.208(A)(4), MCR 5.105(C), MCR 5.125(C)(23)

839 (8/12) PETITION FOR APPOINTMENT OF CONSERVATOR AND/OR PROTECTIVE ORDER

Typical Petition for Conservatorship Form page one (As filed by Adult Protective Services)

The overwhelming majority of petitions (98 percent) were not corroborated by any evidence, whether in the form of an official diagnosis from a doctor or a medical history.

The Powerless Power of Attorney

On the first page of the petition, there is an opportunity to identify any individuals the perspective ward identified in estate planning documents such as holders of a Durable Power of Attorney (DPOA) or Patient Advocacy Designation. According to Michigan statute, such an individual has priority over the appointment of a professional guardian or conservator.

Only 15 percent of petitions made note of anyone named in an estate planning document.

In those cases where such individuals were identified, they were either not present at the initial hearing, or the petitioner claimed they were unsuitable without offering any evidence to substantiate why. The presiding judge then tossed out or invalidated the documents, and guardianship/conservatorship was given to Munger, Yun, Fraser or Carney.

There were also cases in which the holder of a DPOA was also placed under guardianship.

In 2016, Martin and the Senior Care Network petitioned for the guardianship of a then-83-year-old Clarkston, Michigan woman named Doreen who was a resident of a Lake Orion long-term care facility.

The petition noted her husband Ralph as the holder of her DPOA and added, "DPOA will not provide information necessary for Medicaid App. to nursing facility."

Presiding Judge Hallmark gave temporary guardianship of Doreen to Carney.

One month later, while Doreen's full guardianship case was pending, Carney petitioned for guardianship of Ralph, stating that he had "Difficulty with memory and comprehension" and added that his Veteran's Administration benefits needed to be managed.

Hallmark ultimately gave guardianship of Ralph to Fraser.

In 2012, Gary Redd wanted to take responsibility for the care of his then-88 year old mother Ada Dorothy and moved her into his Southfield, Michigan home. Dorothy had signed a Durable Power of Attorney and Patient Advocacy designation naming Redd as the sole representative. She also added him as co-owner of her Detroit home in a Quit Claim Deed and named him as the beneficiary of her \$5,000 life insurance policy.

"I never wanted her to go into a nursing home," he says. "She was well aware of how bad these nursing homes were and the thought of ever going to one frightened her."

To ensure that Dorothy would be legally protected, Redd filed a petition for guardianship in June, 2014.

It was a decision with which Dorothy wholeheartedly agreed and was endorsed by her primary care physicians and GAL in letters filed with presiding Judge O'Brien.

~~There are no unread comments at this time.~~
During the hearing, O'Brien set aside both Dorothy's DPOA and Patient Advocacy designation.

"He said that 'we don't need these documents because we're in court now,'" Redd recalls.

The judge assigned Carney as co-guardian and co-conservator with Redd. Two years later, the judge removed Redd as co-guardian claiming that he was unsuitable. Dorothy was removed from Redd's home and O'Brien set aside the Quit Claim Deed to his mother's home and removed his name from the life insurance policy.

Redd launched a fight to reverse the decision which was taken all the way to a filing in the the Michigan Supreme Court.

"My priority was to take care of mom," Redd says. "What the judge did was wrong. My mom wanted to stay with me. Doctors agreed with her decision. The Guardian ad Litem agreed with her decision. How can one man just invalidate my mother's wishes and take away my rights to honor them?"

After the Michigan Court of Appeals ruled against him, Redd filed his case with the Michigan Supreme Court. He was waiting for a hearing date when Dorothy passed on March 28, 2018.

The court declined to hear the case.

"Mom didn't want to be cremated," Redd says. "It was in her will. But there was no money left. O'Brien told me 'there will be no burial.'"



L to R: Ada Dorothy Redd and Gary Redd
Images courtesy of Gary Redd

So, Redd had to go to court again, this time to fight for his mother's last wishes. On April 14, 2018 Redd's journey with Dorothy in probate court ended where it began with Redd obeying his mother's wishes and using his own funds to make sure Dorothy received a proper burial.

In an unpublished January 17, 2019 Unpublished Opinion, the Michigan Court of Appeals upheld O'Brien's rulings claiming, in part, that Redd had breached "his fiduciary duty by accepting the Quit Claim Deed while he served as Dorothy's Power of Attorney."

Redd continues his fight in the ongoing deceased estate case.

"That probate court is like a Nightmare on Elm Street," he says. "I'm telling people now to never file a petition for guardianship there, no matter who tells you it's the smart thing to do. You will lose everything."

The Missing Family

Like the holders of a DPOA, family members have statutory priority over the appointment of a professional guardian. Page two of the guardianship petition includes an available box in which to list any of the ward's known family members.

