

**PROTECTING THE ASSETS  
OF OUR MOST VULNERABLE IN MINNESOTA**

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# **PROTECTING THE ASSETS OF OUR MOST VULNERABLE IN MINNESOTA**

**By Sherilyn A. Hubert**

## **ABSTRACT**

This project concentrates on three areas relating to protecting the assets of those having a court appointed conservator handling their financial matters. To be a conservator in Minnesota requires appointment by the court. The very act of asking the court to do this indicates a level of trust in our judicial system that must be upheld. While much work is needed in this area, this paper focused on three specific areas.

- Determine ease of use by court users of the new on-line conservator accounting software, determine ease to examine or audit on-line reports, determine if there were improvements over the paper process, and obtain suggestions for any system improvements
- Examine and document past cases of financial loss by court appointed conservators
- Research other state's registration systems and examine if Minnesota can use its current technology to implement a statute required conservator registration system in 2013

Minnesota has a unified state funded court system comprised of 87 counties in 10 judicial districts, with all courts handling conservatorship cases. Court staff in all 87 counties have been using the new Conservator Account Monitoring Preparation and Electronic Reporting (CAMPER) software to accept accounts for examination and monitoring.

Research methods for this project included a literature review, a court user survey, data collection based on file reviews of court data from Minnesota's electronic court information system (MNCIS), and data analysis. The literature review examined existing registration systems as well as procedures and factors considered in other states when determining cases of

loss. The survey was an on-line survey sent to all current registered CAMPER software users. Data collection forms were completed on all files reviewed containing financial losses by conservators for further data analysis.

Findings showed court users felt the current CAMPER system is easy to use, but didn't provide much difference from the old paper method of monitoring and examining accounts and that CAMPER is lacking reports to be used when auditing accounts. Users provided a number of suggested improvements to the system. Findings related to data collection efforts surrounding past cases of financial loss in Minnesota conservator cases provided common issues such as late filing of accounts and lack of bond requirement. Further research revealed courts were not aware when a professional conservator was removed from cases in other counties, resulting in further losses in additional cases. Findings with respect to a registration system revealed the current CAMPER system is not publicly available, while MNCIS has a public component.

Seven recommendations came out of the research, survey, and data collection methods. Among them are to seek input from public users of the system (conservators) as well as court users for changes to the system and that reports need to be developed to assist with examination and auditing of accounts. With respect to losses in conservatorship cases, it is recommended best practices be developed statewide surrounding posting of bonds and documenting losses for consistency and data extraction purposes. Additionally, courts need education on updating party records to accurately reflect conservator movement and posting of bonds in these types of cases. As for the registration system to be implemented in 2013, the system should include a notification element when a conservator case suffers a loss so other accounts with the same conservator can be flagged and audited statewide. Due to security issues, it is apparent CAMPER, in its current state, cannot be used as a registration system publicly.

## INTRODUCTION

Aging, we all do it, and as we age, we hope to have people in our lives willing to watch over and protect us so we can continue to live our lives in the same comfort to which we're accustomed. In some instances the court may be required to appoint someone to do this, and when that happens everyone expects a level of expertise and safety. So you can imagine the horror experienced by families throughout the county when this level of safety is violated. Minnesota has experienced such losses in conservatorship cases. Over \$264,000 was claimed to be taken by conservator Cynthia Norman resulting in her conviction on seven counts of Theft by Swindle in 1995. In 2002 and 2003 over \$580,000 was taken from a number of vulnerable people in Minnesota by just two people appointed by the court to care for their assets. Most recently in Rice County, Minnesota, a reported \$69,000 loss from a number of families by one conservator is currently pending in criminal court. Society expects people identified as vulnerable by the court through the conservatorship process to have their assets protected. For the overseer of a vulnerable person to actually be victimizing the person they've been appointed by the court to protect, shakes the very core of the public's trust and confidence in our court system.

Effective January 1, 2011, Minnesota implemented a statewide web based program for conservators to enter their account information on-line to the court. The Conservator Account Monitoring Preparation and Electronic Reporting (CAMPER) program is a stand-alone database system that was first piloted by Ramsey County before being implemented statewide and was claimed to provide benefits to courts and conservators, including:

- Deter errors and possible exploitation
- Save conservator and court staff time and reduce paperwork

- Allow ready identification of overdue and incomplete reports
- Allow ready access to expense and receipt details
- Allow analysis across all or selected groups of conservators and conservatorships
- Improve court ability to audit accounts

It is important to determine if the CAMPER program is providing court personnel with the information in a form or method that helps track the accounts of protected persons or assists with the examination process and lives up to these expectations. Use of this system was also intended to help discover any financial loss issues with these cases.

In order to understand how that can happen, this paper will take a historical look at prior documented cases to serve as a baseline and to capture common characteristics that may be present in these cases. While Minnesota has cases of financial loss in conservatorship cases, they currently have been identified only on a county by county basis and via newspaper articles. However, a study of these cases has not been conducted on a statewide basis using standardized criteria to review and determine the extent of the losses and help determine if there are any common characteristics. Since Minnesota currently does not have any uniform examination or auditing practices of conservator accounts, discovering and documenting any common characteristics will assist court personnel as they examine and audit future accounts.

In a related, but separate project, Minnesota is required by statute to set up a registration system for conservators by 2013. This paper will include research to determine what other courts have done to help determine if Minnesota can use current technology to provide this system.

## LITERATURE REVIEW

### Public Attention

High profile cases that highlight financial losses to the elderly have appeared in media throughout the country. Several articles describing exploitation in the District of Columbia by court-appointed attorney guardians appeared in the *Washington Post* in 2003. And the *Dallas Morning News* published a series of articles in 2004 and 2005 identifying issues with guardianship cases in Texas. In all these articles, neglect by the court was stressed.

A series of articles in the *Los Angeles Times* by Leonard, Fields, and Larrubia (2005), provided troubling insight into the court's handling of conservatorship cases. They examined over 2,400 cases and found theft, neglect and incompetence that had been overlooked by the courts. Their probate court had an on-line registry to track problem conservators, but most courts were not using it. California was once a known leader in elderly rights, but increased conservatorship cases and the lack of investigators were allowing questionable payments to be rubber stamped, home visits not being made, and the late filing of hundreds of reports.

California passed a law in 1999 requiring probate courts to notify the state when a conservator was removed or resigned from a case. Any substantiated complaints against conservators were supposed to be forwarded to the state. Unfortunately in 2005, only two of California's 58 counties had reported removals to the state and no complaints had been reported. Additionally, prior to appointing a conservator, judges were to check the online registry, but as of 2005 only 13 counties had applied for passwords to that registry.

Leonard, Fields and Larrubia (2005) described the case of Emmeline Frey who was appointed a professional conservator named Donna Daum. At the time Daum took over handling of Ms. Frey's finances, she had \$1 million under conservatorship control. Daum provided her

son more than \$500,000 to invest and his investments lost over \$100,000 in four years. Eventually Daum was ordered to pay \$20,500 for an investigation of her cases, but was never ordered to reimburse the Frey estate upon Ms. Frey's death. Ms. Frey's heirs later settled with Daum for \$6,000. In another case, conservator Rodney Swanson of Tarzana took more than \$156,000 from Sylvia Gray. The loss was not discovered by the court, but instead by the estate attorney retained upon her death. Conservator James Walker, who was a professional conservator, was to be removed from all his cases in 1995 when a Riverside County probate judge found he had taken \$48,885 from an account to finance a loan to a business partner. However, instead of being removed from all cases, he was allowed to continue his work as a conservator on six other cases and was charged in 2000 with stealing \$57,000 from Stephani Kraus. Again, he was to not handle any conservator cases, but continued to do so until his guilty plea and 16-year prison sentence for stealing from four other clients was reported in a newspaper. Bonnie Cambalik, a professional conservator in Riverside County stole more than \$1 million, plead guilty to perjury and embezzlement, and was given a 26-year prison term.

Minnesota has not been without its share of conservatorship case publicity either. Most recently an article appeared in the *Minneapolis StarTribune* (Shiffer, 2011), exposing the fact lawyer Teri Hauge had been suspended from practicing law since 1995, but was still acting as a professional conservator with Estate Resources in Rice County in 2010. She was charged criminally in Rice County District Court on five felony counts of theft by swindle along with four felony counts and one gross misdemeanor count of financial exploitation of a vulnerable adult. The complaint filed by the Minnesota Attorney's General's Office alleged the loss in conservatorship cases from ten vulnerable adult protected persons to be nearly \$69,000. Two additional cases were filed in 2011 charging two additional felony counts of theft by swindle,

and financial exploitation of a vulnerable adult, along with three new felony perjury charges. All three criminal cases are currently pending in Rice County. However, prior to this complaint, in 2006 Ramsey County had sought discharge of this conservator and the company Estate Resources from their conservator cases after their audits discovered discrepancies in the accounts.

#### How Widespread is the Problem

In the recent *Future Trends in State Courts*, Brenda Uekert and Richard Van Duizend (2011) indicate the difficulty obtaining accurate information about financial loss in conservatorship cases is a problem throughout the nation. Not all states separate out guardianship from conservatorship cases or the adult from juvenile guardianship or conservatorships. It's no wonder states are unable to accurately document financial losses reported in conservatorship cases when many states don't even have an accurate record of the total number of active and pending conservatorship or guardianship cases. Based on 2008 data, an estimate of pending adult guardianship (not conservatorship) cases in the states of Vermont, Arkansas, Ohio, and the District of Columbia was reported as 664 active pending cases per 100,000 adults. Using this analysis and accounting for high variances between states, Uekert and Van Duizend estimated the pending adult guardianship cases could range between one to more than three million.

In a report by the Arizona Elder Abuse Coalition (2007), it was estimated between 4,600 and 6,900 seniors in their state were suffering some type of abuse each year with the most prevalent type being financial exploitation and fraud. The report included all forms of financial exploitation and fraud in guardianship and conservatorship cases whether it was perpetrated by a person the senior knew or by a stranger. Arizona has a law that permits and offers protection to

financial institutions or their employees making good-faith reports to their adult protection department or law enforcement of any suspected financial exploitation. To assist with that effort, financial institutions have provided their employees with warning signs and lists of contact names and help line numbers to report suspicious behavior.

A study by the Utah Division of Aging and Adult Services' Legal Services Developer (Gunther, 2011), attempted to calculate the financial loss due to financial exploitation of Utah seniors, financial institutions, and government entities. It took into account the value of lost real property, the average yearly cost for a senior needing Medicaid sooner than expected, out of pocket medication costs, as well as specific identifiable dollar losses from direct accounts. They were able to locate 57 substantiated financial exploitation cases and determined a total asset loss of \$5,150,610 and a potential Medicaid loss of \$771,408, with an average loss per senior of \$90,362. This study stressed while these figures were based on documented cases of financial loss, it was understood many more cases go unreported. Using the same loss criteria they used in the substantiated cases, this study estimated unreported losses to be from \$52 to \$227 million per year. This study also took a look at who reported the financial losses and who the perpetrators of the losses were. Only 2 percent of the reported referrals came from the victim's themselves while 33 percent came from relatives of the victim and 21 percent from financial institution employees. Family member comprised 72 percent of the perpetrators while only 11 percent were strangers. This study backed other studies and national data which found family members were more likely to be the perpetrators of financial loss.

When looking at the exploitation methods used, Utah's study (Gunther, 2011) revealed 44 percent of the time the method was bank withdrawals, 35 percent was credit card misuse or identity theft, 25 percent was stealing or forging checks, and 19 percent was theft of a vehicle.

Many of the cases included more than one method which caused duplication in the percentages; and when more than one method was used, it was discovered the perpetrators tended to be closer to the victim, such as children or friends. Out of the 57 cases reviewed, only one involved an arrest, the police were mentioned in 11 cases, and in six cases the police worked with Adult Protective Services to investigate further. That left the majority of cases without police involvement in the loss.

As a result of this study (Gunther, 2011), it was recommended the Utah Adult Protective Services provide training and work more closely with banks in the area of identification and suspected exploitation referrals, that they train and work more closely with law enforcement agencies in the area of investigating and prosecution of financial abuse, and that Utah needed to determine how to tighten up laws relating to Power of Attorney. Since one of the largest identified areas of loss was through bank accounts, a need was identified for a guardian account that could provide more control, allow monitoring by a third party, and provide greater security. The study also suggested training of seniors as a way to educate them to the dangers of co-signing loans, deeding property, limiting access to finances, and banking in the twenty-first century.

