



COUNTY OF LOS ANGELES  
OFFICE OF THE COUNTY COUNSEL

648 KENNETH HAHN HALL OF ADMINISTRATION  
500 WEST TEMPLE STREET  
LOS ANGELES, CALIFORNIA 90012-2713

LLOYD W. PELLMAN  
County Counsel

September 26, 2000

TDD  
(213) 633-0901  
TELEPHONE  
(213) 974-1904  
TELECOPIER  
(213) 687-7300

Marc B. Hankin, Attorney at Law  
Probate and Estate Planning Section  
State Bar of California  
10680 W. Pico Boulevard  
Suite 315  
Los Angeles, California 90064-2223

**Re: Board of Supervisors' Action Concerning Access to the Justice System  
for Elderly Persons with Modest Estates**

Dear Mr. Hankin:

On September 12, 2000, the Board of Supervisors adopted a series of proposals which are intended to help improve access to the justice system for elderly persons with modest estates. A copy of the Board motion is attached (two pages).

One specific part of the motion will permit this Office, the Public Guardian, and Adult Protective Services to participate in development of legislative proposals, which would help to improve access to the justice system for elderly with modest estates. *Your* proposals to the State Bar concerning the relative ineffectiveness of the Elder Abuse and Dependent Adult Civil Protection Act due to inadequate reimbursement of the attorneys, could be addressed in this context.

I will ask my secretary to coordinate a meeting with your office, the Public Guardian and Adult Protective Services to discuss possible legislative concepts.

Very truly yours,

LLOYD W. PELLMAN  
County Counsel

By:   
RICHARD E. TOWNSEND  
Assistant County Counsel

RET/mcs

Attachment

c: Dave Meyer, Chief Deputy  
Christopher Fierro, Deputy Director  
Norma Nordstrom, Adult Protective Services

RECEIVED SEP 27 2000

*Townsend*



MINUTES OF THE BOARD OF SUPERVISORS  
COUNTY OF LOS ANGELES, STATE OF CALIFORNIA

Violet Varona-Lukens, Executive Officer  
Clerk of the Board of Supervisors  
383 Kenneth Hahn Hall of Administration  
Los Angeles, California 90012

→ County Counsel  
Director of Community and Senior Services  
Director of Mental Health

At its meeting held September 12, 2000, the Board took the following action:

14

Supervisor Yaroslavsky made the following statement:

“The State Legislature has taken a number of steps to address the problem of elderly financial exploitation and abuse. However, elderly persons with modest estates do not have ready access to legal advice and assistance, which would enable them to effectively redress the exploitation of their assets or obtain properly documented estate planning for their protection.”

Therefore, on motion of Supervisor Yaroslavsky, seconded by Supervisor Knabe, unanimously carried, the Board took the following actions:

1. Instructed the Department of Community and Senior Services' Adult Protective Services to work with County Counsel in conjunction with the Los Angeles County Bar Association in the creation, maintenance and publicizing of a Countywide "hotline" for referral of elderly persons with modest estates to available legal services to assist with their estate planning needs to protect their assets from exploitation;

(Continued on Page 2)

Syn. 14 (Continued)

2. Instructed the Department of Mental Health's Public Guardian, County Counsel and Adult Protective Services to work in cooperation with the Los Angeles County Bar Association to create an effective community outreach and elder education program concerning the necessity and availability of estate planning;
3. Instructed County Counsel to participate in the State Bar's Probate and Estate Planning Section's Statewide study of ways to improve access to the justice system for elderly persons with modest estates without resorting to the Public Guardian; and
4. Instructed County Counsel, the Public Guardian and Adult Protective Services to work with the State and County Bar Associations on specific legislative proposals **that would** help improve access to the justice system for elderly persons with modest incomes who have been victims **of** financial exploitation or need assistance on estate planning matters.

5091200-14

Copies distributed:

Each Supervisor

Chief Administrative Officer

Abuse Victims Are Deprived Of  
The Lawful Protection Of The Courts  
**By A Probate Court Practice of Imposing**  
**Artificial and Counter-Productive Restrictions**  
**On Conservator Fees, Attorney Fees And Trustee Fees**  
**To Reduce the Size of Judges' Calendars**

Supporting statements by lawyers:

1. Bruce Ross, Esq. (Author of the Rutter Group treatise on Probate) and Robert Sacks, Esq. of Ross Sacks & Glazier "Marc - We have read your letter and agree that lawyers generally are unwilling to take meritorious cases involving small estates because lawyers believe, with good reason, that they are unlikely to be paid for substantial amounts of their time and generally thus cannot afford to handle elder abuse matters and heavily contested conservatorships. We believe further that this results in a lack of access to the judicial system for people without substantial resources. This situation should be studied in the hope that a way can be developed to rectify it."
  
