



Disability and Guardianship Project Disability and Abuse Project

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August 16, 2018

Hon. Tani Cantil-Sakauye
Chair, California Judicial Council
455 Golden Gate Avenue
San Francisco, CA 94102

Re: Request for Statewide Inquiry into Local Practices on Appointment of Counsel

Dear Chief Justice:

It has come to our attention that several courts in California have policies and practices that are violating state and federal laws prohibiting disability discrimination by public entities.

The recent decision of the Supreme Court in *Jameson v. Desta* makes it clear that the judicial branch is theoretically committed to access to justice for disadvantaged litigants. The denial of access to justice for people with cognitive and communication disabilities should therefore be of concern.

The problem we have identified seems to stem from a lack of judicial awareness and from local court practices that are inconsistent with the accessibility principles inherent in the California Rules of Court. Therefore, I am writing to you as Chairperson of the Judicial Council of California – the body that promulgates court rules and that conducts research into local judicial policies and practices.

Spectrum Institute and other organizations have just filed two administrative complaints with the Sacramento County Superior Court. We have also filed pre-complaint inquiries with the Department of Fair Employment and Housing. We are hoping that the court in Sacramento will modify its policies and practices so they conform to state and federal civil rights laws. Such action could become a model for other courts throughout the state that may also be denying access to justice to litigants with cognitive disabilities who are involved in conservatorship proceedings.

The Judicial Council has constitutional authority to conduct surveys of courts throughout the state to determine and evaluate local policies and practices. We urge the Council to survey probate courts in every county to determine the extent to which they may be failing to appoint counsel to represent probate conservatorship respondents. Requiring involuntary litigants with cognitive and communication disabilities to represent themselves precludes access to justice in these cases.

Yours truly,

Thomas F. Coleman
Legal Director