Making Self-Help Work: Bet Tzedek's Conservatorship Clinic

Bet Tzedek Legal Services has been running a self-help conservatorship clinic at the Los Angeles Superior Court since 2007. The project has been so successful that it currently assists in over 40 percent of all new conservatorship filings in the county. Well over 85 percent of all clinic litigants successfully obtain conservatorships. The project is well-respected in the community and is considered a model program by the court because it provides timely, high-quality services to all who need assistance within the project's scope. Many of the lessons of the clinic apply not only to other programs seeking to provide similar services, but also to any program working to establish a high-quality self-help program.

The Need for Conservatorships

An ever-increasing number of families find themselves caring for a severely disabled adult and needing of a conservatorship—or "adult guardianship" as they are known in most states—to care properly for their loved one. Longer life expectancies result in more cases of dementia, including Alzheimer's disease: One in eight individuals over 65 and nearly half of those over 85 have a form of dementia (Alzheimer's Association, 2011 Alzheimer's Disease Facts and Figures 12 (2011), http://bit.ly/Xqt3w9). Longer life expectancies also mean more adults with developmental disabilities. Frequently these individuals have caregivers who need to make their medical decisions, assist in determining their living arrangements, manage their finances, or protect them from financial abuse. At the same time, to protect these individuals from unnecessary, overbroad, or abusive conservatorships, legislatures have created numerous procedural and substantive hurdles that must be overcome to establish a conservatorship. This increased complexity has led private attorneys to charge higher rates for these services, which has resulted in more pro per litigants attempting to obtain conservatorships on their own.

Background of Bet Tzedek's Self-Help Conservatorship Clinic

To assist pro per litigants as they navigate the complexities of the court system, many courts in California have developed Self-Help Legal Access Centers. Few of those centers, however, handle conservatorship matters, even though most conservatorships are well-suited to self-help. Although the pleadings and related paper work are complex, the actual court hearings are quite straightforward. The cases are rarely adversarial, and the hearings are relatively short. The experience of most litigants is that if their pleadings are in order, the hearings are not that difficult.

Bet Tzedek first opened its conservatorship clinic in January 2007. Bet Tzedek created the clinic in part because it was receiving a large number of referrals from the court to assist pro per litigants who had filed petitions that were inadequate in some way. A Partnership Grant from the California State Bar provided the initial funding to open the clinic. We saw early on that traditional models of self-help would not work with the clinic.

First, although the information required for the pleadings was straightforward, the number of forms and the difficulty of completing them frequently caused litigants to file inadequate pleadings. Second, California requires that all relatives of the first or second degree be served by mail with a copy of the pleadings (CAL. PROB. CODE § 1822(b) (West 2013)). Litigants therefore must serve all parents, grandparents, children, grandchildren, siblings, and spouses of proposed

conservatees. In addition, in certain cases litigants must also serve the Veteran's Administration or the applicable Regional Center (nonprofit agencies that provide services for developmentally disabled individuals) (*id.* § 1822(e)). Third, litigants need to prepare multiple post-hearing documents so that they can receive the court documents that they need to act on behalf of the conservatee.

When we began, more than 50 percent of our litigants were referred to us from a courtroom because they had made a mistake in the process. Based upon our experience with those litigants, we decided to modify traditional self-help practices to ensure that litigants who came to the clinic would not make those errors. First, we prepared the pleadings based upon information provided by a litigant in a questionnaire instead of having the litigants complete the complex and numerous forms themselves. Second, we served the requisite notice by mail ourselves instead of having the litigants mail the notices. Third, we assisted in the preparation and submission of posthearing documents instead of leaving those for the litigants to complete. We thereby ensured that, at the end of the process, successful litigants received certified copies of the "letters of conservatorship" that give them the power to act.

Partnership with the Court

The project benefitted from an excellent partnership with the Los Angeles Superior Court. The original funding for the clinic was obtained through a partnership with the court, whose judges had the foresight to see that a well-run self-help clinic would benefit not only the litigants but also the courts themselves. First, the court gave Bet Tzedek space at the courthouse. This space was located in the probate clerk's office, immediately adjacent to the filing window. Litigants we assisted could immediately file their cases, and if they had a problem, we were available to resolve it. In addition, if a litigant we had not assisted showed up at the filing window with clearly inadequate documents, the clerk could refer the litigant to the clinic. Second, the court gave us electronic access to the public documents filed in a case, including minute orders, so we could easily determine a filed case's status and identify any problems. Third, we had regular group meetings that included the Presiding Probate Judge, the court's Director of Self-Help, and key managers from the court's Probate Department. This consultation allowed us to resolve problems that we had observed and to get feedback about how to improve clinic operations.

