

**SUPERIOR COURT FOR THE STATE OF CALIFORNIA  
COUNTY OF SANTA CLARA**

**PROBATE RULES**

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SANTA CLARA COUNTY  
SUPERIOR COURT  
191 North First Street  
San Jose, California 95113

Probate Calendar	(408) 882-2100 x2649
Probate Filing	(408) 882-2100 x2654
Probate Examiner	(408) 882-2100 x2668
Court Investigator	(408) 882-2761
Probate Staff Attorney	(408) 882-2100 x2668
Preapproved Matter Recording	(408) 882-2100 x2650

**INTRODUCTION**

These local rules describe rules of practice in probate matters in Santa Clara County not covered by the Probate Code and the Rules of Court of the Superior Court of Santa Clara County and are subject in any particular case to the discretion of the Court. All parties are directed to the California Rules of Court, Title Seven, Probate Rules.

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**PROBATE RULES**

**RULE 1 ADMINISTRATION AND GENERAL POLICIES**

**A. VENUE**

All probate proceedings in Santa Clara County must be filed in the Probate Department of the Santa Clara County Superior Court, located at 191 N. First Street, San Jose, CA 95113.

**B. CONSOLIDATION**

Whenever it appears that 2 or more petitions with different case numbers have been filed with reference to the same decedent, conservatee, minor, or trustee, the Court will consolidate all of the matters with the matter bearing the lowest number.

(Eff. 7/01/08)

**C. PROBATE CALENDAR**

Probate cases are heard at 9:00 a.m. Monday, Wednesday, Thursday, and Friday, in the Probate Department, except for petitions to appoint guardians and to terminate guardianships prior to the age of majority, which are heard at 9:00 a.m. on Tuesday, and petitions to appoint conservators and to terminate conservatorships prior to the death of the conservatee, which are heard at 1:30 p.m. on Tuesday.

(Eff. 1/01/07)

Parties are required to reserve a hearing date by calling the Probate Calendar Secretary prior to the filing of the petition. In order to file a new matter, a party must obtain a case number and hearing date from the Probate Calendar Secretary.

(Eff. 7/01/02)

**D. TELEPHONIC APPEARANCE**

- (1) Telephonic appearances on the Probate Calendar are governed by California Rule of Court (CRC) 3.670.
- (2) Telephonic appearances must be coordinated in advance by counsel or a self-represented party through an independent vendor, currently CourtCall (888-88-COURT).
- (3) Telephonic appearances are not permitted for initial conservatorship or guardianship appointments, petitions for temporary restraining orders (including elder abuse cases), or petitions to confirm the sale of real property.

(Eff. 1/01/08)

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**E. DEADLINE FOR SUBMITTING PROPOSED ORDERS IN UNCONTESTED MATTERS**

In all matters where no objections are on file, the petitioning party must submit a proposed order not later than 4 court days in advance of the scheduled hearing date or the matter may be ordered off calendar.

**F. OBJECTIONS**

Objections to any petition may be made orally at the noticed hearing. Unless the Probate Code requires written objections, the Court may hear the oral objections at the noticed hearing, or the Court may require the objections to be in writing. The Court would prefer that objections be filed at least 2 court days prior to the hearing date. If written objections are required by statute or by the Court, the Court will continue the hearing to allow the objecting party time to file and serve such written objections. The Court may in its discretion set dates for the filing of written objections and responses thereto. Failure to file and serve such written objections before the date set may be grounds for overruling the objections. The following are local forms which may be used to object to the matters indicated:

- (1) Objection to Petition to Remove Conservator (attached form PB-4035)
- (2) Objection to Petition to Remove Guardian (attached form PB-4036)
- (3) Objection to Petition to Remove Personal Representative (attached form PB-4037)
- (4) Objection to Petition to Remove Trustee (attached form PB-4038).
- (5) Objection to Petition to Terminate Guardianship (attached form PB-4039)
- (6) Objection to Guardianship (attached form PB-4043)
- (7) Objection (attached form PB-4045)

(Eff. 1/01/08)

(Eff. 1/01/09)

(Eff. 1/01/09)

(Eff. 7/01/09)

**G. CONTESTED MATTERS**

**(1) SUBMISSION ON THE PLEADINGS**

At-issue, contested matters that are ready for hearing and that parties will submit on the pleadings without oral argument may be taken under submission or ruled upon at the scheduled hearing.

(Eff. 1/01/09)

**(2) HEARING**

(Eff. 1/01/09)

At-issue, contested matters that are ready for hearing and for which the total hearing time does not exceed one day may be heard in the Probate Department on the date noticed or a continued hearing date. The setting or assignment of all other contested matters including the assignment of cases to the master trial calendar will be made by the Probate Judge.

(Eff. 1/01/07)

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**(3) TRIAL BRIEFS**

If a party elects to file a trial brief relating to an evidentiary hearing set in a probate matter, the trial brief must be filed and served no later than 7 court days before the scheduled hearing. Any responsive briefs must be filed and served no later than 3 court days before the scheduled hearing. Courtesy copies of any trial briefs and responsive briefs shall be delivered to the courtroom of the judicial officer hearing the matter on the date of filing. Attaching copies of previously filed documents as exhibits to trial briefs is discouraged.

(Eff. 1/01/09)

**H. APPROVED MATTERS**

Approved matters are those that have been reviewed and found satisfactory before the date set for hearing. Personal appearance by parties is not required on approved matters. A list of approved matters is posted at the door of the probate courtroom at the time of the hearing. Interested parties may call (408) 882-2100 x2650, to hear a recording with a list of pre-approved matters for the following day's calendar, or may consult the pre-approved list on the Court's website at [www.sccsuperiorcourt.org/probate/](http://www.sccsuperiorcourt.org/probate/). Approved matters for which objections are made at the hearing may be continued. There are no pre-approved matters for the Tuesday guardianship and conservatorship calendars.

(Eff. 1/01/09)

All approved probate orders will be signed immediately after the calling of the probate calendar. Parties may pick up their orders at that time.

(Eff. 1/01/09)

**I. CONTINUANCES**

On the call of the calendar, a matter may be continued for such period as the Court in its sole discretion will determine if a party personally appears on the hearing date and requests a continuance. The Court discourages repeated continuances of a matter.

(Eff. 1/01/09)

A continuance may be granted without the need for a court appearance only if all parties agree. The request may be made by a telephone call to the Probate Examiner's Office. The Court may deny any continuance request.

(Eff. 1/01/09)

**J. APPOINTMENTS**

If in any matter a party believes a conference with the Probate Examiner or the Probate Staff Attorney would be appropriate, an advance appointment should be made with the Probate Examiner's office (408) 882-2100 x2668.

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**K. WITHDRAWAL OF ATTORNEY OF RECORD**

Any attorney wishing to withdraw from a proceeding under the Probate Code as attorney of record whose client will not consent to sign a substitution of attorney may file a motion or petition seeking such relief and must follow the procedures and use the Judicial Council forms specified in CRC 3.1362.

(Eff. 7/01/07)

The Court does not favor the substitution of conservator, executor, administrator, guardian or trustee in propria persona in lieu of attorney of record, unless it is clearly shown that the person acting in propria persona is able to perform the necessary duties and file necessary documents without legal representation.

**L. COURT COMMUNICATION REGARDING RESTRAINING ORDERS**

**(1) PROCEDURE IN PROBATE COURT**

- a.** Subject to available resources, the Family, Juvenile, and Probate Courts shall examine appropriate available databases for existing restraining or protective orders involving the same restrained and protected parties before issuing permanent CLETS Civil Restraining Orders. In the event that this information is not available to the judicial officer, inquiry shall be made of the parties before issuing permanent CLETS Civil Restraining Orders.
- b.** Any order of the Family, Juvenile, or Probate Court that permits contact between a defendant/restrained person subject to either CLETS Civil Restraining Orders or Criminal Protective Orders and his or her children, shall contain specific language setting forth the time, day, place, and manner of the transfer of the children, including the safe exchange of the children, in accordance with § 3100 of the Family Code. Such an order shall not contain language that conflicts with a Criminal Protective Order. Safety of all parties shall be the Court’s paramount concern. The Court or a Court-related agency may recommend safe and specific contact with the children and direct the defendant/restrained person and/or the victim/protected person to the process for modification of protective orders.

**(2) MODIFICATION OF CRIMINAL PROTECTIVE ORDERS**

- a.** Any Court responsible for issuing custody or visitation orders involving minor children of a defendant/restrained person subject to a Criminal Protective Order may modify the Criminal Protective Order if all of the following circumstances are satisfied:
  - i.** Both the defendant/restrained person and the victim/protected person are subject to the jurisdiction of the

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Family, Juvenile, or Probate Court, and both parties are present before the Court.

ii. The defendant/restrained person is on probation (formal or court) for a domestic violence offense in Santa Clara County or is currently charged with a domestic violence related offense in Santa Clara County and a Criminal Protective Order has issued.

(Eff. 1/01/06)

iii. The Family, Juvenile, or Probate Court identifies a Criminal Protective Order issued against the defendant, which is inconsistent with a proposed Family, Juvenile, or Probate Court Order, such that the Family, Juvenile, or Probate Order is/will be more restrictive than the Criminal Protective Order or there is a proposed custody or visitation order which requires recognition in the Criminal Protective Order (Boxes 12 or 13 or both on the Criminal Protective Order form).

(Eff. 1/01/07)

iv. The defendant signs an appropriate waiver of rights form or enters a waiver of rights on the record.

v. Both the victim/protected person and the defendant/restrained person agree that the Criminal Protective Order may be modified to a more restrictive order or to add Box 12 or 13 or both to the Criminal Protective Order.

(Eff. 1/01/07)

b. The Family, Juvenile, or Probate Court may not modify existing Criminal Protective Orders to be less restrictive. Only if children are not listed as protected persons, a modification of the Criminal Protective Order to check Box 12 or 13 or both shall not be considered less restrictive.

(Eff. 1/01/07)

c. The Family, Juvenile, or Probate Court may on its own motion or at the request of a defendant, protected person or other interested party, calendar a hearing before the Criminal Court on the issue of whether a Criminal Protective Order should be modified. The Family, Juvenile, or Probate Court shall provide the Criminal Court with copies of existing or proposed Orders relating to the matter. Notice of the hearing will be provided to all counsel and parties.

(Eff. 1/01/07)

**M. PRIVACY REQUIREMENTS FOR DOCUMENTS FILED IN PROBATE MATTERS**

**(1) Social Security Numbers**

If an individual’s social security number must be included in a pleading or other court form, only the last 4 digits of the social security number should

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be used. If the social security number is required by the Court Investigator to complete the investigation, the number shall be supplied only to the Court Investigator, absent a court order.

**(2) Financial Account Numbers**

If financial account numbers are relevant, only the last 4 digits of such numbers should be used.

(Eff. 1/01/09)

**N. COURT INVESTIGATOR REPORTS**

Court Investigator Reports are confidential documents and are not to be attached, in whole or in part, to any pleadings or other documents to be filed with the Court, other than by the Court Investigator.

(Eff. 1/01/09)

**RULE 2 NOTICES, PETITIONS, DECLARATIONS, AND ORDERS**

**A. PREPARATION OF NOTICES, PETITIONS, DECLARATIONS, ORDERS, AND PRINTED PROBATE FORMS**

Only current Judicial Council forms, local forms authorized by Santa Clara County, or pleadings typed on pleading paper in compliance with the CRC are acceptable for filing. Judicial Council forms are available on the Judicial Council website [www.courtinfo.ca.gov](http://www.courtinfo.ca.gov).

(Eff. 1/01/09)

**B. SIGNATURE BY ATTORNEY**

(Eff. 1/01/09)

In addition to the requirements of CRC 7.103, an attorney who prepares a petition or other pleading (including those on Judicial Council forms) must sign the document.

(Eff. 1/01/04)

**C. NOTICE**

Although the Probate Code may require the probate clerk to cause notice of hearing to be given, the practice in Santa Clara County is for the petitioner or attorney to cause notice to be served and file proper proof of service. See also CRC 7.50 through 7.54.

(Eff. 1/01/04)

**D. NOTICE TO PERSONS WHOSE ADDRESSES ARE UNKNOWN**

Where the address of a person to whom notice is required to be mailed or delivered in a probate proceeding, including guardianships conservatorships, and trusts, is unknown, the court will require an affidavit or declaration stating with specificity the efforts that have been made to locate the person, as described in CRC 7.52.

(Eff. 1/01/04)

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**PROBATE RULES**

**E. PETITIONS FOR EX PARTE ORDERS**

Unless notice is specifically required by the Probate Code, Court order, or these rules, matters may be presented ex parte.

All ex parte petitions and other ex parte pleadings and supporting documentation must first be presented to the Probate Examiner's office for review.

An ex parte petition or application must contain sufficient facts to justify the orders requested. See also CRC 7.55.

