

PART ONE

GUARDIANS FOR PROFIT

When a Family Matter Turns Into a Business

Conservators are supposed to protect the elderly and infirm. But some neglect their clients, isolate them -- even plunder their assets.

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Times Staff Writers

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Helen Jones sits in a wheelchair, surrounded by strangers who control her life.

She is not allowed to answer the telephone. Her mail is screened. She cannot spend her own money.

A child of the Depression, Jones, 87, worked hard for decades, driving rivets into World War II fighter planes, making neckties, threading bristles into nail-polish brushes. She saved obsessively, putting away \$560,000 for her old age.

Her life changed three years ago, when a woman named Melodie Scott told a court in San Bernardino that Jones was unable to manage for herself. Without asking Jones, a judge made Scott — someone she had never met — her legal guardian.

Scott is a professional conservator.

It was her responsibility to protect Jones and conserve her nest egg. So far, Scott has spent at least \$200,000 of it. The money has gone to pay Scott's fees, fill Jones' house with new appliances she did not want and hire attendants to supervise her around the clock, among other expenses.

Once Jones grasped what was happening, she found a lawyer and tried, unsuccessfully, to end Scott's hold on her. "I don't want to be a burden to anyone," she told a judge, almost apologetically. "I just wanted to be on my own."

Jones' world has narrowed. She used to call Dial-A-Ride and go to the market, or sit in her driveway chatting with neighbors.

Now she spends her days watching television in her living room in Yucaipa, amid pots of yellow plastic flowers and lamps with no shades. The caretakers rarely take her from her house, except to see the free movie each Friday at the local senior center.

"I'm frustrated, because I don't know my way out," she said, sitting within earshot of one of Scott's aides. "There must be a way out."

Jones' conservator is part of a young, growing and largely unregulated trade in California.

Conservatorship began as a way to help families protect enfeebled relatives from predators and self-neglect. As a final recourse, courts take basic freedoms from grown men and women and give conservators sweeping power over their property, their money and the smallest details of their lives.

But lawmakers and judges did not foresee that professionals would turn what had been a family matter into a business.

In the hands of this new breed of entrepreneur, a system meant to safeguard the elderly and infirm often fails them.

The Times examined the work of California's professional conservators, reviewing more than 2,400 cases, including every one they handled in Southern California between 1997 and 2003.

Among the findings:

- Seniors lose their independence with stunning swiftness. More than 500 were entrusted to for-profit conservators without their consent at hearings that lasted minutes. Retired candy company owner Donald Van Ness, 85, did not know what had happened to him until he tried to pay for lunch at a San Diego-area restaurant and was told his credit card had been canceled.
- Some conservators misuse their near-parental power over fragile adults, ignoring their needs and isolating them from loved ones. One withheld the allowance that a disabled man relied on for food, leaving him to survive on handouts from a church. Another abruptly moved a 95-year-old woman to a care home and for a month refused to tell her daughter where she was.
- In the most egregious cases, conservators plunder seniors' estates. One took 88-year-old Thelma Larabee's savings to pay his taxes and invest in a friend's restaurant. Helen Smith's conservator secretly sold Smith's house at a discount — to herself. The conservator's daughter later resold it for triple the price.
- More commonly, conservators run up their fees in ways large and small, eating into seniors' assets. A conservator charged a Los Angeles woman \$170 in fees to have an employee bring her \$49.93 worth of groceries. Palm Springs widow Mary Edelman kept paying from beyond the grave: Her conservators charged her estate \$1,700 for attending her burial.
- Once in conservators' grasp, it is difficult — and expensive — for seniors to get out. Courts typically compel them to pay not only their own legal fees, but those of their unwanted guardians as well. In the 15 months it took Theresa Herrera's grandson to unseat her conservator, almost half of the 92-year-old's \$265,000 estate had been exhausted.

"It's really scary," said Mitchell Karasov, a North Hollywood attorney who specializes in elder law. "Would you want that to happen to you? This is what we'll have to look forward to — that we'll be disposable when we no longer have a voice."

There are about 500 professional conservators in California, overseeing \$1.5 billion in assets. They hold legal authority over at least 4,600 of California's most vulnerable adults.

Yet they are subject to less state regulation than hairdressers or guide-dog trainers. No agency licenses conservators or investigates complaints against them.