While this paper focuses on losses occurring through conservatorship and guardianship court cases, it is important to mention elders are common targets of scam artists and fraud perpetrators. The “Survey of State Adult Protective Services” (Teaster, et al., 2006), conducted in 2004 revealed victim losses can range from \$100,000 to over one million every year. While these elders had no physical or mental impairments, they determined it cost millions in increased Medicare and Medicaid to care for these new victims; so when including these costs, they

determined the losses at over 2 million a year. Financial victimization of elders in this manner can actually be the precursor to petitions for conservatorships.

### Best Practices

Maricopa County in Arizona asked the National Center for State Courts to do an assessment of their procedures in late 2010 and into 2011. The report by Steelman, D. C., Davis, A. K., & Hall, D. J. (2011) commended the Probate Department for their innovative procedures and programs. However, the reason for the assessment was to take a critical look at their department for possible program and procedural reforms. The report provided an overall view of their entire system from filing the petition to conclusion of the case. The report provided San Francisco Probate Court as an example of a court using differentiated case management where petitions are screened and triaged by a court investigator and managed based on the investigator's recommendations. Suffolk County in New York uses a restorative system and Tarrant County in Texas is monitoring contested cases with a database and may order alternative dispute resolution or mediation to assist with resolution of cases. Maricopa County uses a court investigator who actually visits the parties as part of their investigation and has commissioners that monitor and handle the case.

This report looked at the examination and auditing of accounts which is an area where many counties struggle. The report indicates early action should be taken if a report is late and be ready to investigate any complaints promptly. It suggests technology such as e-filing and automatic flagging of problems can help, especially in times of scarce resources. Requiring conservators to enter accounting information directly into standardized e-forms that would then populate case management systems would save time for court examiners and accountants.

Broward County, Florida is mentioned in this report as using Odyssey. Since Minnesota has an Odyssey product, contact was made with the technical department in Broward County to see what functions they liked about Odyssey and if they could be emulated in Minnesota. They use Odyssey and their own in-house case management system in combination. They have an e-filing system using Smart Forms that are submitting through their e-filing portal to the clerk's office. Once accepted by the clerk, the system reads a bar code and the image is imported into their in-house system. That information and image is then viewable to Odyssey by way of application programming interfaces or APIs. Odyssey is used to produce reminder notices for conservators if accounts are not timely filed, similar to the procedure used in Minnesota. Broward County, however, is also able to run queries and reports by way of Crystal Reporting in their in-house system. Account balances are maintained in their in-house system, so queries can be run as to the total amount in accounts being monitored at any given time.

The state supreme courts of Arizona, Nebraska, and South Carolina have all established task forces to address guardianship issues. Due to some high profile loss cases, both Nebraska and Arizona Supreme Courts also created task forces to look further into issues surrounding losses.

Last year the National Center for State Courts launched a web site to provide resources on elder abuse, aging issues, and guardianship. The Center for Elders and the Courts (CEC) (<http://www.eldersandcourts.org/>) currently provides information such as:

- Recent updates on progress towards policy changes throughout the nation
- State Task Force Reports
- Database of “promising practices” site where courts can submit projects for inclusion in the database, which is also searchable for other courts

- Links to several documents including the CEC Guardianship Survey
- Elder Abuse Toolkit for the Courts
- Elder Abuse Curriculum for State Judicial Educators

Currently, the federal government is being asked to implement a program for adult guardianships called the Guardianship Court Improvement Program to work towards reforms to protect incapacitated adults both physically, mentally, and financially (Uekert & Van Duizend, 2011). Even while work is done in these areas through court programs, there is concern other areas handled outside of the court may be ripe for financial abuse. These would include durable powers of attorney, joint accounts with the elderly or representative payee or authorized representative appointments.

The Elder Justice Coalition (ECJ) (Blancato & Donahue, 2011) reports on their website that although The Elder Justice Act was passed in 2010 as part of the health care reform, the act is powerless without the appropriated funding. They are seeking support for the fiscal year 2012 budget to include \$21.5 million. Of that amount, \$16.5 million would be used to improve operations for State Adult Protective Services throughout the country and \$5 million for a Long-Term Care Ombudsman Program. However, federal budget cuts for fiscal year 2012 could result in no first time funding for these initiatives.

#### Loss Warning Signs Identified by Others

In 2002, Richard Vanderheiden made a presentation to the Arizona Probate Judges Conference, listing 15 warning signs (Appendix A). He indicated these factors could indicate exploitation, misappropriation of funds, neglect, or fiduciary abuse. Also included in this presentation was a list of 41 items (Appendix A) that are considered “red flags” by the Certification and Licensing Division of the Arizona Supreme Court (Vanderheiden, 2002). This

list was meant to provide situations where more attention should be paid to an Arizona Fiduciary or case. The list was updated in the Interim Report to the Arizona Judicial Council by the Committee on Improving Judicial Oversight and Processing of Probate Court Matters (2010). The updated list is also included in Appendix A. This Interim Report indicates the list was developed by the Arizona Supreme Court, Administrative Office of the Courts to help identify when an account may need to be scrutinized. The report stressed the presence of one or more of these indicators doesn't imply there is a problem with the account, but does provide potential risk factors when examining an account.

The U.S. Administration on Aging's National Center on Elder Abuse (2011) provides 11 signs of exploitation (Appendix A) of a financial or material nature. These signs may be present and observable by family or friends and may result in the reason to request the assistance of a conservator.

In the report by Steelman, D. C., Davis, A. K., & Hall, D. J. (2011), Maricopa Probate Department identifies eight factors (Appendix A) considered to determine if a case should be referred for possible re-assignment to a judge. These eight factors may be additional "red flags" to be considered when examining or auditing an account. Colorado is identified as a court currently working on a new e-filing project and they have identified a list of 15 items they considered "red flags" that they want to include in their automation. That list is also included in Appendix A.

#### Current Certification/Registration Systems

Most states don't require training or certification to be a guardian or conservator, but the Center for Guardianship Certification (CGC) (2011) does have a national certification program to become both a National Certified Guardian and a National Master Guardian. The educational

requirements are a high school diploma or general education diploma (GED) and one year of relevant work experience or degree in a related field or completion of an approved CGC course curriculum. They offer Review Classes for those interested in becoming a National Certified Guardian. The application fee is \$50 and the examination fee \$150. There are additional costs for materials and the four one-hour Review Classes. The site contains specific applications for the states of California, Florida, Oregon, and Texas.

Arizona has been a leader in certifying and licensing fiduciaries to ensure individuals handling the affairs of their elderly or mentally incapacitated vulnerable citizens are well trained. They have a Fiduciary Certification and Licensing Program which includes a written knowledge examination, application, and requires payment of a \$50 application fee. Additionally, they have an educational requirement and three year relevant work experience requirement. Licensure requires training and additional fees as provided by the Arizona Code of Judicial Administration (2009).

The Interim Report to the Arizona Judicial Council by the Committee on Improving Judicial Oversight and Processing of Probate Court Matters (2010) pointed out the demographic challenges being faced by their judicial system in the coming years. Currently Arizona has 25% of their population at age fifty-five years or older. Arizona made changes in the 1990s as they began to regulate their professional fiduciaries. Subsequent to that they increased qualifications for the fiduciaries and implemented random audits of their accounts. Yet, several of the recommendations in this report are to have the Superior Court add a rule to create and fund a program for random audits, to develop mandatory online training and a separate certification for non-licensed fiduciaries, as well as requiring attorneys to complete training before their first appointment. The report suggests the training for non-licensed fiduciaries to be no more than 90

minutes in length. It is suggested the random audits could have a limit so only accounts over \$100,000 or \$200,000 would be subject to the audits. The report also suggests there could be an exemption of private professional fiduciaries, county public fiduciaries, and the Veterans Services Department from this requirement. To provide funding, the report suggests setting an annual report fee and a fee for a report that is filed late. Currently, Maricopa County in Arizona is collecting a fee of \$300 for any account that has to be reviewed by a court accountant prior to court approval and \$400 upon initiation for a court investigation fee.

According to Broward County's Handbook for Guardians, (Seventeenth Judicial Circuit, 2008) Florida requires 8 hours of instruction and training for anyone other than a parent appointed to be guardian of property and 4 hours of instruction and training for a parent requesting appointment over their own minor child. They also limit the amount a nonprofessional guardian may charge per hour at \$30. Professional guardian fees are based on experience with zero to five years of experience at \$50 per hour and six or more years at \$75 per hour. All guardians of property must submit with their initial application, an investigatory fee of \$50 for the court, a fingerprint card and processing fees of \$54.25 for law enforcement. Professional guardians also must submit an additional \$7.50 clerk's processing fee. Currently, Minnesota has no statewide required instruction or training and is charging no fees.

## **METHODOLOGY**

Minnesota's court system has evolved over time since statehood in 1858. The Trial Unification Act passed in 1982 required Minnesota's separate Probate, County, and Municipal Courts to unify into one District Court in each county by 1987. Statewide funding of all 87 county District Courts began in 1990 and was finally completed in 2005, creating a unified statewide court system that can handle any case type except appellate work. The governance

structure of this statewide system has changed over time as well; but also occurring in 2005 was the creation of the Judicial Council, which is the administrative policy-making body for Minnesota’s state court system. It is comprised of 25 members including 19 judges who are voting members and six administrators who are non-voting members. With Minnesota’s unification, came progress towards statewide standardization of business processes. As a means to that end, the Minnesota Judicial Branch Court Services Division, operating under the State Court Administration Office (SCAO) provides information with respect to statewide standards of operation and processes.

Minnesota currently has ten judicial districts comprised of 87 counties with each county having a District Court of original or general jurisdiction in civil and criminal cases. Hennepin and Ramsey counties are single county districts, while the remaining eight districts are multiple county districts. Eight of the districts have a single appointed District Administrator while two districts have a combined appointed District Administrator.

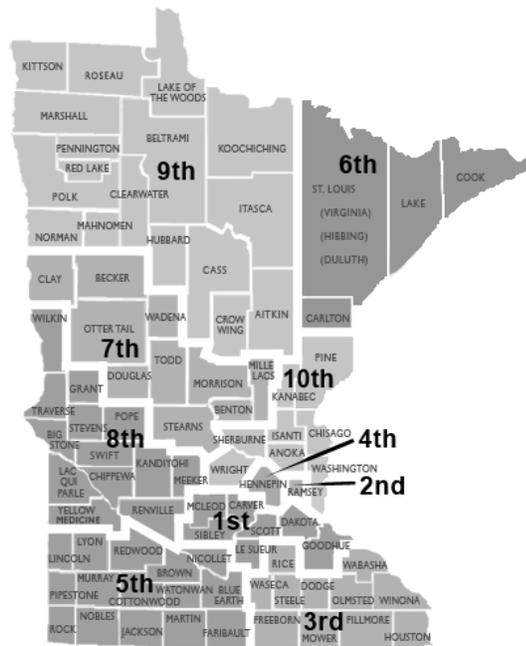


Figure 1. Minnesota Judicial District and County Map

Within these ten judicial districts, the 87 counties are served by appointed Court Administrators positions. Due to Minnesota budget issues over the past years, some court Administrator positions in the districts have been combined. Currently seven of the ten districts have Court Administrators serving more than one county. Only the three metro districts have single court administrators in each of their counties. Court administrators are responsible for all conservator cases filed in their counties.

With the exception of Hennepin and Ramsey Counties, all counties utilize one statewide case management system called the Minnesota Court Information System (MNCIS), which allows users throughout the state access to cases based on security levels. Hennepin and Ramsey Counties both use MNCIS, but additionally have a traffic management system called VIBES and are working towards conversion of that system into MNCIS. However, all 87 counties do use MNCIS to process all probate cases, which includes guardianship and conservatorship cases. Since guardianship and conservatorship cases are considered public, access to these cases is available to all court users statewide.

Document imaging has begun in some fashion in many counties. Some counties are imaging old files for retrieval through a separate application. However, the statewide plan is to have scanned images attached to case events within the MNCIS system, making it easy to review cases from any court location with appropriate access. Unfortunately, since this has not yet been rolled out statewide, the majority of counties have only paper documents in case files. However, as CAMPER reports are submitted on-line by conservators, they are in a portable document format (PDF). This PDF document generated by CAMPER can be attached to a case event in MNCIS. Since Ramsey County is fully implemented on document imaging and was the first county to implement CAMPER in 2008 as a single county system, they currently have this

ability. Once imaging is fully implemented statewide, any user with document imaging rights will have the ability to view attached CAMPER documents directly in MNCIS.

