

Chief judge thwarts guardian's effort to move cases

LOCAL By John Pacenti - Palm Beach Post Staff Writer



Elizabeth Savitt, left, and her attorney, Ellen Morris, listen during a hearing in the Frances Berkowitz guardianship case at the North County Courthouse in Palm Beach Gardens on December 7, 2016. (Richard Graulich / The Palm Beach Post)

Posted: 4:00 p.m. Friday, January 27, 2017

A year ago, the chief judge booted the cases of controversial guardian Elizabeth "Betsy" Savitt out of the South County Courthouse over apparent concerns about favoritism and conflict of interest involving her husband, a judge, after an investigation by The Palm Beach Post.

This month, out of the public's view, Savitt lobbied the chief judge to allow her to move her cases back to Delray Beach, saying her wards would save money if she and her lawyer didn't have to drive to Palm Beach Gardens, where the cases are now.

She asked that her guardianships be in front of Judge Howard Coates, who recently ruled in her favor. Coates blocked efforts to remove her as a guardian in a case where her ward's former lawyers have alleged that \$400,000 of the ward's assets are missing.

Coates, a former Wellington councilman, recently was transferred to the South County Courthouse.

She made the request to Chief Judge Jeffrey Colbath in a Jan. 18 letter from her attorney, Ellen Morris, that was obtained by The Post.

After inquiries by the newspaper, Colbath on Tuesday wrote to Savitt's attorney to say her current six guardianship cases will remain in the North County Courthouse in Palm Beach Gardens. However, he said Savitt would be allowed to have new cases, appointed at random, in the south courthouse.

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Colbath transferred Savitt's cases in February 2016 after The Post's investigation, [Guardianships: A Broken Trust](#).

The Post reported that thanks to Savitt's job as a professional guardian, the life savings of incapacitated seniors flowed into the household of her husband, former Circuit Judge Martin Colin, who sat in the Probate & Guardianship Division in south county.

Savitt took thousands of dollars in fees prior to a judge's approval and families complained she manufactured legal work to increase her fees, among other criticisms.

They said the judge's wife appeared to be bulletproof.

Savitt worked most of her cases in the same courthouse where Colin was a powerful judge. Though she didn't appear in front of her husband, most of her cases were in front of a family friend: Circuit Judge David French. It was French who routinely dismissed concerns about her work from families of her wards.

Savitt's guardianship attorneys appeared in front of Colin in other cases and he approved their fees.

After The Post's investigation, the chief judge acted quickly. He transferred Colin out of south county and out of the Probate & Guardianship Division.

Colbath required the judges in south county to recuse themselves from Savitt's cases and he moved her cases north. Colin announced his retirement and did not seek reelection in November.

Then in October, [Colbath announced sweeping changes](#) to the county's guardianship system, addressing many of the complaints that families had about Savitt — including taking so-called "retainer" fees.

This month, after French was transferred to the Civil Division in West Palm Beach, Savitt's attorney sent her letter to Colbath asking that the six guardianship cases be sent back to south county and be consolidated in front of Judge Coates.

Coates had presided over Savitt's cases in north county before replacing French in Delray Beach.

In December, Coates said he would dismiss a motion with prejudice to remove Savitt as guardian for Frances Berkowitz.

The senior's former attorneys wanted to know what happened to the **estimated \$400,000 that was in the senior's savings account** at the time Savitt became her guardian. Savitt has said no such amount was in the account.

The former attorneys said they wanted Coates to allow the case to go forward so they could get bank statements and other evidence in discovery.

Donna Solomon Greenspan, one of Berkowitz' former attorneys, asked Coates point-blank why there appeared to be many roadblocks.

"We wanted to protect our client and we put our client in the hands of the court, saying please give her a guardian who would protect her," she said. "But this client — who we had been working with for years — was put in the hands of Betsy Savitt."

Solomon told The Post that the chief judge did the right thing by denying the request to transfer the six cases back to south county.

"Cases are not transferred based on an ex parte letter from an attorney," she said. "Transfers should be requested by proper motion, under the rules, with notice and the opportunity to be heard."

Berkowitz died on Dec. 31. Her probate case initially was assigned early this month to south county, but the Palm Beach County Clerk and Comptroller's Office transferred it to Palm Beach Gardens last week.

Attorneys representing two men who have fought Savitt in guardianships said they, too, are concerned that the professional guardian attempted to go outside a courtroom to get the cases moved back to Delray Beach in front of Coates.

This is called **ex parte communication**, they say.

West Palm Beach attorney Valentin Rodriguez is not involved in any cases involving Savitt, but as a criminal and civil litigator, he says there are only a few situations where ex parte communications are appropriate. He said if the issue is general rather than case-specific, it is often more acceptable — especially if the other attorneys in the case were notified.