(Eff. 1/01/09)

The procedures for submitting ex parte matters to the Probate Court, except in temporary guardianships and conservatorships, are as follows:

- (1) The petitioner must first determine if there is anyone who would oppose the matter if he or she knew about it.
- (2) If there will be no objection, and the matter is:
  - Not urgent: Submit the petition to the Probate Examiner’s office.
  - Urgent: Contact the Probate Examiner’s office for an appointment.
- (3) If there will be an objection, and the matter is:
  - a. Not urgent: Do not submit it ex parte. Instead, have the matter set for a noticed hearing on the regular Probate calendar.
  - b. Urgent: Contact the Probate Examiner’s office to discuss how the matter will be specially set for hearing. In most cases, the petitioner will be referred to the Probate Judge’s courtroom clerk for coordinating with the Judge’s calendar and the opposition a time when the matter may be heard by the Court.
- (4) **Notice**: A notice and copy of the petition must be served on all parties 24 hours before presenting the ex parte petition to the Court. The petition and a proposed order shall be presented to the Probate Examiner’s office with a declaration regarding giving notice. If the matter does not require immediate action, defined to mean action within the day the matter is presented to the Court, the Court will allow 48 hours, not including weekends or holidays, for the opposing party to present the opposition. The Court may dispense with notice for good cause shown.
- (5) Temporary guardianships and conservatorships: The above procedures do not apply to temporary guardianships and conservatorships. See sections 11. T. and 12. J. of these Rules.

(Eff. 1/01/09)

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**F. PROBATE ORDERS**

All orders in probate matters must be complete and bear the noticed hearing date and department. All orders of distribution must include complete legal descriptions of any real property being distributed. If a matter is taken off calendar, any orders submitted will be returned to the party and a new order must be submitted for the re-noticed hearing date. For orders in uncontested matters, see Section 1.E.

(Eff. 1/01/09)

**G. ORDERS CORRECTING CLERICAL ERRORS**

If, through inadvertence, the signed order fails to state the order actually made by the Court, and such inadvertence is brought to the attention of the Court, the Court may make an order correcting the mistake. The party must submit an affidavit or a declaration stating the reason for the amended order. The revised order must take the form of an amended order, setting out the entire order in full as corrected.

(Eff. 1/01/09)

**H. LATE FILINGS**

All pleadings, documents, and other papers filed within 10 days of the scheduled hearing date must be delivered directly to the Probate Examiner's office for review.

**I. FACSIMILE FILING**

**(1) GENERAL POLICY**

The Probate Department hereby adopts CRC 2.300 et seq., allowing for the facsimile filing of documents in matters covered by the Probate Rules.

(Eff. 01/01/08)

**(2) AGENCY FILING**

Pursuant to CRC 2.303, the Court will accept for filing all documents submitted by fax filing agencies except those documents specified in CRC 2.300.

(Eff. 7/01/07)

**(3) DIRECT FILING**

**a.** The Court elects to allow the filing of documents by facsimile transmission through an automated facsimile filing service, which will send facsimiles directly to the court. This version of direct filing does not permit persons to transmit materials from their own facsimile machines to the court for filing. All provisions of CRC 2.304 apply to direct filing by facsimile. Direct filings are made through an independent agency under contract with the Superior Court.

(Eff. 7/01/07)

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- b.** The facsimile machine of the independent agency must be available 24 hours a day, although filings received by the agency after 4:00 p.m. or on court holidays shall be deemed filed on the next court day.
- c.** Automated fax filing service must be activated by calling (800) 322-4945. Activation will require placing on file a Visa or Mastercard credit card number, expiration date, and fax number of the transmitting fax machine. Confidentiality of the credit card number will be maintained. Those persons registered to use the service will be provided with the automated fax filing telephone number. For questions about fax filing, call Automated Payments Company at (800) 487-4567.
- d.** In addition to filing and facsimile transmission fees, parties filing new petitions will be charged an additional fee for postage and handling for issuance of citations and notices issued by the court at time of filing.
- e.** Faxed documents must comply with all filing requirements of the California Rules of Court and the Local Rules of the Probate Department. Compliance with filing requirements and proper transmission of the documents are the responsibility of the sending party and the automated fax filing service.

(Eff. 7/01/07)

**RULE 3 APPOINTMENT OF EXECUTORS AND ADMINISTRATORS**

**A. LETTERS OF SPECIAL ADMINISTRATION**

Petitions for letters of special administration ordinarily will not be granted on less than 24 hours' notice to the surviving spouse or registered domestic partner, to the nominated personal representative, or to any other person who, in the opinion of the Court, appears to be entitled to notice. In making the appointment, preference is given to the person entitled to letters testamentary or of administration, but if it appears that a bona fide contest exists between these persons, the Court will usually appoint a neutral person or corporation as special administrator. The petitioning party is advised to ascertain whether a bond must be posted prior to the issuance of letters of special administration.

(Eff. 1/01/05)

**B. PETITION FOR PROBATE OF WILL OR CODICIL**

When a petition for probate of will or codicil is filed, the original of the document being offered for probate must be filed prior to, or concurrently with, the petition. If the will or any part thereof is handwritten, a typewritten copy of the handwritten portion must also accompany the petition.

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If the will is in a foreign language, a translation by an expert must be submitted at the time of filing the petition for probate. An affidavit or declaration as to the expertise of the translator must accompany the translation.

**C. ALLEGATIONS RE HEIRS, BENEFICIARIES, AND FIDUCIARIES**

In a petition for letters testamentary, letters of administration, letters of administration with will annexed, or letters of special administration, all heirs under Probate Code §§ 6402 and 6402.5 known to the petitioner, and all beneficiaries living at the time of the decedent's death, whether vested or contingent, who at the time of the decedent's death might be entitled to share in the distribution of the estate, whether it consists of separate or community property, must be specifically named. If any named beneficiary predeceased the decedent, that fact must be alleged in the petition with the date of death if known. All beneficiaries provided for in the will whose interests have been revoked by a subsequent codicil must also be named.

Where the will devises property to a fiduciary (e.g., trustee, custodian or guardian), the petition, in addition to giving the name and address of the fiduciary, must list the names and addresses of all known beneficiaries of the trust, custodianship, guardianship, etc., who are living or in existence at the date of death of the decedent. Alternate or successor trustees, custodians, or guardians need not be named in the petition. If a post office box is listed as the mailing address for a fiduciary or beneficiary, the street address of the fiduciary or beneficiary must also be shown if available.

**D. PUBLICATION**

The publication of the Notice of Petition to Administer Estate is sufficient notice of all wills or codicils that are offered for probate and filed with, and specifically referred to in, the petition. Wills or codicils not specifically referred to in the petition must be presented to the Court in an amended or subsequent petition and a new Notice of Petition to Administer Estate must be published.

Where the will has been admitted to probate, no new or additional publication of the Notice of Petition to Administer Estate is required upon the filing of a subsequent petition for letters testamentary or letters of administration with will annexed. See Attachment PB-4000 for information to assist in arranging for publication.

(Eff. 7/01/06)

**E. LETTERS**

Where the will has been admitted to probate and either there is a vacancy in the office of the personal representative or no letters testamentary have been granted, a new petition for letters testamentary or for letters of administration with will annexed, whichever is applicable, must be filed prior to the issuance of letters.

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If the will is denied admission to probate after the filing of a petition for letters testamentary or for letters of administration with will annexed, e.g., in the event of a will contest, letters of administration may be granted on the basis of the petition already on file. No new publication of the Notice of Petition to Administer Estate is required.

**F. DUTIES AND LIABILITIES OF PERSONAL REPRESENTATIVE FORM**

The personal representative must not provide his or her social security number or driver's license number on the "Duties and Liabilities of Personal Representative" form (Judicial Council Form DE 147), which is required to be filed in the proceeding.

**G. REMOVAL OF PERSONAL REPRESENTATIVE**

Individuals requesting removal of a personal representative may petition the Court for an order for removal. The petitioner may use the local form entitled Petition to Remove Personal Representative (attached form PB-4042). Anyone objecting to a petition to remove the personal representative may use the local form entitled Objection to Petition to Remove Personal Representative (attached form PB-4037).

(Eff. 1/01/08)

**RULE 4 BONDS**

**A. AMOUNT OF BOND UNDER INDEPENDENT ADMINISTRATION OF ESTATE ACT (IAEA)**

If a bond is required of the personal representative, the amount of bond required of a personal representative granted full authority under the IAEA must include the estimated value of the personal property, the estimated net proceeds of the real property that may be sold under the IAEA, and the estimated value of the annual gross income of all of the property belonging to the estate.

**B. NON-RESIDENT PERSONAL REPRESENTATIVE**

The Court will ordinarily require a non-resident personal representative to post bond, even if the will waives bond, unless waivers of bond from all heirs or beneficiaries are filed, in which case the Court, in its sole discretion, may not require a bond.

(Eff. 1/01/09)

**C. INCREASE OR DECREASE IN AMOUNT OF BOND**

When it appears to the Court that the bond of any fiduciary is insufficient, the amount of the bond must be increased at the discretion of the Court. Counsel, personal representatives, guardians, and conservators are referred to CRC Rule 7.204, with regard to their duty to petition to increase the bond. When it appears that the bond of any fiduciary is in excess of the required amount, the fiduciary

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may petition the Court to reduce the bond. This petition may be presented ex parte. Fiduciaries and counsel should be aware that it is their responsibility to see that the bond amount is sufficient. Conservators and guardians of the estate must seek increases in bond amounts when necessary to meet the requirements of Probate Code § 2320 and CRC 7.207.

(Eff. 1/01/09)

**D. REDUCTION OF BOND IN FOLLOWING YEARS BY DEPOSITING ASSETS IN BLOCKED ACCOUNT AND PROVIDING RECEIPTS**

At any time, a fiduciary may request a reduction of bond or no bond if monies and/or securities have been deposited into a blocked account in a financial institution or trust company. The order as well as the account must provide that no withdrawals be made without prior authorization by the Court.

(Eff. 7/01/08)

A petition to reduce the bond by blocked account deposits may be made ex parte. It is the responsibility of the fiduciary to prepare the Judicial Council form “Order to Deposit Money into Blocked Account” (form number MC 355). This form must be presented to the court for signature at the time the petition to reduce the bond is heard. The fiduciary must also prepare the form “Receipt and Acknowledgement of Order for the Deposit of Money Into Blocked Account” (form number MC 356) and present it (along with a copy of the Order to Deposit Money) to the financial institution accepting the deposit for signature by an officer of that institution. The depository must file the Receipt within 15 days of the date of receipt. If the Receipt has not been filed within 45 days of the order, the fiduciary must file a written explanation with the Court stating the reason the Receipt has not been filed and when the fiduciary expects the Receipt to be filed.

Where the Court has approved such an order, the order appointing the fiduciary and letters of conservatorship or letters issued in an estate administration matter must state that the fiduciary has no authority to take physical possession of money or other property without specific court order. If a fiduciary or party is using the "Order to Deposit Money Into Blocked Account" form for deposits in other than an interest bearing savings account, the fiduciary or party should adapt the form appropriately.

A petition for withdrawal of funds must be made on Judicial Council form “Petition For Withdrawal of Funds From Blocked Account (form number MC 357), and the petitioner must submit for the Court’s signature the Judicial Council form “Order For Withdrawal of Funds From Blocked Account” (form number MC 358).

**E. BOND ON BORROWING**

A petition to borrow money must contain information sufficient for the Court to determine the proper bond amount.

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**F. BOND NOT REQUIRED WHERE TRUST COMPANY SERVES AS FIDUCIARY**

When a trust company is serving as a guardian or conservator of the estate or as a trustee, bond is not required under Probate Code § 15602.

(Eff. 1/01/09)

**RULE 5 THE INDEPENDENT ADMINISTRATION OF ESTATES ACT**

**A. PETITION FOR AUTHORITY TO ADMINISTER ESTATE PURSUANT TO THE INDEPENDENT ADMINISTRATION OF ESTATES ACT (IAEA)**

Full or limited authority to act pursuant to the IAEA may be requested in the petition for letters or by a separate petition.

**B. EXTENT OF POWER DEPENDENT ON DATE LETTERS ISSUED**

The IAEA has been amended several times. The date letters were last issued establishes the extent of the powers that can be exercised under the IAEA.

**C. REPORT OF ACTIONS TAKEN UNDER THE IAEA**

In a petition for preliminary distribution or final distribution, all actions taken under the IAEA must be reported as set forth in CRC 7.250. Additionally, petitioner must report the amount paid or received, if applicable.

(Eff. 1/01/04)

**D. FILING NOTICE OF PROPOSED ACTION WITH COURT**

A copy of any Notice of Proposed Action must be filed with the Court together with the proof of service.

**RULE 6 FAMILY ALLOWANCE**

**A. BY PETITION TO THE COURT**

If the petition is filed before the time required for the filing of the Inventory and Appraisal, the Court may order a family allowance for a period commencing with the date of the decedent's death and continuing until the Inventory is filed, but not to exceed 6 months.

If the petition is filed (a) more than 6 months after the personal representative has been appointed, or (b) after the inventory has been filed, or (c) as a petition for a second or increased allowance, the Court may order a family allowance for a definite period, usually not to exceed 12 months. It is the policy of the Court not to make orders for family allowance for an unlimited period.

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The petition must include, insofar as is possible, information as to the assets and income of the estate.

**B. BY THE PERSONAL REPRESENTATIVE PURSUANT TO THE IAEA**

If the estate is being administered under the IAEA, the personal representative may pay a family allowance without prior Court order by following the Notice of Proposed Action procedure.

