

Affirmed and Opinion filed June 5, 2025.



In The

Fourteenth Court of Appeals

NO. 14-23-00440-CV

MONIQUE MANDELL, Appellant

V.

FATIMA BRELAND, Appellee

**On Appeal from the Probate Court No. 3
Harris County, Texas
Trial Court Cause No. 504405**

OPINION

Monique Mandell appeals from the trial court's final judgment in a guardianship proceeding. Appellee Fatima Breland, the court-appointed temporary guardian ad litem, applied for the creation of a permanent guardianship over Mandell's person and estate. Among other things, a jury found that Mandell is an incapacitated person, does not have the capacity to handle financial matters, and would benefit from the creation of a guardianship of her estate, and that alternatives that would avoid the need for a guardianship are not feasible in this

case. But, the jury also found that Mandell has the capacity to handle legal matters and to care for her person. After receiving the jury verdict, the trial court granted Breland's motion for partial judgment notwithstanding the verdict (JNOV), asking the court to hold that Mandell does not have the capacity to handle legal matters. Accordingly, in its final judgment, the court ordered that a guardian would be appointed with full authority over Mandell's estate as allowed by the Texas Estates Code, including the powers to manage all of her property, collect on all claims, enforce all obligations, and bring, defend, and settle any suits related to her estate.

On appeal, Mandell contends that the trial court abused its discretion by (1) entering judgment on the jury's finding that she lacks capacity to handle financial matters, (2) granting the JNOV and entering judgment that Mandell does not have the capacity to handle legal matters, and (3) entering judgment when alternatives to guardianship were not sufficiently considered. We affirm.

Background

Mandell was born in 1967 and was 55 years old at the time of trial. She lost her parents when she was young and was adopted at the age of 7. Mandell left high school in the ninth grade but subsequently received her GED and took a job with the Army Corps of Engineers, where she was working when she was in a serious car accident in 1997 at the age of 30. This accident put Mandell in a coma temporarily and rendered her a paraplegic. A settlement after the accident provided Mandell with an annuity that pays her \$60,000 a month.

In 1999, Mandell married her boyfriend, William Mandell, who had nursed her during her post-accident convalescence. The couple remained married until William passed away in January 2018. The couple did not have any children together, but William had a son from a previous marriage, David Mandell. After William passed away, litigation commenced regarding his estate. As part of a

settlement, Mandell was awarded approximately \$40 million from the sale of a piece of property. Mandell was represented in the proceedings by two attorneys, Lanease Fuller and Debra Jennings. Shortly before Mandell was to receive her proceeds from the sale of the property, her agreement with Fuller and Jennings was changed from an hourly fee structure to a 24 percent contingency contract that would pay the two attorneys nearly \$10 million.

Meanwhile, Adult Protective Services (APS), a division of the Texas Department of Family and Protective Services, received several reports of potential abuse, neglect, and financial exploitation regarding Mandell. This led to the trial court appointing Breland as temporary guardian ad litem to further investigate Mandell's situation in March 2022. Wade Christiansen was appointed as temporary guardian of Mandell's person, and American National Bank & Trust (AmNat) was appointed as temporary guardian of Mandell's estate. Then, in May 2022, Breland filed an application with the court for appointment of permanent guardians for Mandell's person and estate.

Trial on the application commenced on April 24, 2023. Witnesses included Mandell and Breland; an APS attorney; Christiansen and a representative from AmNat; and a doctor who was hired to perform an independent medical examination of Mandell. Portions of video depositions from a doctor whose likeness was allegedly used to scam Mandell and another doctor who had previously evaluated Mandell were also played for the jury. Voluminous documents were also admitted as exhibits during the proceedings, including reports, emails, photographs, and medical and financial records.

Penny Leuchtag testified that she has worked as an attorney for APS for sixteen years and that Mandell's situation presented one of the worst cases of exploitation she had ever seen. She explained that the mission of APS is to protect

vulnerable elderly and disabled people from abuse, neglect, and exploitation. When there is some indication that a person lacks capacity, APS may ask a probate court to appoint a guardian ad litem to further investigate. Leuchtag stated that she became involved in the investigation as an attorney because of the large volume of withdrawals and wire transfers from Mandell's accounts. APS filed a report with the court that was admitted into evidence. The report shows that APS received referrals from multiple sources due to concerns about financial exploitation, but the names of the referring parties were redacted. Leuchtag stated that APS determined the reports to be credible. The first revealed that Mandell had sent \$1,112,000 to a Patricia Solis, two businesses, and an individual in Africa, but APS could not discern any reason for the transfers or any accruing benefit to Mandell, and APS could not determine if Solis was a real person or had any relationship with Mandell. Mandell claimed at one point that Solis was her sister-in-law, but Mandell also said that she was estranged from her entire family, and "all of [APS's] sources" indicated Solis was not Mandell's sister-in-law. An additional wire transfer of \$350,000 was also uncovered, purportedly for a wheelchair accessible van from China, but APS could not verify that Mandell had purchased such a van. Mandell's accounts were then frozen by her financial institution, but new bank accounts were opened and used to continue sending funds.

The second referral to APS alleged financial exploitation, physical abuse, and neglect. In an interview following this referral, Mandell asserted that she had a fiancé named Aaron Mamphey, but APS was never able to find a real Aaron Mamphey, and Mandell refused to provide further information but "shut down." APS also discovered three checks from Mandell's accounts made out to Solis on the same day, each for \$500,000, but still could not discern any reason for the payments. Further investigation revealed Mandell had sent over \$2 million to an

individual account in Solis's name. Mandell was also "giving excessive amounts of money to her drivers and other individuals who were employed by her as caregivers." Mandell was apparently writing checks to and making withdrawals for these individuals in amounts of tens of thousands of dollars at a time in addition to their regular salaries, leading Leuchtag to believe she was unable to manage their employment appropriately. At one point, Mandell had withdrawn so much from her account over a six-month period that she was left with a negative balance. According to Leuchtag, this raised grave concerns as it did not leave money for Mandell's living expenses.