In 65 percent of occasions where none was noted on a petition, the ward did, in fact, turn out to have a family.

7. The individual to be protected has an estate approximately valued at:

\$ Real property \$ Personal property \$ Insurance \$ Monthly income \$ 1300.00

8. The individual to be protected is receiving the following benefits from governmental agencies:

☒ Social Security \$ 400 ☐ SSI \$ ☒ Veterans Administration \$ 1300 claimant number 6483027 ☐ MDHS \$ ☒ Other: church \$ 500

9. The individual to be protected has

☐ a spouse whose name and address are listed below.

☒ child(ren) whose name(s) and address(es) are listed below.

☐ descendants of deceased child(ren) whose name(s) and address(es) are listed below.

☐ if no child(ren) or descendants of deceased child(ren), parents whose name(s) and address(es) are listed below.

☐ if none of the above, presumptive heirs whose name(s) and address(es) are listed below.

☐ none of the above (must notify Attorney General - see instructions for the address for the Attorney General).

NAME	ADDRESS AND TELEPHONE NUMBER	RELATIONSHIP	AGE/DOB (if minor)
[REDACTED]	[REDACTED]	Daughter	

10. None of the persons named above are under any legal incapacity except

11. The individual is currently found at 2300 Grand Haven Dr, Troy, MI 48063 (248) 486-40

12. It is necessary that a preliminary protective order be entered pending the regular hearing because

I REQUEST that the court: Timothy P. Flynn, 6480 Citricorn Dr. Ste A

13. Appoint Public Administrator Clerkston MI 48246 248 625-6606 who has priority as Attorney by Court, as conservator of the estate to be protected.

14. Preserve and apply the individual's property pending the appointment of a conservator as follows:

15. Enter a protective order that provides

16. Appoint the guardian as special conservator with authority to sell or otherwise dispose of the ward's real property or interest in real property.

I declare under the penalties of perjury that this petition has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

Attorney Signature: [Signature] 4/30/15

Attorney name (type or print): [Signature]

Bar no. [Signature]

Attorney address: 5411 Woodward Ave 1st Floor

City, state, zip: Pontiac MI 48342

Telephone no. (248) 622-7854

17. NOMINATION BY PERSON TO BE PROTECTED: I am 14 years of age or older. I nominate as my conservator:

Name, address, and telephone no.:

Date: Signature of person to be protected:

Typical Petition for Conservatorship Form page two (As filed by Adult Protective Services)

Such was the case of a then-69-year-old Pontiac woman named Cynthia. In the petition for guardianship, an APS investigator alleged that Cynthia suffered from "three stokes, psychosis mania, expressive aphasia [sic] and is often paranoid that people are after her."

While acknowledging that Cynthia did have a married couple who held her Power of Attorney, the investigator noted that they weren't "Able to assist her anymore." The box notating families was referred to the "Attorney General."

Similarly, a three-paragraph report filed by Cynthia's GAL insisted that she "Has no family and lives alone."

However, Cynthia had an adult daughter, Heidi who filed a petition to terminate her mother's guardianship three months after O'Brien had assigned Carney to the position.

In an accompanying brief, Heidi stated that she had not been not served the initial petition or any notice prior to her mother's guardianship hearing. Why neither APS nor the Guardian ad Litem identified the fact that Cynthia had family is unknown.

Suitably Trained Investigators?

Such glaring errors in a petition, alongside claims of incapacity made without corroborating medical evidence, raise the question as to whether social workers, such as APS investigators, have been properly trained before conducting an investigation of a potential adult ward.

Dr. Peter Lichtenberg, PhD., is a Clinical Geropsychologist, Professor of Psychology at Detroit's Wayne State University and Director of the Institute of Gerontology.

"I've been working very closely with APS supervisors and staff over the last four years," he says. "I found that, like all people who enter the caring profession, there's a lot of talent and skill. There are huge caseload burdens. Often, [investigators] come from Child Protective Services [CPS] or domestic violence. So, they're coming in at a deficit in terms of understanding geriatric issues."

"It takes a lot of experience and it takes a team approach," he adds. "Unfortunately, these workers are out there investigating a case under a time pressure and by themselves." **There are no unread comments at this time.**

In a 2016 petition for the guardianship of a then-88-year-old Korean War veteran named Raymond, an APS investigator claimed that he "Suffers from memory loss. He is not able to manage medications. He is not able to handle his daily living skills."

However, according to Raymond's GAL, his attending nurse stated that "She did not understand why APS was involved in this case or why an emergency petition was filed. It is [her] professional opinion that there is not a need for an emergency appointment of a guardian."

Presiding Judge Ryan did not concur and appointed Carney.

The Guardian ad Litem

Seventy percent of cases reviewed began with an Emergency Petition for Guardianship.

