

All Eyes on Oher: The Crucial Role of Quality Legal Counsel for Proposed Wards in Guardianship Cases

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Michael Oher, retired NFL star, filed a petition in probate court on Monday asserting that he was tricked into consenting to a conservatorship (in Florida we refer to this as guardianship) which he believed was an adoption by Sean and Leigh Ann Tuohy, the family that took him in during high school. Conservatorship or guardianship does not create a familial relationship like adoption but this was seemingly not explained to Oher. According to legal filings, the Tuohys and their biological children earned millions of dollars on the smash hit and Oscar-winning film, "The Blind Side," while Oher allegedly received nothing. You may be wondering how this can happen?

Guardianship cases involve important decisions about the care and well-being of individuals who are unable to make decisions for themselves due to age, disability, or incapacity. In Oher's case, he was suffering from no such disability; yet, the Tuohy family convinced him to execute the paperwork necessary to create a conservatorship which gave the Tuohy family access to Oher's assets and the ability to make decisions on his behalf.

In cases where the proposed ward is unable to make decisions based upon age, disability, or incapacity, the appointment of a guardian is necessary to ensure their best interests are protected. However, this case sheds light on the vital importance of quality legal counsel for proposed wards in guardianship cases. The presence of a skilled attorney can make a significant difference in safeguarding the rights, autonomy, and overall welfare of the individual involved.

Protecting the Rights and Interests

When someone is subject to a guardianship petition, their fundamental rights and interests can be at stake. These may include decisions related to healthcare, finances, living arrangements, and personal relationships. Quality legal counsel plays a crucial role in advocating for the proposed ward's rights and ensuring their voice is heard.

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Attorneys can help navigate the complex legal process, ensuring transparency, fairness, and adherence to due process. Attorneys also play a key role in making sure the proposed ward understands the process and what it entails. Here, the circumstances suggest that Oher did not understand the conservatorship process and what it meant for his future.

Advocacy and Representation

A dedicated attorney acts as an advocate and representative for the proposed ward in guardianship proceedings. They thoroughly assess the circumstances, gather evidence, and present a strong case on behalf of their client. By doing so, they help ensure that the proposed ward's wishes, preferences, and best interests are considered by the court.

A skilled attorney can challenge unfounded claims, protect against potential exploitation, and help prevent the appointment of an inappropriate guardian. This attorney can also advocate against guardianship in cases where the proposed ward has full capacity and a guardianship is not necessary – as in the case with Oher.

Safeguarding Autonomy and Dignity

One of the key concerns in guardianship cases is striking a balance between protecting vulnerable individuals and preserving their autonomy and dignity. Quality legal counsel can help achieve this delicate balance by advocating for the least restrictive alternatives to guardianship, such as estate planning documents.

Attorneys can explore options like supported decision-making, advance directives, or limited guardianships that allow the proposed ward to retain control over certain aspects of their life. This approach promotes self-determination and respects the individual's rights to the greatest extent possible.

Thorough Evaluation and Expertise

Experienced attorneys specializing in guardianship cases possess the necessary expertise to thoroughly evaluate the proposed ward's situation. They can assess their capacity, review medical records, and consult with relevant professionals to provide the court with a comprehensive understanding of the individual's needs and abilities. This evaluation is crucial in determining whether guardianship is truly necessary or if alternative arrangements can meet the proposed ward's needs without infringing upon their rights.

In this case, Oher believed he was getting adopted by the Tuohy family. While we do not know what advice Oher received prior to agreeing to the conservatorship, if any, it is evident from his petition that he lacked understanding with respect to the process and its lasting implications.

Oher's case emphasizes the importance of quality legal counsel for proposed wards. While Florida guardianship statutes provide for a right to counsel (see Section 744.3215), there is a big difference between an experienced attorney and one with less skills or experience. Skilled attorneys act as advocates, safeguarding the rights, interests, autonomy, and dignity of individuals who are unable to make decisions for themselves. Their expertise, representation, and guidance throughout the legal process ensure fairness, transparency, and the consideration of the proposed ward's best interests.

By recognizing the significance of quality legal counsel, we can strive for a guardianship system that truly protects and empowers those it is designed to serve and even those like Michael Oher who should have never been part of the system to begin with.