2. Robert Foster, Esq. (Former Chair of the Ethics Committee of the Estate Planning, Trust & Probate Law Section of the California State Bar Association) "Marc, this letter is excellent. We have had a little experience here, but are less and less inclined to do battle just because of the Courts seem to try to force settlement. I really believe that the Judges are more interested in the latter than the fees, but obviously settlement means no fees or at least less. Since most cases can be lost, settlement is the usual. We have never seen a complete open and shut case."
  
3. Russell Balisok <balisoklaw@worldnet.att.net> (Nationally renowned expert in nursing home abuse litigation, and author of several chapters in CEB and other publications) "I like the letter and the hypothetical. How would I have raised my hand at one of your seminars, had I been in attendance? Hmm... I think I would have explored standing through a guardian ad litem, rather than conservator, and with an ultimate judgment in hand against Patrick, I believe I would have had no problem with the conservatorship issue afterwards. As for the POA's, could temporary letters of conservatorship be obtained [?], and on the allegation (supported with some facts) that Patrick had acted improperly, obtain an order revoking the POA's? In the civil action, we still have the problem of the contumacious litigant on the other side, so would I take the case for say 80k if I had to depend on the court for an award of reasonable attorneys fees at the end?"

Hmm. No. However, I would propose a fee k by which I would obtain a percentage of all sums received, i.e., monetary and non monetary damages, punitive damages and attorneys fees and ask the court to approve it prior to employment. Then I would probably take the case and take Patrick down in my copious spare time. Otherwise, no."

4. Walter Haines, Esq. <wlhaines@pacbell.net> "I have not worked on any of these cases and doubt that I would. I do share your experience with regard to the fees generally allowed by the court even in regular cases. etc."

5. Carol Small Jimenez, Esq. <[SmallCarol@Aol.com](mailto:SmallCarol@Aol.com)> > (Nationally renowned expert on Medicare, and author of several chapters in CEB and other publications) "I like the letter and the hypothetical. How would I have raised my hand at one of your seminars, had I been in attendance? Hmm.... I think "You can add me to List #1 of attorneys who would not take these cases because of the uncertainty of obtaining adequate fees."

6. From Mary L. O'Neill, Esq. <Ttfn1957 @[aol.com](mailto:aol.com)> "Marc, Regarding your hypothetical I would only take the case if I knew that it probably would be pro bono. These cases cannot be taken with the expectation that fees will be awarded by the court or collected the defendant. Unfortunately, this reduces the number of cases an attorney can take. An answer to the problem of the bad guy hiring an attorney for the victim is to seek the appointment of P W counsel. That reduces, if not eliminates, litigation just to ran up fees."

7. From Ruth A. Phelps, Esq. <[rphelps@elderlawyers.com](mailto:rphelps@elderlawyers.com)> "I practice in a small firm of four lawyers. Two of the four lawyers are former civil litigators, who now practice in the elder law area, including conservatorships, planning for disability and death and probate. Our conservatorship practice includes several cases of financial abuse. We would not take a case as outlined by Mr. Hankin, involving a long, hard fought battle against a well-financed abuser, for two reasons. First, we are not confident that the court would award us our full fees at the end of the battle, even though we won. Second, we cannot participate in a lengthy fight, over several years, and wait for payment until the end of the case."

8. Steven Weber, Esq.  
[Separate letter from Steven Weber]

9. Denis O'Neal, Esq., Santa Clara Count Counsel  
[Separate letter from Denis O'Neal]

10. Caren Nielsen, Esq.,  
[Separate letter from Caren Nielsen]

**ADDITIONAL LETTERS OF SUPPORT  
SET FORTH BELOW FROM:**

- 11. Barbara Bailey Ballou, Esq.**
- 12. Betty G. Barrington, Esq.**
- 13. Robert J. Gomez, Esq.**
- 14. Leah V. Granof, Esq.**
- 15. Lynard C. Hinojosa, Esq.**
- 16. Terry M. Magady, Esq.**
- 17. Marshal A. Oldman, Esq.**
- 18. Gary M. Ruttenberg, Esq.**
- 19. Robert D. Wilner, Esq.**



LOS ANGELES OFFICE  
PENTHOUSE, SUITE 1200  
3415 SEPULVEDA BOULEVARD  
LOS ANGELES, CALIFORNIA 90034

TELEPHONE (310) 255-6100  
FACSIMILE (310) 391-4042

ORANGE COUNTY OFFICE  
SUITE 220  
2010 MAIN STREET  
IRVINE, CALIFORNIA 92614

TELEPHONE (949) 833-7966  
FACSIMILE (949) 833-9584

WEB SITE  
WWW.FFSLAW.COM

DIRECT DIAL: 310/255-6128  
E-MAIL ADDRESS: [bbb@ffslaw.com](mailto:bbb@ffslaw.com)

PLEASE ADDRESS REPLY TO:  
LOS ANGELES

REFER TO FILE NO  
9635.200

July 17, 2000

Marc B. Hankin  
10680 West Pico Boulevard, #315  
Los Angeles, CA 90046

Re: Official Survey.