This meant that Yun, Munger, Carney or Fraser were appointed to the role of temporary guardian on the same day the petition was filed or shortly afterwards. Coinciding emergency petitions for conservatorship have also been granted. The prospective ward was neither given notice nor an explanation of their rights under Michigan law before being placed under their control.

Ordinarily, those rights are explained during a personal visit from a GAL.

They include the right to contest the petition, to be present at the hearing, to be represented by legal counsel and to request limits on the guardian's powers.

In a written report, which must be filed no later than 24 hours prior to a guardianship hearing, the GAL is instructed to note whether there are alternatives to the appointment of a full guardian, if the proposed ward wishes to exercise their right to contest the petition and be present at the hearing, or whether there are any objections to the execution of a DNR. The report should conclude with a GAL's recommendations, either for the appointment of a guardian and/or conservator, or for a contested hearing.

In 100 percent of the 2,278 cases reviewed, the GAL was an estate or probate attorney with no discernible psychological or medical background.

Nevertheless, GAL reports—which varied anywhere from a five-page, detailed investigation to a few paragraphs to no narrative at all—included the GAL's own determination of a potential ward's incapacity.

In numerous cases, a GAL concurred with a guardianship petition, claiming that the proposed ward had some form of dementia or memory impairment, if they could not answer one or all of four questions pertaining to the date, their birthday, the day of the week and the name of the US President.

"Nobody can ask four questions and determine whether someone has capacity or not," Dr. Lichtenberg says. "Ideally, [a GAL] would join forces with somebody who has a background like mine where they would get a good assessment of cognitive strengths, weaknesses, mental health problems and try to apply those to the legal standards."

WARD 17. IV

REPORT OF GUARDIAN AD LITEM ON GUARDIANSHIP

MCL 700.1105(a) of the Estates and Protected Individuals Code defines an incapacitated individual as a person who is impaired due to mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, or other cause, not including minority, to the extent of lacking sufficient understanding or capacity to make or communicate informed decisions.

I visited [REDACTED] at the Clarkston Specialties facility at 4800 Clintonville Road, MI on February 1, 2018. I asked him a series of questions to attempt to establish his state of mind. I found that he was somewhat aware of his surroundings and medical conditions of mental acuity. He denied that he has dementia.

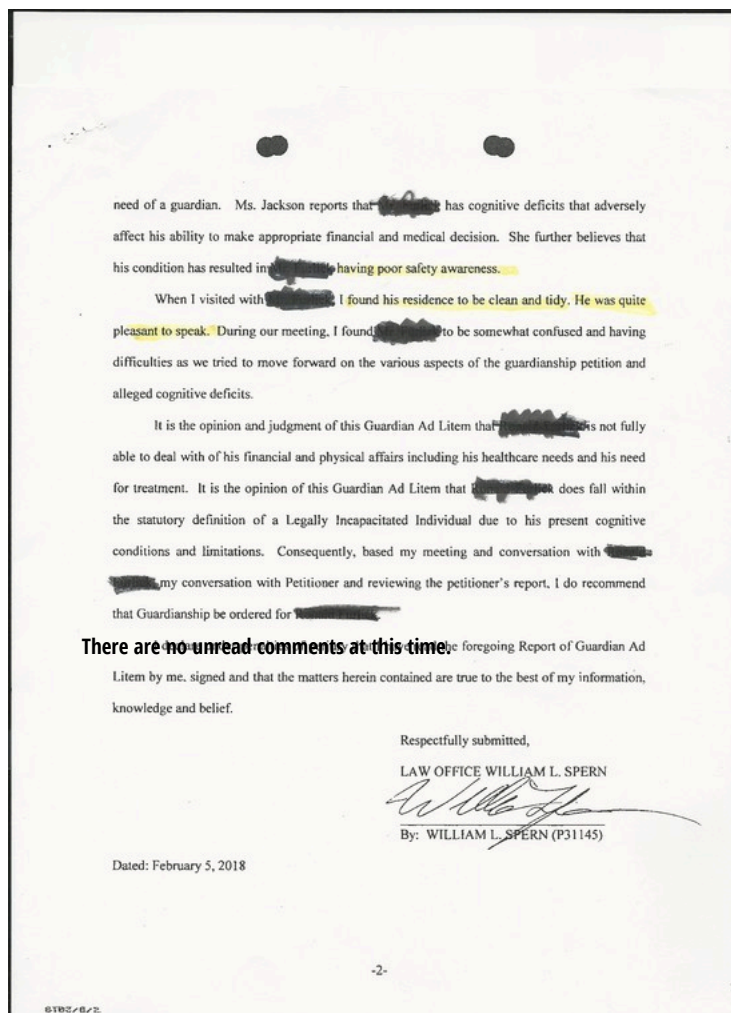
I believe that I was able to explain to [REDACTED] the nature, purpose and legal effects of the appointment of a guardian. I gave him Copies of the Petition for Appointment of Guardian of Incapacitated Individual, Notice of Hearing, Order Appointing Guardian Ad Litem and PC 626 (NOTICE OF RIGHTS FILE TO ALLEGED INCAPACITATED INDIVIDUAL). I believe that I was able to explain to him the hearing procedure and his rights in the hearing procedure. I believe that he understood of the possibility and effect of the DNR power that the guardian could have if appointed.