### Definitions of Guardianships/Conservatorships

States define guardianships differently, but in a recent survey report by the Center for Elders and the Courts, Brenda Uekert (2010) defines it this way, “*Guardianship* is a relationship created by state law in which a court gives one person or entity (the guardian) the duty and power to make personal and/or property decisions for another (the ward). In this survey, the term refers to all types of guardianships, including conservatorships (fiduciaries)” (Uekert, 2010). States around the country have begun gathering and providing information on the amount of loss occurring in guardianship and conservatorship cases. Research provides the terms guardianship and conservatorship have been used by various states interchangeably and with some intermingling of duties. For purposes of this paper, both the Minnesota term conservatorship which reflects matters concerning the estate of a protected person, and guardianship which is used by other states to include the financial side “of the estate” may be used to focus on financial losses.

The U.S. Administration on Aging’s National Center on Elder Abuse (2011) defines financial or material exploitation as “the illegal or improper use of an elder's funds, property, or assets. Examples include, but are not limited to, cashing an elderly person's checks without authorization or permission; forging an older person's signature; misusing or stealing an older person's money or possessions; coercing or deceiving an older person into signing any document (e.g., contracts or will); and the improper use of conservatorship, guardianship, or power of attorney.” While financial loss can occur in all these manners, the focus of this paper will be only on loss or exploitation of both adult and minors under conservatorship in Minnesota.

In 1980, the Vulnerable Adult Act changed Minnesota statutes to provide vulnerable adults with protection not just from facility workers, but also from “caretakers” who were individuals or family members. It provided immunity from liability for reporting abuse and neglect and provided penalties that could result from criminal prosecution. The Act was amended in 1995 to provide an updated definition of vulnerable adults and to include financial exploitation. Minnesota made additional statute changes in 2009 to help define and separate out the terms and duties under conservatorship and guardianship cases. Prior to 2003, an incapacitated person could be appointed a guardian of the person and the estate as well as appointed a conservator of the person and the estate. The terms guardianship and conservatorship were used to determine the level of restriction imposed upon the incapacitated party. However, Minn. Stat. § 524-5.102 (2003) was updated providing clarification to the terms guardian, conservator, ward, and protected person. The current definitions in the statute now provide appointment of a conservator to handle the estate of a protected person and appointment of a guardian to handle the personal needs of a ward. Thus the terms guardianship and conservatorship were separated to define money and property versus personal needs and well-being.

Currently in Minnesota, a protected person is someone who has a conservator and is under conservatorship of their estate; and a ward is someone who has a guardian and is under guardianship of the person. Specifically Minn. Stat. § 524-5.102, Subd. 3 (2003) states ““Conservator” means a person who is appointed by a court to manage the estate of a protected person and includes a limited conservator.” Minn. Stat. § 524-5.102, Subd. 5 (2003) indicates ““Guardian” means a person who has qualified as a guardian of a minor or incapacitated person pursuant to appointment by a parent or spouse, or by the court, and includes a

limited, emergency, or temporary substitute guardian but not a guardian ad litem.” Minn. Stat. § 524-5.102, Subd. 14 (2003) states ““Protected person” means a minor or other individual for whom a conservator has been appointed or other protective order has been made.” Minn. Stat. § 524-5.102, Subd. 17 (2003) indicates ““Ward” means an individual for whom a guardian has been appointed.” In 2009, Minn. Stat. § 524-5.102, Subd. 13a (2003) was revised to provide the definition of a professional guardian or conservator meaning someone who is “acting as a guardian or conservator for three or more individuals not related by blood, adoption, or marriage.”

These statute updates in Minnesota also resulted in changes to the way files were being handled by the court and in the way cases were handled within the statewide case management system. Users were provided with case sub-types in MNCIS to define the current status of a case at any given time. Additionally, Minnesota’s Judicial Branch Court Services Division issued a series of Court Administration Processes (CAPs) to provide guidance towards statewide standardization of practices. Changes to case initiation procedures in Guardianship and Conservatorship cases resulted in issuance of CAP “630.20 Guardianship/Conservatorships - Case Initiation Criteria” in January 2009. A copy of this CAP may be found in Appendix B. CAP 630.20 has undergone a number of revisions, but currently advises court users to change case sub-types to reflect the current status of the case as it evolves. Prior to this change, cases initiated as a guardianship, conservatorship or combination of both had an initial case type which was associated with the appropriate case weight for weighted caseload (WCL) statistical purposes. Additionally, some counties would open new files as the cases changed if there were any case weight differences. Due to this CAP and program changes in MNCIS, currently all petitions are opened as Guardianship/Conservatorship cases and all have the same WCL assigned

to them upon initiation. However, court users now also select a sub-type to further define the case. The use of this sub-type reflects changes to the case should they occur. For example, if an adult petition was filed for both a guardianship and conservatorship matter, court staff would open it as a case type of Guardianship/Conservatorship, and a sub-type of Guardianship/Conservatorship. If later the court determined the Conservatorship was no longer required, users would change the sub-type to Guardianship – Adult to reflect the current status of the case. No new file would be generated, instead the case would continue in the same file with the same case number and only the sub-type would change. This has provided better statistical reporting of the actual number of conservatorship cases open in Minnesota at any given time. With this change in place, as of August 1, 2011, Minnesota had 8,053 active conservatorship cases in MNCIS.

Since implementation of the CAMPER program on a voluntary basis beginning July 1, 2010, nearly 280 court users and over 4,000 protected persons have been entered. Initially, the names of all conservators were pulled from MNCIS and transferred electronically into CAMPER. This resulted in some duplication due to minor differences in names or addresses and resulted in a total of 9,858 potential conservators being loaded into the system. However, conservators were not activated until they completed an on-line tutorial about the CAMPER program from Minnesota's public court web site at <http://www.mncourts.gov/conservators> and submitted a notarized form to their county of record. The county was responsible to confirm any existing beginning balance requiring entry into the CAMPER system before conservators were issued a user name and password. The total beginning balances entered for protected person accounts as of August 15, 2011, was slightly over \$396 million.

#### CAMPER Implementation and Minnesota Practices

While CAMPER was adopted for mandatory statewide use effective January 1, 2011, the issue of how to implement the program began in late 2009. Minnesota had a group of court users that met to discuss current procedures and practices. The Statewide Conservator User Group consisted of at least one representative who was an experienced court user from each of the ten districts. The group met several times to discuss how CAMPER would fit into their current routine and the best way to provide statewide usage of the new system. During the course of these meetings, numerous issues were raised highlighting the disparity in practices throughout the state and the need for review and recommendations of better statewide practices.

A number of procedures were being done very differently throughout the state such as the practice of waiving annual accountings in conservatorship matters. Some courts were routinely waiving the hearing and annual filings for accounts less than \$3,000, while others were waiving accounts less than \$10,000. Some counties believe the statute allows waiving of the hearing only and not of the account itself. In some instances, courts were waiving service of the Notice of Rights on a protected person or ward due to a documented mental incapacity. There is no statewide standard as to when or how a Representative Payee should be sought in conservatorship matters. The Representative Payee option is available through the Social Security Administration to individuals receiving some type of Social Security benefits whether through retirement, disability, or the Supplementary Security Income (SSI) program. The larger counties of Hennepin and Ramsey appear to do a good job of moving these cases to representative payee status and discharging the conservator, while smaller counties tend to maintain control of these cases, but may waive the filing or hearing of the accounts.

Issues such as how to enter beginning balances for existing accounts statewide were discussed. As a single pilot county, Ramsey was able to look in each existing file to determine

the appropriate starting balance to enter in CAMPER for each account. To implement this as a centralized process statewide for existing accounts, conservators were required to file an Acknowledgment of Electronic Report Filing form (Appendix C) with the local court so local court staff could verify the appropriate beginning balance from the last account or inventory in their file. As conservators began submitting their forms, a number of them requested being able to designate an agent to submit the electronic accounts for them. A second form was developed documenting the conservator is still responsible for the accounts, but allowing conservators to designate an attorney or accountant to submit the accounts on their behalf.

Statewide discussions brought out varying terminology used by counties describing the type and level of service used by court staff when looking at conservator accounts. Terms such as monitor, examine, verification, and auditing were all being used differently. Terminology definitions were discussed in an effort to provide clarity and define level of responsibilities for court staff. Statewide discussions also focused on having a group of accountant trained internal staff who could audit accounts. A definitions document (Appendix D) was developed for use and to better define the functions of what a new centralized auditing unit would do.

How to implement the new statewide CAMPER software was included in discussion topics of the State Conservator User Group. Ramsey County provided staff and technical assistance in the form of experienced court users, a list of names from MNCIS for a conservator mailing, and phone assistance to internal court users of the system. Conservators were able to begin using the system on a volunteer basis effective in 2010, but there was no statewide process or implementation plan in place to handle inquiries from conservators. The Tenth Judicial District, under the direction of District Administrator Michael Moriarity, provided a phone line and staff to get court users set up in the system, revise the CAMPER Court User Manual, write a

new Conservator User Manual, assist conservators and court staff with questions about the system, as well as set up procedures to assign user names and passwords to conservators.

LaVonn Nordeen, retired Wright County Court Administrator and prior Probate Registrar, not only assigned user names and passwords, but became the “voice of CAMPER” for conservators and continues to assist conservators understand and use the on-line system today.

As a result of assisting conservators and court users through the use of this new system, a spreadsheet containing issues was created to log complaints and suggestions. As of December 15, 2011, there were a total of 63 issues logged with only six having been resolved. This list contains system issues and business process issues from both court users and conservators.

#### Minnesota Web Sites and CAAP

The Minnesota Court public web-site for Programs and Services was revised with the assistance of SCAO staff to include a direct link to the CAMPER system for conservators, a series of tutorials explaining how to use the on-line reporting system, and required forms to be filed by a conservator before obtaining a user name and password for the system. Other information on this site provides conservators with a user manual that can be read on-line or printed for future reference, a list of frequently asked questions, a copy of the CAMPER Chart of Accounts conservators can refer to when setting up their accounts, and additional information specific to conservators. The site also contains an e-mail address for technical support that goes to the State’s internal help desk and a telephone number for program assistance. A recent addition to this site is a link to a series of educational videos professionally produced by Hennepin County. These videos provide general information about guardianships and conservatorships and the important responsibilities involved when considering being appointed by the court.

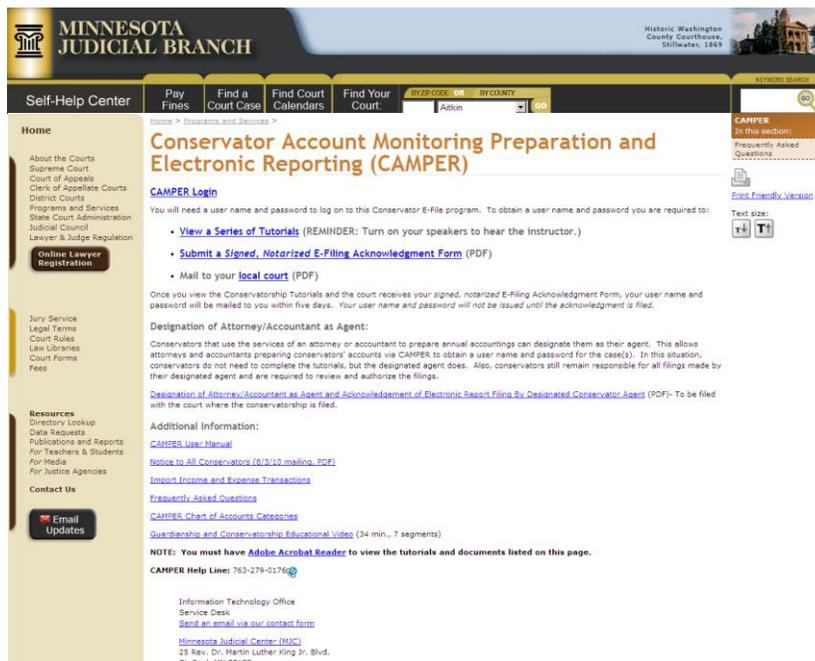


Figure 2. Minnesota's Internal Website

Minnesota has a section on their internal court web-site known as CourtNet for use by court users which contains information helpful to court staff including a court user manual, frequently asked questions, and a recorded court user training presentation. The site also contains information available on the public conservator site along with a direct link to the CAMPER program for court log-on purposes.

Minnesota's Judicial Council approved funding in September 2011 for the Conservator Account Auditing Program (CAAP) effective for fiscal year 2012/2013 and approved hiring of a manager and auditing staff. The SCAO solicited districts for proposals to house and manage this centralized unit that would focus on auditing of accounts. The Tenth Judicial District was chosen to house the unit and is in the process of organizing this new unit. The current understanding is that up to six people will be hired to oversee the program and conduct statewide audits of all initial accounts over \$3,000, cases scheduled for hearing to allow accounts on a

three or five year basis (depending on the accepted statewide standard), cases referred by counties due to a suspected loss or specific impropriety, and additional random audits as determined by CAAP.