Probate courts are supposed to supervise their work. Yet oversight is erratic and superficial. Even when questionable conduct is brought to their attention, judges rarely take action against conservators.

Three of the past four governors have vetoed legislation that would have provided tougher oversight.

This deeply flawed system is about to be hit by a demographic wave. By 2030, the number of Americans older than 65 is expected to double. Experts predict that as many as 10% of them will suffer from Alzheimer's disease.

'She Was Managing'

Helen Jones said she always dreaded the sort of old age she has now, marked by childlike dependence.

Married only briefly and late in life, Jones said she had always done for herself, even as a child in Nebraska, where she scavenged for coal along the railroad tracks to help keep her family warm.

Before Scott entered her life, she kept her financial records in accordion files, paid her bills promptly and knew how much money she had, down to the penny.

She was nearly deaf, and a rare disorder of the nervous system limited her mobility. But she could still make her way to the bank and take her wash to a local laundromat.

"She was managing," said Alice Wilson, a neighbor for more than 30 years. "She's a self-sufficient person."

As Jones' conservator, Scott took over her checking account and put her on an allowance, initially \$50 every two weeks.

Scott started making improvements to Jones' pale stucco home, installing central air conditioning, a new refrigerator and a washer and dryer. Scott paid her own sister \$1,550 to paint the house.

It pained Jones to see someone else spending her money. So frugal that she still has a red-knit sweater she wore 60 years ago, she even complained when Scott billed her \$40 for a Christmas tree. The plastic one in her garage would have done just fine, Jones said.

Decisions about her medical care were another source of contention.

Scott said in court papers that, months after becoming her conservator, she received medical records indicating that Jones had once been diagnosed with schizophrenia.

Scott's staff began taking Jones to a psychiatrist. He prescribed Zyprexa, a drug used to treat schizophrenia and bipolar disorder. Jones refused to take it, saying she did not have either condition.

An aide hired by Scott, Gerlie Kirbac, said one of the conservator's subordinates told her to crush the drug into Jones' food, but she refused.

Kirbac said she also took Jones to the bank so she could check on her money and was fired for it.

"Melodie told me I can't handle Helen," she said. "I said, 'What kind of handle do you want?'"

Scott, 47, whose conservatorship business is the largest in the Inland Empire, said she could not discuss the case because Jones' medical history is private and her complaints are the subject of litigation.

"It would be horribly unethical to breach Mrs. Jones' dignity and right to confidentiality," Scott said in a statement.

In her most recent court filing, a routine list of bills and fees, Scott described Jones as "alert, conversant, obstinate, independent and often paranoid."

She also said Jones suffered from schizophrenia.

Carefully annotating her own copy of the report, Jones circled "schizophrenia" and wrote a comment in the margin: "BS."

Early this year, as Jones struggled to reclaim her independence, she lost her younger brother, Frank Janicek.

He was her last bit of family, her Sunday telephone call. A former Douglas Aircraft worker who served in Africa during World War II, Janicek died of pneumonia in January at 85.

Jones wanted him to have a traditional burial. An earlier experience had left her strongly

opposed to cremation.

But upon learning that Jones had a conservator, the funeral home called Scott, who made arrangements for the disposal of Janicek's remains.

In March, a caretaker drove Jones to Riverside National Cemetery, then pushed her wheelchair to a shelter about the size of a bus stop. A bugler played taps. Two women in dress uniform folded an American flag and presented it to Jones.

She was pleased to see her brother put to rest with military honors.

But she noticed that there was no coffin.

Instead, there was a brass urn containing Janicek's ashes.

Rise of a Profession

The concept of conservatorship dates back at least to medieval England, where guardians were appointed to manage the property of people deemed "lunatic."

In the U.S., California stood for decades as the model for a humane system. The state pioneered legislation in the 1960s and '70s to protect against arbitrary or needless conservatorships. Adults were guaranteed advance notice of court hearings to appoint a conservator, along with legal representation and the right to a jury trial.

Lawmakers assumed the conservator would be a family member or friend.

In 1969, John M. Mills, an economics professor at El Camino College, rented a room in a downtown Los Angeles church and opened what is believed to have been the state's first conservatorship business.

Twenty years later, a court banished Mills from the trade after the state attorney general's office accused him of financial irregularities. By then, he had inspired many others to enter the field.