Dear Marc:

This letter will acknowledge receipt of your correspondence dated July 12, 2000.

I agree with you that lawyers are generally unwilling to take meritorious cases involving small estates because generally, the lawyers cannot afford to both advance costs and time to handle such matters. There is a distinct likelihood that a lawyer is not going to be adequately compensated for services rendered. The situation does, in my opinion, result in a lack of access to the judicial system for people without substantial resources and hopefully something can be done to change this situation.

Very truly yours,

Barbara Bailey Ballou, for  
FREEMAN, FREEMAN & SMILEY, LLP

BBB:ak  
267881.1

**BETTY G. BARRINGTON**

ATTORNEY AT LAW

1933 CRENSHAW BOULEVARD

LOS ANGELES, CALIFORNIA 90016

TELEPHONE (323) 732-7617

FAX (323) 730-0977

July 14, 2000

Marc B. Hankin, **Esq.**  
10680 West Pico Boulevard, Suite 315  
Los Angeles, California 90064-2223

Re: Access to Justice of People of Limited Means

Dear Marc:

With reference to your letter of May 18, 2000, I agree with you.

Most of the estates that I handle are small estates. In an effort to obtain justice for my clients, who for the most part cannot afford protracted litigation, in the past I have attempted to report clearly fraudulent elder abuse cases to the Los Angeles Police Department. I have even gone to Parker Center to meet with the Officer in charge of elder abuse. However, as you know, that section is understaffed. It was suggested by that unit that I make a report to the police department in the area that the fraud occurred because they might be better able to assist.

In discussing the cost of litigation with clients and whether they will be able to pay for or recoup their expenses, most option not to pursue litigation even though their cases are clearly meritorious. This is clearly a lack of access to the judicial system. This situation should be studied so that relief can be granted to those without substantial assets.

Very truly yours,

  
Betty G. Barrington

bgb

LAW OFFICES OF  
**GOMEZ & LOMBARDI**  
ONE WEST HELLMAN AVENUE, SUITE 10  
ALHAMBRA CALIFORNIA 91803

ROBERT J. GOMEZ, JR.  
RICHARD B. LOMBARDI  
1946-1992

TELEPHONE  
(626) 573-1103  
FACSIMILE  
(626) 573-3802

August 5, 2000

Marc B. Hankin, Esq.  
10680 West Pico Boulevard  
Suite 315  
Los Angeles, CA 90064-2223

Re: Access to Justice

Dear Marc:

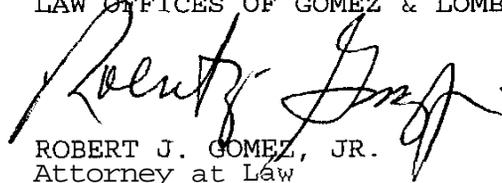
As you know, I am a sole practitioner in Alhambra, primarily serving the East Los Angeles, Montebello, Monterey Park and Alhambra areas. My practice is limited to estate planning, probate, guardianships and conservatorships.

I agree with your thesis that lawyers generally, and certainly in my community, are not willing to take cases of merit which involve small estates, based on their inability to finance the litigation and the likelihood that they will not be adequately compensated for their time and effort.

I therefore agree that there are certain populations unable to access justice because of their inability to afford attorneys, irrespective of the merits of their case and the egregiousness of the opposing side's actions.

Very truly yours,

LAW OFFICES OF GOMEZ & LOMBARDI



ROBERT J. GOMEZ, JR.  
Attorney at Law

RJG

# Selman • Breitman

Sixth Floor • 11766 Wilshire Boulevard • Los Angeles • California 90025-6538  
Telephone 310.445.0800 • Facsimile 310.473.2525

Author's E-Mail: lgranof@selmanbreitman.com

June 23, 2000

Marc B. Hankin, Esq.  
10680 West Pico Boulevard #315  
Los Angeles, California 90064-2223