To assist the court, the clinic stayed open an hour after the morning calendar ended so court referrals could be handled on the day of appearance. Soon the courtroom referrals nearly stopped altogether because almost all unrepresented litigants came through the clinic first. Litigants prepared by the clinic understood the process better than other unrepresented litigants. Court clerks were grateful to have the clinic staff nearby to assist litigants who were confused or overwhelmed by the court process. Well-prepared and correctly served pleadings reduced the number of court appearances and lightened the court's calendars.

Adapting to Overwhelming Demand

The original grant from the California State Bar anticipated that the clinic would serve 150 litigants in the first year. However, demand quickly exceeded that projection. In the first year, the clinic assisted nearly 500 litigants. The demand was overwhelming for a single paid staff person, and we had to modify the program. At the beginning, we recruited volunteers and used technology to manage the demand. Later we used groups to streamline operations. After we hired an additional staff person and extended services to two additional courthouses, the clinic assisted

over 1,400 new litigants in 2012. One of the three clinic locations is open every weekday morning.

Volunteers. When we realized that we needed volunteers to keep up with the demand for services, we developed a volunteer plan. The clinic benefitted from Bet Tzedek's extensive system of volunteer recruitment. But because our clinic did not provide legal advice and required little legal training for a volunteer, we were able to expand the potential pool of volunteers from attorneys and law students to paralegal students and college students and graduates. With smart and consistent volunteers, we were able to assist every litigant who came to the clinic with an issue within our priorities. We never turn away litigants because we have prioritized recruiting and retaining enough volunteers. We could only assist a fraction of the litigants without our volunteers.

We use the volunteers in different ways. Volunteers assist with triage and prescreening, conduct virtually all the initial intakes, prepare the documents for filing, meet with the litigants to review and sign their documents, copy the documents for filing, and ensure that all posthearing documents are complete. These tasks are extremely time-consuming. Having volunteers do them frees up the project's staff attorneys to supervise the entire clinic.

The project attorneys' main tasks are to direct the volunteers, keep track of the work flow to make sure everything runs smoothly, and answer any difficult questions that arise. Between fifteen and forty-five litigants walk in to the clinic on any given day. Having proper systems in place frees up the attorney to make appropriate delegations. The clinic runs smoothly and is able to close shortly after its walk-in hours end at noon.

Technology. One of the unique qualities of the clinic is that it prepares all the forms necessary for filing and completing the process for obtaining a conservatorship. Each conservatorship case requires litigants to complete approximately fifty to sixty pages of forms. We developed a simple questionnaire that asked the questions necessary to prepare the forms. The questionnaires are available in both English and Spanish. After the litigant completes the questionnaire, a clinic volunteer meets with the litigant to ensure the information is accurate and complete. Once the information is complete, Bet Tzedek volunteers begin to prepare the necessary forms. Fortunately, California and Los Angeles County have developed a complete set of all the forms that need to be filed to initiate and complete a conservatorship (see Judicial Council of California, Browse All Forms: Probate—Guardianships and Conservatorships (2013), http://bit.ly/12EK6Pi).

We now use a legal forms program to complete the documents, but initially, we assigned volunteers to prepare all of the forms using the information provided by the litigants on our questionnaire. However, with frequent turnover, staff was spending too much time training volunteers. In addition, staff time was spent correcting volunteers' mistakes until they became familiar with the forms and the program.

To improve our workflow, we had one of our more experienced volunteers prepare detailed instructions on how to complete the forms. The instructions were designed so that a brand new volunteer could complete the forms packet in two to four hours without the need to ask staff any questions. After a while, the quickest volunteers could prepare the pleadings in less than an hour, and almost all volunteers could complete them in less than two. Staff reviewed the forms for accuracy and had the volunteer make any necessary changes.

Although this system improved efficiency greatly, we knew that we could improve it further. For example, because the forms program was designed for general legal practice, it had separate fields for the "lawyer," petitioner, and proposed conservator, even though they were all the same in these cases. In addition, the forms program frequently did not transfer the information from the state forms to the Los Angeles County forms. These limitations increased the time needed to prepare the forms and allowed for more mistakes.

