

*Lisa MacCarley – SBN 164458
MacCARLEY & ROSEN, PLC
2029 Verdugo Blvd. #818
Montrose, CA 91020
T: 818.249-1200; lisamaccarley@gmail.com*

Atorneys for: Families For Early Autism Treatment, Inc., A California 501(c)(3) Charity
Nancy Fellmeth, President

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN LUIS OBISPO

In re: The Limited Conservatorship of: ANDREW FINDLEY, Proposed Conservatee.	Case No. 18PR-0283 Assigned to: The Honorable Tana L. Coates <u>AMICUS BRIEF of FAMILIES FOR EARLY AUTISM TREATMENT, INC. (F.E.A.T.) IN SUPPORT OF DEBORAH FINDLEY'S OBJECTIONS TO THE APPOINTMENT OF DDS AS LIMITED CONSERVATOR;</u> Date: OCTOBER 20, 2022 Time: 1:30 p.m. Dept. 9
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COMES NOW, Families for Early Autism Treatment, Inc., a 501(c)(3) California charity, hereinafter referred to as “**F.E.A.T.**,” who submits this brief in support of Deborah Findley’s Objections to the appointment of the State of California’s Department of Developmental Services, hereinafter, “the DDS,” as Limited Conservator of the Person of Andrew Findley, hereinafter, “Andrew.”

1 **F.E.A.T.** has an interest in this proceeding because the outcome has implications for our
2 thousands of family members who are the parents of children with autism. These families live in
3 constant fear that the DDS will utilize the untoward policies and practices seen in this case to
4 disrupt their families and isolate their adult children who have developmental disabilities.
5

6 The issue before the Court is whether the DDS, a multi-billion-dollar governmental
7 agency, is the appropriate permanent “Limited Conservator” of Andrew given that both of his
8 parents are available to serve in that capacity and have statutory priority to be appointed as such.

9 Andrew has autism, obsessive compulsive disorder, and complex medical issues which
10 are interconnected and must be viewed together when assessing his overall health. Accepted
11 medical practice dictates that a thorough medical and behavioral history as well as current,
12 independent information from several experts familiar with Andrew’s medical issues should be
13 considered before the Court decides a conservatorship for Andrew.
14

15 F.E.A.T. is concerned that the DDS has refused to allow an independent medical and
16 neuropsychological assessment of Andrew, remotely or in person, to address concerns his
17 Mother has about his physical and emotional health.
18

19 We are informed that Andrew’s parents are not even allowed to ask him what he had for
20 lunch, as that is considered medical information.
21

22 We are concerned because the presented temporary conservator, DDS, does not follow
23 the physician recommended restricted diet that Andrew followed from the age of 18 months
24 until he was removed from the care and custody of his parents, Deborah and Geoffrey Findley.
25

26 The DDS has filed motions to block evidence including medical information about
27 Andrew prior to him becoming temporarily conserved by the state four years ago. We beseech
28 this Court to **question why the DDS does not want to allow information from his medical**

1 **history to be admitted as evidence or get new independent assessments of Andrew, when**
2 **that is a best practice for any clinician who is treating or making recommendations for**
3 **treatment** , especially since the DDS' attorneys have made outrageous and unsubstantiated
4 allegations that Andrew was subjected to “mistreatment, medical experimentation, and
5 cognitive behavioral training deprivation” by his parents. The DDS cannot have it both ways.

6
7 The Findleys undoubtedly want historical information to be available to the Court
8 because they have **no fear** about what it will show about Andrew’s medical needs, so one must
9 ask what the DDS fears the Court will learn. This is far too serious of a decision for the Court to
10 make without availing itself of all the information, not just that picked by the DDS.
11

12 F.E.A.T. members are not alone in our concerns. Families throughout the State of
13 California are contacting us asking how to disengage themselves from the local Regional Center
14 system and even relocate out of the State of California. They have justified and legitimate fears
15 that if they disagree with a Regional Center caseworker about a medical treatment or any other
16 aspect of treatment that they will also end up fighting the DDS (represented by no other than the
17 Attorney General’s office) to get their child back into their care and custody.
18

19 F.E.A.T. believes that families should make these choices for themselves, based on their
20 rights to have beliefs that may not comport with those of the State.
21

22 F.E.A.T. is concerned that best practices of behavioral science are not being followed,
23 and when allowed to happen in one setting, it will soon become accepted practice. For example,
24 Deborah Findley has provided irrefutable evidence that Andrew is denied access to the activities
25 he most enjoys, such as talking about Disney characters, seeing photos from the many trips with
26 his family, going in the hot tub at his family home, hugging or even just seeing his mom on
27 FaceTime, looking at some of his favorite things around his family home.
28

1 **If Andrew is crying for his Mother, it is not a “maladaptive” behavior, it is a**
2 **reasonable reaction for a 22-year-old who functions as a 5–8-year-old, who misses the**
3 **person who he loves and lived with for the first 18 years of his life.**

4
5 It is simply cruel and unethical to torment Andrew and his parents in this manner.

