





Cal.3d 920, 925 (1985) The right to retain one’s own attorney is especially important in conservatorship proceedings where the positions of the conservatee and the conservator are in conflict.

In a masterful and thorough piece of investigative reporting, lead author Ronan Farrow explains how Spears tried on several occasions to have an attorney of her choice represent her in the conservatorship proceedings which have so far continued for some 13 years. “Britney Spears’s Conservatorship Nightmare,” *The New Yorker* (July 3, 2021).

After she was conserved, Spears asked attorney Jon Eardley to represent her. He wanted to move the case to federal court. Eardley advised the superior court that Spears had a due process right to be represented by counsel of her choice. He asked that she be brought to court where she could testify that she hired him. The request was denied. Eardley was pushed out.

Then came Jon Anderson, an attorney who Spears later hired. He notified all of the attorneys in the case that he would be filing a petition asking the court to recognize Spears’ authority to retain independent counsel. The same day, after hearing from attorneys for the conservators, Anderson withdrew from the case without explanation.

The case of Spears is the tip of the iceberg in terms of violations of the right to counsel in conservatorship proceedings. It happened a few years ago to then 84-year-old Theresa Jankowski in the same court. It happened to a 24-year-old woman with Down syndrome in Solano County last year. A whistle blower report from the Alta Regional Center in Sacramento reveals over the years about 80% of their clients have been denied the right to counsel.

SB 724, a bill by Senator Ben Allen, would strengthen the right to counsel for conservatees and proposed conservatees. While Spears’ case

was the original impetus for the bill, it has been expanded to help thousands of others who become targets of conservatorships. Allen says he will bring the bill up for a vote on the floor of the Senate in January 2022.

In the meantime, Spears needs relief now. On her own motion, Judge Brenda Penny should schedule the case for what is called a “Marsden hearing” to inquire into the violations of Spears’ right to counsel of choice, the apparent ethics violations by Ingham, his failure to advise her of her right to petition the court to terminate the conservatorship, and his failures over the years to alert the court to the numerous abuses his client disclosed in open court just a few days ago. *People v. Marsden*, 2 Cal.3d 118 (1970); *Conservatorship of David L.*, 164 Cal.App.4th 701, 712 (2008).

If any of these allegations are found to be true, the judge may remove Ingham from the case and refer the matter to the State Bar for investigation. California Rules of Court, Rule 7.10(c). The court would also have authority to order Ingham to repay Spears some or all of the nearly \$7 million he has been paid out of her assets during the time he was violating the Rules of Professional Conduct. *Sheppard, Mullin, Richter & Hampton, LLP v. J-M Mfg. Co.*, 6 Cal.5th 59 (2018).



Thomas F. Coleman is legal director of Spectrum Institute, a nonprofit organization promoting conservatorship reform in California and guardianship reform in other states. Email him at: [tomcoleman@spectruminstitute.org](mailto:tomcoleman@spectruminstitute.org) Website at: <https://spectruminstitute.org/>

The Daily Journal is California’s premier legal newspaper, circulating to more than 7,000 lawyers, judges, and public officials.