The third referral to APS again alleged physical neglect and financial exploitation and was from a different source than the first two referrals. This referral in particular concerned Mandell's alleged relationship with Mamphey, who was allegedly a heart surgeon in Brazil. Leuchtag noted additional concerns leading APS to request a capacity assessment with the court, such as Mandell's refusal to participate in an assessment, the absence of any family involvement with Mandell's care, and the fear that Mandell could be exploited out of all her assets. Leuchtag said that she had seen that outcome in cases before, leaving the victimized person with a poor quality of life. Leuchtag also said that she had seen nothing in her investigation to indicate Mandell herself had the ability to "stop the predators." Leuchtag further noted that despite her efforts, she was unable to verify whether several businesses receiving payments from Mandell were legitimate. When Leuchtag was finally able to interview Mandell, Mandell would look at her attorney before answering questions and the attorney would make a gesture to indicate a yes or no answer to the question. It was APS's recommendation that permanent guardians be appointed over Mandell's person and estate.

Mandell began her testimony by admitting she could not remember the

names of the people she had met with the night before in preparation for testifying. She said that she believes Breland had applied to be her permanent guardian, which is incorrect, and wanted to find Mandell unfit and take over her life. Mandell said that she believed she had \$56 million on deposit at the Navy Federal Credit Union (NFCU) a year before trial. She discussed her car accident and the settlement, and she said that she currently lives in an apartment that she rents at the Venue but also owns an apartment at the Warwick as well as a house in Meyerland, where she had lived with her husband when he was alive. She asserted that she and William had managed their money jointly, but she did not know what the property taxes were on the house or the Warwick apartment. She discussed her four caregivers and driver, whom she viewed as family and had recently given raises. Mandell stated that she does not have health insurance but does have a dentist, although she stated inconsistently that she had seen the dentist since William died and had not seen the dentist since then. Mandell did not file tax returns in 2019, 2020, or 2021. Mandell asserted that she owns “businesses,” including one that she started with Mamphey to sell her rugs and another that is a music company that is run by her former driver. She said that the latter business generates revenue, but she does not receive any of it.

Mandell described Mamphey as a heart surgeon from California, who, last she heard, was traveling in Brazil. She said that they met in the hallway of a rehabilitation facility and used to talk on the phone but had amicably broken up. She identified photographs of Mamphey that she has in her apartment. Mamphey sent her the photographs, and she printed and framed them. Mamphey also sent her a wooden, decorative sign that says “Mamphey established 2021.”

Mandell additionally identified emails that she had received from a “Bill Johnson, LLP,” which she believed to be a law firm. These emails repeatedly

reference Mandell's "sister," and they compliment Mandell on entrusting funds to her sister. Mandell testified she had a sister-in-law, not a sister, who was named Patricia Solis and was married to her brother, Julio Gaona. She said that she had spoken to Solis since William died. The emails from Bill Johnson, LLP go into detail about how the supposed sister was using Mandell's money for investments so that "David" could not get it—potentially referencing Mandell's stepson—and the sister was frustrated that Mandell had told her lawyer about the arrangement. Another email insisted the sister had paid Mandell's legal bill and needed to be reimbursed. Another email stated Mandell needed to pay someone named "Leonard" \$500,000. And, another email stated that unnamed judges were willing to clear up a bank problem for \$40,000 fee that was to be paid to "hackers." Yet another references an FBI investigation and Mandell's supposed fiancé. Overall, the emails are written in decidedly poor grammar, with unclear references, and meandering, often senseless narratives. Mandell stated that she believed David was trying to take her money and there was a pending FBI case regarding the matter.

Mandell's phone bills showed that she was paying for as many as five phone numbers, but she could not explain why this was so. She suggested one may have been for her artist, potentially referencing the person who ran her music company. Another of the phone lines showed dozens of overseas calls to Ghana, but Mandell could not recall why those calls would have been made. There were also numerous calls listed to the number Mandell had in her phone for Mamphey. Mandell stated that she had remained in contact with Mamphey through the guardianship proceedings.

Mandell was also asked about numerous wire transfers that she had made, including two for \$200,000 and \$295,000 to something called "Transcend Group." Mandell could not recall what these were for but said it was probably to help

someone and that people asked her for help all the time, and she gives them the benefit of the doubt.

Several pages of notes in Mandell's handwriting were also admitted into evidence, which appeared to be instructions regarding how to handle an FBI investigation into investments her sister had allegedly made for her and about a Porsche that someone had reportedly bought in her name. Mandell did not recall what these notes were about.

On cross-examination by the attorney representing her, Mandell explained that William had paid the property taxes with her money while he was alive and finances had never been an issue for them. She said that the restrictions on her finances made her feel like a child and that she had never had money issues before and had never had her capacity questioned before. Mandell insisted that the case was about taking away her money and her life and that she does not trust any of the people appointed in the case. She further said that she would consider granting a power of attorney, knows trusted individuals that she could name, and would hire a financial advisor after the case was over.

On re-direct, Mandell acknowledged that she had mostly rejected a series of quality-of-life offerings arranged by the temporary guardian of her person, including health insurance, social security disability, a motorized wheelchair, a mechanized Sleep Number bed, physical and occupational therapy, an overhead lift and sling, and a robotic exoskeleton. She acknowledged she did accept the personal trainer and massage therapy that had been arranged. Mandell stated that her caregivers were not licensed but had been trained by her husband before he died.

Dr. Garth Davis testified via videotaped deposition that three photographs Mandell kept in her apartment—two on her refrigerator and one framed—were of

him, even though Mandell had said the photographs were of her boyfriend, Mamphey. Davis explained that the images had been taken from his Instagram account. He also stated that his image has been used in countless scams in recent years and that he personally had no connection to Mandell. According to Davis and as seen in the exhibits, two of the photographs also had Mandell's image "photoshopped" into the picture.

Breland testified that she has been a solo practitioner for eighteen years, specializing in mental health issues. She was appointed guardian ad litem by the trial court, and it is the court's order that determines her tasks. The order in this case required Breland to investigate the alleged exploitation of Mandell, evaluate possible alternatives to guardianship, and assess whether a guardianship was necessary. Breland explained that after several attempts to communicate or meet with Mandell or her attorneys proved fruitless, she moved to protect Mandell and her funds by requesting that the trial court establish temporary guardianships for Mandell's person and estate. Breland also filed for an independent medical examination of Mandell.

When Breland received a report that Mandell might be moving from her apartment, Breland went to the apartment with police officers. Breland was then able to see Mandell, but Mandell told her that she wanted to wait until her attorney, Jennings, got there. Fuller and Jennings then arrived at the apartment, but Breland was still not allowed to talk to Mandell on that day. Breland told the attorneys that she needed to meet with Mandell one-on-one, but Breland was thereafter not able to reach Mandell, and a meeting was arranged only with Fuller and Jennings both being present. Breland opined that during the meeting, it did not feel like Mandell was able to use her own free will to respond to questions but was guided by Fuller and Jennings. Breland again stressed needing to meet with Mandell one-on-one in

her apartment but that was never allowed to happen. Breland stated that she believes her access to Mandell was being stymied and restricted.