"Generally speaking, the one rule of thumb is that lawyers from either side never discuss ongoing litigation with the judge assigned to the case without it being done in the presence of the other lawyer," Rodriguez said. "Justice is blind, and sees only the truth, but when one side gets the ear of the judge in the case, then that notion of justice withers away."

Morris said in her letter that she already had spoken on the phone with the offices of Colbath and Circuit Judge Rosemarie Scher, who is currently assigned the six cases. Morris' letter said that the chief judge's office told her to put her request in a letter and also said that Coates had agreed to take back the cases.

"Fundamental and basic rights for litigants in the American legal system consists of notice and the opportunity to be heard," attorney William J. Maguire wrote Colbath on Jan. 20. He represents a Boca Raton man who has steadfastly opposed Savitt in a guardianship for a stroke victim.

Attorney Thomas Dougherty said his client, who opposes Savitt's actions in the guardianship of Albert Vassallo Sr., doesn't feel the issues in south county are resolved in regard to the professional guardian.

"Savitt created the circumstances that required the cases to go to north county," Dougherty said. "The move back to south county could be considered judge shopping."

Morris said there was no ex parte communication or judge-shopping because all of the lawyers were copied on her letter to the chief judge.

“Just trying to reduce fees for going to north county by returning to original courthouse I was assigned to,” she wrote in an email response.

Neither Judge Colbath nor Coates responded to requests for comment for this story.

Savitt hasn't received an appointment to a new guardianship since The Post's investigation was published in January 2016. But she may get new cases as one of about 30 professionals who are now part of a new assignment wheel, a random method of assigning cases, established by Colbath to eliminate any appearance of favoritism. Judges who appoint a professional guardian must now rely on the wheel to make their choice.

Morris, representing Savitt, argued to Colbath that the cases should move to Coates because of additional time it takes for her and Savitt to travel to the North County Courthouse — time that translates into fees charged to the senior.

Maguire rejected this notion in [his own letter to Colbath on Jan. 20](#). He represents Daniel Schmidt, who litigated for months to force the resignation of Savitt as guardian for stroke victim Carla Simmonds. Schmidt is now Simmonds' guardian and is fighting Savitt's fee requests in court.

His lawyer told Colbath that Savitt and Morris could have saved Simmonds thousands of dollars in fees by resigning but instead chose to vigorously litigate with Schmidt for months.

“Now Ms. Savitt and her counsel request ex parte relief to transfer the guardianship to a single judge, ignoring the court's administrative orders regarding judicial assignments and rotations,” Maguire said.

“All of which ostensibly are in place to avoid the appearance of favoritism, forum shopping, etc.”

What The Post found

The savings of incapacitated seniors flowed into the household of Palm Beach County Circuit Judge Martin Colin courtesy of Colin's wife — professional guardian Elizabeth “Betsy” Savitt. Fees in most of her cases were approved by another judge who is a friend of her husband's. See the stories MyPalmBeachPost.com/guardianships-colin-savitt/

About the Author



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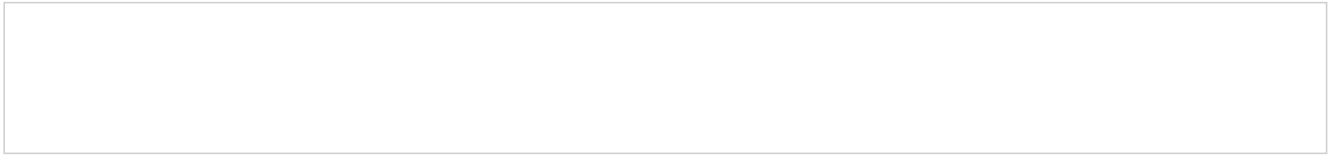
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Our slimy criminal murderous judges, Coates, Colin, French and Colbrath all in one article by Pacenti. Note, Colin was bulletproof and now he is seeking bulletproof criminal defense team as he is being shot from all over??? Wonder when Post will pick up the Bernstein story, which ties them all together in tons of crimes with proof of Fraud on Court and more and even may tie them to the murder of Trump's friend Huhem and of course the murder of my father. Wonder when the Post will report that the Hoti and Bernstein criminal complaints at PBSO are corruption stalled and the Huhem Murder case was a total coverup as it would have tied the Judges to the sale of my father's home through fraud in probate court and they would all hang. Well I am sure after they threatened Pacenti the Post got frightened of retaliation by these thugs similar to the retaliation that is happening to those they reported on. Wonder why the Post is not calling for FORMAL CRIMINAL INVESTIGATIONS and not pulling the pants down on Colbath's Pedophile Priest Shuffle with the Judges and Savitt et al.

<http://www.mypalmbeachpost.com/news/local/chief-judge-thwarts-guardian-effort-move-cases/ZaZVtV6VF14GpUqMI3bJML/>

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