

Guardianship and Conservatorship Litigation

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Overview

Guardianship disputes rarely begin in a courtroom. They begin at a kitchen table, in a hospital hallway, or over a phone call where two family members realize they cannot agree on what is best for someone they both love. By the time a contested proceeding reaches the Probate and Family Court, the family dynamic has usually fractured well beyond the legal questions at stake.

Cohen Cleary represents families and individuals in contested guardianship and conservatorship proceedings across Massachusetts and Rhode Island. We handle disputes over appointments, challenges to a guardian's authority, contested accountings, and surcharge actions against fiduciaries. Our attorneys bring disciplined preparation and Probate Court familiarity to cases where the emotional stakes are as significant as the legal ones.

How We Handle Guardianship Disputes and Conservatorship Contests

Standing to contest a guardianship or conservatorship in Massachusetts is governed by the concept of "interested persons" under the Uniform Probate Code. This includes the alleged incapacitated person, family members, and existing fiduciaries. In Rhode Island, which uses the terminology "guardian of the person" and "guardian of the estate" rather than the Massachusetts guardian and conservator distinction, standing rules follow a similar framework under a different statutory structure.

We represent clients on both sides of these disputes. Our litigation work includes contesting the initial appointment of a guardian or conservator, objecting to the scope of authority granted, challenging annual accountings, and pursuing surcharge actions to recover assets lost through fiduciary mismanagement. Where a guardian or conservator has failed to comply with court orders or reporting requirements, we pursue contempt petitions and enforcement actions to protect the interests of the incapacitated person. We also represent incapacitated persons who retain the right to object to the appointment of a guardian over them, a right that many families do not realize exists under both Massachusetts and Rhode Island law.

A critical component of many contested proceedings is the guardian ad litem appointment. The GAL conducts an independent investigation and reports directly to the court. We prepare our clients for this process and ensure the GAL receives the evidence necessary for a complete picture.

Why Families Choose Cohen Cleary

At Cohen Cleary, our practice teams combine deep subject-matter experience with disciplined execution and responsive client service. We do not take a one-size-fits-all approach. Every matter is handled with careful preparation, clear communication, and a strategy tailored to the

client's goals and the realities of the forum.

Clients choose Cohen Cleary because we deliver:

Practice-Focused Legal Experience

Our attorneys work in defined practice areas, allowing us to develop practical insight into the legal, procedural, and regulatory nuances that matter most in each case. This focus allows us to anticipate issues, avoid unnecessary delays, and position matters for efficient resolution.

Clear Guidance and Proactive Communication

We prioritize clarity at every stage. Clients receive straightforward explanations of their options, timely updates on developments, and practical advice grounded in real-world outcomes.

Strategic Advocacy with Trial Readiness

Whether a matter calls for negotiation, mediation, or litigation, our attorneys prepare every case with discipline and foresight. We pursue efficient resolution when possible and are fully prepared to advocate aggressively when necessary to protect our clients' interests.

Regional Knowledge and Local Presence

With offices throughout Massachusetts and experience across New England courts and agencies, we bring local insight and regional reach to every matter.

Client-Centered Service

We treat every matter with urgency and respect. Our clients rely on us for responsive service, sound judgment, and steady counsel through complex legal challenges.

In our guardianship and conservatorship litigation work, this approach helps clients navigate contested proceedings with clarity, efficiency, and confidence.

Strategic Preparation for Contested Probate Proceedings

We tell our clients that contested guardianship cases are won or lost before the hearing begins. The court's decision depends heavily on the GAL's report, the quality of the financial evidence, and the credibility of the parties. Our preparation focuses on building a clear evidentiary record, coordinating with medical professionals and financial experts where necessary, and ensuring that our client's position is documented before the first hearing date. We do not rely on courtroom improvisation. We prepare cases so the facts speak with precision.

Guardianship Litigation Across Massachusetts and Rhode Island

Our guardianship litigation practice is anchored in the Massachusetts Probate and Family Courts, with offices in [Taunton](#) and [Plymouth](#). We handle contested proceedings across the region, including:

- Bristol County Probate and Family Court in Taunton, where we regularly handle contested guardianship matters
- Plymouth County Probate and Family Court, serving families across southeastern Massachusetts

- Norfolk County Probate and Family Court in Canton, serving the Quincy area

We also represent clients in Rhode Island Probate Courts, where the terminology differs: Rhode Island designates a “guardian of the person” for personal decisions and a “guardian of the estate” for financial management. Our attorneys handle contested proceedings throughout New England.

Speak With a Massachusetts Contested Guardianship and Conservatorship Litigation Attorney

If you are involved in a contested guardianship or conservatorship or have concerns about a fiduciary’s conduct, contact Cohen Cleary. We handle contested proceedings from our offices in [Taunton](#) and [Plymouth](#) across Massachusetts, Rhode Island, and New England.

Frequently Asked Questions About Guardianship and Conservatorship Disputes

Who has standing to contest a guardianship or conservatorship in Massachusetts or Rhode Island?

Under Massachusetts law, “interested persons” may object to or contest a guardianship or conservatorship petition. This includes the alleged incapacitated person, the person’s spouse, parents, adult children, and others with a direct interest in the proceeding. The incapacitated person retains the right to object to the appointment, request different counsel, and participate to the extent they are able. Rhode Island follows a comparable framework for parties contesting a guardianship of the person or guardianship of the estate.

What is a guardian ad litem, and what role do they play in contested proceedings?

A guardian ad litem (GAL) is an individual appointed by the court to investigate the circumstances of a guardianship or conservatorship matter and report findings directly to the judge. The GAL typically interviews family members, reviews medical and financial records, and may visit the alleged incapacitated person. The GAL’s report often carries significant weight in the court’s decision. Preparing for this investigation and ensuring your perspective is clearly communicated is one of the most critical steps in a contested proceeding.

Can I challenge a guardian’s or conservator’s financial accounting?

Yes. Guardians and conservators in Massachusetts are required to file regular accountings with the Probate and Family Court detailing how they have managed the protected person’s finances. Interested persons may object to these accountings if they believe the fiduciary has mismanaged funds, failed to account for assets, or engaged in self-dealing. If the court finds a breach of duty, it may order a surcharge requiring the fiduciary to personally repay the losses. Rhode Island imposes similar accounting obligations on guardians of the estate.

Does a guardian have unlimited authority over the protected person?

No. Massachusetts courts are required to impose the least restrictive form of guardianship appropriate to the circumstances. A guardian’s authority is defined by the court order, and many guardianships are limited in scope. The protected person retains rights not specifically

removed by the court. Guardians who exceed their authority or fail to comply with court orders may face sanctions, removal, or contempt proceedings. A guardian must act in the best interest of the protected person, not in their own interest or that of other family members.