[REDACTED] objected to the establishment of a guardian. He requested that the matter be set for a separate hearing, that he have a separate medical evaluation of the alleged cognitive deficits, attendance at all hearings and for the appointment of an attorney to assist him in objecting to the petition.

This petition for appointment of a guardian for [REDACTED] is from Petitioner, Nicole Jackson, a social worker at the Clarkston Specialty facility. She believes that [REDACTED] is in

2/2/2019

2018 Guardian ad Litem report page one as filed by Bloomfield Hills, Michigan Attorney William Sperr



2018 Guardian ad Litem report page two as filed by Bloomfield Hills, Michigan Attorney William Sperrn

Objecting but Not Present

Curiously, in 97 percent of the occasions when a potential ward emphatically voiced objections to a guardianship, the GAL also claimed that the individual waived their right to be present at the guardianship hearing.

A Director of Nursing for multiple long-term care nursing facilities for over two decades, "Gladys" requested an alias be used.

"We have patients and residents who come in who have Medicare, which provides for a 20-day stay at a long-term facility," she says. "If they are still in need of care, you will see a petition go out for temporary guardianship. The [GAL] will visit for all of five minutes, if that. They will say they are from the court and ask me or a nurse caring for the patient to sign off on their visit."

"Half the time, the patient may not know what's going on because they don't tell the patient anything," she adds. "After a visit, I've gone in and asked the patient, 'What did they say?' The patient tells me, 'I don't know, they said they were a lawyer.' Then, I say, 'Did they ask you anything?' and the patient says, 'No.'"

Gladys emphasizes that "A lot of times, [GALs] don't even see the patient because the patient is in physical therapy and they don't want to wait that long."

Lawyering Up

Even when the GAL recommends a contested hearing or, on extremely rare occasions, that the petition be denied, it does not mean an individual targeted for guardianship is out of the woods, something particularly true in cases involving APS.

When a contested hearing is recommended, the presiding judge orders an Independent Medical Examination (IME) to be conducted on the prospective ward and appoints legal counsel. The court has published a roster of 14 Michigan-based psychologists who "Have expressed interest in doing independent evaluations for Oakland County Court proceedings."

However, in 97 percent of IME orders reviewed, only three doctors were regularly used, as well as one attorney who also is a "limited-license psychologist." The results of these examinations are not made part of the public record. Judges such as Ryan have consistently ordered them to be "Faxed directly to chambers."

Meanwhile APS invariably lawyered-up in advance of the hearing.

One of the attorneys they typically use, Heidi Aull, is employed by former public administrator Cecil St. Pierre, who resigned from the position in 2017 after WXYZ's investigation into the opening of deceased estates without notifying next of kin. APS has also been represented by an attorney assigned from the Michigan Attorney General's office.

The ward, on the other hand, is usually provided legal counsel from the same pool as the Oakland County GALs.

Contested hearings involving APS always resulted in guardianship.

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

A 2015 petition filed by an APS investigator against a then-84-year-old White Lake, Michigan, woman named Betty asserted that the "Proposed ward's spouse died in 2013. No children. Home is paid off. No other family. Ward has signed papers and doesn't remember what she signed. Doesn't always know what she has done with her money."

Betty's GAL reported to the court that she was "A pleasure to spend time with, knows what is going on with her money and where it goes. [Betty] is doing exactly what she wants with her environment and I argue on her behalf that [neither] this Honorable Court nor the Department of Human Services-Adult Protective Services should intrude in it."

Presiding Judge O'Brien ordered a contested hearing for which APS retained a Special Assistant Attorney General.

After the hearing, O'Brien appointed Fraser as Betty's full guardian. Two months later, Betty wrote a letter to the judge.

"I am sorry to report that I have [had] no word from Mr. Fraser since he first advised me he was my full guardian," she asserted. "I don't know if I get an allowance. I have a small dollar amount in my account I assume is no longer mine. I'm lost. My medications come in the mail and have not been forwarded to me. I need them! Please advise me what to do."

WARD P.T.

June 19, 2015

Judge Daniel A. O'Brien
State of Michigan Probate Court
Oakland County, Michigan

Dear Sir,

T.B. Frazer, PLLC is my appointed Guardian - full
900 Wilshire Dr. Ste 202
Troy, MI 48064

There are no unread comments at this time.