Re: Access to Justice

Dear Marc,

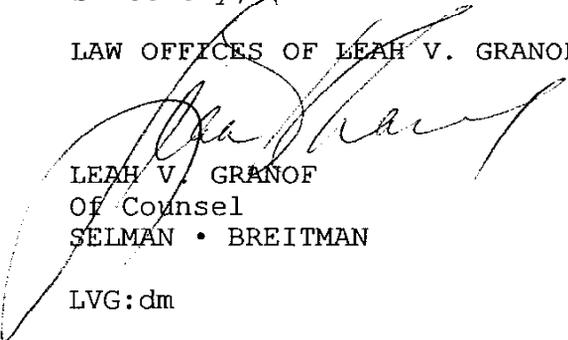
The growth of the aging population and the concomitant growth of disability raise issues that must be determined by the courts and thus equal access to justice is necessary in order to resolve the issues for that portion of the population which has small estates.

In my experience, attorneys are not willing to accept and become involved in cases in which they will be compensated poorly or not at all and will have to advance costs. As a consequence, the senior and elder population is either unrepresented, represented by attorneys with little or no expertise, or settlements are reached to the detriment of the client when assets are near depletion.

If a society is judged by how it treats its elderly, the current posture is a poor reflection on us. I am in favor of conducting a study to determine the extent of this deprivation of access so that we can address a solution that will provide equal access to the judicial system to the elderly, the infirmed and the disabled.

Sincerely,

LAW OFFICES OF LEAH V. GRANOF



LEAH V. GRANOF  
Of Counsel  
SELMAN • BREITMAN

LVG:dm

Our file number  
000.00242

Sterling Tao  
(1961-1998)

Neil Selman  
Craig R. Breitman  
Robert A. Steller  
Alan B. Yuter  
Nancy W. Shokohi  
Jeffrey C. Segal  
A. Scott Goldberg  
Elaine K. Fresch  
Nicholas Banko  
Irad D. Bleichner\*  
Monica Cruz Thornton  
John S. Knowlton  
Jerry C. Popovich  
Anthony L. Cione  
Sheryl W. Leichenzer

Of Counsel - Elder Law  
Leah V. Granof

Lynette Klawon  
Lisa Kahn Mazzarella  
David H. Oken  
Pauline New  
Eldon S. Edson  
Sarah F. Burke  
Linda Wendell Hsu  
Jack M. Zakariaie  
Jean D. Fisher  
Lincoln V. Horton  
Nichelle D. Fredix  
Albert T. Lion  
Viu Spangler  
Meka Moore  
Richard T. Breen  
Christopher R. Aker  
Mindi C. Grant  
Richard Scott  
Craig R. Maki  
Jennifer J. Capabianco  
Michelle L. Koskella  
Kelly M. Lynch  
Veronica E. Aitken  
Roger G. Honey  
Shereef Moharram  
Kiera Berkeley  
Gregory J. Newman  
Tamara Madenlian  
Michelle E. Diaz  
Josh I. Keane  
Michael R. Hoffman  
Natalie A. Barbancell  
Paul A. Herp  
Greg M. Whaling  
Kirk J. Reitz  
Rachel E. Holbs  
Peter J. Marcus

\*Admitted in  
California & Arizona

Of Counsel  
Jan L. Pocaterra  
Paul Edmond Stephan  
Maurice D. Meyers

000.00242/27

Law Offices of Leah V. Granof  
16133 Ventura Boulevard • Suite 700  
Encinitas • California 91436  
Telephone 818.981.0511 • Facsimile 818.789.7108

San Diego Office:  
Wyndham Emerald Plaza • Suite 400 • 402 West Broadway  
• San Diego • California 92101  
Telephone 619.595.4880 • Facsimile 619.595.4890

San Francisco Office:  
Citicorp Center • Suite 1900 • One Sansome Street  
• San Francisco • California 94104  
Telephone 415.951.4646 • Facsimile 415.951.4676

Orange Inland Counties Office:  
Suite 250 • 450 West 4th Street  
• Santa Ana • California 92701  
Telephone 714.647.9700 • Facsimile 714.647.9200

# HINOJOSA, KHOUGAZ & WALLET

ATTORNEYS-AT-LAW

LYNARD C. HINOJOSA\*  
GREGORY J. KHOUGAZ  
ANDREW M. WALLET

SUSAN JABKOWSKI  
TRUDI BALTZ SABEL

\*A PROFESSIONAL CORPORATION

SUITE 1000  
11111 SANTA MONICA BOULEVARD  
LOS ANGELES, CALIFORNIA 90025-3344

TELEPHONE:  
310/473-7000

FACSIMILE:  
310/473-0906

May 22,2000

Marc B. Hankin, Esq.  
10680 W. Pico Blvd., #315  
Los Angeles, CA 90064-2223

Rc: Official Survey

Dear Marc:

This will acknowledge receipt of your letter dated May 18<sup>th</sup>.

