

the committee to expose the public trustee of Queensland

BLC's stroke

September 5, 2015September 6, 2015 John T disability, guardianship, human rights, impaired capacity, public guardian, public trustee, qcat, queensland, Queensland civil and administrative tribunal  
BLC suffered a brain bleed in October 2014. She has two sisters but has never enjoyed a particularly close relationship with them and consequently she did not share any details of her personal or financial affairs with her sisters. The victim had no Will or EPOA and no outstanding personal or financial matters. She had made provision for all her accounts to be paid well in advance of due dates and was in a stable relationship that had lasted some forty years. Her partner was quite capable of handling any unforeseen matters which could potentially need attention.

A couple of days after the victim was hospitalized, the victim's oldest sister was prompted by a social worker to apply to QCAT for guardianship and administration. Needless to say the control freak oldest sister seized the opportunity for her to acquire the control she had long craved. The social worker ignored standing rules by improperly enlisting a junior medical registrar to provide the medical report essential for a QCAT application. Subsequently the social worker has been disciplined and re-trained, and RBWH rules changed to require approval of senior management before any recommendation regarding QCAT can be made. Unfortunately it wasn't possible to discipline the junior medical officer who wrote the unauthorized and premature report as he was no longer employed by QLD Health at the time the matter was investigated.

Normal protocol with a stroke victim is to wait a minimum of thirty days before any intervention is commenced, the only exception being when there are compelling financial situations that warrant urgent attention, which was clearly not relevant here. Multiple requests to QCAT for adjournment to allow the victim some time to recover and for legitimate medical opinions to be obtained were refused by a certain senior member who interestingly has had a number of her decisions reversed by the Court of Appeal on the grounds of bias. Advice to QCAT that the hearing scheduled only weeks after discharge would be extremely stressful for the victim, especially if she was forced to be in close proximity to estranged family members, was summarily ignored by this senior member.

Note that members of the triune beast prefer to describe their victims as 'clients' however I'll stick with the infinitely more apt 'victim'. Its worth mentioning however that several emails from QCAT conceded that the family issue was of concern and that it was necessary to 'arrange separation'. Needless to say this didn't happen; the victim was seated immediately adjacent to the sister who had commenced the unwanted and unwarranted QCAT action without even notifying the victim of what was proposed.

It was later discovered that the same senior member who refused adjournment had requested a medical officer favourably disposed toward QCAT 'review' the victim four days before the QCAT hearing without notifying the victim that a report would be made to reinforce the earlier unauthorized one. Obviously the victim had no way of knowing what was said in this later report and consequently she had no way to correct errors, whether in the review process or in respect of information assumed by QCAT to be factual.

A different member was assigned to hear the actual guardianship and administration matter, presumably in an attempt to present the appearance of legitimacy although I have no doubt whatever that the aforementioned senior member had already decided on the basis of the two flawed medical reports to find the victim non compos mentis. The member who was responsible for the hearing claimed to be a qualified speech pathologist although it was blatantly obvious from her brutal interrogation of the victim that she was a dismal failure in her previous vocation. If perchance there was any recognition of human rights in Queensland I most definitely would have referred both members to relevant authorities.

The victim was (supposedly) represented at the QCAT hearing by a particularly able advocate from QADA who tendered a very well reasoned argument regarding the wishes of the victim. Despite this, the member declined to listen to the QADA advocate or for that matter, anything that didn't support the decision that I suggest had been made well before the actual hearing. Furthermore the member completely ignored multiple provisions of the Guardianship and Administration Act 2000 by taking no account of the victim's wishes, the stable forty year relationship and the requirement for imposition of least intrusive solution.

As is typical of QCAT when there is any hint of 'family conflict' (a red herring in this case because there had never been any significant family interest in the victim before this saga), the member chose to appoint the Adult Guardian for control of visitation and the Public Trustee for total iron-fisted (actually ham-fisted would be more accurate in view of the ineptitude demonstrated by certain PT operatives) control of everything financial. The legislated requirement for the victim to be encouraged to, and to be afforded, every opportunity to administer her own financial affairs has been totally ignored by QCAT and the Public Trustee.

Whats even more concerning is the lack of any semblance of a legitimate complaints review process at QCAT, the Adult Guardian or the Public Trustee (hereinafter referred to as the triune beast).