Further according to Breland, on March 30, 2022, Mandell went to NFCU and attempted “to wire another \$2 million” out of her account. She was accompanied by her driver and one of her caregivers and then Jennings also arrived to try to facilitate the transfer. Breland further discussed the nearly \$40 million that Mandell was to receive pursuant to the settlement of William’s probate case and the sale of property. All the money originally went into an account owned by Fuller, and \$9,842,124.10 of the funds never made it to Mandell. Jennings, however, reportedly received about \$4,750,000 from Fuller. An accounting was requested of the attorneys, but they declined to provide one. AmNat, as temporary guardian of Mandell’s estate, thereafter filed a lawsuit against Fuller and Jennings, which Breland joined. A temporary restraining order was issued in that case to attempt to preserve the \$9,842,124.10 taken from Mandell’s proceeds, but the money by then was gone.

Breland also discussed a chart that she prepared showing \$4.85 million in questionable transactions from Mandell’s accounts that she had uncovered in her investigation. She noted, however, that the chart did not include the cash withdrawals “pouring out” of the accounts in large amounts, such as \$5,000, \$10,000, and \$15,000 at a time. She noted that the transactions stopped only once the court imposed a temporary restraining order. She opined that absent a guardianship, there would be no one to pursue recovery of those funds, and that having considered possible alternatives, the only option that would protect Mandell and provide her with freedom to use her resources for herself was to install a guardian of the estate and a guardian of the person. Under that scenario, she could have the same care, stay in her own home, and be who she is, but with protections.

More specifically, Breland indicated that allowing Mandell to simply return to her prior life was not sustainable and hiring a financial adviser would not solve the concerns because Mandell would still be the person directing things.

On cross-examination, Breland stated that she had grown very concerned for Mandell because of the referrals, the fact she was not permitted to see Mandell and no one was returning her calls, and the fact that Mandell did not appear to understand that there was an issue. Breland explained that a power of attorney or a decision-making agreement would not be feasible alternatives in this case because Breland could just revoke them at any time. And, she explained that while a trust would be feasible in this case, and in fact she had applied to the court to create a Chapter 1301 Management Trust, it would not obviate the need for a guardianship because a trust could not prevent the kind of access blocking that had been going on and could not pursue recovery of the missing funds.

Dr. Edward Poa testified that he is a professor at the Baylor College of Medicine who regularly makes cognitive capacity assessments in guardianship proceedings, and he was appointed to conduct an independent medical examination of Mandell. He explained that he approaches such a task with no preconceived notions and was not trying to reach a predetermined outcome. Poa met with Mandell alone in April 2022 for testing and an interview. He said that she was cooperative until he asked about her financial transactions. At the time of their meeting, Poa had reviewed a neuropsychological evaluation report on Mandell prepared by Dr. Allison Clark in 2020 as well as some information regarding Mandell's financial transactions. Poa also reviewed Mandell's post-accident discharge summary, which he says further supports his report on her cognitive condition. The summary revealed that she likely suffered a significant head injury and "a pretty bad injury to [her] brain." Poa noted that swelling can also be a

problem in such cases. He stated he saw no report of specific damage, but there was a concern noted of “global damage” to her brain. He also saw indications in subsequent medical records of Mandell having residual cognitive impairment.

Poa further noted that Clark had also found cognitive deficits, including moderate to severe in working memory, mild in divided attention and mental flexibility, a reduced score for verbal and visual learning ability, and poor discriminability. Poa himself also found deficits in memory, attention, and calculation. Poa acknowledged that Clark did not find her results suggestive of an underlying neurocognitive disorder. Poa explained that to meet the diagnosis for a major cognitive disorder, a person must have a deficit in memory and one other cognitive area, and the deficits must cause difficulties in the performance of daily functions. Clark had recorded that Mandell did not report any difficulties with daily functions, so she did not meet all of the criteria.

Poa stated that he performed two screening tests on Mandell: the Montreal Cognitive Assessment (MOCA) and the Mini-mental Status Exam (MMSE). Although these tests are less thorough than the assessment Clark did, Poa said that the “results were matched fairly close.” He described in detail Mandell’s performance on the different sections of the tests he administered. Mandell scored a 22 on the MMSE, which Poa explained indicated potential mild cognitive impairment. On the MOCA, she scored lower, demonstrating a moderate cognitive impairment. In particular, he noted that she had real difficulty with anything having to do with numbers and struggled with “attention/calculation,” memory, and executive functioning.

At the end of the interview, Poa asked Mandell about some of her financial transactions from the prior month or two. Mandell indicated she was aware of the concerns, and she identified a couple of the transactions, but she refused to discuss

or give reasons for the majority. When he told her that he understood if her concern was about privacy and asked just for a general explanation, she still refused to give any explanation. Poa said that the fact she refused, knowing it would hurt her case, indicated difficulty with logic and judgment.

Poa concluded that Mandell had a major cognitive disorder, which he explained had previously been called “dementia.” She demonstrated deficits in memory, attention/calculation, visuospatial skills, and judgment that affected her ability to function on a daily basis, especially in regards to her finances. Poa believed that the large transactions with no rational basis that she was able or willing to offer were directly tied to deficits in memory, attention/calculation, and judgment. In regards to causation, Poa mentioned her prior, severe head injury and also noted the possibility of dementia or neurocognitive disorder independent of the prior injury. Poa further elaborated that it is not possible that she is just “bad at math”; she has “a profound lack of insight into the fact that she has these deficits[and] is unwilling to acknowledge it or put [in] any kind of safeguards.” He further does not believe that she has the capacity to make complex business, managerial, or financial decisions or to execute a durable or medical power of attorney.

Poa also provided a certificate of medical examination, a form required by guardianship courts. On the form, he described Mandell’s neurocognitive disorder as “mild,” but he said that based on further information he had received since completing the form, he now believed her condition was moving into the moderate range because of the impact the deficits have had on her life. Poa explained that “mild” indicated that the issues affected independence and the “instrumental activities of daily living,” such as shopping, paying bills, handling finances, and cooking. “Moderate” indicates a disorder has begun to affect basic activities of life, such as eating, bathing, and dressing. Although Poa stated Mandell was partially

incapacitated on the certificate, he said that he would now revise that to say totally incapacitated. He explained that he originally thought her troubling transactions had been limited to a month or two, but additional information revealed longstanding difficulties and a pattern of being unable to manage finances and know who to trust. Poa had gleaned the additional information from a deposition Mandell gave in 2018, extended financial records, Clark's deposition, Mandell's post-accident discharge summary, and attendance at hearings. He opined that her incapacity should be deemed total because it affected multiple areas of her life. Poa did not see any feasible, less restrictive alternatives to address the concerns than a guardianship.