**C. INCOME AND EXPENSE DECLARATION**

The petitioner must file an income and expense declaration with the petition for the family allowance, which demonstrates the need of the applicant with reference to his or her usual standard of living.

**RULE 7 SALE UNDER COURT SUPERVISION**

**A. PUBLICATION OF NOTICE OF INTENTION TO SELL**

The notice of intention to sell must be published in decedents' estates where the personal representative has not been given the power of sale in the will. Publication is not required where the personal representative is using the Notice of Proposed Action procedure under IAEA. For sales in conservatorship and guardianship proceedings, see Probate Code § 2543(b) and (c), and § 2591.5.

(Eff. 7/01/07)

The report of sale must be filed within 1 year of the last published date of notice of intention to sell. It is advisable that the published notice call for "cash or such credit terms and conditions as the Court may approve." There cannot be a variance in the terms of sale between those shown in the petition and those in the published notice.

The published notice of intention to sell real property is a solicitation for offers. No offer can be accepted prior to the expiration of the notice period specified in the notice of intention to sell.

On filing an appropriate affidavit or declaration, the Court may sign an order shortening the notice period to 5 days, with sale permitted on the sixth day after publication. The practical effect of this order is that only one publication is necessary.

**B. PETITION FOR CONFIRMATION OF SALE OF REAL PROPERTY;  
SALE PROCEDURE**

**(1) TIME FOR FILING PETITION**

A petition for confirmation of sale should be filed by the personal representative within 30 days after the date of acceptance of a contract. Note that the property is initially sold by the personal representative and

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then returned to the Court for confirmation.

**(2) CONTRACT OF SALE TO BE FILED WITH COURT**

At the time of filing the petition for confirmation, the petitioner must file a copy of the contract of sale.

**(3) DEED OF TRUST**

Upon an appropriate showing by the petitioner, the Court may approve a sale where part of the consideration is to be secured by a deed of trust of which the personal representative is the beneficiary.

**(4) SALE SUBJECT TO ENCUMBRANCE**

Sale of real property will not ordinarily be confirmed when the purchaser assumes or takes subject to an existing encumbrance, if as a result the estate remains subject to a contingent liability on the encumbrance (i.e., "wraps"). The petition must set forth the facts pertinent to such assumption agreement.

**(5) SALES OF FRACTIONAL INTERESTS**

Where the estate owns only a fractional interest in the real property, the petition must state whether the sale by the estate is conditioned upon closing of a sale of the unowned fraction.

**RULE 8 PETITION FOR INSTRUCTIONS AND OTHER INSTRUCTIONS**

**A. PETITION FOR INSTRUCTIONS**

In decedents' estates, guardianships, and conservatorships, a petition for instructions is available only when no other procedure is provided by statute. For example, the Court will not determine how a will should be interpreted or the manner in which an estate should be distributed on a petition for instructions. Such direction can be obtained only by a petition for distribution or by a petition to determine persons entitled to distribution.

**B. APPOINTMENT OF SUCCESSOR TRUSTEE**

A petition seeking appointment of a successor trustee or co-trustee should include a description of the procedure required by the trust instrument for such appointment, detailed information demonstrating that the proposed trustee is qualified to be appointed as a trustee of the trust, whether some or all of the beneficiaries of the trust have been consulted about the appointment of the proposed trustee, and a recommendation for the amount of the bond of the proposed trustee or a showing of good cause why a bond should not be required.

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**RULE 9 ACCOUNTS, REPORTS, FEES, COMMISSIONS, AND DISTRIBUTION**

**A. FORM OF ACCOUNTS**

**(1) ACCOUNTS IN DECEDENTS' ESTATES AND IN TRUSTS**

All accounts filed in decedents' estates and in trusts, must follow the format described in Probate Code § 1061:

(Eff. 7/01/08)

**a. TIME PERIOD**

All accounts must set forth specifically the period covered by the account.

**b. SUMMARY OF ACCOUNT**

Accounts must contain a summary or recapitulation in substantially the following format:

**SUMMARY OF ACCOUNT**

The petitioner is chargeable, and is entitled to the credits, respectively, as set forth in this Summary of Account. The attached supporting schedules are incorporated by reference.

**CHARGES**

Amount of Inventory and Appraisal (or if subsequent account, amount chargeable from prior account)	\$ _____
Additional Property Received (or supplemental inventories)	\$ _____
Receipts during Account Period Other than Principal (Schedule ____)	\$ _____
Gains on Sales (Schedule ____)	\$ _____
Net Income from Trade or Business (Schedule ____)	\$ _____
Total Charges:	\$ _____

**CREDITS**

Disbursements during Account Period (Schedule ____)	\$ _____
Losses on Sales (Schedule ____) (e.g., property distributed, homestead or other property set apart)	\$ _____
Net Loss from Trade or Business (Schedule ____)	\$ _____

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Distributions (Schedule ____)	\$ _____
Property on Hand (Schedule ____)	\$ _____
Total Credits:	\$ _____

**c. SEPARATE SCHEDULES**

Each figure on the summary of the account must be supported by separate schedules. These must include schedules of receipts and disbursements showing the date, amount, payor, payee, and nature or purpose of each item. Whenever possible, disbursements must show check numbers. The gain and loss schedules must reflect the sales price, the inventory or carrying value, and resultant gain or loss. The schedule of assets on hand must be itemized showing the inventory or acquisition value. For all accounts, there must be an additional schedule showing estimated market value of assets on hand as of the end of the accounting period, and a schedule of the estimated market value of the assets on hand as of the beginning of all accounting periods subsequent to the initial account. The fiduciary may provide a good faith estimate for the value of real estate, a closely held business, or other assets without a ready market.

(Eff. 7/01/07)

Whenever an accounting period exceeds one year, or whenever income is received from any particular source more than twelve times in an accounting period, or whenever payments are disbursed to a particular payee more than twelve times in an accounting period, it is required that the schedules for receipts and for disbursements be categorized into subschedules reflecting the particular income sources or payees for whom there are more than twelve entries per accounting period. See 2 California Decedent Estate Practice §§ 19.19 and 19.22 (Cal CEB 1986).

When a trust accounting submitted for approval by the Court contains disbursements for trustee or attorney fees, the trustee or attorney must furnish evidence to support the disbursements for fees in a manner consistent with the requirements of the trust instrument. If the trust permits “reasonable fees” without court approval, for instance, the trustee shall furnish an explanation of how the “reasonable fee” was calculated.

(Eff. 7/01/02)

**d. INCOME AND PRINCIPAL ACCOUNTING**

All accounts for entities that have separate principal and income beneficiaries must allocate receipts and disbursements between principal and income.

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**e. WAIVER OF ACCOUNT**

The petition for final distribution on waiver of account must contain the information required in CRC 7.550, as well as the fair market value of assets on hand, and must comply with CRC 7.551-7.552.

(Eff. 7/01/08)

**(2) ACCOUNTINGS IN GUARDIANSHIPS AND CONSERVATORSHIPS**

(Eff. 7/01/08)

**a.** All accountings in guardianships and conservatorships filed on or after January 1, 2008, must follow the content and format required in CRC 7.575. Accountings are designated as either standard or simplified. All accountings must use Judicial Council Form GC-400 (SUM)/GC-405 (SUM) for the Summary of Account. Guardians and conservators presenting standard accounts may, but are not required to, use the optional Judicial Council forms designated as GC-400. Those guardians and conservators presenting standard accountings who do not use the optional Judicial Council forms are required to use the content and format called for in those forms, but may submit accountings prepared on conventional accounting programs. Guardians and conservators presenting simplified accounts must use the Judicial Council forms designated as GC-405.

**b.** Organization of Schedules: All accountings must provide all information required in Probate Code §§ 1060 – 1064.

Receipts schedules must use the categories and format used by the optional judicial forms:

- Dividends; Interest; Pensions, Annuities, other Periodic Payments; Rent; Social Security, Veterans Administration, and Other Public Benefits; Other Receipts.

Schedules for Receipts of Principal, Gains on Sales, Income from Business, and Loss on Sales do not have a mandated format.

Disbursements schedules must use the categories used by the optional Judicial Council forms:

- Caregiver Expenses; Residence or Long Term Care Facility Expenses; Ward’s Educational Expenses; Fiduciary and Attorney Fee Expenses; General Administration Expenses; Investment Expenses; Living Expenses; Medical Expenses; Property Sale Expenses; Rental Property Expenses; and Other Expenses. See CRC 7.575 (e).

(Eff. 7/01/08)

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- c.** At the time the Court appoints a conservator or guardian, and unless the court waives the requirement of the conservator or guardian to file periodic accountings with the Court, the court must set a compliance date for the conservator or guardian to file his or her first account and report, which must be on the Friday calendar at 9:30 a.m. no later than 60 days after the first year anniversary of the appointment of the conservator or guardian. If the conservator or guardian has filed the accounting, this will be a nonappearance matter. At the time the court hears an account and report, it must set a compliance date for the next account and report, which must be on the Friday calendar at 9:30 a.m. no later than 60 days after each subsequent biennial anniversary of the conservatorship or guardianship.
- d.** Pursuant to Probate Code § 2620(c)(3), the private professional or licensed guardian or conservator may elect to lodge with the Court the originals of the account statements referenced in § 2620(c)(1), (2), and (3). The originals of the account statements shall be released by the Court as provided in § 2620(c)(3).

(Eff. 7/01/07)

**B. ALLEGATIONS REGARDING CREDITOR'S CLAIMS AND REPORT OF ACTIONS TAKEN UNDER IAEA**

It is not sufficient in any petition for distribution to allege merely that all claims have been paid. Petitioners must provide all information required under CRC 7.403. The allegations regarding disposition of all claims must appear in the petition for final distribution even though they may have appeared in whole or in part in prior petitions. See 5.C for report of actions taken under IAEA.

**C. FRANCHISE TAX BOARD CERTIFICATE**

Where an estate's inventory is appraised at \$1,000,000.00 or more and \$250,000.00 or more is distributable to beneficiaries not residing in California, an estate income tax certificate must be obtained from the Franchise Tax Board before the court will order final distribution. See Revenue and Taxation Code § 19513 and Title 18 CCR § 19513 and CRC 7.551.

(Eff. 7/01/04)

**D. STATUTORY COMMISSIONS AND FEES**

(Eff. 1/01/04) All parties and counsel are directed to CRC 7.700 and 7.701.

**(1) PAYABLE AFTER COURT ORDER**

Statutory commissions and fees (herein "statutory compensation") are payable only after a Court order authorizing them.

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**(2) BOTH HALVES OF COMMUNITY PROPERTY PROBATED**

If both halves of the community property are properly included in the probate proceeding, statutory compensation calculated on both halves of the community property will be allowed.

**(3) CALCULATION**

Unless statutory compensation is waived, calculation of the statutory compensation (including calculation of the fee base) and any prior payments of statutory compensation must be included in the petition for compensation.

**(4) ALLOWANCE ON ACCOUNT**

Allowances on account of statutory compensation will generally be allowed in proportion to the work completed.

**(5) ACCOUNTING WAIVED**

Where the accounting is waived, the basis of the statutory compensation shall be the inventory value of the estate plus, if applicable, receipts, gains on sales, less losses on sale, as provided in CRC 7.550 and 7.705. Such receipts and gains or losses must be reflected in the report of the personal representative.

(Eff. 1/01/09)

**(6) PAYMENT OF COSTS, FEES, AND COMMISSIONS WHERE CASH INSUFFICIENT**

Where the estate at final distribution has no cash or insufficient cash to pay costs, attorney’s fees, and/or personal representative's commissions, an explanation of the source of payment of these obligations must be submitted.

**E. COMPENSATION FOR EXTRAORDINARY SERVICES**

**(1) EXPLANATION REQUIRED**

A detailed explanation of the extraordinary services performed and the amount of compensation requested for such services must be separately stated in a declaration under penalty of perjury executed by the person rendering the services. See also the standards set forth in Section 9.G. The explanation must include the statement of facts required by CRC 7.702.

(Eff. 1/01/04)

The Court may consider the amount of statutory fees when determining compensation for extraordinary services.

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**(2) COURT APPEARANCE**

In all cases in which there is a request for compensation for extraordinary services, the attorney for the personal representative or the personal representative must be present at the hearing, unless the matter is on the approved calendar.

**(3) ALLOWANCE ON ACCOUNT**

Allowances on account of compensation for extraordinary services ordinarily will not be allowed.

**F. COSTS**

Where reimbursement for costs incurred is requested by the personal representative or attorney, the cost items advanced by such party must be separately stated with a description of each cost item.

**G. COMPENSATION FOR GUARDIANS, CONSERVATORS, TRUSTEES, AND THEIR COUNSEL, AND FOR COUNSEL FOR A CONSERVATEE OR WARD**

A petition for compensation of a guardian, conservator, trustee, and counsel, or for counsel for a conservatee or ward, must be accompanied by a complete statement of the services rendered, an explanation of the value or benefit of those services to the estate, and the total amount requested for such services, made under penalty of perjury and executed by the person rendering the services. The nonexclusive factors the Court may consider in determining the fees of a guardian or conservator are listed in CRC 7.756. The nonexclusive factors the Court may consider in determining the fees of a trustee are listed in CRC 7.776. Where a trust accounting that is submitted for court approval shows payments made to the trustee, guardian, conservator, or his or her counsel, or counsel for a ward or conservatee, it must be accompanied by the information described in this paragraph, even though the trust instrument may provide for such payments without requiring court approval. All petitions for compensation to a conservator, guardian, or counselor for a conservator, guardian, conservatee, or ward, or for compensation to a trustee or counsel for a trustee in a matter where a trust has been created to hold the assets of a conservatee or ward, must be served on the Court Investigator as well as on all persons required under the law to be served.