6 There is nothing in this scenario that benefits Andrew. Because the DDS operates in
7 secrecy and because the staff at Devereux, which includes Board Certified Behavior Analysts
8 (BCBA) believes that he engages in maladaptive behaviors following time engaging in or
9 anticipating time enjoying these interests, and because family is given no information, there is
10 no evidence that a functional behavior assessment or analysis was conducted to support this
11 behavior plan, hence, there is no evidence of the effectiveness of this behavior plan for Andrew.

12
13 **The Court should trust that if Andrew was truly benefitting, he would be brought**
14 **to the Court at every opportunity. His parents would be welcome to see him.**

15
16 The visitation “guideline” drafted by the attorneys representing the proponents of the
17 DDS conservatorship currently forbids Andrew’s Mother to talk about his favorite things, even
18 if he brings it up. If the Devereux staff were following best practices, they would be honoring
19 Andrew’s interests, not extinguishing them. If he gets upset, the call is terminated and the next
20 FaceTime call with mom is cancelled.¹ This is making the very things that are the most special
21 to Andrew become aversive to Andrew- meaning that he is being behaviorally trained to dislike
22 the things he actually prefers the most. Over time, he will stop asking for these things because
23 each time is a consequence that harms Andrew.

24
25 **This is counter to research published in peer reviewed publications such as the**
26 ***Journal of Applied Behavior Analysis* which shows that when persons are given choices in**

27
28 ¹ www.abc10.com/priceofcare. <http://youtu.be/XeRWe863oOs>

1 **their activities of life, in who they see and what they play with, their maladaptive**
2 **behaviors were reduced. The opposite was true when choice was removed.² The staff at**
3 **Devereaux are creating the maladaptive behaviors by denying Andrew choices that matter**
4 **to Andrew.** This is a violation of behavioral practice and the Ethics *Standards for Behavior*
5 *Analysts*³ which states that “*Protecting the welfare and rights of clients above all others*” is
6 their first core principle.

8 F.E.A.T. is concerned that Andrew’s wishes are not being considered in significant
9 decisions that affect his life such as whether he can freely see his mom and dad or continues to
10 be a part of his aging grandfather’s life. The Lanterman Act sought to give developmentally
11 disabled persons the rights to be active participants in their own lives. Behavioral studies have
12 shown that **“Problem behaviors appear to be exhibited less frequently when an individual**
13 **has opportunities for choice.** Autistic children exhibited fewer problem behaviors (e.g.
14 aggression, self-injury) when they had a choice of task, material, and reinforcers **than when the**
15 **therapist made these choices** (Dyer et al.,1989)⁴ and they demonstrated less social avoidance (

16 e.g. looking and moving away) when they were engaged in activities that they preferred.
17 (Koegal, Dyer and Bell 1987).⁵ Yet there is no evidence of ongoing preference assessments,
18 which are a best practice in behavioral science. **Since there are no independent assessments of**

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² Bannerman, D.J., Sheldon, J.B., Sherman, J.A., & Harchik, A.E. (1990). Balancing the right to habilitation with the
24 right to personal liberties: The rights of people with developmental disabilities to eat too many doughnuts
25 and take a nap. *Journal of Applied Behavior Analysis*, **23**, 79-89.

26 ³ Ethics Code for Behavior Analysts, Core Principles, 1. , 2022

27 ⁴ Dyer, K, Dunlap,G., & Winterling, V. (1989, May). The effects of choicemaking on the problem behaviors of
28 students with severe disabilities. In G Dunlap (Chair, *Community-referenced research on behavior management.*
29 *Symposium conducted at the fifteenth annual convention of the Association for Behavior Analysis, Milwaukee.*

⁵ Koegel, R.L., Dyer,K., & Bell, L.L. (1987) The influence of child-preferred activities on autistic children’s social
behavior. *Journal of Applied Behavior Analysis*, **20**, 243-252.