On cross, Poa noted that Dr. Clark had been unaware of issues involving Mandell's finances. Poa stated that this was important information for diagnosis and that questions about finances are a routine part of the examination. Poa further discounted the possibility that Mandell's medications could have impacted her performance on the assessments because she did not appear, "loopy," groggy, or disoriented.

Dr. Allison Clark testified via videotaped deposition that she examined Mandell in February 2020 and April 2022 based on referrals. Clark received no information regarding Mandell's finances prior to the assessments and was not told that she was being exploited. Clark did not intend to offer any testimony regarding Mandell's ability to make complex financial decisions. She also noted that she had seen Mandell over a year before the deposition and was offering no opinion regarding Mandell's current capacity. Clark emphasized that the tests she conducted were performed for clinical purposes and not for the purpose of determining whether Mandell should be placed in a guardianship. She further explained that her conclusion in her reports that the findings were not suggestive of

a cognitive disorder did not rule out the possibility that Mandell had such a disorder. Moreover, she said that it was possible her recommendation might have changed—particularly in regard to the need for supervision—if she had been provided Mandell’s financial information. The fact that Mandell had transferred \$800,000 in three weeks seemed important, and Clark would like to have known that in making her assessment. Clark further acknowledged that she did not know what was required to establish incapacity for a guardianship because she had never done that before. On cross-examination, Clark agreed that large transactions alone were not indicative of a disorder if adequately explained.

Wade Christiansen, the temporary guardian of Mandell’s person, testified that he was appointed to see after Mandell’s medical needs, to protect her person, and to make sure she was properly supervised. He stated that he had similar difficulties as Breland in attempting to contact and see Mandell. He was greatly concerned because he did not know what was going on, so he applied to the court to have Mandell temporarily moved to a care facility. He said that he needed to make sure she was safe and cared for, and there was concern that someone—perhaps her attorneys—were attempting to move her to Florida, where she could not be protected by a Texas court. In his report to the court, he additionally noted that Jennings and Fuller had provided inaccurate information, “fanned the flames of conflict in this case,” and caused a lack of trust. He said that Mandell looked to them for guidance, even to answer simple questions.

Beth Owens, a representative of the temporary guardian of the estate, AmNat, testified that prior to receiving proceeds from the sale of her late husband’s property, Mandell’s accounts were “essentially empty” except for the \$60,000 that would come in and then get drained out each month. Owens stated that they were not able to establish any connection between Mandell and Patricia

Solis, whom Mandell claimed was her sister-in-law and to whom she was sending large sums of money. Mandell did not file tax returns for 2019 through 2022, and AmNat was in the process of preparing the past due returns for her. Mandell was also behind on paying property taxes and homeowner's association dues, but AmNat had already gotten those current.

At the time of trial, Mandell owned a house, a condominium, and a farm. According to Owens, the house was uninhabitable and had been that way since 2018. Meanwhile, the condominium had been "gutted" to change the floor plan and was still in that condition despite Mandell having paid a contractor \$300,000 by cashier's check in 2019. Owens had attempted to contact the contractor but had gotten no response. Mandell was currently living in an apartment, but Owens described it as "very rundown and dirty," and Mandell had received an eviction notice for nonpayment of rent. Mandell had apparently expressed some interest in buying a house and also buying her driver a nearby \$4.5 million home, but no final decision had been made yet. Owens also discussed the fact that attorneys Fuller and Jennings had failed to account to the court for the proceeds of Mandell's husband's property and AmNat had filed a lawsuit to attempt to recover those funds.

On cross-examination, Owens noted that before the temporary guardianships were imposed, the majority of Mandell's transactions were by cashier's check, cash withdrawal, or wire transfer. She also mentioned that they were making sure all of Mandell's bills were paid and they had gotten her assigned phone lines down to just one. Owens further revealed that at one time, Mandell had investment accounts and a financial advisor but those were no longer in place. AmNat was in the process of starting an investment plan for her. Owens concluded that if the depletion of Mandell's assets continued at the rate it was occurring before AmNat

became involved, she would be down to the one check a month within two years.

The record also contains voluminous reports, financial statements and records, medical records, and other documentation supporting the testimony discussed above. Of note, a supplemental report by Breland noted and attached a previous assessment of Mandell's mental capacity in which a Dr. George Glass concluded that Mandell lacked the mental capacity to transact any sort of business or understand or assist in a legal context. He further opined that she was unaware of the consequences of her behavior as it relates to financial dealings.

Additionally, notes from a clinical visit indicated Mandell had a "cognitive deficit," and a prescription for occupational therapy stated that she suffered from short term memory loss, residual cognitive impairment, impaired executive functioning, and would look to her husband for how to answer routine questions. Another exhibit shows an attempt to add Mamphrey, Mandell's supposed one-time fiancé, to her trading account.

The trial court asked the jury ten questions in the charge. In response to Question 1, the jury found that Mandell is an incapacitated person, defined as "an adult who, because of a physical or mental condition, is substantially unable to provide food, clothing, or shelter for himself or herself, to care for the person's own physical health, or to manage the person's own financial affairs." In response to Question 2, the jury found that Mandell lacked the capacity to "handle financial matters" but did not lack the capacity to "handle legal matters." Question 3 asked about the feasibility of any alternatives to guardianship. It instructed the jury to only answer the sections that corresponded to a finding in Question 2 that Mandell lacked capacity, but the jury answered Question 3 both in regard to financial matters and legal matters and found that there were no feasible alternatives to guardianship for either. Question 4 asked about a litany of personal matters, and

the jury found that Mandell lacked the capacity to safely drive a motor vehicle but had the capacity to vote, choose her residence, get married, provide for her basic needs, and consent to medical and other treatments. In response to questions 6 and 7, the jury found that appointing a guardian was in Mandell's best interest and her property would be protected by the appointment of a guardian of her estate. In response to Question 8, the jury found that Mandell's rights would not be protected by a guardian of her person. In response to Questions 9 and 10, the jury found that Breland acted in good faith and for just cause in prosecuting the application for appointment of a guardian and found \$100,100 to be a reasonable fee for the services of her attorneys in the case.