(Eff. 1/01/09)

A conservator or guardian who is a professional may not necessarily be compensated for all services rendered at that person's ordinary professional rate. Requests for fees by family-member conservators, including registered domestic partners, for visits to the conservatee will ordinarily not be approved.

(Eff. 7/01/08)

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**H. NO COMPENSATION WITHOUT COURT ORDERS**

There is no authority for paying any compensation to an executor, an administrator, a guardian, a conservator, or an attorney for any such fiduciary, or an attorney for the conservatee or ward, from the estate in advance of a court order authorizing such payment. There is no authority for paying any compensation to the trustee or the attorney for the trustee from a trust to which CRC 7.903 applies in advance of a Court order authorizing such payment.

(Eff. 7/01/05)

**I. PROPERTY TO BE DISTRIBUTED AND DISTRIBUTEES MUST BE LISTED**

A petition for distribution must describe in detail all property to be distributed as set forth in CRC 7.651-652.

(Eff. 7/01/04)

An order of distribution must be drafted so that it is complete without reference to the petition, and without reference to any documents that are not part of the order. Complete legal descriptions of all assets (e.g., real property, securities, and security interests) and the full names of all distributees must be set forth in the order. It is suggested that an order of distribution include the current address of devisees of real property and the assessor's parcel number of the property.

**J. AGREEMENTS FOR DISTRIBUTION OF ASSETS**

If distribution is to be other than according to the terms of the will or the laws of intestate succession, there must be on file a written agreement signed by all parties affected by the distribution.

**K. FILING OF RECEIPTS FOR PRELIMINARY DISTRIBUTIONS**

Receipts for property distributed pursuant to a petition for preliminary distribution must be on file before the Court will approve a petition for final distribution.

(Eff. 7/26/00)

**RULE 10 SPOUSAL OR REGISTERED DOMESTIC PARTNER PROPERTY PETITIONS**

**A. WHEN FILED WITH PETITION FOR PROBATE**

A spousal or registered domestic partner property petition must be filed separately from a petition for probate of the will or for administration of the estate, as set forth in CRC 7.301. If the two are filed simultaneously, or if probate proceedings are already pending, an additional filing fee for the spousal or registered domestic partner property petition will not be required. Both petitions must be filed under the same case number.

(Eff. 1/01/05)

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**B. SURVIVORSHIP CONDITION IN WILL**

If the right of a spouse or registered domestic partner to take under a will is conditioned on survival for a specified period of time, no property will be set aside or confirmed to the spouse or registered domestic partner until the expiration of the time period. If the petition is filed before the expiration of the survivorship period, a separate declaration executed by the petitioner after the survivorship period has expired must be filed with the Court.

(Eff. 1/01/05)

**RULE 11 CONSERVATORSHIPS**

**A. PETITION FOR APPOINTMENT OF CONSERVATOR**

**(1) BONDS**

Bond will ordinarily be required for the first year for the conservator of the estate, even though the conservatee has signed a nomination of conservator waiving bond. The provisions of Sections 4.C through 4.F of these rules apply to conservators. The amount of the bond must include one year's income from all sources of income of the conservatee, any sums required under Probate Code § 2320(c), and the value of real property as specified in Rule 4.A of these rules for conservators authorized to sell or encumber such property pursuant to Probate Code § 2590.

(Eff. 1/1/09)

**(2) INDEPENDENT POWERS**

A request for independent powers under Probate §§ 2590 and 2591 will not be granted without specifying each power requested and the specific reasons for the need for each power requested.

(Eff. 1/01/08)

**(3) MEDICAL TREATMENT POWER**

A petition seeking authorization to give informed consent for medical treatment of a conservatee must be supported by an appropriate declaration on the Judicial Council form as described below, furnishing evidence required by Probate Code § 813, stating that there is no form of medical treatment for which the conservatee has the capacity to give consent and the reasons therefore and signed by a medical practitioner or licensed psychologist, which must be filed with the Court prior to the hearing. This form may be filed as an attachment to the Petition for Appointment of Conservator and served upon all persons who receive the Petition. If this form is not attached to the Petition, it must be served separately by mail or personally, at the option of petitioner, upon the proposed conservatee. The petitioner may designate the legal capacity form as confidential by attaching two Confidential Document Cover Sheets (see Attachment PB-4003) to it at the time it is filed. It is required to use Judicial Council form GC-335, “Capacity Declaration-

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Conservatorship,” as described below:

(Eff. 1/01/09)

- a. For a Conservatorship of the Person only, In Which No Dementia Powers Are Being Sought: California Rules of Court require the use of Judicial Council form GC-335 to provide the evidence necessary to support a finding by the Court that a conservatee lacks the capacity to give an informed consent for any form of medical treatment.
- b. For a Conservatorship of the Person only, With Request for Dementia Powers: Attach Judicial Council form GC-335A to Judicial Council form GC-335.

(Eff. 7/01/04)

If the Petitioner is not able to obtain the cooperation of an authorized declarant to complete the Capacity Declaration form, petitioner or counsel may apply for an Ex Parte Order by submitting a completed Judicial Council form GC-333, “Ex Parte Application for Order Authorizing Completion of Capacity Declaration – HIPAA,” and also Judicial Council form GC-334, “Ex Parte Order Re Completion of Capacity – HIPAA” to the Probate Counter Clerk for issuance. It is recommended to have the signed order certified.

(Eff. 1/01/06)

**(4) FILING PROCEDURES FOR CONSERVATORSHIP/  
GUARDIANSHIP CALENDAR**

All orders for appointment of conservator or guardian must be delivered to the Probate Examiner's office 4 court days prior to the date of the appointment hearing. All other papers (e.g., proofs of service) must be on file or delivered to the Probate Examiner's office by 4 p.m. on the Friday prior to the hearing.

(Eff. 1/01/09)

**(5) EVIDENCE REQUIRED TO SUPPORT PETITION FOR  
CONSERVATORSHIP OF ESTATE OR PERSON AND ESTATE**

(Eff. 1/01/09)

Because a Conservatorship of the Estate or of the Person and Estate is an adjudication that the conservatee lacks the legal capacity to enter into or make any transaction that binds the estate, a petitioner who seeks appointment of a conservator of the estate and is using a medical or psychological professional as declarant must submit a Judicial form GC-335, “Capacity Declaration – Conservatorship” with Attachment PB-4015, “Capacity Declaration – Conservatorship of the Estate Attachment” attached, to provide evidence establishing that the proposed conservatee suffers from a deficit in mental functions that significantly impairs the proposed conservatee’s capacity to make decisions, consistent with the requirements of Probate Code § 811.

(Eff. 1/01/09)

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If the petitioner who is not relying upon a medical or psychological professional to complete the Capacity Declaration wishes to seek appointment of a conservator of the estate, the petitioner must have a lay declarant complete the “Layperson’s Declaration re Legal Capacity” shown as Attachment PB-4016 to these Local Rules.

(Eff. 7/01/06)

The Capacity Declaration may be filed as an attachment to the Petition for Appointment of Conservator and served upon all persons who receive the Petition. If the Capacity Declaration is not attached to the Petition, it must be served separately by mail or personally, at the discretion of the petitioner, upon the proposed conservatee. The petitioner may designate the legal capacity form as confidential by attaching two completed Confidential Document Cover Sheets (see attached form PB-4003) to it at the time it is filed.

(Eff. 7/01/06)

If the Petitioner is not able to obtain the cooperation of an authorized declarant to complete the Capacity Declaration form, petitioner or counsel may apply for an Ex Parte Order by submitting a completed Judicial Council form GC-333, “Ex Parte Application for Order Authorizing Completion of Capacity Declaration – HIPAA,” and also Judicial Council form GC-334, “Ex Parte Order Re Completion of Capacity – HIPAA” to the Probate Counter Clerk for issuance. It is recommended to have the signed order certified.

(Eff. 1/01/06)

**B. REFERRAL FOR INVESTIGATOR'S REPORT; TRANSMITTAL OF DOCUMENTS TO COURT INVESTIGATOR**

A local form entitled "Referral for Investigator's Report--Conservatorship" (attached form PB-4002) must be completed and signed under penalty of perjury by the proposed conservator and submitted at the time the petition is filed. This form shall be confidential. The petitioner must provide copies of the following documents, for use by the Court Investigator, with the Referral form: (1) Petition for Appointment of Conservator and attachments; (2) Confidential Supplemental Information Form; (3) Legal Capacity Declaration; (4) all other documents submitted to the court as evidence in the matter. All persons objecting to an appointment must submit a copy of the objections and any other evidence to be filed in the matter to the Court Investigator.

(Eff. 1/01/09)

**C. NOTICE OF HEARING**

The petitioner should determine how much time will be required for any agency (e.g., Court Investigator's office, San Andreas Regional Center, etc.) to complete its report or evaluation and set the petition for hearing accordingly.

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**PROBATE RULES**

**D. DUTIES OF CONSERVATOR**

To assure that their duties and obligations are understood, all proposed conservators must file with the Court, before Letters of Conservatorship are issued, the Judicial Council form entitled "Duties of Conservator." The form may be signed and submitted prior to the date set for hearing. It is not necessary for proposed conservators to check boxes on page 4 of the form relating to acquisition of the handbook. See Section 11.G.

**E. ATTENDANCE AT THE HEARING**

The proposed conservatee, if located in California, must attend the hearing for appointment of a conservator unless:

(1) The proposed conservatee states to the Court Investigator that he or she approves both the conservatorship and the proposed conservator(s) and does not wish to attend; or

(2) The proposed conservatee states to the Court Investigator that he or she objects either to the conservatorship or the proposed conservator but chooses not to attend; or

(Eff. 1/01/09)

(3) Judicial Council form GC-335, indicating a medical inability to attend, has been filed. When filing a Judicial Council form GC-335 to provide evidence of a medical inability to attend, such reasons as "senility," "hard of hearing," or "confused" are insufficient. Any condition that would result in pain or potential medical harm to the conservatee is acceptable, as is incontinence.

(Eff. 1/01/09)

If the Petitioner is not able to obtain the cooperation of an authorized declarant to complete the Capacity Declaration form, petitioner or counsel may apply for an Ex Parte Order by submitting a completed Judicial Council form GC-333, "Ex Parte Application for Order Authorizing Completion of Capacity Declaration – HIPAA," and also Judicial Council form GC-334, "Ex Parte Order Re Completion of Capacity – HIPAA" to the Probate Counter Clerk for issuance. It is recommended to have the signed order certified.

(Eff. 1/01/06)

If the petitioner is represented by an attorney, the attorney must always attend the hearing.

If the proceeding is for the establishment of a limited conservatorship, the proposed conservatee should arrive one-half hour before the hearing to be interviewed by the Public Defender.

(Eff. 7/01/02)

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**F. CONTESTED MATTERS**

When a party becomes aware that a matter will be contested, that party must advise the Court of the estimated time necessary to hear the matter.

The Court's primary concern is the health and welfare of the conservatee. Parties in a contested matter should be prepared to proceed on the day set for hearing. The Court will ordinarily hear brief testimony of the objecting parties and render a decision forthwith.

**G. PURCHASE OF HANDBOOK AND VIEWING OF FILM**

Before letters of conservatorship are issued, all conservators (except corporate or institutional conservators) must obtain a copy of the Handbook for Conservators published by the Judicial Council of California and view a film on the duties and responsibilities of a conservator. Proper proof of the purchase of the handbook and attendance of the film viewing will be required. The handbook and local supplement will be available for purchase at the Probate Clerk's office. The cost of the handbook may be reimbursed from the conservatorship estate.

Viewing of the film is free of charge and is scheduled at the court courthouse on the day of the hearing to appoint conservator. A conservator who resides out of the County of Santa Clara may arrange with his/her attorney to view the film through the attorney's office, or may make arrangements to view the film through the Court Investigation office of the conservator's county of residence.

**H. ORDER APPOINTING CONSERVATOR**

On the Judicial Council form entitled "Order Appointing Probate Conservator," paragraphs 7 and 21 concerning ability to vote should be left blank. The Court will make its own determination at the hearing based upon the Court Investigator's report. Paragraphs 9 and 20 concerning fees refer only to Court-appointed counsel for the conservatee. These paragraphs do not apply to the attorney for the conservator. In all cases, the following information should be inserted at paragraph 11: Court Investigations Unit, 191 North First Street, San Jose, California 95113, telephone (408) 882-2761.

(Eff. 7/01/07)

**I. FILING OF INVENTORY AND APPRAISAL**

The Inventory and Appraisal and the Notice of How to File an Objection must be filed and served within 90 days of appointment pursuant to Probate Code § 2610. A copy must also be served on the Court Investigator. Where the conservatorship estate consists of community property managed by a nonconservatee spouse or registered domestic partner, who either is or is not the conservator, the community property is not administered as part of the conservatorship estate, should not be part of the inventory, and should not be accounted for. (See Probate § 3051.)