I am sorry to report that I have had no word
from Mr. Frazer since he first advised me he was my
full Guardian.

I have not had a word from him since he
advised me of his status.

I have not been able to reach him by phone as it is
long distance from our area.

FILED OCT 26 2015

FHM

Deputy Probate Registrar

My neighbors call them for me but get no satisfaction.

I don't know if I get a cash allowance --- I have a small dollar amt in an account I assume is no longer mine.

I'm lost --- My Medications (2) come in the mail & have not been forwarded to me - & need them!!

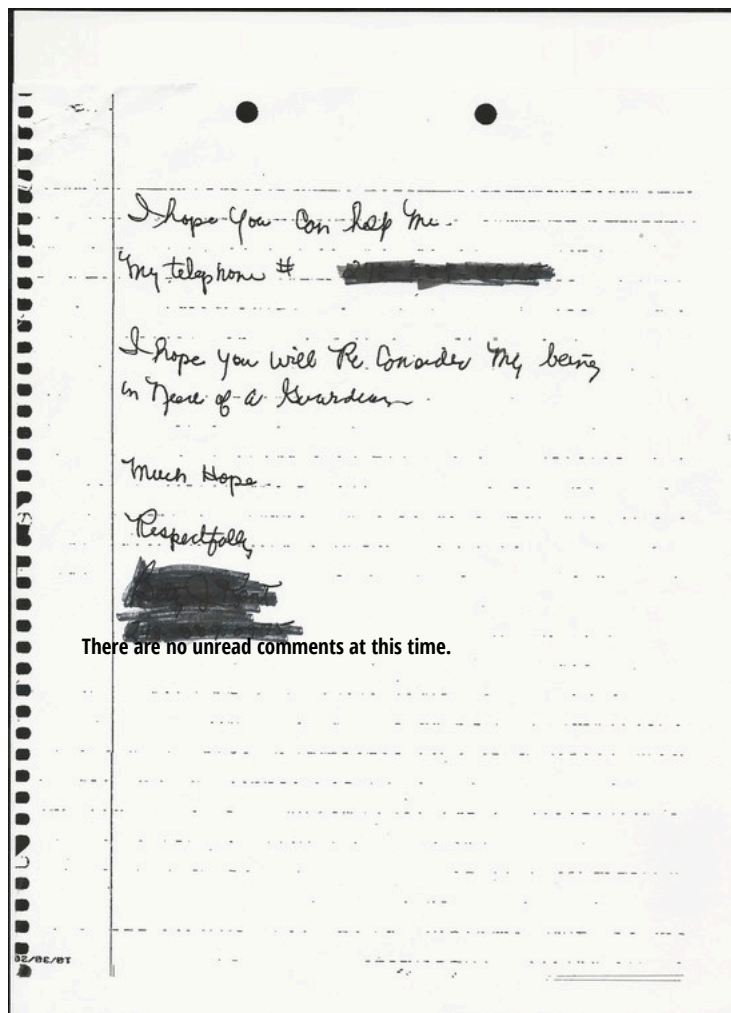
Please advise me what to do ---

I don't feel I need a guardian --- I keep a clean house, I cook my own meals - I have friends who do the shopping for me - They see that I get to the Dr. when needed.

I like my life

All my friends will vouch that I am not feeble & I can take care of myself.

I take several meds for my [REDACTED] [REDACTED] together & am sure to take them as required.



Betty's letter to O'Brien page three

By 2018, Fraser had moved Betty to a nursing home. In an account the public administrator filed that year, between patient pay and his own legal fees, he had spent all but \$367 of Betty's annual \$20,000 social security income.

Double Standards

Guardianship and conservatorship cases at Oakland County rarely have a happy ending. With few attorneys willing to take on their cases at an affordable rate, families often enter the Oakland County Probate Court unrepresented by an attorney (pro se). Since these are civil cases, the family does not have access to a public defender and, they claim, legal aid organizations are either unresponsive or unwilling to assist.

Without knowing their rights under Michigan statute or all 61-pages-worth of Michigan court procedures

(https://web.archive.org/web/20200101074426/https://courts.michigan.gov/Courts/MichiganSupremeCourt/rules/Documents/HTML/CRs/Ch%205/Court%20Rules%20Book%20Ch%205-Responsive%20HTML5/index.html#t=Court_Rules_Book_Ch_5%2FCourt_Rules_Chapter_5%2FCourt_Rules_Chapter_5.htm), families enter hearings at a marked disadvantage and without a clue as to what to expect.

Requests for interviews concerning the Oakland County Probate Court made by this investigation to legal aid organizations, both inside and outside the county, went unanswered. The Detroit office of the ACLU declined without noting a reason.