I have read your letter **and** agree that lawyers generally are unwilling to take meritorious cases involving small estates because of the likelihood that they are not going to be adequately compensated for their services and generally cannot afford to advance both costs and time to handle such elder abuse matters and heavily contested conservatorships. This situation does, in my opinion, result in a lack of access to the judicial system for people without substantial resources and should be studied in the hope that a way can be found to rectify it.

Very truly yours,



LYNARD C. HINOJOSA

LCH/sf

LAW OFFICES OF  
**TERRY M. MAGADY**  
A PROFESSIONAL CORPORATION  
11400 WEST OLYMPIC BOULEVARD, NINTH BLOOR  
LOS ANGELES, CALIFORNIA 90064-1557

TELEPHONE (310) 478-6543

FACSIMILE 1310478-6523

July 12,2000

**Marc B. Hankin, Esq.**  
10680 W. Pico Blvd. Suite 315  
Los Angeles, CA 90064

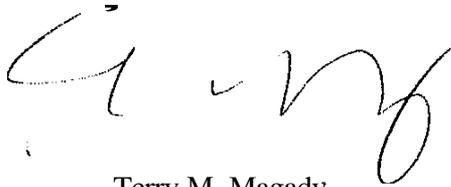
Re: Official Survey

Dear Marc:

Please feel free to add my name **to** support your effort to study the problem of how people without resources can get **better** results from our judicial system. **I, of** course, agree that lawyers generally are unwilling to take meritorious cases involving a small estate **and** intensive litigation.

I would welcome any inroads you may make in finding a some solution to **this** problem that we have all experienced first hand.

Very truly yours,



Terry M. Magady

TMM:tm



CERTIFIED AS AN ELDER LAW ATTORNEY BY THE  
NATIONAL ELDER LAW FOUNDATION  
AS ACCREDITED BY THE STATE BAR OF CALIFORNIA

LAW OFFICES  
**GILLIN, SCOTT, ALPERSTEIN, CLANTZ, SIMON & NIELSEN**  
A LAW CORPORATION

NATHAN E. GILLIN (1908-1996)  
S. DELL SCOTT  
GLENN M. ALPERSTEIN  
JACOB C. GLANTZ  
JOEL M. SIMON  
MICHAEL I. GLANTZ  
CAREN R. NIELSEN

SUITE 1520  
15760 VENTURA BOULEVARD  
ENCINO, CALIFORNIA 91436-3002  
(818) 501-3100  
FAX (818) 461-0559  
atty@gsags.com  
Webpage www.gsags.com

NORMAN R. BLUMENTHAL  
ALIZA M. KORN  
OF COUNSEL

December 8, 1999

Marc B. Hankin, Esq.  
Law Offices of Marc B. Hankin  
11355 West Olympic Blvd., Suite 550  
Los Angeles, CA 90064-1614

**RE: Denial of Access to the Judicial System**

Dear Marc:

If you have not yet mailed your letters regarding Access to the Judicial System, you can add me to List #1 with Ruth Phelps, Russell Balisock, etc.

During the last two years I have had at least three "large" cases in which I represented an incompetent elder and legal fees were incurred between \$20,000 and \$45,000 per case. I was able to collect half the fees in two cases and a smaller amount in the third case. I now am much more circumspect in selecting my cases, even though that means I am constantly saying "no" to people who need legal representation.

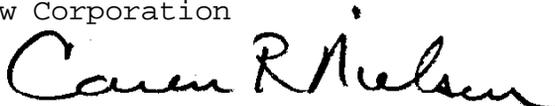
Now I frequently refer families to the bunko forgery units of the LAPD, to other agencies or to other attorneys. However, I do not blame the judges.. I believe that most judges are trying their best in the elder abuse / conservatorship litigation area and it is the system in general that should be modified to more clearly support the type of legal services which are necessary to adequately protect the elderly population.

Marc, thank you for all your hard work in the community

Best regards,

GILLIN, SCOTT, ALPERSTEIN, GLANTZ, SIMON & NIELSEN  
A Law Corporation

By

  
CAREN R. NIELSEN

CRN/mis

crn/docs/letters/hankin

County of Santa Clara  
Office of the County Counsel  
70 West Hedding Street,  
9th Floor, East Wing  
San Jose, California 95110-1770  
(408) 299-2111  
(408) 292-7240 (FAX)



Ann Miller Ravel  
County Counsel

William I. Anderson  
Debra L. Cauble  
Susan G. Levenberg  
James Rumble  
Assistant County Counsel

November 18, 1999

Marc B. Hankin, Esq.  
Law Offices of Marc B. Hankin  
10680 West Pico Boulevard, Suite 315  
Los Angeles, CA 90064-2233

Re: Attorney's Fees - EADACPA

Dear Marc:

Michael Desmarais, Esq., forwarded your e-mail of November 2, 1999, regarding attorney's fees under EADACPA to me. Please excuse my delay in responding but I **am** currently involved in several elder financial abuse cases which seem to consume all of my time.