In most instances, loved ones still act as conservators for incapacitated old people. But professionals now handle about 15% of the cases in Southern California.

Although some have only a few clients, others run thriving businesses, managing the lives of more than 100 adults at once. An elite group focuses on wealthy seniors, employing large staffs and commanding rates of up to \$135 an hour.

Conservators hold positions of trust on a par with lawyers, accountants and investment firms. In contrast with those professions, however, they don't have to earn degrees or pass licensing exams. Anyone with a clean felony record who pays a \$385 state registration fee can go into the business.

Only now is the state moving to impose basic standards. Beginning next year, conservators will need a college degree, experience in the field or certain levels of training. Most current practitioners will not be affected, however.

Conservators find clients by sponsoring breakfasts at senior centers and networking at legal luncheons. Nursing homes call when residents become too addled to pay the rent, wanting a conservator to write checks for them. Hospitals call when patients have outlasted their insurance, hoping that a conservator will move them somewhere else.

Once conservators identify a prospect, they can go to court and initiate a case without the client's approval.

With rare exceptions, they look for people with money. Frumeh Labow, Los Angeles' busiest conservator, sets a minimum of \$300,000 — enough to guarantee her paycheck for at least a few years, if the client lives that long.

Other conservators have a more modest threshold.

"If the person has six months, the doctor tells me she has terminal cancer and she only has \$30,000, I'll take a chance on that," said Jeffrey Siegel, who runs a large Los Angeles practice.

In many cases, professional conservators have done admirable work. Some have saved seniors from con artists or thieving relatives. Others have ensured that lonely adults lived out their last days in dignity.

Many continue to serve clients after their money has run out.

"We're in this business to help people and to protect people," said Ron Patterson, a Bay Area conservator who is president of the Professional Fiduciary Assn. of California. "None of us are here, I believe, to enrich ourselves in any way except the natural way one does in business."

But even some conservators admit they would not want one themselves.

"I can decide who they see. I can put them in a nursing home," said Labow. "It's the biggest imposition on your civil liberties short of being imprisoned."

Quickly in Control

Professional conservators take over with jarring speed.

In many courtrooms, they get emergency appointments on the day they ask for them, based on short forms in which they swear that prospective clients cannot care for themselves.

These hasty hearings are meant for cases in which elderly people are in imminent danger. But professional conservators have made them the norm, The Times found. More than half of their Southern California cases began this way.

Adults are entitled by law to attend emergency hearings. Yet they were not formally notified in more than half the cases The Times examined. Often, judges dispensed with the requirement after conservators told them that prospective wards were too feeble to come to court.

By securing immediate appointments, professionals can gain control over elders before safeguards required in nonemergency cases kick in. For example, in nine of 10 emergency cases, wards were not interviewed by a court investigator before a judge decided they needed a conservator.

The events leading to Jones' conservatorship began in November 2002, when a chance acquaintance, Cindy Gurrola, gave her a ride to the bank. After Gurrola expressed concern for Jones' welfare, a bank employee gave her the business card of a Redlands company that serves the elderly.

Gurrola said she called the number and gave an employee Jones' address. There was no mention of conservatorship or that Jones would be giving up legal control of her affairs, Gurrola said.

About a week later, Jones said, she was napping in her home when a woman walked in and woke her. The woman said she was with "CARE." Jones said she thought that meant California Alternate Rates and Energy, Southern California Edison's reduced-rate program for seniors.

Jones signed a one-paragraph document, not bothering to read it.

In fact, the woman worked for Conservatorship and Resources for the Elderly Inc., the firm owned by Melodie Scott. The document said that Jones nominated Scott to be her conservator.

"I was sleeping here and someone tapped me on the shoulder and said sign this," Jones said. "And stupid, I signed it, not knowing what I was signing.

"To me, 'conserve' means to save and I thought this was a way of saving me money so I wouldn't have to pay utilities."

The nomination was dated Nov. 22. Eleven days later, Scott filed an emergency request to become Jones' conservator. She said Jones could not keep up with her bills, had a house full of clutter and could no longer manage "the activities of daily living."

Judge Phillip M. Morris granted the petition the next day.

After about a year, Jones decided to fight back. A bank clerk told her that she could not redeem a CD that had matured — only Scott could. Upset, Jones had her caregiver take her to see paralegal Barbara Seifritz at the Yucaipa Senior Center.