The triune beast purports to be vitally concerned about the best interests of its victims although results suggest the exact opposite is achieved as a result of the triune beast getting its evil claws on a victim's life. Victims are pronounced non compos mentis on the flimsiest of medical opinion, invariably the victim is stripped of any semblance of dignity and self-determination, the victim's finances are systematically plundered by the Public Trustee with no details or explanation offered or available, and family relationships (such as they may be) are completely destroyed.

Getting a victim out of the clutches of the triune beast involves a royal performance with every opportunity provided to members of the triune beast to oppose a victim reclaiming their life and conceivable obstacle placed in the way of the victim. In this particular case, the combined services of two social workers, two psychologists and two psychiatrists have been needed purely to address the emotional distress caused by the involvement of the triune beast in the victim's life. All the aforementioned experts concur that some 90% of the trauma suffered by this particular victim can be attributed directly to the triune beast and I have no reason to believe the experiences of other victims and their carers have been any less traumatic.

There is reason to believe that complaints directed to the Public Trustee are immediately routed to its legal department, which then starts racking up criminally exorbitant charges at the cost of its victim. Reports from other victims corroborate our experience.

The acting director of the Public Trustee is on record stating that Public Trustee lawyers act for the Public Trustee and since the Legal Profession Act 2007 expressly prohibits legal practitioners acting for parties on both side of a dispute, that can only be interpreted to mean any Public Trustee lawyer who claims authority to represent a victim is acting well outside the law. Furthermore, when QCAT has made previous decisions regarding an appointee to handle a victim's legal matters it has invariably been the Adult Guardian and not the Public Trustee. An attempt was made to bring several issues to the attention of the president of QCAT (note that official documentation identifies the president as responsible for conduct of members) however I understand from several sources including a certain senior member (a different one) that 'the president doesn't respond to submissions'. Go figure!!!! How can he be responsible for the conduct of members when he doesn't have the gumption to respond to submissions??

During a directions hearing to do with appeal against the earlier decision, a Public Trustee lawyer stated on the record that they had already billed some \$28,000 to the victim despite having done absolutely nothing for the benefit of the victim. The senior member (the second one) would have heard this comment but chose to say nothing, indicating that QCAT members are fully aware of the conflict of interest and breach of fiduciary responsibility. Their failure to object shows they actually condone the practices. To add insult to injury, the appeal is on hold indefinitely, ostensibly pending the response by the president that will never come.

Furthermore the issue of Public Trustee lawyers misappropriating the victim's money needs to be resolved before they decide to take her entire life savings (which I understand has been done previously with other victims). In any case, it now appears that its impractical to rely on appeal processes to extricate a victim from the clutches of the triune beast. It was also suggested by Public Trustee lawyers that they would actively oppose any move by the victim to use her own funds to retain legal counsel of her choice.

Requests to the case manager for details of the legal costs have gone nowhere apart from a suggestion that \$28,000 'might' be reviewed by the legal department. Both the Legal Services Commission and the Crime and Corruption Commission refuse to take action against Public Trustee lawyers. Its been suggested that Public Trustee lawyers may not actually be 'admitted' lawyers however any relevant legal dispensation that applies expressly precludes non-admitted lawyers from acting for other than the Public Trustee.

I haven't mentioned the Adult Guardian previously because although supremely inept, the entity (unlike the Public Trustee) has been relatively disconnected at least in this case. Shortly after being appointed by QCAT, there was a meeting between a delegate of the Guardian and the victim. A list of family members was provided with whom no contact whatever was wanted and it was assumed that would be the end of the matter. After numerous issues with family members attempting to make contact with the victim, a second delegate rocked up advising that although she was aware of the victims wishes regarding no contact, she needed to consider the wishes of family members. The victim chose to apply for domestic violence orders to ensure her wishes were honored and since then there has been no further contact from either family members or the Guardian.

Actually there was an event apparently initiated by the second delegate acting in cahoots with an opposite number at the Public Trustee. It appears that these clowns had the bright idea of doing a shonky ACAT test on the victim to justify kidnapping her from her own home and locking her away in some institution. There is no way known any halfway legitimate ACAT test would have worked but neither the Adult Guardian nor the Public Trustee have ever been known for fair play. For various reasons the game didn't work out as planned by the aforesaid clowns and it would be well nigh impossible to arrange a re-match as we have since obtained a brace of positive medical opinions that even chronically biased QCAT members will have a particularly hard job denying.

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