You may recall that you and I have **spoken** by telephone several **times** about elder abuse issues in the past. I have been a Deputy County Counsel in Santa Clara County assigned to represent the Public Guardian and APS on elder abuse issues for the past **15** years, and prior to that, I **was** a social **worker** with the County for 10 years.

I have represented the Public Guardian in hundreds of elder financial abuse cases over the years and I **concur** wholeheartedly with all of the comments made by **Mr.** Desmarais regarding the treatment of the attorney's fees provision in these cases by the courts. In my position with County Counsel, I have acted as trial counsel on elder abuse cases and I have sought outside counsel to handle elder abuse cases. It **has** been my experience that private attorneys will rarely accept elder financial abuse cases on a contingent fee **basis**. Usually, the estate of the elder has insufficient assets **to** pursue litigation on **an** hourly basis. Even when the elders' estate does have assets, often the conservator is faced with the difficult choice of possibly depleting the assets in protracted litigation and thereafter having insufficient funds to care for the elder, or settling the case for substantially **less** than it is worth. Oftentimes, County

Marc B. Hankin, **Esq.**  
Law Offices of Marc B. Hankin  
November 18, 1999  
Page Two

Counsel's Office is the only legal avenue available to handle the elder abuse litigation, and the litigation fees and costs are advanced from public funds. I have been active in the County Counsels' Association Probate and Mental Health Study Section (an organization of deputy county counsels state-wide who represent counties on human service issues) and my counter-parts in other counties report similar experiences. Defense strategy in elder financial abuse cases is typically to aggressively litigate and prolong the litigation until plaintiffs resources are exhausted or until the elder dies. Heirs, anxious to receive their inheritance, are willing to settle for terms more favorable to defendants than the elder who was victimized, and heirs do not make as sympathetic a plaintiff. Further, my experience has been that settlement judges and trial judges, simply do not take either the attorney fees or punitive damages provisions of EADACPA seriously. Typically, this is conveyed by the Court to counsel within the first few minutes of any mandatory settlement discussions. Elder victims of financial abuse rarely achieve even a "make whole" settlement. Even after an expensive and time-consuming trial, the elder rarely recovers all of his/her lost assets.

The EADACPA provisions, allowing for attorney fees, only at the "discretion of the judge" and after a showing by "clear and convincing evidence" of "recklessness, fraud, oppression, or malice" is definitely better than no attorney's fees provision at all, but has not accomplished the goal set out by its authors or the legislature. Typically, this very high standard cannot be met, except against those defendants whose conduct is the most egregious and these defendants are most often judgment proof. In many elder financial abuse cases, the defendants can be categorized as the "primary abusers" or wrongdoer, and the secondary abusers, or "facilitators" of the abuse. Prior to judgment or settlement, the primary abusers have typically consumed the funds taken from the elder, often have been arrested, and/or have filed for bankruptcy, or are otherwise judgment proof. The facilitators of the elder abuse usually bankers, relators, brokers, attorney, escrow officers, etc., are not judgment proof. Plaintiff cannot convince the trier of fact that the high standard of the act have been met by the conduct of the facilitators. It seems that the much more egregious conduct of the primary abusers tends to make the less culpable conduct of the facilitators appear to the trier of fact as relatively benign and not warranting punitive or penalty of damages. When the law holds the "facilitators" of elder financial abuse financially liable for the elder's loss, and subjects them to attorney fees and punitive/penalty damages, the industries that employ these "facilitators" will self-police and put a stop to most financial abuse of elder and dependent adults.

Finally, although not the subject of your e-mail, I wish you would consider legislation that would make inter vivos "gifts" in excess of \$300.00, by elders to certain categories of individuals (such as to non-relative, bankers, ombudsman, realtors, brokers, any mandatory reporter, etc ) Per se void, and make the employer of these persons liable for knowingly allowing, condoning, or ratifying such gifts.

!