(Eff. 1/01/08)

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At the time of appointment, the Court will set a compliance review approximately 94 calendar days after the appointment to confirm that the Inventory and Appraisal and Notice of How to File an Objection have been filed and served. If the Inventory and Appraisal is not on file at that time, the Court may issue an order to produce the Inventory and Appraisal, which will be served by certified mail on the conservator and on the attorney for the conservator.

(Eff. 7/01/08)

**J. LETTERS OF CONSERVATORSHIP OF THE ESTATE**

The conservator is advised to record letters of conservatorship of the estate in any county where real property belonging to the conservatee is located. (Probate Code § 1875.)

**K. ACCOUNTINGS: REFERRAL TO COURT INVESTIGATOR**

At the time of filing of the conservator's accounting, a "Referral for Investigator's Report" form (attached form PB-4002) must be submitted, attached to a copy of the accounting, for review by the Court Investigator. See also Section 9.A. (2) on the format of accountings and on accounting compliance dates.

(Eff. 1/01/09)

**L. SALE OF CONSERVATEE'S RESIDENCE**

The sale of the conservatee's residence (including a mobile home) will not be approved by the Court until a Court Investigator's report showing the necessity for the sale is on file. The conservator must file a declaration complying with Probate Code § 2540(b) whenever the conservator seeks authorization to sell the conservatee's present or former personal residence. A copy of the notice of the hearing and the required declaration, as well as any petition filed regarding the sale, must be sent to the Court Investigator with the required "Referral for Investigator's Report" form.

Sale of the residence must comply with the procedures required for sale of real or personal property and Probate Code § 2591.5.

(Eff. 1/01/08)

**M. CHANGE OF RESIDENCE OF CONSERVATOR OR CONSERVATEE**

A copy of the Notice of Intention to Change Residence of the Conservatee, and also the Notice of Change of Residence of the conservator or conservatee, must be filed with the Court and mailed to the Court Investigator. This is in addition to the notice requirements of Probate Code § 2352.

(Eff. 7/01/08)

**N. REMOVAL OF CONSERVATEE FROM CALIFORNIA**

A conservatee who is under a conservatorship of the person and who is a California resident may be moved from California only upon first obtaining the

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permission of the Court. Unless a longer period is otherwise specified by the Court, the conservatee must be returned to California within 4 months unless a conservatorship proceeding (or its equivalent) is commenced in the place of the new residence. If a conservatee is not returned to California, the conservator must file a declaration showing proof of the establishment of the conservatorship (or its equivalent) in the new jurisdiction. (See Probate Code § 2352.) Petitioner must submit a local form entitled “Referral for Investigator’s Report” (Attachment PB-4002) upon the filing of a petition to move a conservatee from California and must attach a copy of the notice of hearing and a copy of the petition to the referral form for review by the Court Investigator.

(Eff. 7/01/06)

**O. APPOINTMENT OF LIMITED CONSERVATOR FOR THE DEVELOPMENTALLY DISABLED**

If the requested conservatorship is for a developmentally disabled adult, the proceedings must comply with the limited conservatorship code sections, even though the petition requests establishment of a general conservatorship as an alternative.

A copy of the notice of hearing and the petition must be sent to the Public Defender assigned to the conservatorship calendar and to the appropriate Regional Center. The addresses for the local agencies are:

Probate Deputy  
Office of the Public Defender  
120 W. Mission Street  
San Jose, California 95110

San Andreas Regional Center  
Attn: Regional Center Psychologist  
P.O. Box 50002  
San Jose, California 95150

**P. REMOVAL OF CONSERVATOR**

Individuals requesting removal of a conservator may petition the Court for an order for removal. The petitioner may use the local form entitled Petition to Remove Conservator (attached form PB-4040). Anyone objecting to a petition to remove the conservator may use the local form entitled Objection to Petition to Remove Conservator (attached form PB-4035).

(Eff. 1/01/08)

**Q. TERMINATION OF CONSERVATORSHIP**

Petitioner must submit a local form entitled "Referral for Court Investigator - Conservatorship" (attached form PB-4002) upon the filing of a petition to terminate a conservatorship and must attach a copy of the notice of hearing and a copy of the petition to the referral form for review by the Court Investigator.

(Eff. 1/01/08)

Upon termination of a conservatorship, all claims filed by the Court Investigator's unit for its services, unless waived, must be paid before the Court will sign an order settling the final account. See CRC 7.1052 and 7.1054.

(Eff. 7/01/04)

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**R. DEATH OF CONSERVATEE**

**(1) TERMINATION UPON DEATH WHEN ACCOUNT IS DUE**

Upon the death of the conservatee, the conservator shall turn over the conservatee’s assets to the appointed personal representative or, if none, to the person or persons entitled thereto, less a reasonable reserve for closing expenses and attorney and conservator fees.

(Eff. 7/01/05)

The conservator’s final account shall include an account for the period ending on the date of death of the conservatee, and shall show all property on hand as of the date of death of the conservatee. Additionally, pursuant to Probate Code § 2620 (b), a supplemental accounting, to be incorporated in the final account and report, shall reflect all post-death transactions and show property on hand as of the filing of the accounting. If a personal representative has been appointed in a probate proceeding following the death of the conservatee, then the probate case number must be set forth in the final report and account.

(Eff. 1/01/09)

**(2) TERMINATION UPON DEATH WHEN NO ACCOUNT IS DUE**

Upon the death of the conservatee, if no account is due, the conservator must file a notice of death of conservatee with a photocopy of the conservatee's death certificate attached and must serve a copy of the notice on the Court Investigator.

**S. CONFIDENTIAL SUPPLEMENTAL INFORMATION**

(Eff. 1/01/09)

The supplemental information required of conservators by Probate Code § 1821(a) at appointment must be filed on Judicial Council form GC-312 (“Confidential Supplemental Information”) separately from the petition and must have two completed Confidential Document Cover Sheets (see attached form PB-4003) attached. This Confidential Supplemental Information form must be verified (Probate Code § 1021).

(Eff. 1/01/09)

**T. TEMPORARY CONSERVATORSHIPS**

**(1) PETITION FOR APPOINTMENT**

The petition for appointment of a temporary conservator may be filed only with or after the filing of a petition for appointment of a permanent conservator. The petition must state facts establishing the urgency requiring the appointment of a temporary conservator. A situation requiring immediate action to protect the health, welfare, or the estate of the proposed conservatee will be sufficient. Ordinarily, a situation requiring immediate action constitutes good cause.

(Eff. 1/01/09)

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**(2) IMMEDIATE NOTIFICATION OF COURT INVESTIGATOR**

Petitioner or petitioner’s attorney should contact the Court Investigator’s Office at (408) 882-2761 as soon as possible when it appears that a temporary conservatorship may be requested in order that the Investigator can begin the investigation and report necessary for the appointment of a temporary conservator.

(Eff. 1/01/09)

**(3) PRIOR REVIEW OF PETITION**

All petitions for a temporary conservatorship must be presented to the Probate Examiner's office for review before presentation to the Court.

**(4) NOTICE**

Since a petition for temporary conservatorship is ordinarily filed only in cases requiring immediate action, the Court may dispense with the 5-day notice requirement. Petitioner must comply with the requirements of CRC 7.1062. If notice is dispensed with by the Court, the petition may be heard on an ex parte basis.

(Eff. 7/01/08)

**(5) LETTERS OF TEMPORARY CONSERVATORSHIP**

Letters of temporary conservatorship expire on the appointment of a general conservator. Letters of temporary conservatorship should be recorded in counties where conservatees possess real property. (See Probate Code § 1875.) When the temporary conservator will come into possession of personal property of the conservatee, bond as provided in Rule 11.A.(1) of these rules must be posted before temporary letters of conservatorship of the estate can be issued.

(Eff. 7/01/07)

**(6) POWERS OF TEMPORARY CONSERVATOR**

The temporary conservator has only those powers allowed by the Probate Code or specifically granted by the Court. The Court generally grants only the powers necessary to meet the situation that has caused the application for a temporary conservatorship. There is no provision in the law for granting exclusive medical powers under a temporary conservatorship, absent a hearing for a grant of powers under Probate Code § 1880, et seq. A temporary conservator may also seek authorization to give consent for treatment under Probate Code § 2357. The court requires that there be a grant of exclusive medical powers under section 1880 for there to be a grant of powers under Probate Code § 2356.5.

(Eff. 7/26/00)

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**(7) CHANGE OF RESIDENCE OF TEMPORARY CONSERVATEE**

When the residence of a temporary conservatee is proposed to be changed, the hearing must be calendared for the first Tuesday afternoon conservatorship appointment calendar following the date of filing of the petition. A "Referral for Court Investigator - Conservatorship" form (Attachment PB-4002) must be submitted when the petition is filed, and a copy of the petition must be attached to the referral and submitted to the clerk at that time. See Probate Code § 2253.

(Eff. 1/01/08)

**U. PRIVATE PROFESSIONAL CONSERVATORS**

**(1) APPOINTMENT OF PROFESSIONAL FIDUCIARY AS CONSERVATOR**

(Eff. 1/01/09)

A person seeking appointment as a professional conservator must be licensed as a professional fiduciary as defined in Business & Professions Code §§ 6500 et seq. before the Superior Court can make such appointment. All pleadings filed by a professional fiduciary must include the fiduciary's license number as issued by the Professional Fiduciary Bureau.

(Eff. 1/01/09)

**(2) DISCLOSURE OF FEE SCHEDULE**

At the time a private professional conservator is nominated to serve as conservator, the petitioner must attach the private professional's fee schedule to the petition for appointment of conservator and must serve the fee schedule as part of the petition upon all persons entitled to service of the petition under Probate Code § 1822 and also to the Court Investigator. If the Court appoints a private professional fiduciary who was not nominated in the petition as a temporary conservator, the private professional must attach his/her fee schedule to the order appointing temporary conservator at the time the order is filed with the Court and must mail a copy of the fee schedule to all persons entitled to service of the petition under Probate Code § 1822 and also to the Court Investigator.

(Eff. 7/01/08)

**(3) FILING OF ESTIMATED FEES; COMPLIANCE HEARING**

Unless the Court otherwise orders, at the time of the appointment, the Court must order the private professional conservator to file with the Court a plan of estimated fees of the private professional conservator, his or her staff, and his or her counsel, to cover the first year of the conservatorship, and to serve a copy of the plan of estimated fees on all persons entitled to notice of the original petition under Probate Code § 1822, the Court Investigator, and any persons who have requested special notice. The Court must set a date not more than 94 calendar days after the appointment for a compliance hearing, which shall be a nonappearance matter if the plan of estimated fees has been filed. If the

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plan of estimated fees is not on file at that time, the Court must issue an order to produce the plan of estimated fees, which must be served by certified mail on the conservator and on the attorney for the conservator. The plan of estimated fees is not binding upon the conservator and/or counsel. All conservator fees and attorney fees are subject to review and approval by the Court, pursuant to Probate Code § 2640 et seq.

(Eff. 7/01/08)

**V. CONSERVATEES’ TRUSTS**

(1) When a conservator or some other person seeks an order under the doctrine of substituted judgment to create a trust that contains assets of the conservatee, the proposed trust must comply with all provisions required in CRC 7.903, including but not limited to requiring a bond for the trustee and periodic accountings to the court. If the conservator of the estate is named trustee, the conservator may elect to treat the trust estate as part of the conservatorship estate for purposes of bond and accounting and shall not be required to post a separate bond as trustee. The trustee must file the trust, the court order approving establishment of the trust, and the trustee's bond, if applicable, in a new file with a probate file number, and the filing should take place within 30 days after court approval of the trust. The trust may be filed as a confidential document by attaching two copies of the Confidential Document Cover Sheet. (See attached form PB-4003.)

(Eff. 7/01/07)

(2) When a conservator or some other person seeks appointment of a successor trustee of the conservatee's existing living trust, the court may require the successor trustee to post a bond, place the trust under court supervision, and provide accountings for the trust parallel to the accounting schedule of the conservatorship. In such case, the trustee must file the trust, the court order approving the trust, and the bond, in a new file with a probate file number, and the filing should take place within 30 days after court approval of the appointment of the successor trustee. The trust may be filed as a confidential document by attaching two copies of the Confidential Document Cover Sheet. (See attached form PB-4003.)

(Eff. 7/01/06)

**W. NOTICE TO COURT INVESTIGATIONS UNIT OF SUBSTITUTED  
JUDGMENT PETITIONS**

Whenever a petition for substituted judgment is brought, the petitioner shall complete the local form entitled "Referral for Court Investigator - Conservatorship" (attached form PB-4002) and must attach a copy of the notice of hearing and a copy of the petition to the referral form for review by the Court Investigator.

(Eff. 1/01/08)

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**RULE 12 GUARDIANSHIPS**

**A. GUARDIAN OF MINOR'S ESTATE**

**(1) INVESTIGATION**

The proposed guardian must complete and sign under penalty of perjury a "Referral for Court Investigator & Questionnaire – Guardianship" (attached form PB-4005) at the time the petition for establishment of guardianship is filed. This form is confidential. Together with the "Referral for Court Investigator & Questionnaire – Guardianship" the proposed guardian must present a signed Authorization for Release of Information form (attached form PB-4014) to enable court investigators to access the information required in Probate Code § 1513.

