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March 27, 2024

It is time, since 2019 been attempting small changes.

SB24-136 is a lot.

Advantages to going big versus piecemeal.

How did we get here?

SB19-072 Bill of Rights for Protected Persons under Guardianship. It was nixed by the Colorado Bar Association as "doing too much". Senator Holbert gracefully withdrew the bill and said we would try again!

SB20-129

Protection Of Individuals Subject To A Fiduciary
Concerning the protection of individuals subject to a fiduciary.
Small change

SB21-075 Supported Decision-making Agreement
Small change

I have attached important evidence that shows the probate courts are going unchecked, to the detriment of at risk adults in Colorado.

Thanks,

Maureen Welch

June 19, 2019 NOTES

Peaceable observation Denver Probate, Judge Leith Presiding

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David Bernhart is a Denver City Attorney who represents Denver Human Services and he also works for Adult Protective services, and serves different roles for different cases such as court visitor, APS investigator, guardian, attorney, and possibly more. He has been very abrasive and condescending in his interactions with me. In open court, during the Williams case he stated "We don't allow the public in these hearings" then he went on later to cite statutes 15-14-308 and 408 and mention "good cause" an "confidential nature of the case".

I invited my State Representative HD3 Meg Froelich to come witness this travesty on June 19, 2019 for the afternoon. She and I were told to leave at the 2:30 Akes hearing, and again at the 3:30 Williams hearing. As we stood up to leave, Representative Froelich asked the court to please put her on the record. She introduced herself and stated that she had voted in the affirmative for HB19-1045 to fund the Office of Public Guardianship this past session, which is solely for funding Denver Probate caseload. Yet, her experience today was that it is the only Colorado court doing probate, and perpetually closing hearings and it is very concerning. Judge Leith replied "Well, that is your opinion".

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Honorable Judge Martinez
Chief Judge Denver
City and County Building

June 28, 2019

Re: Judge Leith and Probate Court, Denver

Dear Judge Martinez:

I am writing this to express my grave concern regarding procedure in Denver Probate Court.

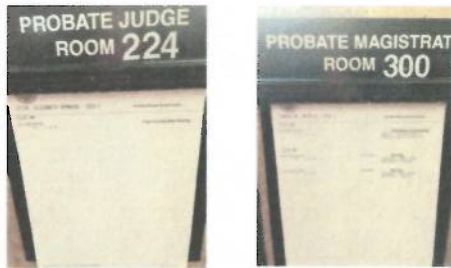
I have been an active public member of the Office of Public Guardianship Commission for since April of 2018. In fact at my first meeting, Judge Leith was present at the OPG meeting and heard my public comment with concerns. HB19-1045 of course did pass, and Denver will be the only judicial district receiving State Funding for a pilot program, with the intent of creating a state wide program from the data generated. My concern is that Denver is not operating in an open, democratic manner with adherence to statutes.

I noticed in March 2019 that Denver was the only court district in Colorado which had no posted guardianship or conservatorship hearings posted on the public facing State Judicial Docket online.

I visited the court clerk who informed me that under Supreme Court Directive 05-01 that the proceedings were closed and not posted.

I shared to the clerk that every other court in Colorado did post these protected proceedings online, and that the SJD 05-01 applied to access to records and not the actual proceedings.

I noted that a member of the public would have to come to the courts in person and check the posted paper dockets daily to know if there was a hearing or not. She nodded. I mentioned that the names of the petitioner and attorneys were not on the posted paper court docket as they are in other courts. She said those too were protected. Every other county court I observed have complete case information posted on paper outside the court room, except for Denver Probate.



I proceeded to room 224 court room to be met by a sign at the door saying the proceedings were closed. See picture below.



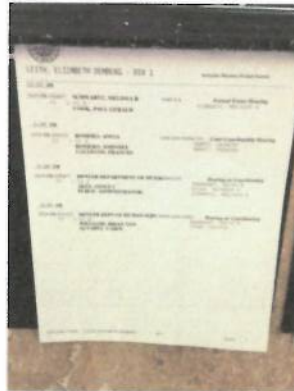
I shared my findings and concerns of closing court proceedings with the Public Guardianship Commission as well as testifying in front of the Denver City Council on April 1, 2019.

On May 22, I noticed they wrote in names of parties by hand on the posted docket.



Later that same week of **May 20, 2019**, I noticed Denver Probate changed the printer to include the complete information for their posted paper dockets. And also, the protected proceedings for Guardianships and

Conservatorships were finally visible on the public facing State Judicial website Dockets.



Finally, the public could go online to see what cases would appear, and search by lawyer number or name, also by client name or case number.

So, naturally, as I have done across Colorado in many counties, I desired to be a peaceable observer in Denver Probate Court. I was extremely surprised to see that Judge Leith's clerk was calling attorneys into the back office prior to start of court proceedings. Strangely, one by one in every case, after initial introductions of attorneys and their roles, the attorneys would move to close the hearing due to confidential information to be shared. Judge Leith did refer to statute 15-14-308.