Jones appeared so clear-headed and well-informed that Seifritz was surprised to learn she was under conservatorship. So was Bob Roddick, Seifritz's boss at the nonprofit Inland Counties Legal Services.

At a hearing in March 2004, Roddick told Judge David A. Williams that Jones did not need a conservator.

"She seems perfectly capable of taking care of herself," Roddick said.

"Well, we already have a conservatorship," the judge replied.

"I have it, but I would like to terminate it," Jones told him, confiding her worry that Scott was draining the savings it had taken her 60 years to build.

The judge could have ended her conservatorship on the spot or directed his staff to investigate. He did neither.

He appointed an attorney to review the handling of Jones' finances, but left her in Scott's hands.

By then, Jones had gotten a look at Scott's expense records and saw that her money was going out nearly three times as fast as it was coming in. Scott's firm is spending Jones' money at a rate of \$84,000 a year, records show. Her income is about \$27,000 a year.

At a hearing in August 2004, court-appointed attorney Donnasue Ortiz challenged the conservator's fees and spending as "excessive."

Scott sought to justify the expenses by saying that Jones was "near death" when she intervened. She told the court that Jones had left a convalescent home "against medical advice," that she was "totally dehydrated and malnourished" and that her garage harbored "thousands of rats," prompting complaints from neighbors.

Jones called Scott's description "one big fabrication." She said that she spent several days in a nursing facility after suffering a fall in October 2002 but that a social worker signed her out, saying she did not need to be there. Two friends who drove her home corroborated her account.

As for rats, three of Jones' neighbors said in interviews that they never saw or complained about any.

In July, with the conservatorship still in place, a frustrated Roddick filed a petition to end

it. A judge refused to hear his arguments, saying he had no standing to intervene.

The judge scheduled a hearing for Dec. 2 at which Jones will be represented by Ortiz.

"I don't know how this is going to turn out," Jones said outside the courtroom. "My age is against me and my hearing is against me."

'Chewing Up Estates'

From the moment seniors are entrusted to a professional conservator, the meter is running.

The law allows conservators to spend their wards' money as they see fit and requires them to submit periodic reports. Courts must approve their fees, but state law sets no limit on their compensation beyond that it be "reasonable."

Reports examined by The Times show that conservators have billed elderly people for what one described as "drive-by" property inspections and for moving furniture around a room.

Frances Dell, 90, paid her conservator \$715 for accompanying her to parties and informing her that her favorite niece had died, among other services. "She needed someone to cry with and mourn her own mortality," the conservator wrote in her bill.

Seniors often pay for layers of helpers hired by their conservators — property managers, home-care supervisors, case managers and more. They pay for flowers, chocolates and other gifts that conservators give them on special occasions.

Among the Christmas presents one woman unwittingly lavished on herself: men's cologne and a stocking with her name embroidered on it, misspelled.

"The word is *conserve*. You're supposed to conserve people's estates," La Mesa probate attorney Richard Schwering said. "Conservatorship is chewing up estates."

The bills pile up even faster when seniors or their families challenge conservators' control.

Wards pay their conservators' legal bills on top of their own because the court does not consider the parties to be adversaries. Even when conservators oppose their clients' wishes, they are assumed to be looking out for their best interests.

Street-smart and self-made, Charles Thomas built an \$18-million empire by investing in Burger King franchises and real estate in some of Los Angeles' toughest neighborhoods. After he was diagnosed with Parkinson's-like symptoms, it became clear he would have to hand over the reins of his businesses.

Thomas had a complex family, with children from several marriages. He picked an outsider — Labow — to be conservator of his estate.

She was appointed in September 1998. Just over a year later, Thomas told his court-appointed counsel that he "wanted Frumeh Labow out of my life."

Labow refused to go, saying Thomas had chosen her before his illness clouded his judgment.

After five years, Labow remained in charge. Thomas had paid \$1.1 million in fees to her, the lawyers his relatives had hired to oust her, and the six attorneys Labow had hired to fend them off and manage his holdings.

Suffering from aphasia, Thomas, 70, is no longer able to speak for himself. His family has come to accept that Labow will be a permanent presence in their lives.

"You can't fight them if they're using his money to fight you," said his son, Michael.