(Eff. 1/01/09)

**(2) BOND REQUIRED**

Bond will be required for the first year for the guardian of a minor's estate- even if a nomination of guardian has been signed waiving bond. The provisions of sections 4.C through 4.F of these local rules apply to guardianships. The amount of the bond must include one year's income from all sources of income of the ward, any sums required under Probate Code § 2320(c), and the value of real property as specified in Rule 4.A of these rules for guardians authorized to sell or encumber such property pursuant to Probate Code § 2590.

(Eff. 1/01/09)

**(3) INDEPENDENT POWERS**

A request for independent powers under Probate Code §§ 2590 and 2591 will not be granted without specifying each power requested and the specific reason for the need for each power requested.

(Eff. 1/01/08)

**(4) FILING OF INVENTORY AND APPRAISAL**

The Inventory and Appraisal and the Notice of How to File an Objection must be filed and served within 90 days of appointment pursuant to Probate Code § 2610. A copy must also be served on the Court Investigator. At the time of appointment, the Court will set a compliance review approximately 94 calendar days after the appointment to confirm that the Inventory and Appraisal and Notice of How to File an Objection have been filed and served. If the Inventory and Appraisal is not on file at that time, the Court may issue an order to produce the Inventory and Appraisal, which will be served by certified mail on the guardian and on the attorney for the guardian.

(Eff. 7/01/08)

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**B. PETITION FOR APPOINTMENT OF GUARDIAN OF MINOR'S PERSON**

**(1) INVESTIGATION**

The proposed guardian must complete and sign under penalty of perjury a "Referral for Court Investigator & Questionnaire – Guardianship" (attached form PB-4005) at the time the petition for establishment of guardianship is filed. This form is confidential. Together with the "Referral for Court Investigator & Questionnaire – Guardianship" the proposed guardian(s) must present a signed Authorization for Release of Information form (attached form PB-4014) to enable court investigators to access the information required in Probate Code § 1513.

(Eff. 1/01/08)

**(2) NOTICE**

The following are the local addresses for notice according to Probate Code §§ 1516 and 1542:

Program Manager, Emergency Response Services  
Santa Clara County Social Services Agency  
333 W. Julian Street San Jose, California 95110

Social Services Agency  
Department of Family and Children's Services  
333 W. Julian Street  
San Jose, California 95110 (Non-relative guardians only)

The California Department of Social Services  
744 P Street  
Sacramento, California 95814 (Non-relative guardians only)

(Eff. 7/01/02)

**(3) MINOR'S FATHER UNKNOWN**

If it is alleged that the minor's father is unknown, a photocopy of the minor's birth certificate should be attached to the affidavit or declaration in support of an order dispensing with notice. Use of the terms "withheld" on the birth certificate with reference to the father does not mean "unknown," and should be further explained in the allegation.

**C. OBJECTION TO GUARDIANSHIP**

Individuals objecting to a petition to establish a guardianship may use the local form entitled Objection to Guardianship (attached form PB-4043). All persons objecting to an appointment must submit a copy of the objections and any other evidence to be filed in the matter to the Court Investigator.

(Eff. 1/01/08)

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**D. DUTIES OF GUARDIAN**

To assure that their duties and obligations are understood, each guardian must file with the Court, before letters of guardianship are issued, the Judicial Council form entitled "Duties of Guardian" (Form GC-248). The form may be signed and submitted prior to the date set for hearing.

(Eff. 1/01/08)

**E. ATTENDANCE AT THE HEARING**

The proposed guardian, the petitioner, and the petitioner's attorney must attend the hearing. The guardian will receive instructions concerning the guardian's duties immediately following the hearing.

(Eff. 7/26/00)

**F. CONTESTED GUARDIANSHIP**

**(1) Family Group Conferences/Mediation**

If there is a contested Guardianship of the Person or a contested Petition for Visitation in a Guardianship matter, the Court may order the parties to participate in mediation or one or more Family Group Conferences through Family Court Services (FCS) or a private mental health professional agreed to by all parties. The referral to a Family Group Conference will usually be made at the first hearing where any party objects to the guardianship or a request for visitation. Mediation is confidential, whereas Family Group Conferences are not confidential. All parties and their counsel may participate in the conferences, along with counsel for the minor(s). The minor(s) may be required to attend any Family Group Conferences at the discretion of the person conducting the conference or as ordered by the Court.

**(2) Emergency Screenings**

In any case in which an emergency exists, the Court may order a staff member of FCS to conduct an "emergency screening" (a preliminary and limited evaluation). The purpose of the screening shall be to provide the Court with recommendations regarding the temporary custody, visitation, and related conditions for the minor children who are the subject of the guardianship.

If the parties agree to and sign the screening recommendations, they shall be submitted to the Court for review and signature.

If a party objects to the screening recommendations, a brief hearing, generally less than 30 minutes, will be held on the day of the screening, or as soon as possible.

Fees will be charged for emergency screenings by FCS, absent a Fee Waiver.

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**(3) Documents provided to evaluator or screener**

Any documents provided to an evaluator or screener shall be accompanied by either Judicial Council Proof of Service (POS-020 or POS—030) or the FCS “Declaration of Mailing or Personal Service” form (FM-1061), except for documents handed to an evaluator or screener in the presence of the other party or counsel (in which case copies shall be provided at the same time to the other party or counsel). Whichever form is used, the number of submitted pages shall be stated. FCS may require a party to index and prioritize the review of submitted documents.

**(4) Miscellaneous**

- a.** Complaints: A complaint may be submitted by letter to FCS with proof of service of a copy to all other parties.
- b.** Challenges: Peremptory challenges to FCS evaluators, private evaluators appointed by the Court, and mental health professionals appointed by the Court to do psychological testing shall not be permitted. Challenges for cause of such individuals shall first be directed to the director of FCS. If that does not resolve the matter, such a challenge shall be directed in writing to the Probate Judge. Copies of any challenges for cause shall be provided to all counsel and self-represented parties.

**(5) Evaluations**

- a.** The Court may, in its discretion, order an evaluation by FCS regarding issues relating to a contested guardianship. Such an evaluation shall be a supplement to the report of the Court Investigator. All parties and their counsel, along with counsel for the child(ren), shall attend the initial appointment for the evaluation. The evaluation report shall be completed within 90 days from the initial appointment with the evaluator.
- b.** The director of FCS (or the director’s designee) shall have the exclusive responsibility for case assignment to evaluators within FCS.
- c.** Child(ren) must be present for the initial evaluation appointment when (and only when) a party participating in the evaluation resides more than 100 miles from San José, or the Court or the evaluator directs that the child(ren) be available. When the child(ren) are required to be present under this Rule, the custodial party shall bring an adult who can care for the child(ren). All parties shall cooperate with an evaluator in arranging times for the evaluator to see the child(ren) after the initial evaluation appointment, if requested by the evaluator.

**RULE 12 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA  
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**PROBATE RULES**

- d.** The evaluator will interview the parties, separately or jointly as appropriate, and their attorneys, and may schedule additional interviews with the parties, child(ren), or others to complete the evaluation. If one attorney fails to appear at the initial appointment, as required, the evaluator has the discretion to proceed with the parties only and to reschedule the appointment with all attorneys. Sanctions may be imposed, upon notice, for the attorney’s failure to appear.
- e.** Confidentiality of Evaluation Reports: Evaluation reports are confidential and shall be sent to attorneys and self-represented parties only. The confidential report shall not be duplicated, disseminated, or in any other way provided or shown to any individual not a party to the proceedings, except consulting experts, court ordered therapists, and court ordered evaluators. The evaluation report shall be placed in the confidential part of the Court file. Evaluation reports, including psychological evaluations, shall not be attached as exhibits to any papers filed with the Court.
- f.** Fees: Fees will be charged by FCS for evaluations, unless a waiver is granted. When the Court orders a custody/visitation evaluation through FCS, the parties shall submit deposits or fee waiver requests to FCS within 5 court days of receipt of the Court’s order.
- g.** Any party shall have 15 calendar days after the date of mailing of the evaluation recommendations to file and serve written objections to the recommended order.
- h.** If objections are filed, the parties shall contact the evaluator to schedule a meeting to discuss the objections. This meeting shall take place before the Guardianship Settlement Conference (GSC). If any party fails to cooperate in setting, or fails to attend, this meeting after objections, the Court at the GSC may sign the recommended order and may order sanctions.
- i.** Objections: Objections shall be in writing and shall include the following:

  - i.** the specific paragraphs and language to which the party objects;
  - ii.** the reasons for the objections; and
  - iii.** the proposed modified language.

Objections shall be filed with the Court, along with a proof of service on all counsel or self-represented parties. FCS or the private evaluator must be served with an endorsed filed copy of the objections, which must also be shown on a proof of service.

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If no objections are filed within 15 calendar days from the date of the mailing of the evaluation recommendations, the recommended order shall be submitted to the Court for review and signature.

**(6) GUARDIANSHIP SETTLEMENT CONFERENCE (GSC)**

- a. If the parties are not able to resolve the objections in the meeting with the evaluator following the filing of the objections, a GSC shall be calendared with the Court. The GSC shall be set within 30 days of the meeting with the evaluator.
- b. All attorneys and parties and the evaluator shall attend the GSC at the scheduled time and place, to address the settlement of all contested issues or the issues to be tried.
- c. Statement of Issues: No settlement conference statement shall be required for a GSC; however, each party shall file and serve a Statement of Issues at least 10 calendar days before the GSC. The Statement of Issues shall clearly set forth any remaining issues and any proposed alternative language. Previously filed objections may be attached and incorporated by reference. In addition, the Statement of Issues shall state the time estimated for trial and provide a list of witnesses anticipated to be called at trial. Each party shall bring 2 copies of the Statement of Issues to the GSC.
- d. If agreement is not reached at the GSC, the Court may set the case for trial or hearing.
- e. Failure to Appear: If a party fails to appear at the GSC, a hearing may be held that day and custody/visitation orders may be made. In addition, on notice to the parties, the Court may order sanctions for the failure to appear.

(Eff. 1/01/09)

**G. CHANGE OF RESIDENCE OF GUARDIAN OR WARD**

A copy of the Notice of Intention to Change Residence of the Ward, and also the Notice of Change of Residence of either the guardian or ward, must be mailed to the Court Investigator. This is in addition to the filing and notice requirements of Probate Code § 2352 and CRC 7.1013.

(Eff. 7/01/08)

**H. USE OF WARD'S ASSETS FOR SUPPORT**

If a ward has a living parent or receives or is entitled to support from another source, prior Court approval must be obtained before using guardianship assets for the ward's support, maintenance, or education. (See Probate Code § 2422.) The petition must set forth the financial inability of the parent or parents or other circumstances that would justify use of the guardianship assets. Such request for Court approval may be included in the petition for appointment of guardian. An

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order granting such petition should be for a limited period of time, usually not in excess of six months or for a specific and limited purpose.

(Eff. 7/26/00)

**I. ACCOUNTINGS**

**(1) REFERRAL TO COURT INVESTIGATOR**

At the time of filing of the guardian's accounting, a Referral for Investigator's Report form (attached form PB-4005) must be submitted, attached to a copy of the accounting, for review by the Court Investigator. See also Rule 9.A. (2) on the format of accountings and on accounting compliance dates.

(Eff. 7/01/08)

**(2) ACCOUNTING REQUIRED AT TERMINATION UNLESS  
WAIVED; ACCOUNTING COMPLIANCE DATES**

At termination of a guardianship of the estate, an accounting as required by CRC 7.1004, must be filed unless waived by a ward who has reached majority pursuant to Probate Code § 2627. See CRC 7.1007(a); see also Section 9.A. (2) on the form of accounting and accounting compliance dates.

(Eff. 1/01/09)

**J. TERMINATION OF GUARDIANSHIP OF THE PERSON**

Whenever a petition to terminate a guardianship is brought, the Petitioner must complete the local form entitled Referral for Court Investigator & Questionnaire – Guardianship (attached form PB-4005) and must attach a copy of the notice of hearing and copy of the petition to the referral form for review by the Court Investigator. Individuals objecting to a Petition to Terminate Guardianship may use the local form entitled Objection to Petition to Terminate Guardianship (attached form PB-4039).

(Eff. 1/01/09)

**K. TEMPORARY GUARDIANSHIPS**

**(1) PETITION FOR APPOINTMENT**

The petition for appointment of a temporary guardian must be filed with or after the filing of a petition for appointment of a permanent guardian. The petition must state facts establishing the urgency requiring the appointment of a temporary guardian. A situation requiring immediate action to protect the health, welfare, or the estate of the proposed ward will be sufficient. Ordinarily, a situation requiring immediate action constitutes good cause.

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**(2) PRIOR REVIEW OF PETITION**

All petitions for a temporary guardianship must be presented to the Probate Examiner's office for review before presentation to the Court.

(Eff. 7/01/02)

**(3) NOTICE**

Since a petition for temporary guardianship is ordinarily filed only in cases requiring immediate action, the Court may dispense with the 5-day-notice requirement. Petitioner must comply with the requirements of CRC 7.1012. If notice is dispensed with by the Court, the petition may be heard on an ex parte basis. Persons obtaining an ex parte order must reserve a date for reconsideration within 30 days, pursuant to Probate Code § 2250(d).

