

Dan Roberts

## Guardianship - A Legal Sham & Disgrace

*"Dammit Rana!"* I snapped. *"Stop thinking with your heart."*

It was the first time I ever raised my voice in anger to my Ladylove. Although I felt very strongly that her conclusion was correct, I needed her to "prove it."

Sadly, she has. And the worse part - it is all perfectly legal and for "our own good."

Rana has been on her Don(na) Quixote crusade to protect seniors from the abuses and scandal regarding the Guardianship (Nevada Revised Statutes - Chapter 159) laws. For the past few months, she has taken me kicking and screaming into this issue.

On each and every occasion, when I told her that "it could not happen" she provided the paperwork.

As a former attorney, I learned how to read the law, petitions and court orders. More importantly, I was taught how to read between the lines.

From our research and investigation, it is clear that these "Private Guardianships" are nothing short of a racket. It gives "ambulance chasers" a good name.

**Let me be very precise in our findings:** *Having a private guardian appointed for a senior is like selecting a child molester to run a day care center. It is financial elder exploitation; sanctioned and approved by the Court and Nevada.*

One example: According to court records filed by a private guardian, (*The Vegas Voice* is not ready to release her name yet - but we're real close) it listed an elderly couple's (mentioned in Rana's column) bank account as having approximately \$23,000.

The initial court order authorized this private guardian to seize \$10,000 for the husband and then an additional ten thousand for the wife (a total of \$20,000) for the couple's on-going expenses AND (of course) the expenses related to the court proceeding.

Just like that - the couple's bank account was depleted by nearly 90%.

Just like that, the guardian was allowed "reasonable compensation and expenses."

Just like that, the guardian was allowed to hire an attorney to represent the guardian and to have the lawyer receive "necessary compensation as well as expenses."

While the guardianship laws require an annual accounting, such filing was not done. What did the court do over this failure? Nothing.

Where did all the money go?



*Just like that – your total savings are seized*

Rana's article asks "What would you do?" My first answer was to obtain legal counsel and protect myself with a power of attorney and/or trust.

Your power of attorney? Immediately revoked by court order.

I then discovered that by the guardian petitioning the court (by the way, what do you think the chances are that the court would deny an unopposed petition?) the guardian can make or change the senior's will, trust and even a beneficiary of an insurance policy (NRS 159.078).

I know, I know, it can't possibly happen to your elderly parents or impact your adult children. *Think again* - especially if your relative is not a Nevada resident. That's just one reason why Rana has been urging everyone to sign the petition.

Can you imagine if you or your adult children were denied family access?

I (half kiddingly) told Rana that if anyone tried to prevent my access to my mom, or if my sons were likewise prohibited or restricted in seeing their old man, my baseball bat would be in one hand and a pitchfork in the other.

And then Rana showed me the standard court order that specifically authorizes the guardian to "use the assistance of the Henderson Police Department, Las Vegas Metropolitan Police Department or any other law enforcement agency" in securing and protecting the ward.

Insane you say? Perhaps taking a baseball bat is; but what about some gentle reasoning with the guardian? You really think the private guardian would relinquish this lucrative (but perfectly legal) money making con job?

Perhaps you retain an attorney and submit your own petition to the Family Court. Be careful.

Under the law (NRS 159.0486) the guard-



*Clark County Family Court*

ian can claim that your application is without merit or intended to harass or "annoy" them in the performance of their duties. How quick will the guardian "threaten" you about this and, if you go forward, ask that the court (who appointed them in the first place - I'm telling you, the system is "rigged") award sanctions and expenses against you?

I'm not kidding; the law actually says you can't "annoy" the guardian. Do you believe that if you go to court and demand that the guardian account, explain and defend where

all the money went, the guardian wouldn't be "annoyed"?

And even if you have faith in the "justice" of the court, the guardian would spend your parent's or loved one's money; not only to oppose your petition, but to retain attorneys. So even if you're successful, consider the financial cost - all paid by the senior; and all for (of course) their "own good."