1 **Andrew, not a single person involved with this proceeding knows what Andrew truly wants**
2 **except Andrew and isn't that why we are all here?**

3 The DDS wields visitation with Andrew's family like a weapon to punish both Andrew
4 and the family, using the most spurious of claims.⁶ It appears that they are using behavior
5 modification to teach Andrew that he doesn't want to be with his family. This is a denial of the
6 rights and dignity of a vulnerable person, treating him as if others who barely know him
7 understand what is best for Andrew. If Devereux was appropriately treating Andrew's behavioral
8 and medical needs, there wouldn't need to be a total lack of transparency about his care. Instead,
9 visits would be encouraged, and videos would be taken of Andrew enjoying life. Andrew would
10 not be crying from loneliness, as the only resident of the home, missing his mom like any child
11 would when everything around them is different than the life they had before.
12

13 In the consideration of whether Andrew Findley should become permanently conservated
14 by the State of California, severing the family's right to know anything about their only child and
15 only grandson, F.E.A.T. believes that the Court should consider that Andrew's behavior shows
16 he clearly wants to be home with his mom in their Templeton home. All of his favorite interests
17 are things he shares with his family and none of those interests are shared with anyone paid to
18 watch or work with him at the Devereux home. If this proceeding is really about Andrew, then
19 all the evidence shows that the State has failed to protect Andrew's health, safety, and wellbeing
20 by placing him in a living situation that removes all of the things that matter to Andrew from his
21 life. **This is deprivation, not protection.**

22 F.E.A.T. urges the Court to grant the petition of Deborah Findley to be Andrew's
23 conservator and remove any claim made by DDS.

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⁶ <http://youtu.be/XeRWe863oOs>

F.E.A.T. IS FEARFUL OF THE IMPLICATIONS OF THIS MATTER

California Department of Developmental Services is a multi-billion-dollar bureaucracy that could not care less about Andrew Findley, hereinafter “Andrew.” Andrew is one of a handful of young men with autism who have been essentially kidnapped, drugged, held in isolation at a “group home” and left to languish by their limited conservator, the DDS.

The pattern here is familiar: the parents are portrayed as incompetent and unfit. The autistic young man is sent to Fairview Hospital to be assessed, isolated, drugged, and placed from there in the care and custody of underpaid, undertrained staff with little or no training and certainly no genuine supervision. Only the agency that provides the “staff” truly benefits.

The autistic young men will be fed fast-food and junk-food at their isolation sites. Weight gain is common for the DDS's limited conservatees.

None of the executives or principals at the DDS will ever see Andrew, call his family, or make any effort to participate in his care. If Andrew is ever hospitalized, the DDS will do everything in its power to make certain the parents are not informed and kept out of the hospital room.

The flawed legislation that even allows the DDS to be appointed as conservator should be repealed but suffice it to say that the legislative intent was never to place the DDS ahead of parents and other family members for conservatorship appointments. The DDS is a Limited Conservator of LAST resort when no one else is available.

IF the DDS was truly acting in Andrew's best interests, it would be thrilled to show off his new skills and accomplishments to this Court and all of his relatives. There would be volumes of video recordings, photographs and testimony recording his progress and happiness.

1 The Court should be very skeptical of claims that Andrew is thriving but his “privacy rights”
2 make it impossible for him to produce the evidence of that.

3 IF the DDS was truly acting in Andrew’s best interests, at least one of his relatives would
4 be showing up to Court and saying so.

5 IF the DDS was truly acting in Andrew’s best interests, they would not need to isolate
6 him, preclude his parents from visiting him in person and attempt to hide his medical records.

7 It should greatly concern the Court that there is not a single person or entity involved
8 with Andrew PRIOR to his removal from his family home and parents who support the DDS’
9 involvement and condone his isolation.

10 Attached for the Court’s review are declarations of several similarly situated Mothers
11 who will absolutely speak on Deborah Findley’s behalf if called as witnesses.

12 If the Court is willing to entertain the unsupported arguments of the California Deputy
13 Attorney Generals *who never laid eyes on Andrew Findley* that Andrew is presently living his
14 best life, then the Court is respectfully requested to give equal consideration to these parents
15 have firsthand knowledge of Andrew Findley’s life, and the love and care he received prior to
16 the DDS’ unwarranted involvement.

17 Dated: 10/18/2022

18 MacCarley & Rosen, PLC

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29 By: Lisa MacCarley, Attorneys for
30 Families for Early Autism Treatment, Inc.