In numerous cases observed over successive Motion Days, although Ryan at least attempted a modicum of empathy, families appearing pro se were bullied and berated by Callaghan, Hallmark and O'Brien, who not only held families to the same standard as the public administrators but, in some cases, gave them far less latitude.

For example, at no time was a public administrator admonished for being late for a hearing.

Conversely, family members who do not appear on time can lose their case because of it. When they push back, they are threatened with Contempt of Court or the judge calls in the Oakland County sheriffs who threaten removal and/or arrest.

Catherine Haddock, the daughter of 76-year-old Yun ward Nancy Haddock, states that, before the first hearing on her 2016 petition for the guardianship and conservatorship of her mother, a member of Hallmark's staff warned her that Hallmark would never allow Catherine to be a conservator owing to bankruptcy on her public record.

She says she was encouraged to accept a public administrator instead.

While such a determination by Hallmark falls under judicial discretion, court records show that Carney filed for Chapter Seven Bankruptcy in December 2010.

The Fight of Their Lives

Once a guardianship and/or conservatorship case against an individual is set into motion, both the wards and their families end up in the fight of their lives.

Since the case is still in litigation, the niece of a Bloomfield Hills woman, who was placed under Carney's guardianship in January 2018, asked that both she and her aunt be identified using an alias.

There are no unread comments at this time.

According to her niece Marie, Pauline was born in 1922 in a small town in the Kentucky Appalachians. Orphaned during the Depression, she was separated from her siblings and sent to stay with relatives in Michigan.

Pauline graduated high school early and had been a secretary at the Dearborn "Glass House" headquarters of the Ford Motor Company for only a year before she was selected, out of 300 of her peers, to become the first female Executive Secretary to the company's Vice President.

She fell in love with and married a local businessman who surprised her by purchasing a lot in Bloomfield Hills and building a magnificent home upon it. Pauline's husband died of a sudden heart attack in 1973. The couple had no children, and a heartbroken Pauline never remarried but lived alone in the home they built together until 2018.

As Marie grew up, she and her aunt became "Extremely close, like a mother and daughter," Marie says. "She was vibrant, proud of where she came from and where she ended up and she was very independent. Even in 2017, she was raking her own leaves."

However, by January 2018 and at the age of 96, macular degeneration left Pauline partially blind. According to Marie, she was also prone to bouts of anxiety.

The Life-Altering Phone Call

Since Pauline's vision left her unable to dial her phone accurately, Marie recalls that "One early morning, my aunt crossed the street to ask a neighbor [to] call her friend. Another neighbor drove by and saw her and called the police. The neighbor told the police that she found Pauline wandering the streets. That just wasn't true."

Pauline was transported by the police to St. Joseph's Mercy hospital and diagnosed with a Urinary Tract Infection. At the time, Marie was still living in Kentucky.

On March 2, 2018, Martin and the Senior Care Network filed an emergency petition for guardianship in the Oakland County Probate Court against Pauline. It made no mention of any family and specifically requested Carney as Pauline's guardian. She was appointed as a temporary guardian by presiding Judge Hallmark at a March 7 hearing.

Neither Marie nor Pauline were present.

However, Pauline certainly understood that something had happened to her involving the court.

On the day Carney was assigned, she called her niece in a tearful panic begging her to come to Michigan immediately. Marie then reached out to Carney's office and spoke with an assistant.

"I told her that I had stayed with my aunt for 20 months when she had gallbladder surgery, that I was perfectly happy to take care of her again and that my aunt wanted me to," Marie says. "But I was told that [Carney] needed to do some more investigation. All Carney had to do was run a background check on me and tell the court that I was willing to look after my aunt, but she didn't consider any of that. Carney had made up her mind that she was going to be my aunt's guardian and there was nothing I could do about it."

Medicaid and Medilodge

In Michigan, an unmarried person does not qualify

(<https://web.archive.org/web/20200101074426/https://www.medicaidplanningassistance.org/medicaid-eligibility-michigan>)

for long-term Medicaid assistance if they have over \$2,000 in countable assets (cash, stocks, bonds, investments, credit union, savings, and checking accounts).

Inventories filed by Carney in May and June 2018 listed Pauline's assets as a \$307,580 home, a 2003 Jaguar, which the public administrator valued at \$3,900, a \$73,313.30 checking account balance and \$11,124.96 in shares. According to Carney's own accounting, only one day after she had been appointed as temporary guardian, she charged Pauline's estate \$84 to "Prepare and submit [an] initial Medicaid application."



"Pauline" in her 20s. Photo courtesy of her family
Image courtesy of the family

Carney's office subsequently received notification from the Michigan Department of Health and Human Services (MDHHS) stating that Pauline had been approved for Medicaid benefits that were also retroactive.