'Sarah Could Be Trusted'

Court-sanctioned fees are the only compensation to which conservators are entitled for managing the affairs of their clients.

The Times found at least 50 instances in which conservators used their authority over seniors' assets to benefit themselves or their friends, relatives or employers in other ways. Courts approved many of their actions, though often with incomplete information.

A Sacramento conservator hired his live-in girlfriend's firm to auction off his wards' possessions and sell their houses. A San Francisco conservator decorated his apartment with a client's valuable Chinese paintings.

Melodie Scott acknowledges that she let another professional conservator, Sarah Kerley, live rent-free in a client's house in Glendale for months. Kerley was married to Scott's brother at the time.

Scott did not disclose their relationship in her reports to the court. In an interview, she said the three-bedroom, Spanish-style house was in poor condition and that Kerley made repairs in lieu of paying rent and, later on, in exchange for reduced rent.

Scott said she did what she thought was best for the client, Jeanne Ledingham.

"There was no intention ever to take advantage of Ms. Ledingham to the benefit of Sarah Kerley or myself," Scott said. "I thought I was being a hero ... This charming little house, this beautiful garden — Sarah could be trusted."

While Kerley was living there, Ledingham paid the utility bills, as well as thousands of dollars to a gardener and a property manager hired by Scott.

Ledingham, who suffered from bipolar disorder, was 51 when Scott took control of her affairs. Scott moved her into a board-and-care and, later, an apartment while Kerley lived in her house.

Ledingham's daughter, a sophomore at a Louisiana college when the conservatorship began, said she was appalled by what happened.

"There were all these people — conservators, attorneys, judges," said Candace Ledingham-Ramos. "No one was looking out for my mother."

Marin Support Services for Elders, a nonprofit group for seniors, was supposed to look out for Florry Fairfield.

Fairfield, a retired real estate agent who had never married, lived with her miniature schnauzer, Daisy, in the quiet Bay Area suburb of Fairfax.

Anne Smith, then director of Marin Support Services, became Fairfield's conservator in March 2001 after telling a court that Alzheimer's-type dementia had left her "clearly unable to handle her affairs or resist undue influence."

Less than a month later, Fairfield, then 82, signed a new will. It was drafted by the lawyer representing Marin Support Services in the conservatorship case.

The will made the organization the main beneficiary of Fairfield's \$1.1-million estate and named Smith co-executor.

California law bars professional conservators from inheriting from their wards in such circumstances unless the will was reviewed by an independent attorney or a court. There is no evidence that either step was taken in Fairfield's case.

The law clearly applies to individual conservators. It is unclear whether it applies in this instance because the beneficiary of the will was Marin Support Services, not Smith. Still, experts said, neither conservators nor their employers should become their clients' heirs because it creates a conflict of interest.

"What incentive do they have then to keep the client alive?" said Mitchell Karasov, the elder-law attorney. Every penny spent on the ward's care would reduce the conservator's bequest, he said.

William Kuhns, the lawyer for Marin Support Services, said he drew up the will at Fairfield's request. She decided on her own how to divide her wealth, he said.

"Maybe it gives you the appearance of a conflict of interest, but I've been an attorney for many years, and I'm very comfortable that this was in accordance with her wishes," said Kuhns.

Kuhns collected more than \$36,000 for his work on Fairfield's conservatorship and estate.

Four weeks after Fairfield signed the will, a judge deemed her dementia severe enough to disqualify her from voting.

Asked how Fairfield could be too demented to vote, yet able to divide a million-dollar estate, Smith said she could not comment, citing concern for Fairfield's privacy. Speaking generally, she said that people suffering from dementia could still possess the mental soundness to make such decisions.

"Dementia is not a black-and-white disease," Smith said. "People can be very clear about some things and very confused about others."

When Fairfield died, Marin Support Services inherited more than \$675,000.

'Lurking in the Shadows'

Even elderly people who have organized their affairs in advance can be pulled into this broken system.

Robert Mushet thought his mother was set.

Dorothy Mushet had signed papers designating her son, then an engineer with Boeing, to make decisions for her if need be. When she began to show signs of dementia, he arranged for her medical care and managed the money she had inherited from his father and earned as a saleswoman for Joseph Magnin Co.

Then, in September 2002, Robert got a call from his mother's nursing home. A Santa Barbara court, he learned, had appointed a professional conservator for Dorothy, then 94.