After the verdict was returned, Breland and Mandell both filed JNOV motions. The trial court granted Breland's motion—and specifically held that Breland lacked the capacity to handle legal matters—and denied Mandell's motion. In its final judgment, among other things, the trial court decreed that Mandell was a partially incapacitated person that lacks the capacity to handle financial or legal matters, and the court ordered that a guardian of Mandell's estate would be appointed with full authority as allowed by the Texas Estates Code, including the power to manage all of her property, collect on all claims and enforce all obligations, and to bring, defend, and settle any suits related to her estate. The court further decreed that Mandell lacked the capacity to operate a motor vehicle but had the capacity to vote, choose her residence, get married, provide for her basic needs, and consent to medical and other treatments. The court also required the guardian to apply for the creation of a management trust under Estates Code Chapter 1301 and granted Mandell the opportunity to propose a corporate trustee, subject to the court's approval. The stated term of the guardianship was until Mandell was restored to full capacity or died or the court determined it should be

terminated.

Governing Law

We review an order imposing a guardianship for an abuse of discretion. *Guardianship of A.E.*, 552 S.W.3d 873, 876–77 (Tex. App.—Fort Worth 2018, no pet.); *Guardianship of A.S.K.*, No. 14-15-00588-CV, 2017 WL 3611845, at *3 (Tex. App.—Houston [14th Dist.] Aug. 22, 2017, pet. denied) (mem. op.). A trial court abuses its discretion if it acts in an arbitrary or unreasonable manner without reference to any guiding rules or principles. *Cire v. Cummings*, 134 S.W.3d 835, 838–39 (Tex. 2004). A trial court also abuses its discretion by ruling without supporting evidence. *Ford Motor Co. v. Garcia*, 363 S.W.3d 573, 578 (Tex. 2012).

Before appointing a guardian, the factfinder must find by clear and convincing evidence that: (1) the proposed ward is an incapacitated person; (2) it is in the proposed ward’s best interest to have the court appoint a guardian; (3) the proposed ward’s rights or property will be protected by the appointment; and (4) alternatives to guardianship and available supports and services have been considered and determined to be infeasible. Tex. Est. Code § 1101.101(a)(1). The factfinder must further find by a preponderance of the evidence, among other things, that the proposed ward is either (1) totally without capacity to care for herself and manage her property, or (2) lacks the capacity to do some, but not all, of the tasks necessary to care for herself or manage her property. *See id.* § 1101.101(a)(2)(D). Any determination of incapacity of a proposed ward “must be evidenced by recurring acts or occurrences in the preceding six months and not by isolated instances of negligence or bad judgment.” *See id.* § 1101.102. A proposed ward is entitled to a jury trial if requested. *Id.* § 1101.052.

In guardianship proceedings, legal and factual sufficiency are not independent, reversible grounds of error but are factors to consider in assessing

whether the trial court abused its discretion. *Guardianship of A.E.*, 552 S.W.3d at 877; *see also Guardianship of A.S.K.*, 2017 WL 3611845, at *3. When reviewing for legal sufficiency, we consider the evidence in the light most favorable to the finding and indulge every reasonable inference that supports the challenged finding. *City of Keller v. Wilson*, 168 S.W.3d 802, 822 (Tex. 2005). We credit favorable evidence if a reasonable factfinder could and disregard contrary evidence unless a reasonable factfinder could not. *Id.* at 827. When reviewing for factual sufficiency, we consider and weigh all the evidence, both supporting and contradicting the finding. *Mar. Overseas Corp. v. Ellis*, 971 S.W.2d 402, 406–07 (Tex. 1998).

Discussion

I. Capacity for Financial Matters

In her first issue, Mandell contends that the trial court abused its discretion by entering judgment on the jury’s finding that she lacks the capacity to handle financial matters. *See generally* Tex. Est. Code § 1101.101(a)(2)(D). Under this issue, Mandell specifically challenges the legal and factual sufficiency of the evidence to support the jury’s finding. Mandell’s legal sufficiency arguments can be broken down into those pertaining directly to Mandell’s finances and those pertaining more generally to the assessment of her medical condition. Regarding her finances, Mandell asserts that the evidence was limited to isolated incidents of negligence and that she established her ability to handle financial matters as she has done throughout her life. Regarding her medical condition, Mandell contends, among other things, that Dr. Poa’s report and testimony were speculative, conclusory, and unsupported by evidence. In her factual sufficiency arguments, Mandell asserts that she demonstrated her understanding of her own finances and insists she would hire a financial advisor if a guardianship is not imposed. Below,

we will discuss each set of arguments in more detail.

A. Mandell's Finances

As stated, Mandell contends that the evidence regarding her finances amounted to no more than isolated instances of negligence and that she established her ability to handle financial matters. She explains away many of the questioned transactions as stemming from her desire to help people and the fact that she sees her caregivers as family. She dismisses the losses to scams as isolated failures to properly investigate the sources of requests for money. She also points out that scams are widespread these days and argues that every American who falls for such scams should not be threatened with a guardianship. Mandell further suggests that the testimony of Leuchtag, Breland, and Christiansen was not based on hard evidence but was full of speculative assumptions based on their inability to investigate and Mandell's refusal to talk about her private affairs.

As Breland points out in her briefing, however, what really stands out about Mandell's arguments is that, in attempting to minimize the impact of the evidence regarding her financial misfeasance, Mandell simply ignores the depth and breadth of the evidence that she was a near constant victim of obvious scams and exploitation that, at one point, essentially took her accounts to zero. Leuchtag testified that this was one of the worst cases of exploitation that she had seen in her sixteen years as an attorney for APS. Leuchtag and other witnesses detailed the millions of dollars that Mandell had lost to apparent scams in recent years. For example, Mandell sent millions to someone named Patricia Solis, whom APS and others could not establish had any actual connection to Mandell. Mandell claimed, at one point, that Solis was her sister-in-law, but Mandell also insisted she was estranged from her entire family. The funds sent to Solis were but one of the subjects of emails from a supposed law firm, "Bill Johnson, LLP." These emails

went on at length about how Mandell needed to reimburse Solis, pay someone named Leonard \$500,000, and send \$40,000 to “judges” in order to pay for “hackers,” among other nonsensical things. Mandell testified that she believed the emails were from a real law firm.