As soon as Marie arrived at her aunt's hospital bedroom, she called Carney's office again. This time, she was able to get the public administrator on the phone.

"I told her that I wanted to take my aunt home," Marie recalls. "She told me, 'No, you can't do that. We're going to put her in Medilodge until we get it straightened out. I didn't know anything about the place.'"

Calling itself a "leading provider of long-term skilled nursing care and short-term rehabilitation solutions," Medilodge operates at least 50 facilities across Michigan, and not all with flying colors.

(https://web.archive.org/web/20200101074426/https://www.mlive.com/news/flint/2017/04/advocacy_group_seeks_injunctio.html)

In 2017, the Michigan Department of Licensing and Regulatory Affairs (LARA) determined seven deficiencies at the Medilodge facility in Southfield that included inadequate records of food served at the facility, medical equipment stored in patient shower rooms and an untrained staff member. A FOIA request to the MDHHS revealed that, between 2016 and 2018, Medilodge of Southfield received almost \$30 million in patient Medicaid disbursements.

It was in that facility's lockdown ward that Marie says Carney insisted on placing her aunt. Marie had to break the news to Pauline in her St. Joseph's Mercy Hospital room the night before she was to be discharged to Medilodge.



"Pauline" prior to guardianship.
Image courtesy of her family.

"She started crying, shaking, she was having an anxiety attack," Marie recalls. "She'd never lived anywhere else but her home. She didn't want people undressing her and taking her belongings."

Marie went to look at the facility for herself.

"I just died inside," she says.

"The place was a dump," she adds. "It smelt horrible. My aunt was sharing a small room with someone else. She didn't want me to leave her there, so I laid down next to her."

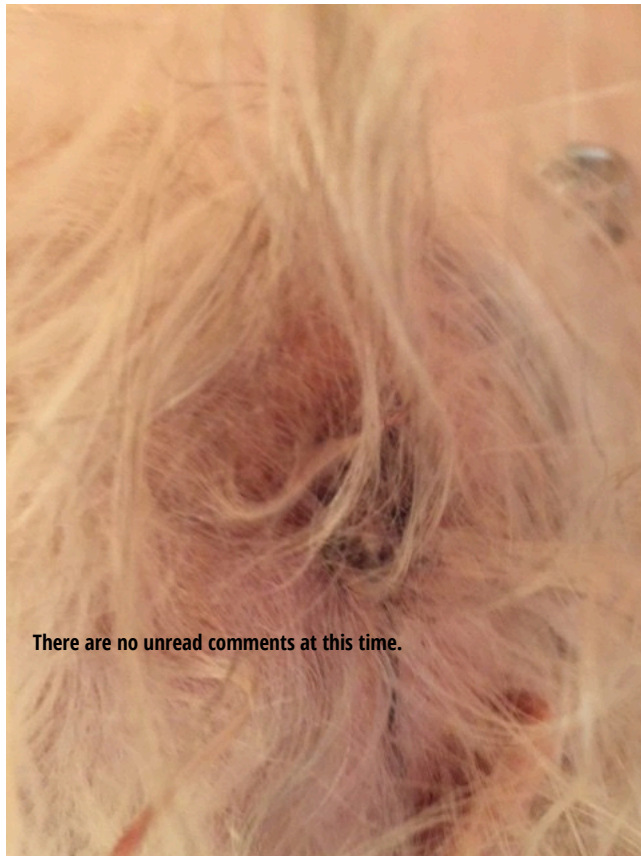
At 11 a.m., the facility director told Marie to leave. Even though she always stayed at Pauline's home whenever she visited, Marie said that Carney was emphatic in forbidding her to do so and had changed the locks to the house.

Tossed out of Medilodge and with nowhere to go, Marie spent a sleepless night parked in a Walmart lot worried

sick about her aunt. The following day, she received a call from Medilodge informing her that there had been an "incident" involving Pauline. Marie rushed to see her.

"My aunt had contusions on her head, bruises on her chest and arms. It looked really bad," Marie says. "She told me that her roommate had come up behind her, hit her and shoved her down. Her head hit the metal heater in the room. The cut on her head never healed."

"Carney told me it was not a big deal," Marie remembers. "I said, 'It's a big deal to me!'"



There are no unread comments at this time.

"Pauline" injuries to scalp after Medilodge fall.
Image courtesy of her family.



"Pauline" Injuries to back after Medilodge fall.
Image courtesy of her family,

After more incidents at Medilodge, Marie decided enough was enough and began to call attorneys across Oakland County. No one would take her case.

"They told me that if a judge had assigned someone as a guardian in Oakland County, there was nothing I could do," she states.