"I hung up the phone and darn near collapsed," Robert recalled.

His estranged daughter had petitioned for a conservator, saying he had moved Dorothy to the nursing home against her will. The daughter nominated Suzanne McNeely, a leading Santa Barbara conservator. Robert said he moved his mother because it was dangerous for her to live at home in her weakened state.

With court permission, McNeely moved Dorothy Mushet back into her house and hired her own firm to provide round-the-clock aides for four months, for which she later tried to charge \$68,000.

Robert ultimately persuaded a court to make him his mother's conservator, as she had wanted, and to cut McNeely's total bill from \$80,600 to about \$24,000.

"You brought a matter to court that shouldn't even have come here," Judge J. William McLafferty told McNeely and her attorney.

Though victorious, Robert Mushet said he ran up \$50,000 in legal fees. McNeely appealed the judge's reduction in her fee, ultimately settling for a \$5,000 increase.

Dorothy died in March 2003. Her son said he felt strangely grateful to her disease for shielding her from the nasty tug of war that poisoned her final months.

"It would've killed my mom if she knew anything about this," he said.

Gerardine Brown, a state parole officer, had little notion what conservatorship was until she retrieved a letter from her mailbox one night in May 2000.

It said a stranger had asked to become her 86-year-old mother's conservator. A judge was set to hear the case 12 hours later in Los Angeles — 375 miles from Brown's home outside Sacramento.

Brown got into her car and sped south, driving through the night. "I didn't have time to hire an attorney," she said. "I'm standing there in front of the judge with no idea of what I'm going to face."

Brown's mother, Charlotte Shelton, was a retired biochemist whose work for the Navy broke ground for a woman of her era. Brown — her only child — said she called Shelton regularly, trying to persuade her to move closer to her remaining family as her health failed. Shelton clung stubbornly to her home in Eagle Rock.

Sarah Kerley, the same conservator Scott had let live in a client's house, told the court that Shelton's doctor had asked her to step in. Kerley arranged for a psychiatric evaluation that led to Shelton's involuntary hospitalization in a mental ward. Then Kerley filed papers to become her conservator.

The judge appointed Kerley temporarily while a court-appointed attorney assessed Shelton's condition. The attorney reported three weeks later that he saw no reason why Brown should not assume responsibility for her mother, as long as she did not move her from Southern California. When the judge approved the change, Brown figured the conservator was gone.

Not so. Kerley fought for a continuing role in Shelton's life, challenging Brown on who should pick her mother's doctors and who should be her permanent conservator.

Eventually, Brown said, she agreed that her mother would pay Kerley's fees and those of her attorney if Kerley would stay out of the family's affairs. Just as the settlement was being finalized, Shelton died.

The conservator and her attorney later collected almost \$18,000 from Shelton's estate.

Kerley did not respond to requests for comment.

"These people are just lurking in the shadows," Brown said. "It's just chilling to think it can happen to anybody."

Postier vs. Marshall

Over 13 days beginning in September 2002, the rarest of scenes played out in a San Jose courtroom.

Lawyers for an elderly woman named Ruth Postier took a professional conservator to trial, accusing him of violating her rights and wasting her money.

Russell Marshall, a well-known Santa Clara County conservator, had secured an emergency appointment to look after Postier, then 77, and her husband, Ed, 80, in August 2000.

Until then, the Postiers had eked by, relying on friends for help. Married since they were teenagers, they had no children or surviving close relatives. They had only Social Security for income, having exhausted their savings from an upholstery business.

Their house was their one real asset, worth more than \$500,000 despite its crumbling roof and exposed wiring. It held decades of memories, including a wall of ribbons won by Stardust, their champion Doberman.

In the eight months that Marshall was their conservator, the Postiers chafed at his authority.

After Ed allegedly threatened Ruth during an argument, Marshall moved him into a locked nursing home without the necessary court permission. He later moved the Postiers into separate apartments in an assisted-living complex and put their home up for sale.

Marshall also exhausted their meager resources, incurring more than \$50,000 in unpaid bills. He hired a family therapist, paying her \$65 an hour not only to counsel the couple, but also to shop for pillowcases, wastebaskets and other household items.

