



Guardianship Integrity Assurance

Investigating Guardians & Attorneys






Guardian Peer Support & Mentor Group
May 25, 2023

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Clerks' SIA agenda

- Hold **wrongdoers** accountable
- Offer greater protections to persons with **significant cognitive issues**
 - Increase **transparency**
- Ensure sufficient **checks & balances**
 - Heighten **professionalism**
- **Accuracy** and **diligence: factual**






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2022 Clerks' SIA deliverables- FS 744.368(5)

- 378 IG audits and investigations
- \$943,071 deficiencies/fiscal impact
- 26 law enforcement referrals

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Case study



IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT, IN
AND FOR PALM BEACH COUNTY, FLORIDA

IN RE: GUARDIANSHIP OF
LINDA NANCY,
Ward,
MARGARET NANCY
Guardian.





PROBATE GUARDIANSHIP
DIVISION:
CASE NO 502015GA001335XXXXMB

**ORDER REMOVING AND DISCHARGING GUARDIAN AND RESERVING
JURISDICTION TO APPOINT A REPLACEMENT GUARDIAN TO PROTECT THE
PROPERTY AND PERSON OF THE WARD**


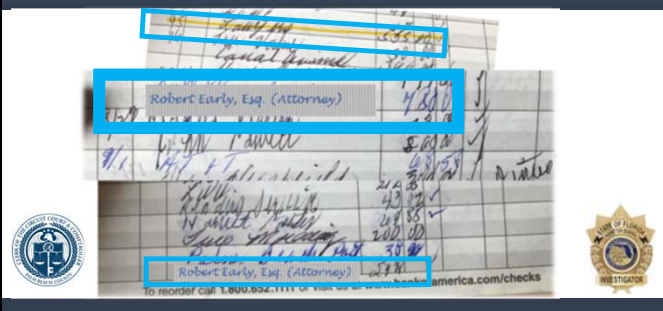


THIS CAUSE came to be heard, in chambers, September 6 2021 before the Honorable

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SIA Policies and Procedures





The seal features a map of Florida in the center, surrounded by the text: "Court Clerks & Comptrollers", "Statewide Investigation Alliance", and "Office of Public & Professional Guardians".

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OPPG & Florida Clerks

- Coordinate, to the greatest extent possible
- Avoid duplication of duties with regards to financial audits
 - Clerks' Statewide Investigation Alliance
 - Florida Guardianship Data Transparency Law
 - Chapter 58M-2, Florida Administrative Code






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Historical SIA investigation data

Involving 204 state registered professional guardians
 2,204 allegations of wrongdoing
 Across 65.7% of Florida counties

As of May 23, 2023

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Historical SIA Statements of Fact

1,900 Not True (86.2%)
304 True (13.8%)
\$9,879,787 Adverse Property Impacts




As of May 23, 2023

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2022 SIA Statements of Fact

335 Not True (84.4%)


62 True (15.6%)

24 Deficiency Observations




Calendar Year 2022



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2022 Clerks' SIA deliverables- OPGG actions


11 Letters of Concern (15 complaints)

3 Permanent Revocations (6 complaints)

Calendar Year 2022

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Examples of true & deficiency findings


Technical deficiencies / No harm

Exceptions / Some harm

Criminal behavior / Significant harm






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OPPG Standard 16 – 58M.2.009(16)

- Professional guardians shall avoid all conflicts of interest
- Arises when the Guardian has interest that can be **perceived** as self-serving
 - Guardian seeks to take advantage of position
 - Have any interest, financial or otherwise
- Direct or indirect, in any business transaction or activity






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OPPG Standard 22 – 58M.2.009(22)

- All fees must be reviewed and approved by Court
- The guardian shall appraise the Court of all fees paid
- Including fees paid from sources outside of the guardianship
- Fees must be reasonable & related only to guardianship duties

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OPPG Registration – 58M.2.001

- Professional guardians with
 - employees with fiduciary responsibilities
 - Must be registered with the OPPG
- Makes any health care decisions; supervises the care; or 5 times in any 30-day period






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Quarterly visits – FS 744.361(14)

- Only applies to guardianship of the person
 - Personally visited
- Guardian or the guardian's professional staff
 - Once each calendar quarter






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Attorney's Fees – FS 744.108

- Attorney who has rendered services to the protected person
 - Entitled to a reasonable fee for services and costs
- When fees are submitted to the Court for determination






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Guardian's Fees – FS 744.108

- Professional guardians must register with the OPPG
- 40-hours instruction & training; continuing education
 - Investigation of credit history
 - Level 2 criminal screening
 - Competency examination fed



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Power of guardian without order – FS 744.444(16)

- Pay reasonable fees & costs
- Employed by the guardian, including attorneys
- Criminal, bankruptcy, dissolution of marriage, tax

But not the guardianship attorneys.

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Attorney/Client Relationship

- Consenting to fees
- Advice inconsistent with standards
- Reports and termination/discharge
- Holding your attorney accountable
- Ineffective assistance of counsel/malpractice




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Attorney/Client Relationship

“I’m asking you to work with us, to try and rein in the bad actors so that the good things that we do as lawyers are the things that people talk about.”

Senate President Kathleen Passidomo
 To The Florida Bar Board of Governors on May 12, 2023

<https://www.floridabar.org/the-florida-bar-news/passidomo-briefs-the-board-of-governors/>




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