

HYPOTHETICAL 2021*

*Some of the names are real, but facts and situations have been modified for purposes of this hypothetical.

The date is January 3, 2022. The remaining portions of the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act (RCW 11.130) have taken effect. You are called by attorney Mathew Rosengart inquiring if you would be willing to act as a Court Visitor in a case involving his client, Britney Spears. Ms. Spears has been under a guardianship in SpokAngeles County, WA, since 2008, and she believes she no longer needs to be subject to guardianship/conservatorship.

Back in 2008, Ms. Spears suffered a rather significant medical issue that lead her to be involuntarily committed to Sacred Heart hospital as a result of a psychotic break. She was diagnosed with schizo affective disorder after showing extreme symptoms of bipolar and experiencing some audio hallucinations. Ms. Spears could not provide for her own basic needs at the time, nor was she able to take care of her two young children. Family members stepped in to assist with the filing of the Guardianship, in which ultimately her father, James Spears, was appointed as the Guardian of her estate, and family friend Jodi Montgomery was appointed as Guardian of the person.

Ms. Spears' career is in the entertainment industry; she earns millions of dollars every year with her album sales and concert appearances. At the time her guardianship was established, it was necessary to ensure that the industry she had built could continue to run – she had dozens of employees who needed to be paid, bills and contracts that needed attending to, and the appointment of Guardian of her estate was necessary.

Ms. Montgomery, as guardian of the person, helped ensure that Ms. Spears personal living and health issues were addressed. Initially that included assisting her with medical attention and treatment for her health diagnosis. But once Ms. Spears regained her health, Ms. Montgomery remained a part of the “team” that made decisions about Ms. Spears' life on her behalf.

Part of Ms. Spears' concerns are that she is being forced, in her opinion, to have forced birth control (an IUD) against her will and would like to have more children. She would also like more say in what jobs she takes. She would prefer to not work so hard, instead of nightly shows in Las Vegas, Ms. Spears would like to take a job in the Dominican Republic at an all-inclusive resort, where she could live with her children and her boyfriend, and only have to perform once a week. It would be a significant reduction in her earning capacity, but she would have free room and board.

SpokAngeles County does not have a Court Monitoring Program. In that county, the guardians had the requirement to file the Personal Care Plan and the Report and Accounting on an every 3 year basis. As such, there seemed to be a rather perfunctory process of approving the reports so that no one ever raised concerns about the guardianship until, with the passing of the UGA in 2020, the topic of Guardianship and Conservatorship started to get more public notice.

Ms. Spears is convinced that her “team” is taking advantage of her. She suspects her father is skimming money from her or forcing her to work as an indentured servant, and she suspects Ms. Montgomery is simply interfering so she can continue to charge Ms. Spears for the work she does as her personal conservator. Ms. Spears, through her lawyer, has filed a Petition to Modify/Terminate Guardianship. As such, you are appointed as her Court Visitor/Guardian Ad Litem.

DISCUSSION QUESTIONS

- 1) Upon appointment, what are the necessary first steps you need to take?
- 2) As this is an established guardianship/conservatorship, is it a different analysis than an initial conservatorship?
- 3) Who must you interview? Who SHOULD you interview?
- 4) Besides a full conservatorship, what are some other options available under the new statute?
- 5) What deference, if any, will you give to Ms. Spears’ wishes and requests?
- 6) Are there cultural or ethnic considerations you should keep in mind?
- 7) What are the things you believe are relevant for the judge to know when making his or her decision about removing/replacing the guardian/conservator or terminating the guardianship?