After two months, a court investigator came to check on the Postiers. They complained bitterly about Marshall. Public Defender Malorie Street was assigned to represent the couple and objected when the conservator asked to have his temporary control over their affairs made permanent.

Marshall, in an interview, defended his conduct.

"They wanted me to be their conservator because they wanted to move," he said. He said he had planned the Postiers' expenses carefully and would not have run up debts if Street's opposition had not delayed his efforts to sell their house.

In April 2001, Ed died and the county public guardian took responsibility for Ruth.

After Marshall submitted his final report, Street demanded that the court sanction him for abusing her clients.

When the matter went to trial, a videotape deposition Ruth had given months earlier was shown in court. She could not testify in person, having suffered a stroke that left her speech almost unintelligible. Instead, her worn face appeared on a TV screen, oxygen lines running from her nose.

"Did you want Ms. Street to sue Russell Marshall?" the conservator's attorney asked her.

"Well, he sure didn't do right by me," Postier replied. "He made a mess of my life."

She described how the conservator began removing her belongings from the house as she ate dinner one night.

"Just hauled it out, whether I liked it or not," she said.

Postier said she had never wanted to leave the home she had shared with her husband for so many years. Though they argued often, she once told a friend she wanted their headstone to say, "Ruth and Ed Postier, Together Forever."

She raised trembling, papery hands over her eyes.

"I went through hell," she said.

Superior Court Judge Thomas Hansen found that Marshall had increased the Postiers' indebtedness and moved Ed without proper authority. Nonetheless, he decided Marshall's conduct did not constitute elder abuse.

Hansen awarded Ruth nominal damages of \$1, saying it was impossible to measure monetarily what harm, if any, Marshall's actions had caused her.

The judge awarded Marshall and his legal team \$75,000. Later, Postier's own lawyers collected more than double that amount, swallowing what was left of her estate.

Street came away stunned.

"That case sent me around the bend," she said. "The statutes designed to protect my clients didn't."

Shortly before Ruth Postier died on May 29, 2003, her caretakers deposited Marshall's check to her.

It was for \$1.02.

Damages plus interest.

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Times researcher Maloy Moore contributed to this report.

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Emergency appointments

More than half of all conservatorships filed by professionals in Southern California between 1997 and 2003 were granted by the courts on an emergency basis, often bypassing initial assessments by court investigators and other safeguards designed to protect wards' rights. In all, there were 1,160 emergency appointments.

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Granted without notice to senior or family: 56%

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Granted before an attorney appointed: 64%

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Granted before court investigator's report: 92%

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Sources: Probate records for Los Angeles, Orange, Riverside, San Bernardino and Ventura counties. Data analysis by Maloy Moore

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An aging population

The proportion of Americans 65 and older is expected to grow between now and 2030, as is the number 85 and older.

Percent of population, 2000-2030:

United States

- 65 years and older

2000: 12%

2030 projected: 20%

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- 85 years and older

2000: 2%

2030 projected: 3%

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California

- 65 years and older

2000: 11%

2030 projected: 17%

*

- 85 years and older

2000: 1%

2030 projected: 2%

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Southern California

- 65 years and older

2000: 10%

2030 projected: 17%

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- 85 years and older

2000: 1%

2030 projected: 2%

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Source: Census Bureau, California Department of Finance, Times reporting. Graphics reporting by Maloy Moore

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Planning ahead

To avoid a conservatorship, or to ensure that someone you trust is put in charge of your affairs, attorneys recommend one or more of the following steps.

A durable power of attorney designates someone to manage your finances. It does not have to be drafted by an attorney, but must be notarized if real estate is involved. If you don't plan on using an attorney, ask for a "statutory" form at stationery stores or look for it on the Internet.

An advance healthcare directive authorizes a friend or loved one to make medical decisions for you. A kit for creating one can be ordered online through the California Medical Assn. (www.cmanet.org).

An advance nomination designates someone to serve as your conservator if a court deems one necessary.

A revocable trust, also known as a **living trust**, designates an individual to manage your assets outside court jurisdiction while you are alive and after you die, thereby avoiding the cost of probate. Trust documents must be filed with your bank and other financial institutions.

Be sure to inform the people whom you have designated to make decisions for you. Give them copies of the appropriate documents and tell them where the originals have been filed.

Source: *California Medical Assn; Irell & Manella; Mitchell A. Karasov; American Bar Assn.*

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