Mandell was also the apparent victim of a long-running romance scam that used images of Dr. Davis that were claimed to be from an Aaron Mamphey. Mandell had several photos of the person she thought was Mamphey in her apartment, and her image was photoshopped into two of the photos. Mandell testified that she had met Mamphey and had a romantic relationship with him, even though Davis testified he did not know Mandell and his image had been used in countless such scams in recent years. A newspaper article admitted into evidence supported Davis’s version of events. Another exhibit shows an attempt to add Mamphey to Mandell’s trading account. Mandell admitted she had remained in contact with the person she thought to be Mamphey through the guardianship proceedings.

Evidence also indicated that other supposed businesses received significant sums from Mandell but could not be determined to be actual businesses, and she sent money to someone in Africa without apparent explanation. She sent \$350,000 to China for a wheelchair accessible van, but it could not be verified that she received such a van. She sent wire transfers of \$200,000 and \$295,000 to the “Transcend Group” but could not recall what it was for, saying only that she was probably trying to help someone.

Additionally, there was evidence that Mandell and her money were being controlled by other people. As detailed above, several witnesses testified that their access to Mandell was stymied and that she looked to her lawyers, Fuller and Jennings, to indicate how to answer questions. There was also evidence that Fuller

and Jennings had gotten Mandell to change their fee structure with her shortly before the sale of property in a way that netted the attorneys nearly \$10 million. The money then apparently vanished despite the trial court issuing a temporary restraining order to prevent that very thing. Breland also testified about another occasion when she went to NFCU because Mandell was attempting “to wire another \$2 million” out of her account and Jennings then arrived to try to facilitate the transfer. Concern was also expressed that someone may have been attempting to move Mandell to Florida, where she could not be protected by a Texas court. And, there was testimony that Mandell did not appear to understand that there were issues and concerns regarding her finances.

Despite all of this evidence, Mandell insists in her brief that she had demonstrated that she could handle her own finances and had done so for years. However, there is scant actual evidence in the record to support this statement. Mandell asserted in her testimony that she and William had managed their money together, but she provided few details and acknowledged William had paid their taxes and she did not even know what the property taxes were on the house or the condominium. It also appears that after William passed away, Mandell’s finances fell into disarray. Her accounts at one point had been drawn down to zero or even below zero, she no longer had a financial advisor or investment accounts, she had received an eviction notice for the apartment where she lived for nonpayment of rent, and the apartment was described as “very rundown and dirty.” There was evidence that she had simply left the house she owned in an uninhabitable state, and she had paid a contractor \$300,000 to renovate a condominium that she owned, but the contractor had not done the work and would not respond to queries. Records indicated she had as many as five telephone lines with many calls being made to Ghana, but she could not explain why she had so many lines and did not

remember making any calls to Ghana. There was evidence Mandell was regularly giving her caregivers large sums of money in addition to their salaries, and Leuchtag did not believe she was able to manage their employment appropriately. Overall, there appeared to be large sums “pouring out” of her accounts in the form of cash withdrawals, wire transfers, and cashier’s checks with no apparent justification. Mandell did not have health insurance, did not file tax returns from 2019 through 2022, and was reportedly late on her property taxes and HOA dues as well.

Mandell also asserts in her brief that she was able to manage two lawsuits—her accident case and William’s probate case—without assistance, but the cited portion of the record does not support this assertion. Indeed, the record contains very little evidence regarding how those two lawsuits were conducted. Mandell certainly had the assistance of William available to her at the time of the first lawsuit, and she was represented by Jennings and Fuller in the probate lawsuit. As discussed above, there was considerable evidence that the latter two had an undue influence on Mandell. There was also evidence in the record indicating that she would look to her husband regarding how to answer questions in a legal context when he was alive and she looked to Jennings and Fuller regarding how to answer such questions after he passed away.

In light of the extensive evidence of exploitation and lack of financial control in this case, it cannot be said that the evidence regarding Mandell’s finances amounted to no more than isolated instances of negligence or that she had demonstrated the ability to manage her own finances. Moreover, the testimony regarding Mandell’s lack of capacity to handle financial matters was not based on mere speculative assumptions or an inability to investigate but was supported by concrete observations and voluminous records. We now turn to the evidence

regarding Mandell's medical condition.

B. Medical Condition

Mandell next makes several arguments regarding the sufficiency of the evidence concerning her medical condition. She first contends that Dr. Poa's report and testimony were speculative, conclusory, unreliable, and unsupported by evidence, citing *City of San Antonio v. Pollock*, 284 S.W.3d 809, 816 (Tex. 2009), among other cases. We begin by noting that this argument itself is rather conclusory and largely unsupported by examples or analysis of the actual testimony and report. See Tex. R. App. P. 38.1(i) (requiring that an appellant's brief "must contain a clear and concise argument for the contentions made, with appropriate citations to authorities and to the record"). Moreover, contrary to Mandell's assertions and as summarized above, Poa actually walked the jury through the results of his testing of and interview with Mandell and explained the meaning of those results in detail. He was also quite clear and thorough in providing the bases for his conclusions regarding Mandell's capacity.

Mandell specifically criticizes Poa for interpreting her failure to attempt to complete a part of one of the tests he administered as reflecting on her abilities. Mandell started that portion of the test by making a mistake and then declined to continue, even knowing that her mental capabilities were being tested. As an experienced professional, Poa then gave her a low score on that part of the assessment. Mandell offers no rationale as to why that was inappropriate for him to do.

Mandell next points out that Poa did not include the fact that she was able to spell the word "world" forward and backwards in the scoring of the tests, and she suggests this rendered his results unreliable. But, as Poa fully explained in his testimony, asking her to spell "world" was not a part of either test but was an

added exercise that he did to try to understand exactly where her deficiencies lie. Because it was not part of either test, it appears reasonable that it was not included in the scoring.

Mandell additionally asserts that Poa ignored Dr. Clark's findings that—as phrased by Mandell—“Mandell was functioning well and was independent in terms of finances,” but this is an inaccurate reading of Poa's testimony. Poa explained that he reviewed Clark's report in conducting his own evaluation and that their “results were matched fairly close.” Poa further acknowledged that Clark did not find the results suggestive of an underlying neurocognitive disorder, but he explained that Clark recorded that Mandell did not report any difficulties with daily functions, so that explained why Clark did not believe Mandell met all the criteria for a major cognitive disorder. Poa, however, also reviewed Mandell's financial records and concluded that the transaction records demonstrated that her cognitive deficits were affecting her ability to function on a daily basis and, therefore, she did have a major cognitive disorder. Poa insisted that the financial information was an important and routine part of the examination. In her own testimony, Clark emphasized that she did not evaluate Mandell for guardianship purposes and Clark did not receive any of Mandell's financial information prior to her assessment. Clark further agreed that the financial information seemed important, and she said she would have liked to have had that information in making her assessment.