I wish to thank you for all the hard work you have done, and are doing, on behalf of the elder

Marc B. Hankin, Esq.  
Law Offices of Marc B. Hankin  
November 18, 1999  
Page Three

citizens. Anything that can be done to strengthen the attorney's fees provision of the act, so that attorneys will be willing to handle these cases will truly be appreciated

Please call if you have any questions

Very truly yours,

ANN MILLER RAVEL  
County Counsel



DENIS G. O'NEAL  
Deputy County Counsel

DGO:cc  
c: Michael G. Desmarais, Esq.  
S:\HumanServices\Oncal\Elder Abuse\Attorney Fees EADACPA.ltr

LAW OFFICES  
**OLDMAN, COOLEY & LEIGHTON**  
A LIMITED LIABILITY PARTNERSHIP

MARSHAL A. OLDMAN  
SUSAN J. COOLEY  
WALTER M. LEIGHTON  
SUSAN R. IZENSTARK

OF COUNSEL  
MICHAEL L. TROPE

PENTHOUSE SUITE A  
16133 VENTURA BOULEVARD  
ENCINO, CALIFORNIA 91436-2408  
TELEPHONE (818) 986-8080  
FAX (818) 789-0947  
E-MAIL: info@ocflaw.com

1000 TOWN CENTER DRIVE  
SIXTH FLOOR  
OXNARD, CALIFORNIA 93030  
TELEPHONE (805) 980-8384  
FAX (805) 988-0386

August 04,2000

mao@ocslaw.com

Marc B. Hankin, **Esq.**  
10680 West Pico Boulevard, Suite 315  
Los Angeles CA **90064**

Re: Elder Abuse Litigation

Dear Marc:

Thank you for providing me with copies of the various letters that have been received by you on the topic of attorney fees and elder abuse litigation. **As** we have discussed in the past, such litigation is often expensive and it is difficult for counsel to undertake the type of case that involves smaller estates that have been victimized by fiduciary abuse.

In an ideal world, abusers who have taken funds **or** assets from smaller estates would be willing *to* require the expenditure of a commensurate amount of attorney fees for the recovery of the property that has been taken. Of course, this is often not the case and counsel bringing an elder abuse action is faced with substantial costs and an enormous undertaking in order to make a recovery. Too often the attorney fees to recover the assets requires an extremely high percentage of the recovery if the fees are paid in full.

Understandably, courts are reluctant pay high percentages of a recovery to counsel **or** to allow fees on litigation that has resulted in little or no benefit to the estate. However, unless the courts are willing to allow unusually high percentages of a recovery to be paid to counsel for services rendered in elder abuse litigation, counsel will be unable in the small estates to pursue elder abusers and make any sort of recovery. Consequently, the abuser is likely to retain his ill gotten gains and the victim's estate will have no redress. Hopefully, the courts can be made fully aware of the sensitive and difficult nature of this **kind** of litigation and can be persuaded to allow the fees that *are* required to finance this kind of litigation. Otherwise, the abused elderly will **be** largely dependent on the charity of counsel, and this is not a basis **for** reliable recovery.

Marc B. Hankin, Esq.

August 04, 2000

Page 2

**Please keep me informed of your progress and of what help that I can provide.**

Very truly yours,



MARSHAL A. OLDMAN

MAO:moi

LAW OFFICES

# BLOOM & RUTTENBERG

A PARTNERSHIP INCLUDING A PROFESSIONAL CORPORATION

GARY M. RUTTENBERG \*  
ALLAN BLOOM †

1111 SANTA MONICA BOULEVARD  
SUITE 1840  
LOS ANGELES, CALIFORNIA 90025-3352

www.bloom-ruttenberg.com

TELEPHONE  
(310) 444-1979

FACSIMILE  
(310) 444-1917

CYNTHIA L. MILLER

\* CERTIFIED SPECIALIST IN PROBATE,  
ESTATE PLANNING & TRUST LAW  
BY THE STATE BAR OF CALIFORNIA  
BOARD OF LEGAL SPECIALIZATION

\* FELLOW, AMERICAN COLLEGE OF  
TRUST AND ESTATE COUNSEL

\* A PROFESSIONAL CORPORATION

† ALSO ADMITTED TO PRACTICE IN MICHIGAN

June 20, 2000

E-MAIL  
allbloom@aol.com

E-MAIL  
ruttenberg@aol.com

Marc B. Hankin, Esq.  
10680 W. Pico Blvd, #315  
Los Angeles, CA 90064-2223

## Re: Official Survey

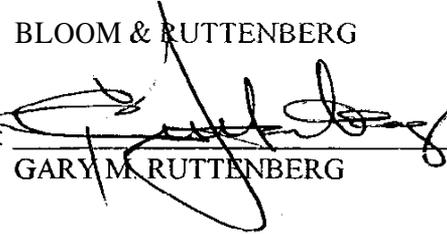
Dear Marc:

This will acknowledge you prior correspondence

I have read your material and agree that lawyers generally are unwilling to take what appear to be meritorious cases involving small estates because of the likelihood that they are not going to be adequately compensated for their services. Lawyers generally cannot afford to advance both costs and time to handle such elder abuse matters and heavily contested conservatorships. This situation results in a lack of access to the judicial system for people without substantial resources and should be studied in the hope that a way can be found to rectify it.

