

LAW OFFICE OF  
**SUSAN CASTLETON RYAN, P.C.**

THE RIGHT TO COUNSEL UNDER A GUARDIANSHIP

by Melaney G. Hodge, Esq.

On February 10, 2015, in Guardianship of V.V., the Supreme Judicial Court ruled that an indigent parent is entitled to representation in guardianship proceedings.

Prior to this decision, the right to counsel was only provided in actions commenced by or with the state through the Department of Children and Families or other licensed child placement agency. Under General Laws c. 119, § 29, counsel shall be appointed to the parent, guardian, or custodian of a child if they are financially unable to obtain counsel on their own.

Given the fundamental rights at stake in a guardianship petition, the Supreme Judicial Court determined due process demands the appointment of counsel in guardianships that do not involved the state. The Court determined “an indigent parent whose child is the subject of a guardianship proceeding is entitled to, and must be furnished with, counsel in the same manner as an indigent parent whose parental rights are at stake in a termination proceeding or, similarly, in a care and custody proceeding.” Although the effects of a guardianship petition may not be permanent, there is at least a temporary suspension of a fundamental right, as the guardian’s rights and responsibilities supersede the parent’s.

Therefore, in a guardianship petition pursuant to G.L. c. 190B, § 5-206, an indigent parent is entitled to representation, which shall be appointed by the court.

LAW OFFICE OF  
**SUSAN CASTLETON RYAN, P.C.**  
676 BEDFORD STREET

ABINGTON, MASSACHUSETTS 02351-1922  
TEL: (781) 982-8850 • FAX: (781) 982-8872

WEB SITE: [scryanlawofficesma.com](http://scryanlawofficesma.com) • EMAIL: [SCRYANLAW@VERIZON.NET](mailto:SCRYANLAW@VERIZON.NET)