I have been a peaceable observer in protected proceedings in probate matters in counties of Mesa, Arapahoe, Weld, Douglas, Adams and Broomfield. Never has a judge or attorney ever made a motion to close a court room due to personal or confidential information. Rather they have prepared documents and refer to physician reports to show cause, and avoid verbally sharing health information.

On June 18, I was told to leave the court for 3 cases: at 10, 11 and 2:30.

10:00 AM Hearing on Conservatorship D682019PR30325 36611 Ayodele Labode court appointed attorney for wife, Josephine Mares, who was excused from attendance. Sara Surah from Rmhs care manager present as well as a caregiver. I was asked to leave the courtroom, citing 5-14-308 present of hearing can be closed to protect privacy as some sensitive matters as relates to her client. Counsel Mr. Levin joins counsel's motion.

Judge asked people to leave not party to case. I was only person who left, although there were a good 10 other people in chairs. I turned and asked others if they too were leaving as not "party to case" they all said no. Rocky Mountain Human case manager Sara Sarah remained. Also remained was a paid caregiver in the rows, not with the client and many others. Afterwards, the ward's sister was crying in the hallway, had an emotionally long hug with the protected person. It appeared to me she had not seen him for a very long time. They attorneys told them all to move down the hallway, trying to get them away from where I was seated. It appeared to me that the sister and her brother were both very upset.

Later on **June 18**, 11am hearing. LURPPAGE, RONALD D682019PR30644 I entered the court room and the clerk said that the hearing was via video from Denver Health and that they were having some technical difficult getting it set up. I said I would sit down, she responded that like any protected proceeding, they could close it. Eventually they only got audio going, the video never worked.

David Bernhart, was listed a court visitor is on the docket on case and was the person talking on audio.

They got audio going from Denver Health but no video. They did introductions, Mr. Bernhart stated that present was Ron Lurppage, aka Ronald Burnham and he was David M. Bernhart city attorney #19319. He then stated that he requested to close the hearing. Judge Leith asked if that was at the request of the respondent. There was a pause.

Mr. Bernhart said, Mr. Lurppage is not represented by counsel but parties request the hearing be closed. (Although Mr. Bernhart did not state it, from the docket it appeared his role was that of Court Visitor.)

When asked if he wanted others in the hearing, he said with some speech difficulty "I have Down syndrome, it is ok with me.'

Judge Leith said she could not understand him at all, and Mr. Bernhart said "I think he doesn't understand, your honor".

Mr. Bernhart then rephrased the question to Mr. Lurppage question "Don't you only want us in the hearing?" Mr. Lurppage answered in similar fashion, "It is ok with me"

Mr. Bernhart stated that he requests a closed hearing.

Long pause from Judge Leith and she read from statute book "15-14-308 that the hearing that accommodates by appearance by phone and that the hearing is closed on behalf of respondent."

June 18, 2:30 George Dominguez Hearing on Guardianship D682019PR30538. I was asked to leave the courtroom.

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Monday June 24, 2019, 1:30 PM HUGO, ROBERT ConsGuardianship Hearing D682019PR30410. I walked into court late, after coming from observing several probate cases with no issues in Arapahoe County. Judge Leith was not presiding nor was she present. It was clear there this case was contested.

It appeared that the ward's son had retained an attorney of his own, Jennifer Gedde, who was arguing with Mr. David Bernhart about her client opposing the "overly broad" permanent guardianship and conservatorship. She cited the unlimited investigatory power as a concern.

Mr. Bernhart appeared to be representing the county as DHS, also present was Mr. Michael Graetz. I assumed Mr. Graetz was the court appointed attorney for the ward and Mr. Bernhart was the petitioner for guardianship. Ms. Melissa Schwartz was also present and was referred to as the conservator.

Mr. Bernhart stated that if someone else wants to petition, we can schedule a hearing in a few weeks. It was asked that it be noted on the record that Mr. Hugo's wishes are not being complied with.

At that point, Mr. Bernhart stated, "We are the only game in town".

Ms. Gedde was suggesting the letters have a shorter period to allow for consideration of other interested parties. Ms. Melissa Schwartz, the conservator, said they don't want time limited letters as then they have to come back and extend in another hearing

Mr. Bernhart said "He needs unlimited authority for money and healthcare, we are the only petitioners. Whoever comes up, we will consider."

At that point, Mr. Bernhart recognized me, pointed at me, said "Ms. Welch, I need to see you out there." He pointed to hall. In the hall, he told me that they have statutory ability to close the court room and cited that statute says the guardian can do that. I countered that the statute does not say guardian and it is up to the judge to close the hearing.

He told me "If you want to learn about Probate, there are better ways to do so than observing in court." I took a seat in the hallway.