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Toxic: The Difficulties of Removing a Conservator

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Toxic: The Difficulties of Removing a Conservator

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Recently Britney Spears has recaptured the nation's attention. However, it is not for a new song, interview, or viral clip. Instead, the world is focused on the state of Britney's legal affairs centering around her conservatorship.[1] The *New York Times* released a documentary, "Framing Britney Spears" that explains Britney Spears' treatment by the media and how she found herself placed under a court appointed conservatorship for the past thirteen years.[2] A conservatorship is an interesting legal construction that most people find difficult to understand especially, as in Britney Spears' case, when the conservatorship is imposed on a seemingly independent and financially successful adult.

Normally, conservatorships are used to help older individuals who are deemed incapable of taking care of themselves or who are susceptible to manipulation from an outside influence.[3] Once a court finds that an individual should be placed under a conservatorship based on their mental capacity, a court appointed individual will serve as the conservator.[4] Unlike guardianships, conservators are given responsibility similar to "a more trust-like arrangement" and powers that are "far more flexible" than those of a guardian under UPC §5-425.[5]

Courts utilize a clear and convincing evidence standard to determine if a conservatorship is necessary by examining if the individual is unable to manage their finances and conduct business affairs.[6] Additionally, courts use the preponderance of the evidence standard to determine if the individual possesses assets that would be "wasted or dissipated" unless a conservator is appointed.[7] The conservator's duties are typically centered around property and financial control.[8]

UPC § 5-406 protects the alleged incompetent individual by requiring the court to appoint a lawyer for the individual and ascertain the individual's thoughts on the proposed conservator, their duties, and the duration of the proposed conservatorship.[9] However, it is unclear how much deference the court places on the individual's wishes when forming the conservatorship. Conservatorships are normally terminated at the conservatee's death, if the assets of the estate become exhausted, or if the court lifts the conservatorship.[10]

Britney Spears has been under a conservatorship controlled by her father, Jamie Spears, for thirteen years.[11] Britney Spears has a successful and productive career, but due to the "trust-like power of the conservatorship," all business decisions can fall under Jamie Spears' authority, turning into what is supposed to be an effort to preserve the conservatee's assets into a mandated business structure.[12] As conservator, Jamie Spears profited from serving as the conservator by providing himself a monthly allowance and commission fees "although he [did] not serve as her agent or manager." [13]

Fans' viral #FreeBritney movement and the "Framing Britney Spears" documentary garnered heightened attention to the issue of the conservatorship and the difficulty of replacing the conservator. In 2020, Spears filed a petition to remove her father as her conservator and to replace him with a financial institution.

[14] On February 11, 2021, a judge continued to allow Jamie Spears to serve as conservator but appointed Bessmer Trust as co-conservator of Britney's estate.[15] In June of 2021, Britney addressed the court describing how constrained she felt under the conservatorship, citing her inability to marry or become pregnant.[16] After months of public attention, in August of 2021, Jamie Spears stated that he would eventually remove himself as the conservator.
[17]

It is disheartening to believe that a legal instrument can lawfully strip away a person's sense of autonomy in their career and finances, while the court seems to be deaf to the conservatee's concern of who will serve and practically control their decisions. It is concerning when a conservator steps down after months of national attention, and not due to judicial intervention as most individuals under a conservatorship do not enjoy the level of public attention and concern as Britney Spears. If an individual is to be subjected to a long-term involuntary conservatorship, it seems only sensible that their desire of who should serve as the conservator be followed, especially in Britney Spears' case, when the will of the conservatee is to remove a conservator and place a fiduciary financial institution at the helm of her affairs.

[1] Julia Jacobs, *Britney Spears Conservatorship Case Heads Back to Court*, N.Y. Times, Feb. 9, 2021
<https://www.nytimes.com/2021/02/09/arts/music/britney-spears-conservatorship.html>
(<https://www.nytimes.com/2021/02/09/arts/music/britney-spears-conservatorship.html>).

[2] *Id.*

[3] *Id.*

[4] *Id.*

[5] Robert H. Sitkoff, Jesse Dukeminer, *Wills, Trust, and Estates*, 498-99 (10th ed. 2017).

[6] *Id.* at 126.

[7] *Id.*

[8] *Id.*

[9] Unif. Probate Code § 5-406.

[10] 15 Witkin, *Summary 11th Wills* § 1014, *Termination of Conservatorship*, June 2020.
<https://1.next.westlaw.com/Document/laadb0d116a9711dbbac4ed214c54085a/View/FullText.html?navigationPath=%2FFoldering%2Fv3%2FEmilyPenn%2Fhistory%2Fitems%2FdocumentNavigation%2Fcfddaf65-b463-4d17-8220-bcc3ca3b655f%2F9dbcbm3L23AlI1i18aYA5dPkfQBfvRKuqsZhrkqX6pFr3foaUUiXQn5Uz4yeZyrXiJyLNb2SnlYyxkXrJkNmR2zk6oZrSzT&listSource=Foldering&list=historyDocuments&rank=12&sessionScopeId=567bbba45bfdeab02d12a18656c0a0706a228339decdea1ce50236a15272c64f&originationContext=MyResearchHistoryAll&transitionType=MyResearchHistoryItem&contextData=%28oc.Search%29&VR=3.0&RS=cblt1.0>
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[11] Jacobs, *supra* note 1.

[12] Stikoff, *supra* note 5; Laura Newberry, *Britney Spears Hasn't Fully Controlled Her Life for Years. Fans insist it's Time to #FreeBritney*, L.A. Times, Sept. 18, 2019. <https://www.latimes.com/california/story/2019-09-17/britney-spears-conservatorship-free-britney>
(<https://www.latimes.com/california/story/2019-09-17/britney-spears-conservatorship-free-britney>).

[13] Anastasia Tsioulcas, *Jamie Spears Agrees To Step Down From Britney Spears Conservatorship*, NPR, Aug 12, 2021,
<https://www.npr.org/2021/08/12/1027223521/jamie-spears-steps-down-britney-spears-conservatorship>
(<https://www.npr.org/2021/08/12/1027223521/jamie-spears-steps-down-britney-spears-conservatorship>).

[14] Doha Madani, *Britney Spears' Father Loses Bid to Retain Control of Delegating Her Investments*, NBC, Feb. 11, 2021, <https://www.nbcnews.com/pop-culture/pop-culture-news/britney-spears-father-loses-bid-retain-control-delegating-her-investments-n1257502> (<https://www.nbcnews.com/pop-culture/pop-culture-news/britney-spears-father-loses-bid-retain-control-delegating-her-investments-n1257502>).

[15] Tsioulcas, *supra* note 13.

[16] Jem Aswad, *Read Britney Spears' Full Statement Against Conservatorship: 'I am Traumatized'*, Variety, June 23, 2021,
<https://variety.com/2021/music/news/britney-spears-full-statement-conservatorship-1235003940/> (<https://variety.com/2021/music/news/britney->

spears-full-statement-conservatorship-1235003940/).

[17] Tsioulcas, *supra* note 13.

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