### CAMPER Court User Survey

A set of survey questions was developed to determine the level of CAMPER system use by court personnel during the initial year and allow users the opportunity to provide their evaluation of the system compared to the prior manual system. The initial questions developed were electronically provided to a group of users in the Tenth Judicial District on August 4, 2011, as a pre-test. This group had been meeting regularly prior to the CAMPER software implementation to discuss overall use of the system and any changes they wanted to make as a district. The group was advised to read through the survey for clarity, answer the survey questions and provide the following for feedback purposes.

- Suggested revisions to the survey questions, including any additions or deletions
- Provide overall critique or comments about the survey

As a result of this pre-test, several questions were revised for clarity and ease of response. Additionally, two questions were added to provide users the opportunity to submit their suggested changes or updates to the system.

On September 2, 2011, the on-line survey in Appendix E was sent to all 273 court users registered in CAMPER as of that date with a response date of September 20, 2011. A reminder was sent to all CAMPER users on September 19, 2011. As a result of that reminder, one county responded they had submitted their response as a group, rather than individually. A total of 157 responses were received from the total registered users, which represents a response rate of 58%. Results of the CAMPER survey reveal 81% of those responding were court staff including

Deputy Court Administrators and Court Clerks, while 17% were administrators, managers or supervisors. The other 2% responding were paralegals and CAMPER administration staff. A total of 83% of all responders indicated they have used the system.

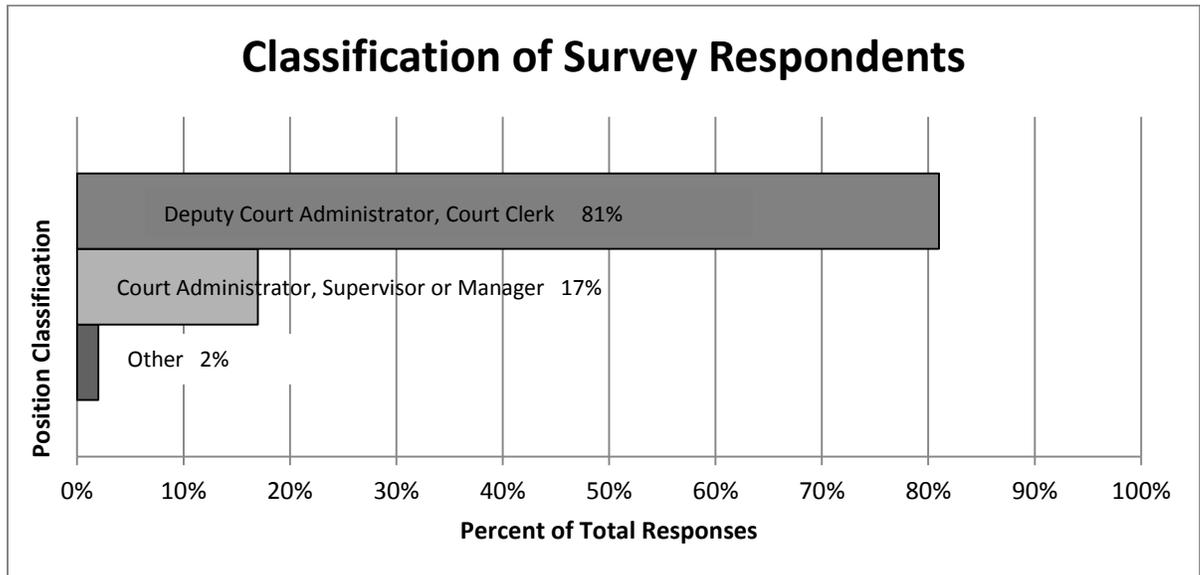


Table 1: *Classification of Survey Respondents*

### Reviewing Potential Loss Cases

When reviewing the list of “red flags” developed by Arizona, Maricopa County, and Colorado found in Appendix A, it was apparent some systems differ from that of Minnesota as their fiduciaries have more direct contact with protected persons and conservators. The eleven signs of exploitation of a financial or material nature produced by the U.S. Administration on Aging’s National Center on Elder Abuse (2011) provide those close to a protected person with tips that may help uncover financial exploitation. While none of these lists can provide a positive indicator there has been some form of financial abuse, they do provide insight for family members or friends who may have more personal knowledge of a protected person’s past habits and practices. In many cases, however, it is the family member or personal friend who may be a perpetrator of the loss. In Minnesota, court staff review accounts on an annual basis, but do not

necessarily have contact with the protected person, their family or the conservator at the time the reports are filed.

The information obtained about indicators or “red flags” used by other jurisdictions was used to construct a data collection sheet for Minnesota based on information reviewable in MNCIS. Locating potential cases of loss for review proved troublesome as the loss of funds is typically not reflected as an ending disposition (an easily searchable data element in MNCIS), but just another event during the life of a conservatorship case. While MNCIS does allow entry of a monetary judgment as a disposition within the life of a conservatorship case, it was discovered during review not all counties handle losses in this manner. MNCIS on-line help was consulted and no instructions were located there about processing judgments specific to conservatorship cases. There is a Judgment Activity report in MNCIS, however, it was of little use as it produces statistical information rather than detail and specific information relating to file numbers or amounts of loss.

In an effort to locate the specific cases that may contain a loss of conservatorship funds at the hands of a conservator, a request was submitted to the Research Division of the SCAO to perform a query of the MNCIS database to locate conservatorship cases with losses. Initially, a query was run looking for cases with dispositions of judgments; however, when reviewing this report, it became apparent numerous judgment codes were being used statewide and not all were being used the same manner. In some instances, if the judge ordered a money judgment against someone in the file, court staff entered it in the conservatorship file. Yet other counties were sending the money judgment to their civil division to open a file and enter the judgment there. Additionally, since there is no judgment disposition for conservator cases in MNCIS that indicates when Letters of Conservatorship are issued, some counties entered dispositions of

“Conservatorship-Estate,” “Guardianship/Conservatorship,” “Judgment,” or “Judgment – not all Parties” at the time Letters were issued. When reviewing these queries, it was clear every case where a disposition judgment had been entered, may simply have meant the case was entering the monitoring stage and did not necessarily mean there was a monetary loss in the case. Therefore the query request was narrowed to identify only those with money judgments.

This query performed by the Research Division of SCAO contained 133 cases where a money judgment had been entered on the case. The query included an additional 76 cases containing Orders Discharging a Conservator. These cases were reviewed to determine if orders within the file contained money judgments. All money judgments were reviewed to determine if the judgment was indeed a loss of funds by the conservator and the amount of that loss. With each file review in MNCIS, a data collection form (Appendix F) was completed.

An additional complexity emerged while reviewing these judgment cases. In instances of professionals where there was a documented judgment in MNCIS, the same party record wasn't used for all cases. Each judgment on a case is connected with a specific party record. Unfortunately, because the old case management system for Minnesota was a case based system, the current party based case management system contains numerous duplicate party records, especially connected with older cases. The system does have an automated process that attempts to locate duplicate records and merge them, but lack of specific identifying characteristics such as birth dates or driver's licenses in conservatorship records makes automatic merging nearly impossible. After researching an additional nearly 90 instances of files connected with duplicate party records that had no judgment entries and not locating even a single loss case, no further research was conducted with duplicate party records. One of the counties provided a list of cases connected with one conservator who had been removed by a number of counties. After review

of this list containing 210 cases, no additional cases of loss were confirmed. Additional loss cases were discovered by reviewing cases in Minnesota that were high-lighted in news reports by searching the conservator name in MNCIS. Through this effort, nearly 20 additional older cases were discovered that did not contain historical information in the MNCIS conservatorship file, but did contain the conservatorship victim's names and settlement amounts on documents in the criminal files.

Where it was determined by review of the electronic MNCIS record there was an identifiable loss by the conservator, a Financial Loss Data Form (Appendix F) was completed. If a conservator was removed, but no identifiable loss by the conservator found, no form was completed; but the case was recorded in a spreadsheet to document it had been reviewed. Files were reviewed that did not have specific instances where amounts of money had been taken from the protected person, but had accounts containing allegations of questionable conservator or attorney fees, costs incurred due to late filing of accounts, or where there were allegations of possible mismanagement or where the conservator acted "without good faith" in the handling of the protected person's accounts. In these cases, if the county entered a disposition of Judgment pertaining to the order of the court and surcharging the conservator or seeking reimbursement from the conservator's bonding company, and a specific monetary amount was provided in the case; it was considered a loss and was included. In some instances, once the bonding company paid the surcharge back to the protected person's assets, a civil judgment was entered in a separate civil file for the bonding company and against the initial conservator. In these instances, the civil judgment entered often included interest from the original date of judgment, therefore increasing the original amount of judgment reflected in the conservatorship file. For purposes of this paper, the original amount ordered in the conservatorship case has been included

as the loss, rather than the civil amount, whether or not it was paid by the bonding company. Additionally, if expenses were incurred to obtain account filings and the court ordered the conservator to pay those fees back to the protected person or surcharged the conservator due to any impropriety in service, those amounts were included. However, if while reviewing a potential case of loss, it was determined the loss was as a result of someone other than the conservator, those amounts were not included. In many instances the reason to begin a conservatorship case in the first place is to stop someone from accessing or using funds intended for the protected person. Judgments may be entered against those individuals on behalf of either the protected person or the appointed conservator. If there were issues about non-payment of attorney fees or payments to others in which judgments were awarded to either the protected person or the conservator, but those amounts did not result in a loss of funds due to any actions by the conservator, they were not included.

In each case where the conservator was responsible for the loss, further research was conducted to determine if the conservator was an individual or serving as a professional. In some instances one person may have performed the duties of a conservator for multiple family members in more than one file. Since Minnesota does not have a certification process for their conservators, for purposes of this paper, the statutory definition applies which indicates a conservator is considered a professional when acting as such for three or more individuals not related to them.

Since not all conservator files included information whether criminal charges were pursued, names of conservators involved in a loss were searched in MNCIS for any criminal files. If the file contained information about an appeal and no appellate court file number was located in the district court file, a search was done of the appellate court system to locate and

review that file for any additional information with respect to the outcome of any judgments against the conservator. If the district court file did not contain comments about an appeal, the name of the protected person was searched in the appellate court system to see if there was a record that altered the judgment in any way.

Another question on the Loss Data Sheet that was difficult to ascertain was whether or not accounts were timely filed. While the rules are clear conservators should file their accounts within 60 days after the end of each accounting year, when that year ends is less clear when reviewing the accounts. While it was thought most counties were counting the year from the date Letters of Conservatorship were issued, it appears others were accepting accounts dated a year from the filing of the inventory or actually began to calculate from the date they received the first annual account. For purposes of this paper, an account was considered late if it was not filed within 60 days annually from the date Letters were issued.

The information from the Loss Data Sheets was put into a spreadsheet to better tabulate the information. To further substantiate the information was correct and in attempt to include other cases that were not identifiable through any other source, each judicial district was provided with copies of their district information from the spreadsheet. The districts forwarded the information to their counties for validation. As of January 31, 2012, all ten judicial districts had provided responses from the majority of their counties. Out of the 87 counties, 49 had cases on the spreadsheet and only 9 counties had not validated their information.

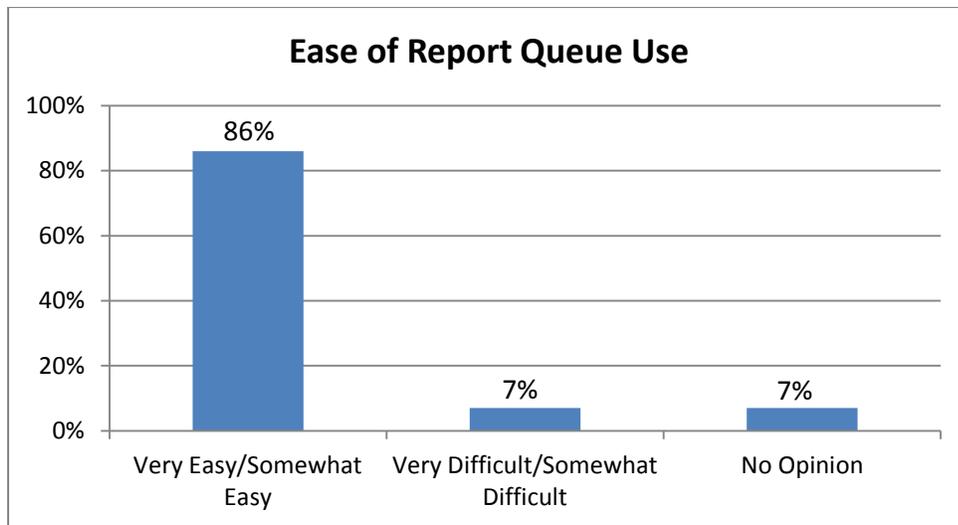
## **FINDINGS**

### CAMPER System Findings

CAMPER was designed to provide court personnel with information in a form that helps track the accounts of protected persons or assists with the account examination process.

