Note from Spokane lawyer_

I have been receiving troubling stories about Incapacitated Persons leaving their estates to their court appointed guardians. This raises many red flags. First, guardians are supposed to refrain from anything that would benefit them when they are acting as a guardian. The fiduciary standard requires guardians to avoid any conflicts of interest.

Guardians are fiduciaries and the law treats them as having the highest duty to their wards. Case law states that guardians are equivalent to trustees and that trustees cannot engage in any conduct that might lead the guardian to place his or her interests above those of the ward (Incapacitated Person).

If there are cases in which an Incapacitated Person left his or her estate to a guardian (or friends or employees of the guardian) who was not related to the Incapacitated Person, I would be interested in knowing about them. The name of the Incapacitated Person, the case number, the name of the guardian and a copy of the trust document or will would really be helpful to me.

There was a very interesting case in Spokane where an elderly woman wanted to prepare a will. The elderly woman had a friend who called her own attorney. The friend's attorney said he was too busy to prepare the elderly woman's will, but that the friend could simply go to a stationary store and buy a form will and fill it out.The friend of the elderly woman followed the suggestion of her attorney. The elderly woman left some money to her church, and some money to the woman who filled out the will. The estate was substantial and there was a will contest after the elderly woman died.

The court (Judge Kathleen O'Connor) ruled that the friend of the elderly woman was acting as the attorney for the elderly woman because the friend obtained the form and helped the elderly woman fill it out. Attorneys are prohibited from obtaining any part of an estate from a client unless they are related to her person. The share of the elderly woman's estate that was left to the friend was declared to be invalid.