### OUR VEGAS VOICE SOLUTION

The good news is that the Nevada legislature can stop these abuses with 5 easy revisions to the guardianship laws. We also challenge anyone (starting with those private guardians) to disagree with any of these common-sense proposals.

They are:

## CONTINUED ON PAGE 7



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Rana Goodman

## What Would You Do?



There is a knock on your door and the caregiver who has stopped by to check on your wife motions you to sit. He will answer the door for you.

Two people enter; a woman and a man. They approach you and the woman says: "Mr. X, I am an officer of the court. You and your wife need to come with me."

You ask: "Why, what have I done? Go with you where?"

She responds. "You have three choices. I can have you arrested, you can go to the assisted living facility that I have chosen for you, or you can be taken to a mental facility."

This is what happened to a couple I recently interviewed. When the couple asked to see a warrant or legal document ordering them to go with her, she simply showed her business card (which identified her as a private guardian) and stated that legal papers would arrive within the next few hours. Those three hours stretched into weeks.

For the three days after this couple were whisked away, their adult daughter frantically tried to locate them. Eventually, a notice was taped on their front door stating that they had been moved to an assisted liv-



*Rana Goodman and Vegas Voice readers signing the petitions.*

ing facility miles away from their home.

Once the daughter's finally locates her parents, she learns that an unknown private guardian had been assigned by the family court, *without* a hearing that included her parents. The court document for this action contained two blatantly false statements: that this daughter (and only child) never sees the parents and is an addict, and that the husband has dementia and can no longer care for his wife.

In my interview with this elderly couple,

I found the husband (who has been the primary caregiver for his wife for the last 19 of their 50 years of marriage) to be the most articulate, soft spoken person I have met in a very long time. His only concern was her happiness and well-being knowing that she is now wheelchair bound and in the latter stages of leukemia.

He said her health was the sole reason he didn't make a scene and fight back when they were literally (legally) kidnapped from their home. "But," he added, "I can tell you, I now know what the Jews must have felt like in World War II."

I'm sure you're asking how this could happen:

His pain management doctor had, two weeks before this occurred, paid a home visit to ostensibly see the couple's art collection. Thereafter, the doctor submitted a "To Whom it May Concern" letter that "somehow" made its way to this private (for profit) guardian stating:

(a) the client has dementia, misses appointments, won't take his medicine and constantly forgets things;

(b) the husband may harm himself or his wife who is very ill; and

(c) it would be harmful for the couple to attend the court hearing because they wouldn't understand what was happening anyway.

We interviewed another victim, a veteran, married 60 years. He had been taking care

of his wife but needed to go to California for cancer surgery. While he was there, some friends were checking in on her to make sure she was okay.

One man that the husband worked with, took it upon himself to call the Nevada Department of Aging to make sure that the friends were doing all that was needed in the husband's absence. This government agency then decided that she needed to be placed with a guardian.

Now why this was not the **public guardian**, (due to the couple's minimal income and savings) but to a private guardianship is still being investigated. What we do know is that the private guardian in the course of "protecting their new

ward" retained an attorney to perform legal "services" at the rate of \$400.00 per hour - a fee this couple could not afford.

By the time the husband returned from California, \$14,000 had been drained from their account. I sat in court while these fees were questioned - to no avail as of yet.

Did you know that guardianship court orders routinely authorizes the revocation of any power of attorney and for the guardian to obtain ALL confidential financial information of the senior - including bank statements, canceled checks, withdrawal authorizations from financial institutions (such as brokerage or mutual fund firms) the Social Security administration, pension benefits (whether such accounts reflect the name of the senior individually, or with one other person) or to close safe deposit boxes and even petition the court to change your will or your trust?

The standard court order makes it very clear that if your attorney advises that having a power of attorney, a will or a trust makes you safe from the hazards of a guardianship, they are mistaken; it does not.