Questions were asked of court users to determine the ease of use of the system overall; the ease of use of the reports; and the extent to which the inventory, well-being, and annual account reports were being used and if the system was assisting them with examination of the annual accounts. Additionally court users were asked to provide any suggestions or improvements to the system. (Note: Percentages may not total 100% due to whole number rounding.)

Users were first asked questions to determine the ease of use of the system. It was understood some users having access to the system might not yet have used the system due to a change in job duties or their level of supervisory responsibilities. Additionally, some districts changed to centralized handling of conservatorship files so staff in one county may be doing the work for multiple counties. A total of 86% of those responding felt the report queue was very easy or somewhat easy to use. Only 7% found the report queue somewhat difficult or very difficult to use, with an equal amount of 7% having no opinion.



*Table 2: Ease of Report Queue Use*

One of the complaints users voiced when the system was first implemented was that the report queue has to be manually accessed to determine if reports exist as there is no alert feature. The survey was designed to capture current usage by asking how often users check the queue to

see if they had cases to process. Responses showed 60% of users checked the queue daily or weekly, 22% had varying responses from more than once daily or weekly to only checking when they expect something is due or that they weren't responsible for the queue, and 18% are checking it only once or twice a month.

The report queue may contain four types of reports for processing. First it may contain annual/final account documents in three different formats; however, accepting this type of report provides the user with all three formats. It also may contain an inventory, well-being report, or a file document. The file document option can be used by conservators wishing to submit additional supporting documentation scanned in as a .pdf document. The survey asked questions about how many and which reports users had processed.

When looking at the annual account documents, which would include both annual and final accounts, only 2% of the users had not processed any reports in the queue. The survey found 31% of the users had processed one to five annual reports, while 49% had processed six to 20 reports, 12% had processed 21 to 40 reports and only 6% had processed 41 or more. Of those responding, 86% of those responding indicated all three versions of the Annual Account report were very easy or somewhat easy to examine/audit with only 14% rating the three versions as somewhat difficult or very difficult.

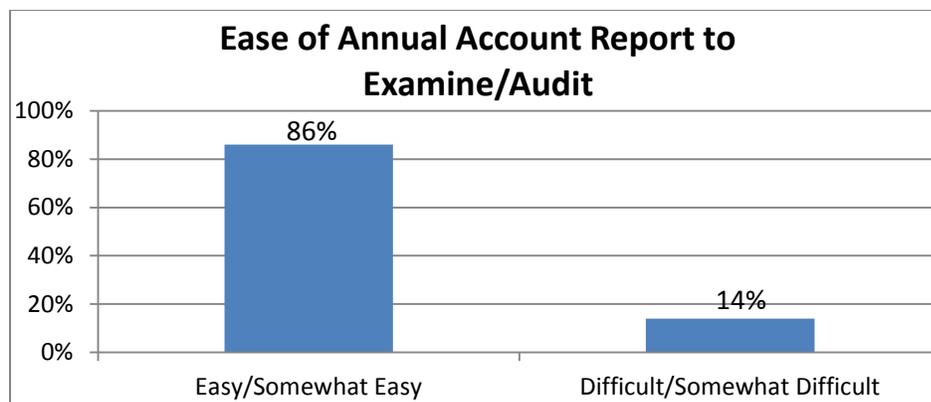


Table 3: Ease of Annual Account Report to Examine/Audit

Users were asked if hearings have been held using the newer electronic version of the annual account and also if it provided a more satisfactory report for court review at hearings compared to the previous paper report. One-half of the users indicated they have not had a hearing while 31% felt it was the same as the paper report. Only 12% of users felt it was an improvement, while 6% felt it was not as good as the prior paper report. Comments from two of the users included complaints about the amount of paper required to print the electronic version. One comment indicated there was no allowance for specificity and two indicated receipts were needed for the totals. One other comment indicated the pre-set options oversimplify the process where allowing conservators to create their own categories allowed better descriptions and more accuracy.

Processing an inventory document happens with all new files and for successor conservators in some counties, but not all. Due to the amount of time CAMPER has been mandatory statewide, it was not surprising, therefore, to see 22% of users had processed no inventories with the largest group of users (55%) processing only one to five inventories. The survey found 19% of users had processed six to 20 inventories, only 3% had processed 21 to 40, and only 2% had processed more than 41. The overall use of processing inventory documents was rated by 71% of users as very easy or somewhat easy, while only 3% felt they were somewhat difficult or very difficult and 26% of users had no opinion. Users were asked if they have used CAMPER inventories during a hearing and whether or not it provided a more satisfactory report for court review compared to their prior paper reports. Only 3% of users felt it was an improvement while 4% felt it was not as good as the paper report. There were two comments indicating the inventory was too generalized and the paper report was more

explanatory and easier to understand. The majority of users or 76% have not had a hearing where they used the inventory and 18% felt it was the same as the paper report.

Well-being reports are typically used by guardians handling the personal affairs of a ward. However, in some instances a person is appointed as both conservator of the estate and guardian of the person. To assist those doing a duplicate role, well-being reports may also be filed electronically. Because this relates to only a minority of conservators, it was expected CAMPER users may not have processed many well-being reports. Therefore, it was not surprising when the survey revealed 16% of users had not processed any well-being reports, while 35% had processed one to five and 40% had processed between six to 20 well-being reports. Only 9% of users had processed more than 21 reports. The overall use of processing well-being reports was rated by 71% of users as very easy or somewhat easy, while only 3% felt they were somewhat difficult or very difficult and 26% of users had no opinion.

Users were allowed to indicate what they liked most and least about the CAMPER program. Out of the 157 users that responded, 81 provided information about what they liked most and 84 users provided information about what they liked least about the program. The specific user responses describing changes they would like to make to the system are included in Appendix G, while all survey results were posted for viewing by users on the internal court website.

Users identified their likes with 22 of the comments including information such as the system did the math for conservators and the accounts had to balance before submitting to the court. Comments about the fact the reports come out in a typed format, so are neater or better organized, more uniform and easier to read were included by 21 of the users. While these responses were to elicit items users like most, there were two comments in this section about the

waste of paper due to the report format. Alarming, 14 people included comments they liked not having to check receipts or verify accountings within the CAMPER system. This comment may indicate a misunderstanding of the system because, while receipts no longer get submitted on-line with the annual account, they are still required to be maintained and produced as requested by court staff when examining or auditing accounts.

When users were asked to comment what they liked least about the CAMPER system, they provided 84 comments. Seven users indicated the system wasted paper while 24 had complaints about their experiences dealing with conservators' lack of knowledge of the system, listening to conservator complaints about the system, or conservators' lack of computer knowledge. Ten of the comments dealt with specific program adjustments or concerns, all of which were or have been added to the list of program enhancements logged by CAMPER staff. Six users indicated they don't like having to check the queue or would like some type of alert or reminder system telling them there is something in the queue for them to process. Another 12 comments dealt with the fact the system was implemented before auditors were in place or contained some type of issue about processes beyond the system itself.

Users were asked to provide any suggested changes or improvements to the system. The actual user responses may be found in Appendix G and include four suggestions requesting additional training, three for court staff and one for additional training for conservators. Seven indicated they had no suggestions or were not familiar enough with the system yet to offer any.

There were comments about procedures rather than system changes such as:

- Auditors should have been in place and audits should be random
- There should be mandatory reporting of all documents on the system including a proposed Order Allowing and Annual Notice of Rights

- Would like a notice to send to remind conservators they are overdue
- Acknowledgment process takes too long

There were general comments such as making the program easier to use for the public and another that it was fine as designed. There were also questions about what the plans are for the future dealing with procedures. Specific suggested for improvements to the CAMPER system itself have been added to the list of program enhancements and are as follows:

- Eliminate the extra space so less paper is printed
- See the reports to manipulate for auditing purposes
- Make it easier to know when reports are filed
- Change amended accounts to allow conservators to start over rather than tracking changes or ability to file an entire amended account
- Allow preview without balancing for conservators
- Fix view issues
- Be able to reflect all conservators on reports even if added at a later date and reflect all updates on reports in progress

#### Cases of Loss Findings

The original query from the research division provided a list of 209 cases. Additional research from news articles, criminal cases, and input from court staff provided another 35 cases for a total of 244 suspected cases of loss. Each case was reviewed in MNCIS to determine if there was a loss at the hands of a conservator and the amounts of loss determined by the court. Cases connected with party records but not part of the query provided by the research division totaled 89 cases, none of which had identifiable conservator losses. Out of the other 244 cases reviewed, 135 cases showed financial losses by or as a result of a conservator totaling

\$2,043,135. Individual conservators were found responsible for 47 of these cases or 35% totaling \$955,908 while professionals were responsible for 88 cases or 65% totaling \$1,087,227 of the total \$2,043,135.

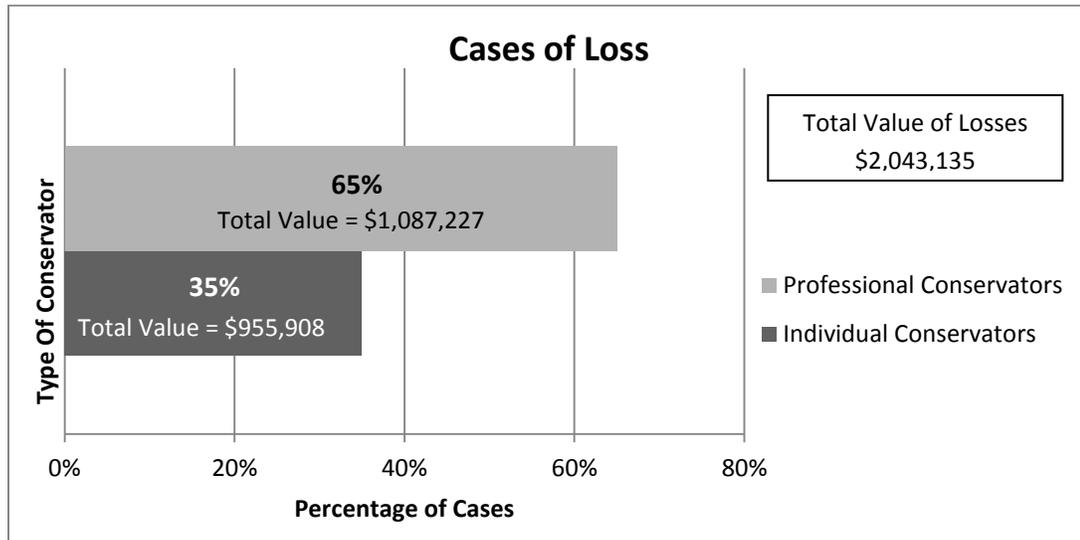
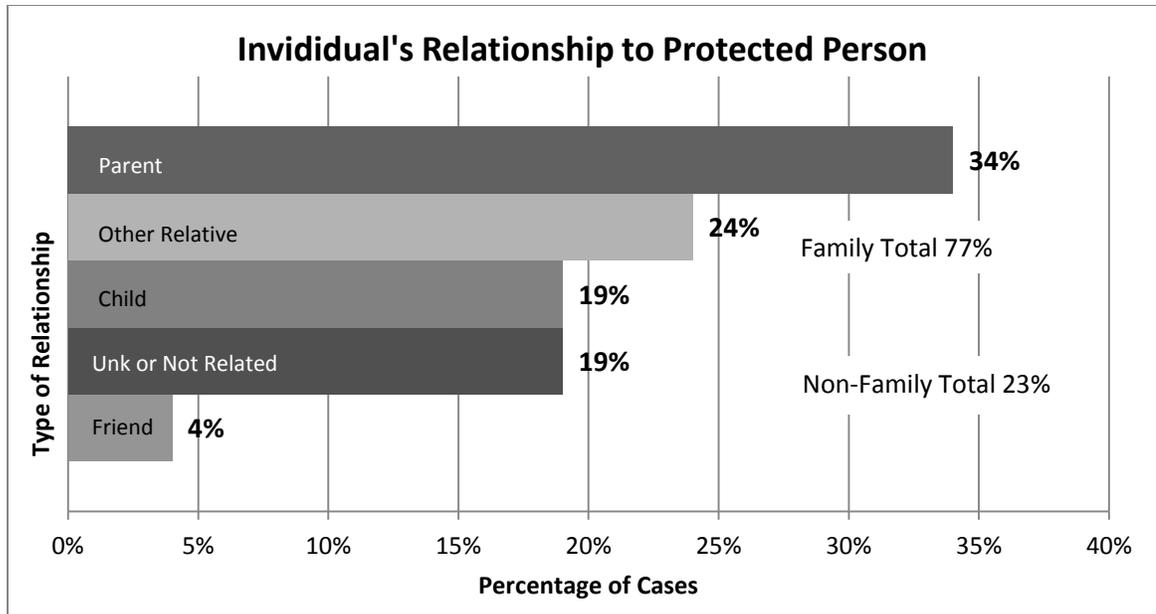


Table 4: Total Cases of Loss

Out of the 47 cases for individual conservators, further research revealed parents were responsible in 16 of the cases, and 9 were children of the protected person. In 11 other cases, a relative was the appointed conservator, friends were appointed in 2 cases and the remaining 9 cases were unknown or there was no relationship to the protected person. Overall, family members were responsible for 77% of the losses. Feedback from counties indicated some losses caused by individuals were relatives trying to do “the right thing” for a loved one or attempting to “spend down” so they could seek county assistance. One county reported the loss reflected by the judgment was against the grandparents who felt they needed to change the investment and made a poor choice resulting in loss of funds for their grandchild. While they didn’t reap any personal reward, it was a loss they were held responsible for under their powers as a conservator. However, in other instances, conservators could not explain the loss or simply stated they needed the funds at the time and were unable to pay them back.