Mandell also criticizes Poa for considering her refusal to answer questions regarding her finances. Mandell insists that Poa did not do enough to gain her trust and that she had a right to refuse to answer those questions. As discussed above, Poa noted that Mandell was cooperating with him until he began asking her about financial transactions toward the end of the interview. When he told her that he

understood if her concern was about privacy and asked just for a general explanation, she still refused to give any explanation. Poa opined that the fact she refused, knowing it would hurt her case, indicated difficulty with logic and judgment. Although the jury certainly could have considered the points Mandell makes here, the jury also could have reasonably concluded that Poa's conclusions were valid. It should also be noted that Poa's conclusions were not based simply on the failure to answer questions; Poa already had information about the concerning transactions themselves.

Mandell next asserts that neither of Poa's diagnoses of her mental condition—a mild level of major cognitive disorder in his report and a moderate level in his trial testimony after receiving more information—indicate Mandell was unable to handle her own finances. However, beyond discussing Poa's testimony, Mandell offers no analysis or citation in support of this conclusory assertion. Mandell also suggests that Poa's revised opinion was based on speculation and conjecture, but, as set out above, Poa fully explained how he received the additional information and why it caused him to adjust his diagnosis.

Lastly, regarding her medical condition, Mandell points to other cases in which appellate courts held the evidence supported a finding of incapacity but, Mandell asserts, the cognitive deficiencies at issue in those cases were more severe. *See, e.g., Guardianship of A.E.*, 552 S.W.3d at 876, 878 (holding evidence of moderate intellectual disability, moderate encephalopathies, and an IQ between 50 and 55, among other things, supported finding proposed ward was totally incapacitated); *In re Guardianship of Parker*, No. 2-06-217-CV, 2007 WL 4216255, at *6 (Tex. App.—Fort Worth Nov. 29, 2007, no pet.) (mem. op.) (holding evidence of dementia, disorientation, and the need for constant one-on-one care, among other things, supported finding proposed ward was totally

incapacitated). However, we do not find the specific facts of the cited cases very relevant to the present analysis. Even if we were to agree that the medical concerns in those cases were more severe than in the present case, that does not necessarily mean that those cases support the conclusion that Mandell was not incapacitated. The courts in the cases Mandell cites did not suggest that the circumstances presented close calls or that the courts were drawing some sort of cognitive incapacity line based on the facts in those cases. In short, the cases do not suggest that the trial court's judgment should be reversed in this case. We do not find any of Mandell's specific legal sufficiency arguments to be persuasive. *See City of Keller*, 168 S.W.3d at 822.

C. Factual Sufficiency

In her brief arguments on factual sufficiency, Mandell asserts that she demonstrated her understanding of her own finances by being able to name the properties that she owns and state the amount she receives each month. She further insists that she would hire a financial advisor if a guardianship is not imposed, and she again argues that she demonstrated her ability to manage her own finances. We disagree that simply being able to name the properties she owns and the amount of the check she gets each month is sufficient to demonstrate anything more than a very basic level of understanding regarding her finances. Moreover, as discussed above, we disagree that the evidence shows Mandell demonstrated an ability to manage her own finances, and nothing she argues in the factual sufficiency portion of her brief changes that conclusion.

The jury could also have reasonably discounted Mandell's suggestion that she would hire a financial advisor if no guardianship was imposed. She had apparently lost or dismissed the advisor she previously had, and Breland testified that an advisor was not a reasonable alternative to guardianship because Mandell

would still be the person directing her finances and there would be nothing in place to protect her funds from further exploitation. We find Mandell’s factual sufficiency arguments unpersuasive. *See Mar. Overseas Corp.*, 971 S.W.2d at 406–07.

D. Conclusion

As detailed above, the evidence was legally and factually sufficient to support the jury’s finding that Mandell lacks capacity to handle financial matters, and Mandell has therefore failed to establish that the trial court abused its discretion by entering judgment on the jury’s finding. *See Guardianship of A.E.*, 552 S.W.3d at 876–77; *Guardianship of A.S.K.*, 2017 WL 3611845, at *3. Accordingly, we overrule her first issue.

II. Capacity for Legal Matters

In her second issue, Mandell contends that the trial court erred in granting a JNOV and entering judgment that she does not have the capacity to handle legal matters. Generally, a trial court may disregard a jury finding and render a JNOV if there is no evidence to support the jury’s finding or if a directed verdict would have been proper. *See Brown v. Bank of Galveston*, 963 S.W.2d 511, 513 (Tex. 1998); *Williard L. Firm, L.P. v. Sewell*, 464 S.W.3d 747, 751 (Tex. App.—Houston [14th Dist.] 2015, no pet.); *see also City of Keller*, 168 S.W.3d at 823–24, 827.

In her comparatively sparse arguments under this issue, Mandell asserts the evidence was sufficient to support the jury’s finding that she did not lack the capacity to “handle legal matters” because it showed she (1) “has been handling her financial matters all her life,” (2) “successfully sued the company responsible for her accident,” (3) “handled her husband’s probate proceedings after his death,”

and (4) “hir[ed] caregivers to help her with her care.”¹ The only record citation that Mandell offers in support of this argument is to her own testimony, where she asserted that when they were married, she and William would discuss finances, he would pay the property taxes on their house with her money, and finances were never “an issue.” She also insists that the fact she was successful in her lawsuit over the accident was “undisputed.” But, as discussed above in the section on financial matters, the record actually contains very little evidence regarding how either of the lawsuits was conducted. Mandell certainly had the assistance of William available in the first lawsuit, and she was represented by Jennings and Fuller in the second. Evidence indicated Mandell was under her husband’s influence during his lifetime and the influence of Jennings and Fuller beginning sometime after William passed away, and no evidence established Mandell was in control of either lawsuit.