(Eff. 7/01/08)

**(4) LETTERS OF TEMPORARY GUARDIANSHIP**

Letters of temporary guardianship expire on the appointment of a general guardian.

(Eff. 7/26/00)

**(5) POWERS OF TEMPORARY GUARDIAN**

The temporary guardian has only those powers allowed by the Probate Code or specifically granted by the Court. The Court generally grants only the powers necessary to meet the situation that has caused the application for a temporary guardianship.

(Eff. 7/26/00)

**L. REMOVAL OF GUARDIAN**

Individuals requesting removal of a guardian may petition the Court for an order for removal. The petitioner may use the local form entitled Petition to Remove Guardian (attached form PB-4041). Anyone objecting to a petition to remove the guardian may use the local form entitled Objection to Petition to Remove Guardian (attached form PB-4036).

(Eff. 1/01/08)

**M. VISITATION**

Individuals requesting visitation orders in guardianships may petition the Court for an order or visitation. The petitioner may use the local form titled Probate Petition for Visitation (attached form PB-4013), and the local form titled “Visitation Order (Probate)” (attached form PB-4011) with Judicial Council Form FL-341 titled “Child Custody and Visitation Order Attachment.”

(Eff. 7/01/06)

**N. FIXING RESIDENCE OF A WARD OUTSIDE CALIFORNIA**

The residence of a ward who is under a guardianship of the person and who is a California resident may be fixed outside of California only upon first obtaining

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the permission of the Court. Unless a longer period is otherwise specified by the Court, the ward must be returned to California within four months unless a guardianship proceeding (or its equivalent) is commenced in the place of the new residence. If a ward is not returned to California, a declaration must be filed showing proof of the establishment of the guardianship (or its equivalent) in the new jurisdiction. See Probate Code § 2352. Petitioner must submit a local form entitled "Referral for Court Investigator & Questionnaire – Guardianship" (attached form PB-4005) upon the filing of a petition to fix the residence of the ward outside of California and must attach a copy of the notice of hearing and a copy of the petition to the referral form for review by the Court Investigator.

(Eff. 1/01/07)

**RULE 13 GUARDIAN AD LITEM AND COMPROMISES OF CLAIMS OF  
MINORS AND PERSONS WITH A DISABILITY**

**A. GUARDIAN AD LITEM**

A guardian ad litem has no authority to accept funds on behalf of a minor or person with a disability.

(Eff. 7/01/05)

**B. WHERE PETITIONS ARE PRESENTED**

Unless otherwise ordered by the Court, all claims of minors and persons with a disability, both where an action is pending and where no action is pending, must be heard by the judge assigned to hear compromises of claims of minors and persons with a disability.

(Eff. 7/01/05)

**C. CONTENTS OF PETITION**

The petition to compromise a minor's claim must contain, in addition to those matters required by statute and by CRC 7.950 to 7.955, the names and addresses of the minor's parents.

(Eff. 1/01/04)

Where the minor's settlement is part of a larger settlement, the petition must state in detail the factual basis for the proposed allocation to the minor or the person with a disability.

(Eff. 7/01/05)

For personal injury claims of minors and persons with a disability, unless waived by the Court, the petition must have attached a current medical report (prepared within 4 weeks of the date of the petition) that gives a diagnosis and a prognosis of the condition of the individual. The report must be prepared by a licensed physician who has treated the minor or person with a disability. It is not permissible to substitute the medical records of the minor or the person with a disability for this report.

(Eff. 7/01/05)

**RULE 13 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA  
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**PROBATE RULES**

**D. PRESENCE OF MINOR OR PERSON WITH A DISABILITY**

Unless excused by the Court, the minor or person with a disability, the petitioner, and at least one of the minor's parents or guardians must be present at the hearing.

(Eff. 7/01/05)

**E. EX PARTE PETITIONS**

In certain circumstances, in the Court's sole discretion, petitions may be presented ex parte. These cases are only those in which the net settlement to the minor or person with a disability, after deduction of attorney fees and costs, is less than \$5,000.

(Eff. 7/01/05)

**F. ATTORNEY FEES**

In any matter involving Court approval of the claim of a minor or a person with a disability for property damage, personal injury and/or wrongful death, the Court must allow the attorney a fee not in excess of 25% of the net amount received for the minor (total recovery less costs incurred by the attorney), unless the attorney by declaration establishes good cause for the Court, in the exercise of its discretion, to allow a larger fee.

(Eff. 7/01/05)

**G. MEDICAL MALPRACTICE MATTERS**

Medical malpractice cases may justify a higher attorney fee than that commonly awarded in compromises of claims of minors or persons with a disability. The Court will, in an appropriate case, award the maximum fee permissible under Business and Professions Code § 6146. The fee contract must be disclosed to the Court upon request.

(Eff. 7/01/05)

**H. DISTRIBUTION**

Upon approval of the petition to compromise, the judge must direct whether the funds are to be paid to a parent, to a blocked account, to a guardian or conservator of the estate, or to some other appropriate fiduciary. When deposit in a blocked account is ordered, parties must use the Judicial Council forms referred to in section 4.E above.

It is the responsibility of the fiduciary to file a Receipt for the blocked account, signed by an officer of the financial institution accepting the deposit, within 15 days of the date of deposit. If the Receipt has not been filed within 45 days of the order, the fiduciary must file a written explanation with the Court within 45 days of the order, stating the reason the Receipt has not been filed and when the fiduciary expects the Receipt to be filed.

**RULE 13 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA  
COUNTY OF SANTA CLARA**

**PROBATE RULES**

**I. FUNDS IN BLOCKED ACCOUNT IN NON-GUARDIANSHIP CASES**

A request for withdrawal of funds for the minor's support, maintenance, or education may be made ex parte if accompanied by a sufficient showing of need. However, where the minor has a living parent or the minor receives or is entitled to support from another source, the petition must contain the allegations referred to in Section 12.F above. In such cases the Court may require that the matter be set for noticed hearing. A petition for withdrawal of funds must be made on Judicial Council form “Petition For Withdrawal of Funds From Blocked Account (form number MC 357), and the petitioner must submit for the Court’s signature the Judicial Council form “Order For Withdrawal of Funds From Blocked Account” (form number MC 358).

Where there is no prior Court record of the minor's date of birth, a petition to release funds from the blocked account upon the minor's majority must be accompanied with a copy of the minor’s birth certificate.

**J. TRANSFER OF FUNDS OF A MINOR OR A PERSON WITH A DISABILITY TO A TRUST**

When it is proposed to put the funds of a minor or person with a disability in a trust, including a special needs trust, the petition should provide detailed information demonstrating that the proposed trustee is qualified to be appointed as a trustee of the trust. In addition, the proposed trust must comply with all provisions required in CRC 7.903, including but not limited to requiring a bond for the trustee and period accountings to the Court. The proposed trust should be attached to the petition as an exhibit.

(Eff. 7/01/05)

The trustee must file the trust, the court order approving establishment of the trust, and the trustee's bond, if applicable, in a new file with a probate file number, and the filing should take place within 30 days after court approval of the trust. The trust may be filed as a confidential document by attaching 2 copies of the Confidential Document Cover Sheet. (See attached form PB-4003.)

(Eff. 7/01/06)

**RULE 14 COMPENSATION OF REFEREES**

The compensation of the referee must be subject to Probate Court authorization or approval.

**RULE 15 MINOR’S EMANCIPATION**

**A. DEPARTMENT**

All petitions for minor’s emancipations are heard in the Probate Department of the Superior Court.

(Eff. 7/01/02)

**RULE 15 – con’t SUPERIOR COURT FOR THE STATE OF CALIFORNIA  
COUNTY OF SANTA CLARA**

**PROBATE RULES**

**B. INVESTIGATION**

An investigation into the circumstances surrounding the minor’s request for emancipation will be conducted by the Court Investigator, who will prepare a written report for the Court.

(Eff. 7/01/02)

**C. REPRESENTATION**

Where the minor is unrepresented, he/she must have the petition and accompanying documents reviewed by an attorney. Written verification that the minor has met with an attorney must be submitted to the Court when the petition is filed.

(Eff. 7/01/02)

**D. STATEMENT**

The minor is to submit to the Court, with his/her petition, a personal statement, under penalty of perjury, specifying in detail the reasons for the emancipation request and describing the circumstances giving rise to the request.

(Eff. 7/01/02)

**E. APPEARANCE**

The minor must attend the hearing on the petition, and anyone who desires to be heard on the emancipation petition may attend. The hearing is to be non-adversarial.

(Eff. 7/01/02)

**RULE 16 REMOVAL OF TRUSTEE**

Individuals requesting removal of a trustee may petition the Court for an order for removal. The petitioner may use the local form entitled Petition to Remove Trustee (attached form PB-4034). Anyone objecting to a petition to remove the trustee may use the local form entitled Objection to Petition to Remove Trustee (attached form PB-4038).

(Eff. 1/01/08)

**RULE 17 NAME CHANGE**

**A. DEPARTMENT**

All petitions for name changes are heard in the Probate Department of the Superior Court.

(Eff. 7/01/02)

**RULE 17 – con't SUPERIOR COURT FOR THE STATE OF CALIFORNIA  
COUNTY OF SANTA CLARA**

**PROBATE RULES**

**B. AGE OF MINOR**

The age of the minor who is the subject of a name petition must be stated in the petition.

(Eff. 7/01/02)

**C. WRITTEN CONSENT**

A minor, 12 years of age or older, who is the subject of a name change petition, must give written consent to the name change and must be present in Court on the date of the hearing to be questioned by the Court.

(Eff. 7/01/02)

## **PROBATE COURT RULES**

### **ATTACHMENTS**

<b>ATTACHMENT PB-4000</b>	Listing of Newspapers of General Circulation
<b>ATTACHMENT PB-4002</b>	Referral for Court Investigator - Conservatorship
<b>ATTACHMENT PB-4003-1</b>	Confidential Document Cover Sheet (Conservatorship)
<b>ATTACHMENT PB-4003-2</b>	Confidential Document Cover Sheet (Guardianship)
<b>ATTACHMENT PB-4003-3</b>	Confidential Document Cover Sheet (Trust)
<b>ATTACHMENT PB-4005</b>	Referral for Court Investigator & Questionnaire - Guardianship
<b>ATTACHMENT PB-4011</b>	Visitation Order (Probate)
<b>ATTACHMENT PB-4013</b>	Probate Petition for Visitation
<b>ATTACHMENT PB-4014</b>	Authorization for Release of Information
<b>ATTACHMENT PB-4015</b>	Capacity Declaration – Conservatorship of the Estate Attachment
<b>ATTACHMENT PB-4016</b>	Lay Person’s Declaration Re Legal Capacity
<b>ATTACHMENT PB-4034</b>	Petition to Remove Trustee
<b>ATTACHMENT PB-4035</b>	Objection to Petition to Remove Conservator
<b>ATTACHMENT PB-4036</b>	Objection to Petition to Remove Guardian
<b>ATTACHMENT PB-4037</b>	Objection to Petition to Remove Personal Representative
<b>ATTACHMENT PB-4038</b>	Objection to Petition to Remove Trustee
<b>ATTACHMENT PB-4039</b>	Objection to Petition to Terminate Guardianship
<b>ATTACHMENT PB-4040</b>	Petition to Remove Conservator
<b>ATTACHMENT PB-4041</b>	Petition to Remove Guardian
<b>ATTACHMENT PB-4042</b>	Petition to Remove Personal Representative
<b>ATTACHMENT PB-4043</b>	Objection to Guardianship
<b>ATTACHMENT PB-4045</b>	Objection

The following list is not intended to be an exclusive listing of newspapers of general circulation.