*Table 5: Conservator’s Relationship to Protected Person*

Four professional conservators or companies were found responsible for 88 of the 135 loss cases totaling \$1,087,226. Of that amount, three professionals were responsible in 87 cases for a total of \$1,079,445 which is 99% of the professional losses. Criminal cases remain pending against one of the companies, so this amount may be larger yet. Professional conservators responsible for losses have experience and expertise that individuals don’t have and should not be confused, attempting to spend down, or make changes to accounts without court approval.

Reviewing cases of loss in Minnesota was an important factor for a couple of reasons. It is important to know the previous amounts of loss found in cases in order to set a baseline for improvement. Using lists from other states as the guideline for the data loss sheet revealed Minnesota cases had some of the same issues found as “red flags” in other states. Issues such as accounts not being filed in a timely manner and judges having to set order to show cause hearings to get accounts filed were commonly found in these cases of loss in Minnesota. Of the total 135 cases of loss, 72% of the files had accounts filed late and 67% of the cases had a minimum of one order to show cause hearing set. However, a more thorough review of the

physical files would be required to fully investigate other indicators as many may be reasons for initiation of a conservatorship case.

One other important factor to note is that out of the 135 cases of loss, bonds were confirmed as posted in 33 files, which represents only 24% of the total cases with losses. Requiring the posting of bonds in these cases would certainly lessen the impact of loss to protected persons. In addition, individuals were less likely required to post a bond, especially in cases where a family member was appointed.

#### Conservator Registration Findings

There is a national certification program available through the Center for Guardianship Certification, but no national registration system. The site contains applications for use by the states of California, Florida, Oregon, and Texas. Conservator registration systems are present in Maricopa County, Arizona and Broward County, Florida. Both systems in these two states are fee based and provide educational hours as part of their certification. Providing this education does come at a price; however, and based on research in other states, fees are required to help maintain these types of services. Minnesota is lacking in education and certification as anyone can become a conservator in Minnesota by simply reviewing a manual or video and submitting a signed and notarized document.

It is apparent from the number and amounts of loss rendered against professional conservators, that a higher level of oversight and accountability needs to be implemented and that discoverable losses should be accessible statewide. Looking at other registration systems currently available, such as the attorney registration system, may be helpful. Any system used should have the ability to log complaints or issues so other counties handling cases with the same conservator are alerted.

## CONCLUSIONS AND RECOMMENDATIONS

The first purpose of this paper was to determine from court users if the current on-line CAMPER system was being used to provide court personnel with information in a form or method that tracked the accounts of protected persons and if it assisted with the examination process. Clearly, court users are using the system and are generally happy with the ease of use of the report queue and processing reports. However, they were unhappy with the amount of paper used when printing the reports. They also felt the information itself was not providing any improvement from the prior paper report process.

The second purpose of this paper was to examine current cases to determine the extent of losses by conservators and look for commonality to be used in the future to avoid these types of losses. Currently conservator cases are not marked or tracked when a loss is discovered or a judgment rendered against an active conservator. Minnesota's case management system (MNCIS) has the ability to provide more detailed tracking of cases where a loss has been identified and when a conservator may have an issue through the use of events and flags. However, the MNCIS flag report does not provide a way to filter cases by open or closed status, nor would it identify the party responsible for the loss.

The third purpose of this paper was to look at registration systems to understand what is currently out there as Minnesota works to set up their own registration system by 2013. Currently Minnesota has no required training statewide of conservators prior to appointment. Minnesota has instructional information available on their public website, but no way to track if a proposed conservator has viewed or understands the information. It is hoped this registration system would provide identification of both conservators and protected persons in an effort to better protect those in need of assistance. Minnesota has a good case management system that is

available to the public while the CAMPER software is not. Minnesota's current web based case management system available to the public should be able to provide the information required to public entities such as hospitals or financial institutions so they may determine if someone is under conservatorship.

**Conclusion 1: According to the user survey, while court users found the current CAMPER queue easy to use and the reports easy to process, they did not find much difference from the paper reports.**

Court users found the three reports easy to access and process, but indicated the reports do not provide differences from the paper reports. The current reports do not provide any way of comparing years or account categories without printing and viewing by hand. Without the ability to compare transactions, categories and years, auditing is still a manual process.

**Recommendation 1: Database reports should be developed to produce reports for yearly, category, and transaction detail comparisons.**

While the current program does not contain reports, it is important for future auditing of accounts to be able to compare categories and transactions from year to year. Since the program has transaction and category breakdowns, report development is an integral essential component to monitoring and auditing accounts.

**Conclusion 2: Evaluation is needed of the current CAMPER software issues list and should be compared to issues from conservator groups to improve functionality.**

The issues list has been maintained by CAMPER staff who have been logging complaints by court users and conservators. Since only six of the issues have been resolved, the remaining issues need to be evaluated and compared with issues currently being logged by professional conservators through a newly formed user group.

**Recommendation 2: Invite group of conservator representatives to discuss outstanding software issues and possible resolutions.**

It is important to work with conservators to ensure their current issues are understood so upgrades or re-writes to the system produce desired results for all stakeholders.

**Conclusion 3: According to the user survey, court users would like reports to print only required information.**

Users felt the reports should be condensed so only applicable information prints as users do not like wasting paper.

**Recommendation 3: Seek program changes to adjust the reports to be more eco-friendly.**

Currently the summary version, which is the shortest version of the three reports, prints eight pages whether the pages contain information or not and court users do not like this waste of resources. Since imaging is not available statewide and current practice requires the majority of counties to print and file paper copies, it makes sense to provide this in a less costly and print friendly manner.

**Conclusion 4: Best practices are needed statewide in the area of guardianship and conservatorship cases to effectively track conservator misconduct.**

The conservatorship and guardianship areas have not received a great deal of attention from a statewide perspective relating to best practices. Based on file reviews of conservator losses, users need statewide procedures relating to MNCIS party connections such as ending old conservatorship party connections and adding new successor parties. Additionally when codes are entered in MNCIS for specific events such as Letters issued, discharge of a conservator, or a judgment rendered against a conservator, these event codes should be linked to the appropriate party. Practices relating to address updates for protected persons and conservators should be

implemented to be certain all CAMPER updates are transferred to MNCIS. With the need to comply with central registration of conservators approaching, this needs to be resolved as part of that process.

**Recommendation 4: Best practice issues relating to MNCIS should be developed to include the following:**

- **Proper entry and ending of parties and connections**
- **Identify specific event codes requiring party connections**
- **Consistent statewide judgment entry for loss of protected person funds**
- **Addresses updates for protected persons and conservators**

Unless the address issue is resolved with a new registration system, CAMPER is currently not available to the public, so MNCIS would be the only address record viewable by the public at this time. There are currently plans for a statewide group meeting to discuss the new auditing unit and statewide best practices. To effectively track cases and monetary losses attributable to a conservator, specific practices need to be developed and provided to court personnel.

**Conclusion 5: Minnesota must consider requiring bonds in the majority of conservator matters to lessen the impact of loss to the assets of protected persons.**

Statistical information about the cases of loss documented in this report should be made available to judges throughout the district. The majority of cases reviewed did not require posting of a bond, especially when the individual conservator was a member of the family.

**Recommendation 5: Posting of bonds should be a priority to anyone considering appointment, should be the rule rather than the exception, and should be entered in MNCIS.**

The posting of a bond protects not only the protected person's assets, but also the integrity of the conservator and instills public confidence that the court is protecting a vulnerable population. Educational materials should stress the importance of posting a bond. Court personnel may withhold issuance of Letters until such bond has been posted. MNCIS has a bond tab and information on surety bonds should be added and tracked through this bond feature.

**Conclusion 6: Minnesota's registration system should ensure levels of education and training have been met.**

Currently Minnesota is lacking any formal testing or confirmation of understanding by appointed conservators. In cases where a family member wants to become a conservator, limited education may be all that is appropriate; but a level of knowledge should be ascertainable by the court prior to acceptance of a conservator on any case. Passing of an on-line open book test would, at the very least, provide assurances the information has been read and understood. Professionals should be required to have additional education and additional testing relating to handling multiple accounts due to the volume of cases they handle.

**Recommendation 6: Provide fee based conservator certification as a registration requirement.**

The public's trust and confidence in Minnesota's conservator system should include certainty that anyone registered as a conservator has obtained a specific level of training and education. With the current requirement to provide a registration system by 2013, now is the time to implement educational and certification changes. Requiring fees for these added changes is not unreasonable. Having a registration system for conservators will promote public trust and confidence that the person selected as a conservator has fulfilled the specific educational requirements.

**Conclusion 7: Information about losses of protected person funds by conservators should be easily accessible to court personnel and the public.**

Currently if a county discovers an issue with a conservator, they may alert other counties, but there is no consistent way to provide this important information to state users. Conservators have been allowed to continue to perform duties in subsequent counties even after being removed from all cases in one county. This lack of communication has resulted in additional losses to protected persons that could have been avoided. While we need to be respectful that suspected losses may not become actual identifiable losses, the court's responsibility to protect the public requires the court to put safeguards in place to be certain this doesn't continue to happen.

**Recommendation 7: Minnesota's new registration system should include suspension of a conservator's duties and procedures relating to suspensions.**

If the registration system provides conservators with their proof of ability to perform duties for the public, it should also provide proof when that ability has been suspended. Standards surrounding any suspension will need to be developed as well as procedures for court users and judges.

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## **APPENDIX A: LOSS WARNING SIGNS IDENTIFIED BY OTHER STATES**

### **Loss Warning Signs Identified by Other States**

Factors that could indicate exploitation, misappropriation of funds, neglect, or fiduciary abuse by Richard Vanderheiden as presented at the Arizona Probate Judges Conference in 2002:

1. Protected person has no relatives or active friendships
2. Large estates
3. Late or no accountings filed
4. Multiple ATM transactions
5. Health or personal problems of the fiduciary
6. Use of several attorneys by the fiduciary
7. Attorneys representing the fiduciary withdrawing from the fiduciary's cases
8. Singular control of information by the fiduciary
9. No automated record keeping by the fiduciary
10. Financial difficulty of the fiduciary (tax liens, judgments, bankruptcy, divorce)
11. Revocation or failure to renew fiduciary bonds
12. Large expenditures in the accounting not appropriate to the client's setting
13. The fiduciary has minimal experience
14. Pattern of letters and verbal complaints against the fiduciary
15. Lack of oversight on the case by Counsel assigned or Court staff

41 items considered "red flags" by the Certification and Licensing Division of the Arizona Supreme Court presented by Richard Vanderheiden at the Arizona Probate Judges Conference in 2002:

1. No family members
2. Dispute among the parties
3. Family members approach judge to spend money out of restricted accounts to pay for routine or extraordinary expenses.
4. Large estate
5. Unprotected assets – no restriction or bond
6. Late or no inventory
7. Late or no guardian report, or report the same year to year
8. Guardianship only appointment with assets
9. Late or no accountings
10. Unauthorized gifts and loans
11. Use of gift cards
12. No notice to interested parties without documentation in the court file
13. Transfers between bank accounts, especially near accounting due date
14. Inaccurate record keeping, no automation
15. The type and amount of expenditures are not appropriate for client's level of care and market rate for services, including disproportionate or unusually large transactions
16. NSF checks, late fees, payment of interest or penalties, use of ATMs on accounting summaries filed by fiduciary