At a conference, we met Harry Jacobs, a senior attorney with the California Administrative Office of the Courts. One of his tasks is to create automated forms to better assist self-represented litigants. After some convincing, Jacobs agreed to work with us to create a program that would automate production of the forms for a conservatorship. Jacobs had done one conservatorship case in the past and thought that it would be too complicated for an automated system. Fortunately, he was up to the challenge of proving himself wrong.

Jacobs used our expertise with conservatorships and the forms to create a program tailored for self-help litigants with routine conservatorships. We worked together as he created a program using the Law Help Interactive template (see Judicial Council of California, Conservatorship Programs (2013), http://bit.ly/YJlz8u). To generate the necessary documents, a volunteer simply inputs the data gathered from our questionnaire. With the stroke of a key, the program populates and prints all of the forms in the order required for filing. Now, instead of having to follow an eighteen-page memo to complete the forms, volunteers can complete the forms with very few instructions. Most complete all the forms in fifteen to thirty minutes with virtually no mistakes. Our fastest volunteer completed them all in just seven minutes. Not only did this program reduce the time required to complete the forms and therefore reduce the need for so many volunteers, it also increased accuracy so staff takes less time reviewing the forms. As we worked with the program, we saw that with a few modifications, we could have the litigants prepare the pleadings themselves.

Groups. As the number of litigants continued to increase, we had to think of creative ways to continue to meet the demand for services. We focused on the most time-consuming activity at the clinic—reviewing the documents with the litigants for their signature. Recognizing that conservatorships for developmentally disabled adults comprise about 60 percent of our caseload and that the pleadings in each of these cases are very similar to each other, we began experimenting with group signing appointments. We developed a PowerPoint presentation that reviews each of the forms line-by-line. Since the content of the forms for each of these litigants is so similar, we have one volunteer conduct the presentation, while others circulate to answer individual questions. We found that the quality of information presented to litigants in the group setting actually improved because the PowerPoint highlighted each item we wanted to emphasize. We treated the questions litigants asked as feedback and used that feedback to clarify aspects of the presentation. We are now able to assist twenty to thirty litigants in the same time we used to spend on two. As an added benefit, the families help each other, and a sense of camaraderie appears to develop among them. Many litigants exchange telephone numbers and make friends with the other families. We have also found that litigants more easily comprehend that there is no attorney-client relationship when they are meeting in groups. Grouping these cases has expanded our ability to serve litigants and maintain our goal to serve all litigants who come into the clinic.

The Future

As the demand for services continues to grow, we are looking for new ways to streamline services and improve the quality of the clinic's work. The success of our group work has led us to start a project to recruit pro bono volunteers from law firms and corporate law departments to run and assist each group session.

The simplification of the technology has made it possible to modify our current forms program so that, in the near future, litigants will be able to complete the questionnaire electronically and generate all the necessary documents on their own. We are also developing the systems to enable litigants to prepare the forms at courthouses in which the clinic does not operate. Once litigants complete the forms, clinic staff will then review the forms for completeness from a remote location. The target date for completion at our first new courthouse is December 2013. Assuming this aspect of the project proves to be a success and if funding is secured, we will be in a position to replicate it at every courthouse in the county. We also envision a scenario in which we partner with other organizations throughout the community—at social service agencies, special education schools, or nursing facilities—so that their consumers and families have an even easier way to access the program's services.

The potential for expansion extends beyond a single county. We could partner with the vast majority of California Self-Help Centers that do not have staff with conservatorship experience, so that local self-help center staff could conduct an assessment and, when appropriate, refer the litigant to a computer terminal. A single Bet Tzedek staff person in a remote office could then provide live support to litigants throughout the state by advising self-help center staff about which forms to use and by reviewing completed pleadings electronically. Litigants and courts throughout the state would benefit from complete, accurate pleadings. This model could be used in any state where the nature of a particular genre of cases limits widespread local expertise.

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The goal of the clinic has been to offer sufficient assistance for conservatorship litigants to complete the court process on their own. To reach that goal, we had to evaluate and adjust our model. In designing and implementing this project, we learned that conservatorships are well-suited for self-help assistance. We also learned that we can significantly expand our capacity by developing a system that makes efficient use of nonlegal volunteers and technology. As court resources shrink and the cost of hiring a lawyer rises, models such as this one, which assist a large number of litigants in a thorough yet efficient manner, are proving invaluable to litigants, their families, and the courts striving to provide equal justice to all.

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