Fighting Back

Marie began to do her own research. Armed with a little more knowledge, she filed petitions to replace Carney with herself as Pauline's guardian and conservator. Pauline told her GAL that she wanted her niece to serve. Under Michigan statute, Marie therefore had priority over Carney and, in his report, the GAL recommended that Marie's petitions should be granted.

But, on April 25, shortly before they were to go up in front of Hallmark, Marie says that the GAL approached her with some disturbing news.

"He said that Carney was willing to accept me as a co-guardian but that she was going to be the conservator," Marie recalls. "Carney also told him that, if I fought her on it, she would make sure my aunt stayed a nursing home for another six weeks."

Terrified that Carney would make good on her threats, Marie agreed to her terms. As co-guardian, Marie was finally able to gain access to Pauline's home. While she was getting it ready for her aunt, there was a knock on the door.

"It was a man with a tow-truck," Marie says. "He said he was there to take my aunt's car."

A May 2 entry in Carney's account authorized the removal of Pauline's Jaguar.

As soon as she returned to Michigan, Marie took Pauline out of Medilodge and brought her home. For the approximately 42 days Pauline was a Medilodge resident, Carney charged her estate a total of \$12,708.00 in patient pay expenses.

Petition, Argue, Repeat

For reasons then unknown to Marie, Carney would not let go of the conservatorship.

"She said, 'I will never give up conservatorship to you,'" Marie recalls. "She didn't say why."

At a hearing on July 11, Hallmark dismissed Marie's petition to have Carney replaced.

"The judge didn't listen to me," Marie says. "She wasn't mean to me, but she went with Carney's recommendations every time."

"I talked to some people at the court clerk's office," she adds. "They told me it wouldn't do me any good to get an attorney."

When a home health nurse visited Pauline, she was shocked when she saw the list of medications Medilodge had been giving her.

"They had her on psychotic drugs, why?" Marie wonders. "All she had was a UTI. The nurse even agreed with me that there was no way my aunt was incompetent."

Marie filed again and, when she went back to court for the fourth time, Carney doubled down.

"She said that she wasn't comfortable with me being guardian or conservator," Marie asserts. "Since I lived with my aunt and didn't pay rent, she called it a 'conflict of interest'. Then, she told me I would need to move out and get my own place before she would consider allowing my petitions to go ahead."

Before the hearing, Marie asked Carney about her mother's Jaguar.

"She first looked at me like she didn't know what I was talking about," Marie says. "Then she told me that she had sold it."

"I knew that, the longer me and my aunt remained in Oakland County, the greater the chances that she was going to end up broke," she adds. "If that happened, Carney would sell her house."

There are no unread comments at this time.

So, Marie came up with a plan to move Pauline back to Kentucky. She petitioned again to have Carney removed and Pauline returned to her care and, this time, included a letter to Hallmark summarizing the case, alongside Pauline's medical records and statements of support from neighbors and nurses.

Her petition was heard on Motion Day August 8, 2018, and was observed as part of this investigation. Whether it was because of the attendance of the press, Marie's relentlessness or a combination of both, Hallmark suddenly relented and returned complete custody of Pauline back to her niece.

"I was in shock," Marie says.

When the judge clarified that she was also terminating Carney's conservatorship, the public administrator turned on her heels and left the courtroom. In her final accounting, Carney charged Pauline \$367.50 to attend the hearing. "Court granted petitions allowing me to resign," she noted.

For Marie, it was a bizarre statement given Carney's refusal to give up conservatorship.

According to the account of that conservatorship, in just five months, Carney had blown through almost \$50,000 of Pauline's money.

Other than an income line item noting a "\$200 gain from the sale of automobile," exactly how much Carney used the judge to find to whom is unknown. Carney's account did not include any record of the sale.

It took Marie months to undo every action Carney had taken since she was given control of Pauline's life. She and Marie went back to Kentucky together.

It was in the state she was born that Pauline passed away in August 2018.

"She'd lost so much weight at the nursing home, she just couldn't bounce back," Marie recalls through tears. "It was all so unnecessary. If Jennifer Carney had gone by the law, or morality or listened to anything I had to say... All I can say to anyone who is going through this is to just keep fighting in any way you can."

This investigation reached out to Judges Hallmark, Callaghan, Ryan and O'Brien. No comment was received.

In a brief statement, Oakland County Court Administrator Edward Hutton said "I am unable to comment on matters pending before this court."

No comment was received by the Washtenaw County Probate Court.

Calls to Carney, Fraser, Munger and Yun's offices were not returned.

Calls to the Michigan Department of Health and Human Services, the Senior Care Network and Medilodge, Southfield were not returned.

Click here

(<https://web.archive.org/web/20200101074426/https://www.dailykos.com/stories/2019/8/23/1880806/-The-Fortress-Part-Two-of-Five-Protected-in-Hell>) for part two of five: Protected in Hell

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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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