Very truly yours,

BLOOM & RUTTENBERG

By: 

GARY M. RUTTENBERG

GMR/mc

**STEPHEN E. WEBBER**  
ATTORNEY AT LAW  
3435 WILSHIRE BOULEVARD  
SUITE 1800  
LOS ANGELES, CALIFORNIA 90010  
TEL: (213) 386-2505

FAX: (213) 386-4440

EMAIL: SEWEBBER@EARTHLINK.NET

October 19, 1999

Law Offices of Marc B. Hankin  
10650 West Pico Blvd., Suite 315  
Los Angeles, CA 90064-2223

Dear Marc:

The trouble with your hypothetical is that the conservatee, Harvey, has no appreciation for the attorney's efforts or the proposed conservator's efforts. Consequently, the litigation achieves a direct result, making Harvey whole, that is **not** appreciated. The secondary result, punishing Patrick, is a relatively empty victory, as Patrick has **so** much money that litigation is just a game for him. Losing an insignificant part of his net worth **means** little. He would probably appeal, just for the pleasure **of** causing more frustration for the "do-gooders" and their attorney.

I would not take the case because of the psychological damage and stress, rather than the lack of fees. I would have once taken the case just for the satisfaction of seeing justice prevail, regardless **of** the fees.

In the past I have taken such cases. In a non-conservatorship case I ran up over \$100,000 in fees against a vexatious litigator who not only filed numerous counter-suits against my client, but even filed a lawsuit against **me** for representing my client. When finally a judgment was obtained, he filed bankrupt—, and additional time was consumed **getting** the judgment declared non-dischargeable. Ultimately about \$5000 was collected, of which I received about \$1,600.

More recently, in a conservatorship case, the judge **was** blatantly biased in favor of the swindler, represented by an attorney from a major law firm. The swindler was **not** required to abide by court-imposed deadlines to file documents or to return property. Ultimately the judge allowed the swindler **to** keep the conservatee's jewelry if he returned some of the other property he had **taken**. As for fees, the judge took my request under consideration, and **six** months later, has not acted. **Along** the way, the Court of Appeals denied a petition for a writ of mandate I spent many hours preparing **and** had filed **in an** attempt to get court orders enforced. The judge made it clear that I could not expect to **be** paid for the time spent **on** the writ.

In my opinion, the fee issue is just a part of judges' apathy towards conservatees. Too many judges are more concerned with expeditiously moving their calendars, rather than seeing justice gets done.

I don't know if *this* letter helps you or not. It may only be the frustrated rambling of a burned-out attorney.

Very truly yours.

  
Stephen E. Webber

SEW/hs

LAW OFFICES OF  
**ROBERT D. WILNER**  
ONE BUNKER HILL BUILDING  
601 WEST FIFTH STREET, SUITE 203  
LOS ANGELES, CALIFORNIA 90071-3505  
(213) 624-4223  
FAX (213) 624-3042

July 24, 2000

Marc S. Hankin, Esq.  
10680 W. Pico Blvd., Suite 315  
Los Angeles, CA 90064-2223

**Re: Official Survey**

Dear Mr. Hankin:

I wish to acknowledge receipt of your various papers concerning a very serious problem of accessed justice for elders. I reviewed your papers and I wish to express my opinion concerning this issue.

First, *the* courthouse doors should not be closed, because of lack of interest by the Bar. However, attorney's like any other professionals must be adequately compensated for their **time** and effort. Elder abuse cases, the legislature has seen fit to encourage the Bar to take those cases by the provisions for attorney's fees and in fact allowing certain claims to survive on after even the death of the victim. The legislature has done their *part* in passing such legislation.

Secondly, for the legislation to be effective it must be put into action by the courts. This is where I have found the system breaks down. Many of the bench officers fail to appreciate the difficulties that are presented to counsel representing **an** elder abuse victim whether it be financial or physical abuse. This translates in inadequate compensation **for** the attorney representing the victim. **As** a result **of** this inadequate compensation and the inherit difficulties of such litigation the lack of access to the judicial system for such victims, without substantial resources should be studied. The results of such a study will educate the courts and lead to rectifying the conditions that presently exist.

With kindest professional regards.

Yours very truly,

  
Law Offices of Robert D. Wilner  
Law Offices of Robert D. Wilner

RDW:da