As discussed in detail above, the evidence that Mandell suffered from cognitive impairment and was unable to properly manage her own affairs was overwhelming, and as Mandell’s lack of robust record citation here indicates, there was very little contrary indication that she could properly handle her own affairs, legal or otherwise. Specifically regarding legal matters, we further note that Mandel clearly fell for a running scam involving a fictitious law firm, “Bill Johnson LLP,” and she apparently agreed to change the fee structure for Fuller and Jennings shortly before she received the proceeds from the sale of property so that they netted nearly \$10 million from that sale. Evidence also indicated that Mandell

¹ We acknowledge that the jury’s finding that Mandell did not lack the capacity to “handle legal matters,” could be seen as at odds with its findings that she was an “incapacitated person” who lacked the capacity to “handle financial matters” and that there were no feasible alternatives to a guardianship of the estate to handle financial or legal matters. However, given the state of the evidence, we need not explicitly address this view to resolve the issues raised in this appeal.

harbored clear misconceptions about the current lawsuit, including that Breland wanted to take over her life and be named permanent guardian.

In the face of overwhelming evidence indicating Mandell's lack of capacity to conduct her own legal affairs, we are unpersuaded by Mandell's sparse arguments in support of this issue. Accordingly, we overrule her second issue.

III. Alternatives to Guardianship

In her third and final issue, Mandel contends that the trial court erred in imposing a guardianship when alternatives to guardianship were not sufficiently considered. As discussed above, under Estates Code section 1101.101, before appointing a guardian, a court must find by clear and convincing evidence that alternatives to guardianship and available supports and services that would avoid the need for a guardianship have been considered and determined not to be feasible. Tex. Est. Code § 1101.101(a)(1)(D), (E). As also discussed above, the jury found in response to Question 3 that there were no feasible alternatives to guardianship for either financial or legal matters. Mandell now challenges the legal and factual sufficiency of the evidence to support the jury's finding.

Mandell first argues under this issue that there was no evidence that any of the witnesses at trial had discussed alternatives to a guardianship with Mandell herself. However, as Breland points out, Mandell does not cite any authority requiring that alternatives must be discussed with the proposed ward. The statute itself certainly does not require this; it requires only that alternatives be considered and determined not to be feasible before a guardian is appointed. *See id.*

Mandell next complains that in her testimony, Breland did not specifically address each possible alternative listed in Estates Code section 1002.0015, which includes:

- (1) execution of a medical power of attorney under Chapter 166, Health and Safety Code;
- (2) appointment of an attorney in fact or agent under a durable power of attorney as provided by Subtitle P, Title 2;
- (3) execution of a declaration for mental health treatment under Chapter 137, Civil Practice and Remedies Code;
- (4) appointment of a representative payee to manage public benefits;
- (5) establishment of a joint bank account;
- (6) creation of a management trust under Chapter 1301;
- (7) creation of a special needs trust;
- (8) designation of a guardian before the need arises under Subchapter E, Chapter 1104; and
- (9) establishment of alternate forms of decision-making based on person-centered planning.

Id. § 1002.015; *see also id.* § 1002.031 (defining “supports and services”). Mandell does not identify any of these as reasonable alternatives but merely asserts that the evidence did not establish that they were sufficiently addressed.

At least to some degree, Breland specifically discussed most of the listed alternatives, including powers of attorney, establishment of a limited bank account that Mandell could use, creation of a Chapter 1301 Management Trust, and the use of alternate forms of decision making. She explained that these were not viable alternatives to guardianship in this case because Mandell could just revoke some of them, they would not provide Mandell and her assets with the kind of protection that was needed, and they could not pursue recovery of funds that had already been wrongfully taken from her. Breland also more generally stated that alternatives had been considered and none were found to be feasible. Dr. Poa further explained that he did not see any feasible, less-restrictive alternatives to a guardianship, and he

opined that Mandell simply did not have the capacity to make complex business, managerial, or financial decisions or to execute a durable or medical power of attorney. The overwhelming evidence discussed above establishing Mandell's cognitive issues and inability to manage her own affairs also generally supports the conclusion that alternatives were not feasible. We conclude that this testimony was legally and factually sufficient to support the jury's finding that alternatives were considered and determined not to be feasible. *See id.* § 1101.101(a)(1)(D), (E); *see also Guardianship of A.E.*, 552 S.W.3d at 883–89 (holding evidence established that alternatives to guardianship were not feasible due largely to proposed ward's incapacity).

Next, Mandell asserts that Breland recommended that the court create a trust as an alternative to guardianship. This is incorrect. Breland recommended creating a Chapter 1301 Management Trust *in addition to* appointing a guardian. *See generally* Tex. Est. Code §§ 1301.001–.204. Indeed, in its judgment, the trial court explicitly ordered the guardian to apply for such a trust.

Lastly, Mandell cites events that occurred on the record after the jury received the charge. At that point, the court again urged the parties to negotiate and attempt to settle issues in the case. The proceedings were then adjourned for the remainder of the day. When proceedings began again, Mandell's attorney ad litem informed the judge that the parties had agreed, "at least in concept," to a finding of partial incapacity and the creation of a Chapter 1301 Management Trust. Breland's attorney then hastened to add that "just so it's clear—there is no agreement as it stands right now." The court then revealed that the jury had reached a verdict, but the judge sent the jury to lunch to permit the parties to continue negotiations, saying that he would return to the courtroom to speak with the parties at a specified time. When the court came back on the record, the judge received the verdict and

the jury was dismissed. The judge then requested proposed judgments from the parties but also instructed them to continue mediating, although he did not say specifically what should be mediated.

Mandell suggests that these events demonstrate that a 1301 Management Trust could have been a feasible option in this case. We do not agree, however, that the events support reversing the trial court's judgment. To begin with, the cited statements do not constitute evidence and occurred after the close of evidence and outside the jury's presence, so they are also outside the scope of Mandell's challenges to the sufficiency of the evidence supporting the jury's finding. *See U.S. Gov't v. Marks*, 949 S.W.2d 320, 326 (Tex. 1997) (explaining that "an attorney's unsworn statements are not evidence"). Moreover, beyond indicating that a possible settlement involved a finding of partial incapacity and creation of a Chapter 1301 Management Trust, the statements offered no specifics regarding the nature of the settlement. As discussed above, the judgment in this case held Mandell to be partially incapacitated and ordered the guardian to apply for a Chapter 1301 Management Trust. Such a trust can be created either within or without a guardianship. *See* Tex. Est. Code § 1301.051 (listing who may apply for the creation of the trust). Accordingly, the events cited by Mandell do not necessarily suggest that a management trust was a feasible alternative to a guardianship in this case. Finding no merit in any of her arguments under this issue, we overrule Mandell's third issue.

Conclusion

Having overruled each of Mandell's issues, we affirm the trial court's judgment.

/s/ Maritza M. Antú
Justice

Panel consists of Justices Jewell, Bridges, and Antú.