17. Unacceptable accounting practices
18. Fiduciary does not have required vendor W-9 forms on file
19. The fiduciary exclusively utilizes one vendor instead of a pool of vendors
20. Revocation of bond; failure to renew bond, to pay premium
21. Large fees
22. Fiduciary with limited experience
23. Pattern of written or verbal complaints against fiduciary
24. Health, financial or personal problems of fiduciary
25. Personal financial difficulty of fiduciary; e.g. tax lien or bankruptcy, credit reports
26. Frequent or prolonged office absences
27. Poor supervision of staff by principal fiduciary
28. Singular control of information by fiduciary
29. Fiduciary office does not have written procedures
30. High staff turnover
31. Failure to renew certification
32. Withdrawal from AFA or never engaged into a networking or professional system
33. Disciplinary action against other professional license(s) held by fiduciary
34. Disciplinary action against fiduciary by the Supreme Court
35. Subjective “smell test”
36. Questionable attorney or other professional(s)
37. Questionable fiduciary
38. Ignoring of court requests
39. Pattern of rebuffing requests for information
40. No court appointed attorney
41. Petition to withdraw by attorney

Interim Report to the Arizona Judicial Council by the Committee on Improving Judicial Oversight and Processing of Probate Court Matters 2010 – Updated list of “red flags”:

1. No family members
2. Large estate
3. Unprotected assets – unrestricted or nonbonded assets
4. Dispute among the parties, whether family or professional fiduciary
5. Late or no inventory
6. Late or no accountings
7. Late or no annual guardianship reports
8. Inaccurate record keeping, no automation
9. No record keeping
10. Unacceptable accounting practices
11. Disproportionate or unusual large transactions
12. NSF checks or late charges
13. Use of ATMs and/or gift cards
14. Guardianship only appointment but handling assets
15. Health, business or personal problems of fiduciary – professional or family fiduciary
16. Financial difficulty of fiduciary, tax liens, judgments or bankruptcy
17. Difficulty in acquiring bond, especially with a professional fiduciary

18. Failure to renew bond, pay bond premium or bond revoked
19. For the professional, failure to renew license
20. Disciplinary action by a professional licensing agency – family or professional
21. Questionable fiduciary
22. Questionable attorney
23. Fiduciary with limited experience
24. Singular responsibility and control of information by fiduciary
25. Poor or no supervision of staff by professional fiduciary principal
26. Ignore request by court, including OSC
27. Pattern of rebuffing requests for information by parties or attorneys
28. No court appointed attorney
29. Petition to withdraw by attorney
30. Unauthorized gifts and/or loans
31. Large fees – especially in relationship to overall assets and tasks accomplished
32. No notice to interested parties or lack of documentation
33. Pattern of complaints against the fiduciary
34. Fiduciary exclusively utilizes one vendor instead of a pool of vendors.
35. Transfer between bank accounts, especially near inventory or accounting due dates
36. Professional fiduciary does not maintain written policies and procedures
37. Expenditures not appropriate for client’s level of care and market rate for services
38. Payment of interest or penalties in accounting summaries in addition to NSF charges
39. Fiduciary not visiting client when appointed as guardian

The U.S. Administration on Aging’s National Center on Elder Abuse (2011) provides 11 signs of exploitation of a financial or material nature:

- sudden changes in bank account or banking practice, including an unexplained withdrawal of large sums of money by a person accompanying the elder;
- the inclusion of additional names on elder’s bank signature card;
- unauthorized withdrawal of the elder’s funds using the elder’s ATM card;
- abrupt changes in a will or other financial documents;
- unexplained disappearance of funds or valuable possessions;
- substandard car being provided or bills unpaid despite the availability of adequate financial resources;
- discovery of an elder’s signature being forged for financial transactions or for the titles of his/her possessions;
- sudden appearance of previously uninvolved relatives claiming their rights to an elder’s affairs and possessions;
- unexplained sudden transfer of assets to a family member or someone outside the family;
- the provision of services that are not necessary; and
- an elder’s report of financial exploitation.

Maricopa County Probate Department Judge Referral Factors

- Dollar value of the estate exceeds \$500,000

- Feuding family members
- Private fiduciary is involved
- High profile or celebrity wards or protected persons
- Multiple attorneys representing feuding parties
- Civil cases which have been consolidated into a probate case
- Examples: ward has a claim for exploitation or neglect, claims against the fiduciary for malfeasance or by the fiduciary against other family members
- Probate cases that arise because of underlying criminal activity or cases that are in the media

Colorado “red flag” List for Automation Development:

- Value of estate
- Complexity of estate
- Number of interested person(s)
- Non-professional conservator and/or guardian
- Parent is the nominee
- Personal injury settlement for minor
- Pro se nominee
- Experience of counsel
- Fiduciary unbondable
- Questionable credit report
- Low score, accounts in a past-due status or in collections, bankruptcy
- Criminal History report identifies questionable offense(s)
- Substantial funds not in a Restricted Account
- Previous Reports not timely filed
- Demeanor

## APPENDIX B: COURT ADMINISTRATION PROCESS 630.20



# MINNESOTA JUDICIAL BRANCH

COURT SERVICES DIVISION

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### 630.20 Guardianship/Conservatorships - Case Initiation Criteria

Probate – Guardianship/Conservatorships

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References:

Other: [Minnesota Judicial Branch Policy 506.2, Case Initiation](#)

**INTRODUCTION:** The purpose of this document is to describe the applicability of the Judicial Council Case Initiation Policy in Probate Guardianship/Conservatorship cases. Separate Court Administration Procedures will document detailed information regarding other areas of case processing of Probate Guardianship/Conservatorship cases.

**SUMMARY:** Numerous case types have existed for processing the Guardianship and/or Conservatorship of an individual. The use of consistent case initiation criteria statewide is necessary to ensure data quality and accurate reporting.

**All cases initiated January 15, 2009 and later will be created under the case type “Guardianship/Conservatorship.” All events and petitions related to the Guardianship and/or Conservatorship of an individual will be added to the same MNCIS case unless the individual is restored to capacity and a new file is later opened. The case initiation requirements in this document also apply to all active\* Guardianship and Conservatorship case types created before January 15, 2009.**

*\*Throughout this document, the word ‘active’ is used to refer to a case that is **open** or **under court jurisdiction**.*

Chart A.

Major Case Grouping	MNCIS Case Types through 1-14-2009/ Petition Types After 1-15-2009
Guardianship/ Conservatorship	<ul style="list-style-type: none"> <li>• Guardianship/ Conservatorship</li> <li>• Emergency Guardianship/ Conservatorship</li> <li>• Guardianship – Incapacitated Person</li> <li>• Guardian – Minor</li> <li>• Conservatorship – Adult</li> <li>• Conservatorship – Minor</li> </ul>

It is strongly recommended that sub-types be added to all guardianship and conservatorship cases. This will allow categorization of all active cases using the same case information: Sub-type. Even though the sub-type may be identical to the case type, the sub-type will confirm that the case has not changed.

The processes outlined here are applicable to all new and ongoing cases that relate to guardianship and/or conservatorship.

**COURT PROCESS:** Court administration becomes involved when a petition seeking the guardianship and/or conservatorship of a person is filed.

**CONTENTS:**

- A. PETITION FOR GUARDIANSHIP AND/OR CONSERVATORSHIP OF AN INDIVIDUAL IS FILED**
- B. AN ACTIVE GUARDIANSHIP/CONSERVATORSHIP CASE EXISTS FOR THE RESPONDENT**
- C. CASES FILED PRIOR TO JANUARY 15, 2009**
- D. FILING FEES**

**A. PETITION FOR GUARDIANSHIP AND/OR CONSERVATORSHIP OF AN INDIVIDUAL IS FILED**

**Staff Actions**

Determine whether an active Guardianship/Conservatorship case already exists for the respondent named in the new petition.

- a. If there is no active Guardianship/Conservatorship case for the party:
  - i. **Create** a new Guardianship/Conservatorship case in MNCIS.
  - ii. **Add** a sub-type to the case (even if the sub-type is redundant).
- b. If an active Guardianship Conservatorship case exists for the party, go to Section B.**

**MNCIS Note:** Before a guardian or conservator is appointed, the individual is always referred to as the Respondent. A party record for the proposed ward or protected person should be added with a connection type of Respondent. A case style should be manually created for the case and auto-style should be de-selected. (After a guardian and/or conservator is appointed, additional connection(s) may be added for the party.)

**NOTE:** Because the Guardianship and/or Conservatorship of an individual will be processed as one continuous case, all MNCIS cases in this area are opened under the case type "Guardianship/Conservatorship".

## **B. AN ACTIVE GUARDIANSHIP/CONSERVATORSHIP CASE EXISTS FOR THE RESPONDENT**

### **Staff Actions**

1. **File** the new petition in the existing Guardianship/Conservatorship case for the individual.
2. **Record** the new petition on the Register of Actions (MNCIS events tab) with the appropriate event.
3. **IMPORTANT: Add or Change** the case sub-type to reflect how the case is proceeding currently. Example: Change the case sub-type from "Emergency Guardianship/Conservatorship" to "Guardianship – Incapacitated Person" when a petition for general guardian is filed. This case update will assist staff in tracking current developments in the case and case processing requirements.

**Historical Note:** Case sub-types correspond to the case types previously available for cases in the Guardianship and Conservatorship areas.

**MNCIS Note:** The case sub-type is added or changed in the drop-down field located on the upper right-hand side of the Details tab of the MNCIS case.

4. **Modify** the case style as appropriate to reflect the current case sub-type.
  - The case style can be modified on the Details tab of the case in MNCIS. When the case style is manually created, the auto-style checkbox must be deselected. The case styles that correspond with the case sub-types are as follows:
    - Conservatorship –Adult – "In re the Conservatorship of [Protected Person's name], Protected Person"
    - Conservatorship – Minor – "In re the Conservatorship of [Minor's name], Minor Protected Person"
    - Emergency Guardianship/Conservatorship – "In re the Emergency Guardianship and/or Conservatorship of: [Ward's/Protected Person's name], Ward or Protected Person"

- Guardian – Minor – “In re the Guardianship of [Minor’s name], Minor Ward”
- Guardianship - Incapacitated Person – “In re the Guardianship of [Ward’s name], Ward”
- Guardianship/Conservatorship – “In re the Guardianship and/or Conservatorship of [Ward’s /Protected Person’s name], Ward/Protected Person

### **C. CASES INITIATED PRIOR TO JANUARY 15, 2009**

**The case initiation requirements in this document also apply to cases initiated prior to January 15, 2009.**

1. Active cases initiated prior to January 15, 2009 are not closed until the ward/protected person is restored to capacity or deceased.
2. Case processing must continue within the existing case, regardless of the case type under which that case was opened.
3. New petitions must be filed within the existing, active case.
4. Case sub-types should be added if sub-type is currently blank.
5. Case sub-types must be changed as needed to reflect how the case is currently proceeding.

### **D. FILING FEES**

**Per Minn. Stat. § [357.021](#), subd. 2 only one filing fee should be collected for each party in a Guardianship/Conservatorship case.**

- When a new petition is filed within an existing case by a party who has already paid a filing fee, a new filing fee should not be collected.
- Applicable motion fees must still be collected.

**APPENDIX C: ACKNOWLEDGMENT OF ELECTRONIC REPORT FILING**

State of Minnesota

District Court  
Probate Division  
Judicial District

County of \_\_\_\_\_

In Re: Conservatorship of:

Court File No. \_\_\_\_\_

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_

**Acknowledgement of Electronic Report Filing**

By:  Individual  
 Corporation

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ )<sup>ss.</sup>  
(Where the form is signed)

By submitting this Acknowledgement, the undersigned conservator agrees to abide by all Court rules, orders, policies and procedures governing the use of the electronic report filing system. The conservator agrees to protect the security of the conservator's username and password and immediately notify the Court if the password has been compromised. The conservator agrees that each electronically filed report or other document is deemed to have been signed by the conservator and that the conservator has authorized the filing.

The undersigned conservator further certifies that the conservator has completed all required training.

**BY INDIVIDUAL:**

Dated: \_\_\_\_\_, 20\_\_

Sworn/affirmed before me this  
\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Notary Public \ Deputy Court Administrator  
[Stamp or Seal]

\_\_\_\_\_  
Signature of Conservator  
Name (print): \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
City/State/Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
E-Mail: \_\_\_\_\_

**BY CORPORATION:**

The Corporation has authorized this acknowledgement to be signed in the corporate name.