<u>Newspaper</u>	<u>Phone No.</u>	<u>Fax No.</u>	<u>Publishes</u>	<u>Pickup</u>	<u>Est. Fees</u>
CAMPBELL EXPRESS Campbell	408-374-9700 Deadline: Friday before 12 noon	408-374-0813	Wednesday	No	\$185.00
CUPERTINO COURIER Cupertino	408-200-1024 Deadline: Friday at 12:00 noon E-mail: legalads@SVCN.com	408-200-1010	Wednesday	No	\$327.00
GILROY DISPATCH Gilroy San Martin	408-842-6400 Deadline for Tues.: Thurs. at 2:00 p.m. Deadline for Fri.: Tues. at 2:00 p.m. E-mail: legals@svnewspapers.com	408-842-3817	Tues./Fri.	No	\$300.00
LOS ALTOS TOWN CRIER Los Altos Los Altos Hills	650-948-9000 Deadline: Thursday at 12 noon	650-948-9213	Wednesday	No	\$275-\$325
LOS GATOS WEEKLY TIMES Los Gatos Monte Sereno	408-200-1024 Deadline: Friday at 12:00 noon E-mail: legalads@SVCN.com	408-200-1010	Wednesday	No	\$327.00
MILPITAS POST Milpitas	408-262-2454 x23 Deadline: Wednesday at 5:00 p.m. (8 days) prior	408-263-9710	Thursday	No	\$331.00
MORGAN HILL TIMES Morgan Hill San Martin	408-842-6400 Deadline for Tues.: Thurs. at 2:00 p.m. Deadline for Fri.: Tues. at 2:00 p.m. E-mail: legals@svnewspapers.com	408-842-3817	Tues./Fri.	No	\$300.00
MOUNTAIN VIEW VOICE Mountain View	650-326-8210 x239 Deadline: Friday (1 week) prior	650-326-3928	Friday	No	\$441.00
PALO ALTO WEEKLY Palo Alto	650-326-8210 x239 Deadline for Wed.: Thurs. at 12:00 noon Deadline for Fri.: Tues. at 12:00 noon	650-326-3928	Wed./Fri.	No	\$441.00
SAN JOSE CITY TIMES San Jose	408-200-1024 Deadline: Friday at 12:00 noon E-mail: legalads@SVCN.com	408-200-1010	Wednesday	No	\$117.00
SAN JOSE POST-RECORD Mountain View San Jose	408-287-4866 Deadline: 3 days prior	408-287-2544	Tues./Wed./Fri.	Yes	\$145.00
SANTA CLARA WEEKLY Santa Clara	408-243-2000 Deadline: Friday E-mail: scweekly@ix.netcom.com	408-243-1408	Wednesday	No	\$350.00
SARATOGA NEWS Saratoga	408-200-1024 Deadline: Friday at 12:00 noon E-mail: legalads@SVCN.com	408-200-1010	Wednesday	No	\$327.00
SUNNYVALE SUN Sunnyvale	408-200-1024 Deadline: Friday at 12:00 noon E-mail: legalads@SVCN.com	408-200-1010	Wednesday	No	\$327.00

<p><b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA</b>                  COURT ADDRESS: 191 North First Street                  CITY AND ZIP CODE: San Jose, California 95113                  PHONE NUMBER: (408) 882-2761                  FAX NUMBER: (408) 882-2797                  BRANCH NAME: Downtown Courthouse – Court Investigator’s Division</p>	<p><i>FOR COURT USE ONLY</i></p>
<p><b>IN THE MATTER OF THE</b>  <input type="checkbox"/> Limited Conservatorship                      <input type="checkbox"/> Trust  <input type="checkbox"/> Conservatorship                  RE:</p>	
<p align="center"><b>CONFIDENTIAL DOCUMENT COVER SHEET                  (Conservatorship)</b></p>	<p>CASE NUMBER:</p>

**RE: CONSERVATORSHIP:**

The following documents shall be made available only to parties, persons given notice of the petition who have requested the document or who have appeared in the proceedings, their attorneys, and the court. The court shall have discretion at any other time to release the document, if it would serve the interests of the conservatee.

- Probate Code §1821:** Supplemental Information form.
- Cal. Rules of Court, Rule 7.1050:** Confidential Conservator Screening Form.
- Probate Code §2250.6:** Court Investigator’s temporary appointment report.
- Probate Code §2250.6:** Court Investigator’s ex-parte temporary appointment report.
- Probate Code §1826:** Court Investigator’s appointment report.
- Probate Code §1850(a):** Court Investigator’s report six months after initial appointment of conservator.
- Probate Code §1850(a)(2):** Court Investigator’s first year review report with an accounting.
- Probate Code §1850(a)(2):** Court Investigator’s first year review report without an accounting.
- Probate Code §1851:** Court Investigator’s biennial review report with accounting.
- Probate Code §1851:** Court Investigator’s biennial review report without an accounting.
- Probate Code §1850(a)(2):** Court Investigator’s 12 month status report.
- Probate Code §1850(b):** Court Investigator’s report requested by court order.
- Probate Code §2355:** Court Investigator’s report regarding medical consent authority.
- Probate Code §2356.5:** Court Investigator’s report regarding dementia authority.
- Probate Code §2540:** Court Investigator’s report regarding sale of personal residence.
- Probate Code §1827.5:** Ltd. Conservatorship: Regional Center assessment.
- Probate Code §1850.5:** Ltd. Conservatorship Court Investigator’s appointment report.
- Probate Code §1850.5:** Ltd. Conservatorship first year Court Investigator’s review report.
- Probate Code §1850.5:** Ltd. Conservatorship Court Investigator’s biennial report.
- COMPETING PETITION REPORT**
- Other:**

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA</b> COURT ADDRESS: 191 North First Street CITY AND ZIP CODE: San Jose, California 95113 PHONE NUMBER: (408) 882-2761 FAX NUMBER: (408) 882-2797 BRANCH NAME: Downtown Courthouse – Court Investigator’s Division	<i>FOR COURT USE ONLY</i>
<b>IN THE MATTER OF GUARDIANSHIP OF:</b>	
<b>CONFIDENTIAL DOCUMENT COVER SHEET (Guardianship)</b>	CASE NUMBER:

**RE: GUARDIANSHIPS:**

The following documents are confidential and shall be made available only to persons who have been served in the proceedings and/or their attorneys.

- Cal. Rules of Court, Rule 7.1001:** Confidential Guardianship Screening Form
- Probate Code §1513:** Court Investigator/Family Court Services/Social Services Agency report for appointment of Guardian.
- Probate Code §1513.2:** Confidential Guardianship Status report.
- Review of Existing Guardianship Reports**
- Other:**

<p><b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA</b>                  COURT ADDRESS: 191 North First Street                  CITY AND ZIP CODE: San Jose, California 95113                  PHONE NUMBER: (408) 882-2761                  FAX NUMBER: (408) 882-2797                  BRANCH NAME: Downtown Courthouse – Court Investigator’s Division</p>	<p><i>FOR COURT USE ONLY</i></p>
<p><b>IN THE MATTER OF THE</b>  <input type="checkbox"/> Guardianship                      <input type="checkbox"/> Limited Conservatorship  <input type="checkbox"/> Conservatorship                      <input type="checkbox"/> Trust                  RE:</p>	
<p align="center"><b>CONFIDENTIAL DOCUMENT COVER SHEET (Trust)</b></p>	<p>CASE NUMBER:</p>

**RE: ESTATE PLANNING DOCUMENTS:**

The following estate planning documents shall be made available only to persons who have applied to the court and have been granted permission to review the documents.

**Estate Planning Documents:**

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA</b> COURT ADDRESS: 191 North First Street CITY AND ZIP CODE: San Jose, California 95113 PHONE NUMBER: (408) 882-2761 FAX NUMBER: (408) 882-2797 BRANCH NAME: Downtown Courthouse – Court Investigator’s Division	<i>FOR COURT USE ONLY</i>
<b>IN THE MATTER OF GUARDIANSHIP OF:</b>	CASE NUMBER:
<b>AUTHORIZATION FOR RELEASE OF INFORMATION</b>	

Probate Code Section 1513 requires that a probate court investigator conduct interviews and write a report and recommendation to the Court concerning the appropriateness of establishing a guardianship for the above-named child(ren). In order to assist in the gathering of pertinent information,

I/we, \_\_\_\_\_ / \_\_\_\_\_

specifically authorize the release of school records, counseling records, probation records, public and private social service records, summaries of medical and psychological records, and records from any private or public agency which would assist in determination of our petition for guardianship.

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

**Original to: Probate Court Investigator**

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar Number and Address):</i>  TELEPHONE NUMBER: _____ FAX NUMBER <i>(Optional):</i> _____ EMAIL ADDRESS <i>(Optional):</i> _____ ATTORNEY FOR <i>(Name):</i> _____	<b>FOR COURT USE ONLY</b>           CASE NUMBER: _____
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA</b> COURT ADDRESS: 191 North First Street CITY AND ZIP CODE: San Jose, California 95113 DIVISION: Probate Division	
CONSERVATORSHIP OF <i>(name):</i> _____	
<p style="text-align: center;"><b>OBJECTION TO PETITION TO REMOVE CONSERVATOR</b></p>	

I, *(my name)* \_\_\_\_\_, declare:

I am a:  Conservator  Other: \_\_\_\_\_

I object to the Petition to Remove Conservator filed by *(name)* \_\_\_\_\_

for the following reasons: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Check here if you need more space. Continue to explain on a separate piece of paper and attach it to this page.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct of my own knowledge.

\_\_\_\_\_  
Today's date

\_\_\_\_\_  
Print your name here

\_\_\_\_\_  
Sign your name here

CONSERVATORSHIP OF <i>(name)</i> :	CASE NUMBER:
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**PROOF OF SERVICE**

1. I am over age 18 and am not a party in this case. I live or work in the county where the mailing occurred.
2. **My (the server's) home or business address is:** \_\_\_\_\_  

STREET ADDRESS

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CITY, STATE, ZIP
3. I served the Objection to Petition to Remove Conservator on each person named below by putting a copy in a sealed envelope addressed as shown below AND
  - depositing** the envelope with the United States Postal Service on the date and at the place shown in item 4 with the postage fully prepaid.
  - placing** the envelope for collection and mailing on the date and at the place shown in item 4 following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
4. **Date mailed:** \_\_\_\_\_ **Place mailed (city, state):** \_\_\_\_\_

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct of my own knowledge.

Date Signed	Server Prints His/Her Name Here	Server Signs His/Her Name Here
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**I Mailed this Notice to the Following People:**

**Names of people served:**

Name:

Name:

Name:

Name:

**Addresses of People Served:**

Mailing Address: \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_

Additional people are listed on an attachment



GUARDIANSHIP OF <i>(child's name(s))</i> :	CASE NUMBER:
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**PROOF OF SERVICE**

1. I am over age 18 and am not a party in this case. I live or work in the county where the mailing occurred.
  
2. **My (the server's) home or business address is:** \_\_\_\_\_  

STREET ADDRESS

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CITY, STATE, ZIP
  
3. I served the Objection to Petition to Remove Guardian on each person named below by putting a copy in a sealed envelope addressed as shown below AND
  - depositing** the envelope with the United States Postal Service on the date and at the place shown in item 4 with the postage fully prepaid.
  
  - placing** the envelope for collection and mailing on the date and at the place shown in item 4 following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
  
4. **Date mailed:** \_\_\_\_\_ **Place mailed (city, state):** \_\_\_\_\_

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Date Signed	Server Prints His/Her Name Here	Server Signs His/Her Name Here
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**Names of people served:**

Name:

Name:

Name:

Name:

**Addresses of People Served:**

Mailing Address: \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_

Additional people are listed on an attachment











GUARDIANSHIP OF <i>(child's name(s))</i> :	CASE NUMBER:
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**PROOF OF SERVICE**

1. I am over age 18 and am not a party in this case. I live or work in the county where the mailing occurred.
2. **My (the server's) home or business address is:** \_\_\_\_\_  

STREET ADDRESS

  

CITY, STATE, ZIP
3. I served the Objection to Petition to Terminate Guardianship on each person named below by putting a copy in a sealed envelope addressed as shown below AND
  - depositing** the envelope with the United States Postal Service on the date and at the place shown in item 4 with the postage fully prepaid.
  - placing** the envelope for collection and mailing on the date and at the place shown in item 4 following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
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**Names of people served:**

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Name:

Name:

Name:

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Mailing Address: \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_

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City, State, Zip Code: \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_

Additional people are listed on an attachment











ESTATE OF <i>(name)</i> :	CASE NUMBER:
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**PROOF OF SERVICE**

1. I am over age 18 and am not a party in this case. I live or work in the county where the mailing occurred.
2. **My (the server's) home or business address is:** \_\_\_\_\_  

STREET ADDRESS

---

CITY, STATE, ZIP
3. I served the Petition to Remove Personal Representative on each person named below by putting a copy in a sealed envelope addressed as shown below AND
  - depositing** the envelope with the United States Postal Service on the date and at the place shown in item 4 with the postage fully prepaid.
  - placing** the envelope for collection and mailing on the date and at the place shown in item 4 following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
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**Names of people served:**

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City, State, Zip Code: \_\_\_\_\_

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City, State, Zip Code: \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_

Additional people are listed on an attachment



GUARDIANSHIP OF <i>(child/ren's name(s))</i> :	CASE NUMBER:
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**PROOF OF SERVICE**

1. I am over age 18 and am not a party in this case. I live or work in the county where the mailing occurred.
2. **My (the server's) home or business address is:** \_\_\_\_\_  

STREET ADDRESS

  

CITY, STATE, ZIP
3. I served the Objection to Guardianship on each person named below by putting a copy in a sealed envelope addressed as shown below AND
  - depositing** the envelope with the United States Postal Service on the date and at the place shown in item 4 with the postage fully prepaid.
  - placing** the envelope for collection and mailing on the date and at the place shown in item 4 following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
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Mailing Address: \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_

Additional people are listed on an attachment

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar Number and Address):  TELEPHONE NUMBER: _____ FAX NUMBER (Optional): _____ EMAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA</b> COURT ADDRESS: 191 North First Street CITY AND ZIP CODE: San Jose, California 95113 DIVISION: Probate Division	
<b>(Please Check One:)</b> <input type="checkbox"/> CONSERVATORSHIP OF <input type="checkbox"/> TRUST OF <input type="checkbox"/> ESTATE OF <input type="checkbox"/> GUARDIANSHIP OF <input type="checkbox"/> OTHER _____ (Name): _____	
<b>OBJECTION</b>	CASE NUMBER: _____

I, (my name): \_\_\_\_\_, declare:

I am a (check one):  Trustee     Beneficiary     Heir     Conservator

Other: \_\_\_\_\_

I object to \_\_\_\_\_

filed by (name): \_\_\_\_\_

for the following reasons: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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Sign your name here