And while I would be the first one to admit that I am far from an expert on guardianship issues, it is my intention to become one. Along with Publisher Dan, we even took the

**CONTINUED ON PAGE 7**

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# ROBERTS RULES FROM PAGE 5

1. Repeal the requirement that a family member must be a resident of Nevada to be appointed as a guardian.

2. Family members and/or those named in a power of attorney, joint bank account, trust or will be given preferential standing over a private guardian in the appointment of a guardian.

3. Establish a cost effective, transparent and consistent process to define the mental competency of the senior. A neurologist in conjunction with the senior's primary physician should be required for guardianship to be approved.

4. Mandate a complete and accurate initial inventory of all assets, as well as quarterly filing of all financial expenditures - with en-

forcement penalties for non-compliance.

5. Establish an independent commission or authority to audit and enforce financial accountability of the senior's estate once any guardian is appointed.

### WHAT WE NEED FROM YOU

Okay, so what do we do? The obvious answer would be to organize, protest and contact our respective Nevada legislative leaders and let them know that this (legal) elder abuse racket must be stopped.

While, of course, we should do that (and perhaps bring our baseball bats too) the truth of the matter is that most of us are too busy, or too lazy (or expect the other guy) to do that. To

further compound the problem, there is no doubt that the private guardianship industry is well-funded, politically connected and will



Rana Goodman testifying before the Nevada legislature

do anything and everything to keep the status quo.

**Our suggestion is easy, effective and requires no heavy lifting.** It will have an unbelievable, impact on the Nevada Legislature; and, best yet – will only take you (less than) one minute. As we have previously urged, simply fill out the attached petition and mail/fax/email it to *The Vegas Voice*.

It will cost you *no more* than a stamp (or a local fax call) and for those individuals who are “on line” anyway - absolutely nothing.

*The Vegas Voice* will do the rest. Rana and yours truly intend to travel to Carson City and hand deliver the petitions - as well as testify before the legislature.

Can you imagine if we bring stacks and thousands of petitions to the hearings?

Any parent or adult child who fails to take the time and “effort” to submit the petition deserves nothing less than a private guardian to “protect” them. After all, such assistance is “for your own good.”

For your financial security and for those of your family, take a few seconds and do your part. *The Vegas Voice* will, of course, keep you updated and stay on top of this issue.

And last, but not least - as for my initial outburst to Rana; let's just say, I offered my (numerous) apologies. At times, there really is nothing wrong with listening (and thinking) with your heart.

**THE VEGAS VOICE**

**Know your rights!**

**Petition to CORRECT Guardianship Law**

I (we) want to express my (our) total opposition to the existing law NRS 159.059 which requires that a relative must be a resident of the state of Nevada in order to qualify as a guardian of their parent or other loved one. It should be my choice; and if I so desire, my family member to serve as Guardian without any government or bureaucratic interference.

Name(s): \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Registered Voter  Yes  No

Voted in last election  Yes  No

Mail petition to: THE VEGAS VOICE  
10624 S. Eastern Ave., # A-250  
Henderson, NV 89052

Or fax to: 702/666-0427

Or sign the petition online at:

[www.thevegasvoice.net](http://www.thevegasvoice.net)



# ON MY SOAPBOX FROM PAGE 6

guardianship class offered by the public guardian and are now certified.

Believe me, we are not done investigating this issue and will have more to report.

**(Editor's Note:** *The Vegas Voice* would like to thank and recognize former Las Vegas City Councilman Steve Miller for his insight and previous reporting on this issue and Rick Black who is, and continues to be a victim of these guardianship abuses for his assistance).

Rana Goodman is *The Vegas Voice* political editor and a “trouble shooter, advocating for seniors.” She also maintains a community web site, [www.anthemtoday.com](http://www.anthemtoday.com); a forum for residents in Sun City Anthem. She can be reached at: [rana@thevegasvoice.net](mailto:rana@thevegasvoice.net).