Date: \_\_\_\_\_, 20\_\_

Sworn/affirmed before me this  
\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Notary Public \ Deputy Court Administrator  
[Stamp or Seal]

Corporation: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Name (Print): \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
City/State/Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
E-Mail: \_\_\_\_\_

**COMPLETE THIS FORM AND RETURN IT TO THE COURT WHERE CASE IS CURRENTLY FILED**

FOR COURT USE ONLY	
<input type="checkbox"/> New Appointment for:	<input type="checkbox"/> Emergency <input type="checkbox"/> General <input type="checkbox"/> Successor <b>-OR-</b>
<input type="checkbox"/> Inventory Balance or Ending Balance of Last Filed Account (Personal Property Figure ONLY):	
\$ _____	
Verified by: _____	

Revised: 11152010

## APPENDIX D: CONSERVATORSHIP DEFINITIONS

### CONSERVATORSHIP DEFINITIONS

– Monitoring of conservatorships to ensure compliance with reporting duties under MS 524.5-420. Tasks are related to case processing of conservatorship filings, including sending notices and monitoring of reviews and deadlines.

- Set reviews and process Event Review report
- Process Reminder and Batch Reminder notices
- Monitor CAMPER report queue
- Filing annual accountings and related documents
- Update Conservator addresses based upon filings and correspondence
- Process Orders waiving filing of accounts or discharging conservators

**Examination** - Comprehensive review of conservator accounts filed with the court including examination of supporting documentation for eventual allowance by the court or referral for audit and resolution.

- All accounts filed should be examined to assure compliance with reporting requirements and documentation standards.
- As part of examination, work with conservator to resolve balancing issues, categorization and treatment of assets and expenditures, and other report “mechanics.” May include referral to outside resources.
- Prior to allowance of annual accounts, supporting documentation should be obtained from conservator and examined with the annual report.
- Prepare account examination report for judicial review and eventual allowance of account.
- Set hearings; if necessary, monitor subsequent filings and compliance with court directives.
- If account allowed, set next interval hearing; if referred to audit, process per audit referral process.

**Audit** – Tasks related to an in-depth fiscal audit of conservatorship accounts. Audit may be required due to failure to comply with court directives, a pattern of untimely or incomplete reports, lack of supporting documentation, pattern of inappropriate or questionable spending, failure to account for funds, patterns of unprofessional behavior or complaints from interested parties or the protected person. May be needed when conservator is appointed on multiple cases and a problem appears in one case that supports auditing of multiple files at the same time. May be needed in accounts with complex financial transactions.

At this time, Monitoring and Examination tasks are being done at the local court level. Any auditing tasks would be outsourced upon order of the judge and any associated costs paid for out of the protected person’s funds and subject to reimbursement by the conservator if so ordered.

## APPENDIX E: CAMPER SURVEY

### CAMPER Survey 2011

- 1) Person responding to survey:
  - a. Court Administrator
  - b. Court Supervisor/Manager
  - c. Deputy Court Administrator
  - d. Other, please specify your title \_\_\_\_\_
- 2) Have you used the CAMPER system?
  - a. Yes (If yes, please continue the survey)
  - b. No (If no, thank you for responding. You have completed the survey.)
- 3) How would you describe the ease of the report queue?
  - a. Very easy
  - b. Somewhat easy
  - c. No opinion
  - d. Somewhat difficult
  - e. Very difficult - If so, why? \_\_\_\_\_
- 4) How often do you check the queue?
  - a. Daily
  - b. Weekly
  - c. Twice a month
  - d. Monthly
  - e. Other – Please describe \_\_\_\_\_
- 5) Approximately how many Annual Account documents have you processed from the report queue?
  - a. None
  - b. 1-5
  - c. 6-20
  - d. 21-40
  - e. 41 or more
- 6) How would you describe the ease of examining/auditing the Summary version of the Annual Account?
  - a. Very easy
  - b. Somewhat easy
  - c. Somewhat difficult
  - d. Very difficult - If so, why? \_\_\_\_\_
- 7) How would you describe the ease of examining/auditing the Transaction version of the Annual Account?
  - a. Very easy
  - b. Somewhat easy

- c. Somewhat difficult
  - d. Very difficult - If so, why? \_\_\_\_\_
- 8) How would you describe the ease of examining/auditing the Category version of the Annual Account?
- a. Very easy
  - b. Somewhat easy
  - c. Somewhat difficult
  - d. Very difficult - If so, why? \_\_\_\_\_
- 9) Approximately how many Inventory documents have you processed from the report queue?
- a. None
  - b. 1-5
  - c. 6-20
  - d. 21-40
  - e. 41 or more
- 10) How would you describe the ease of processing/reviewing the Inventory?
- a. Very easy
  - b. Somewhat easy
  - c. No opinion
  - d. Somewhat difficult
  - e. Very difficult - If so, why? \_\_\_\_\_
- 11) Approximately how many Well-Being Report documents have you processed from the report queue?
- a. None
  - b. 1-5
  - c. 6-20
  - d. 21-40
  - e. 41 or more
- 12) How would you describe the ease of processing/reviewing the Well-Being Report?
- a. Very easy
  - b. Somewhat easy
  - c. No opinion
  - d. Somewhat difficult
  - e. Very difficult - If so, why? \_\_\_\_\_
- 13) If you have had a hearing where a CAMPER Inventory was provided to the judge, did CAMPER seem to provide a more satisfactory report for court review compared to the prior paper report?
- a. N/A - Have not had a hearing
  - b. It was an improvement to the paper report.

- c. It was the same as the paper report.
- d. It was not as good as the paper report. Why not?

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14) If you have had a hearing where a CAMPER Annual Account was provided to the judge, did CAMPER seem to provide a more satisfactory report for court review compared to the prior paper report?

- a. N/A - Have not had a hearing
- b. It was an improvement to the paper report.
- c. It was the same as the paper report.
- d. It was not as good as the paper report. Why not?

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15) What do you like most about CAMPER?

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16) What do you like least about CAMPER?

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17) If you have suggested changes or improvements to CAMPER, please describe what changes you would like to see.

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**APPENDIX F: FINANCIAL LOSS DATA FORM**

Financial Loss Data Form for \_\_\_\_\_ County

Case Number: \_\_\_\_\_ File Name: \_\_\_\_\_

- 1) Who discovered the loss?
  - a. Court personnel
  - b. Family/friend of protected person or protected person
  - c. Conservator
  - d. Human or Social Service Agency
  - e. Other (please describe) \_\_\_\_\_
  - f. Unable to determine from file
- 2) Who was the perpetrator of the loss? Name: \_\_\_\_\_
  - a. Conservator
    - i. Individual \_\_\_\_\_ Professional \_\_\_\_\_
    - ii. Was the conservator discharged as a result of this loss? Yes \_\_\_\_\_ No \_\_\_\_\_
  - b. Interested party – Please describe relationship to protected person \_\_\_\_\_
  - c. Attorney for Protected person
  - d. Other (please describe) \_\_\_\_\_
- 3) Was there a criminal action filed? Yes \_\_\_\_\_ No \_\_\_\_\_
  - a. If yes, please provide the criminal court file number \_\_\_\_\_
- 4) Were all accounts filed timely? \_\_\_\_\_
  - a. If not, how many accounts were late? \_\_\_\_\_
- 5) Were any Order to Show Cause hearings set? \_\_\_\_\_
  - a. If yes, how many \_\_\_\_\_
- 6) Was there a bond posted in the case? Yes \_\_\_\_\_ No \_\_\_\_\_
  - a. If yes, was a claim made against the bond? Yes \_\_\_\_\_ No \_\_\_\_\_
  - b. If yes, did the bond cover the total amount of the loss? Yes \_\_\_\_\_ No \_\_\_\_\_
- 7) Was a money judgment entered against the perpetrator of the loss by the court?  
Yes \_\_\_\_\_ No \_\_\_\_\_
  - a. If yes, what was the amount of the judgment? \_\_\_\_\_
  - b. If yes, was the judgment for the total amount of the loss? Yes \_\_\_\_\_ No \_\_\_\_\_
    - i. If no, was the judgment for the amount remaining after payment of any bond?  
Yes \_\_\_\_\_ No \_\_\_\_\_
- 8) Was the case appealed for any reason? Yes \_\_\_\_\_ No \_\_\_\_\_
  - a. If yes, please provide the Court of Appeals file number \_\_\_\_\_

## APPENDIX G: SUGGESTIONS FROM CAMPER SURVEY

**17. If you have suggested changes or improvements to CAMPER, please describe what changes you would like to see.**

Respondent #	Response
1	Auditor's should be in place, it makes it ten times more work than what we did before. I will be honest I wish we wouldn't have CAMPER.
2	I would like to see reports that I am able to manipulate to for auditing purposes.
3	seemingly fine as it was designed
4	Make the program more easy for the public to use, so they will actually want to used the program. If they don't use or refuse the use the CAMPER program, it does not make my work any easier.
5	Make it easier to know when reports are filed & to find which ones are new & which are old.
6	Mandatory reporting of all docs on CAMPER.
7	MORE CATAGORIES ON INCOME/ EXPENSES SO THAT THEY CAN CLASSIFY FINANCES AS NEEDED.
8	I would like to know what the plans are for the future. Will someone else be monitoring these files? Will a Judge or Magistrate be assigned to the hearings? Everything seems to be up in the air.
9	I haven't used it very much so I think it is just a matter of time and use to adjust to the program. I am really having a hard time getting people to use it but our files have not been kept up with due to a large turnover in personnel in the probate dept. Need to get them caught up but even our new conservators are just not responding back to me about their filings
10	Change the procedure for amending accounts. Amended accounts must have a starting balance matching the initial account's end balance. Allowing conservators simply to start over, using the original starting balance and re-doing the account all over again (rather than tacking on changes as if they're an afterthought in an amended account) would benefit both the Court and the conservator in terms of time and comfort.
11	I, personally, need more training.
12	Would like a notice to send to remind conservators that they are overdue on their filings.
13	Specify somewhere that if they do not handle financial matters for the individual that they do not need to use the Camper Program.
14	None at this time
15	Please see above.
16	Better assistance and instrution to the individual conservators who may be conservator for a single child or relative.
17	I would like to receive a proposed Order Allowing/Accepting Annual/Final Account electronically with the Summary Accounting to present to the Court. I would like to receive an electronic notification when a report has been filed rather than going in and checking daily.
18	More training on how to use the system.
19	I don't like how we have to send in Acknowledgment, it takes to long for the conservators to get their information & we don't know if they received it, when they receive or how. How is a huge question we get from the conservators. I don't care for having to take time to log in to see if there is anything out there.
20	I think there should be a way to reject/return the account for corrections.
21	A notification to Court Admin when a report is filed
22	Camper program ending. You are too confusing for the public and no help to court administration.

- 23 I believe it is necessary for someone to audit these accounts at times (perhaps randomly?). I just think that there is such a greater chance of Conservators taking advantage of the Conservatees monies when they don't have to verify amounts claimed on their accounts.
- 24 I would like the forms to be able to edit and remove lines or pages that are not used so the documents are not so lengthy.
- 25 None
- 26 See #16 above.
- 27 add the Annual Notice of Rights form to complete the "packet" they are to file annually.
- 28 see above.
- 29 I don't have any suggestions on how to make this process easier. With the new filings it is easier because they know right from the beginning that they will have to file online.
  
- 30 I feel that the people who actually work on Annual Accounts should be part of the committee.
- 31 Ability to file an entire amended account.
- 32 The reports will often print pages that don't have any information on them that is pertinent to report so seems to be wasting paper.
- 33 Does the camper program have a number where conservator's can call with questions?? If not, that would be very helpful or make the help number if there is one very visiable to the user.
- 34 Make sure there is a contact number for conservators to call if they have problems and not refer them to Court Administration, we have no clue what their screens look like or how to help them.
- 35 n/a
- 36 I would have liked to have had the oppportunity to have a step by step training with a live person (ITV)
- 37 see note above
- 38 I think of anything right off hand;It just has to be made to be understandable to the people are fearful of computers and the forms in general;
- 39 none that i can think of at this time
- 40 I haven't used Camper enough to be able to give good suggestions. Hopefully by next year I can reply to this question.
- 41 Be sure to have simple, clear, step by step directions for the conservators to follow. Pretend that you don't know how to use a computer very well and then write the directions.
- 42 I think a survey for the Conservators would be a great idea. They are the ones that go through the program.
- 43 I remain hopeful about Judicial Council decision and look forward to increased user "help" desk for assistance and guidance to pro se users. I also remain hopeful for consistent, uniform decisions on processing through state. Was a good idea, but lacked proper planning & preparation for statewide "requirement" for pro se users. But I do believe that will be resolved with future plans.
- 44 Allow preview without balancing. Fix view issues above. Add categories. Reflect all conservators on reports even if added at a later date - reflect all updates on reports in progress.