



**Superior Court of California
County of Sonoma
Summary of Proposed Amendments to the Local Rules**

~~abcde~~ Deleted text
abcde Revised text
*** Unchanged text

RULE 6 RULES APPLICABLE TO PROBATE PROCEEDINGS

6.3 RULES REGARDING DECEDENTS' ESTATES

A. Duties and Liabilities of Personal Representative

The Sonoma County Superior Court does not require filing of the Confidential Supplement to Duties and Liabilities of Personal Representative, as authorized in Probate Code §8404(a).

B. Continuance to Permit Filing of Contest

When a petition for the probate of a Will is called for hearing and an attorney or party appears and orally objects and declares that a written contest will be filed, the Court may continue the hearing for a reasonable length of time with the condition that if such written contest has not been filed prior to the continued date, the hearing will proceed as if no objection had been made by said attorney or party, unless the court finds good cause exists for a further continuance.

C. Estates with Pour-Over Wills

When the beneficiary of a will is the trustee of a trust, Item 8 of the Petition for Probate shall identify all trustees and all beneficiaries of the trust by name and by stating whether each individual is a trustee or a beneficiary.

D. Claims of Personal Representative and Attorneys of Record

1. Noticed Hearing

A noticed petition for approval of a creditor's claim of the personal representative or of his attorney of record is required, except as provided below. All parties must receive at least fifteen (15) days' notice of the hearing. The creditor's claim shall be complete with approval signed by all personal representatives in the proceeding.

2. Ex parte approval

A petition and creditor's claim for any of the following claims that complies with the above rule (except for the fifteen (15) day notice requirement) may be presented and considered by the court ex parte.

- a. The claim is for reimbursement of funeral and last illness expense, and proof of payment is attached to the claim;
- b. The claim, together with all other claims of that personal representative or attorney, except for reimbursement of funeral and last illness expenses, is less than \$2,500.00;
- c. A written approval signed by all persons whose interest might be affected by the approval is attached to the claim;
- d. The personal representative has complied with the provisions of the Independent Administration of Estates Act with respect to the proposed payment of said claim;
or
- e. A claim is for an amount certain and based upon a prior court order, which is attached to the creditor's claim.

E. Content of Orders of Distribution

Every order of distribution, whether or not an accounting has been waived, must set forth specifically the manner in which the estate is to be distributed by showing each distributee's name and a description of the property, including the full legal description and assessor's parcel number for real property, and the amount of cash (as of a date certain) to be distributed. Descriptions must be complete and must not require reference to the petition or to any extrinsic document.

F. Accountings

1. General Format

Accounting format details and contents shall be in strict conformance with California law, including but not limited to the Probate Code and California Rules of Court.

2. Supplemental and Amended Accounts

A supplemental account in a decedent's estate shall include only receipts and disbursements occurring since the ending date of the last filed account. Generally a supplemental account is not to be used to amend or correct the last filed account. An amended account may be filed to amend or correct such last account. Any supplemental or amended account shall be noticed for hearing unless the Court by order dispenses with notice. (Eff. 1/1/1997; Rev. 1/1/1999, 7/1/2007, 1/1/2009, 7/1/2010, 1/1/2015, 1/1/2019, 1/1/2021)

G. Reserves After Final Account

If a petition for final distribution requests a reserve in an amount greater than \$2,500, the petition shall include a statement specifically describing the need for the reserve amount. The statement shall include an estimate of the amount of costs, taxes, or other expenditures for which the reserve is requested. (Renumbered 1/1/2021)

H. Spousal Property Petition/Succession to Real Property Petition

1. The petition must identify and present evidence of the current vesting, title, and character (community property or separate property) of each asset.
2. Where the petition affects title to real property, a copy of the deed(s) showing vesting at the decedent's date of death or at the time of filing of the Petition for a Particular Transaction pursuant to Probate Code section 3100 et seq. must be attached to the petition. (Effective 7/1/21)

6.4 CONSERVATORSHIPS AND GUARDIANSHIPS

A. Conservatorship Petitions and Selection of Hearing Date

In all cases, a Petition for Appointment of Probate Conservator must be filed with the Clerk of the Court and a case number issued. Conservatorship petitions and hearings should be set for hearing, based upon the severity of the proposed conservatee's impairments and risk of harm pending hearing, as follows:

1. Probate Conservatorships Generally

Petitioner may contact the Probate Department Clerk to determine the likely date a Petition for Probate Conservator may be set for hearing to assist in evaluating whether a Petition for Appointment of Temporary Conservator may be desired.

2. Temporary Conservatorship

Where the petitioner believes that the proposed conservatee will suffer harm or substantial loss prior to the hearing date on the Petition for Appointment of Probate Conservator, petitioner may also file a Petition for Temporary Conservatorship. In all such cases, the Petition for Appointment of Probate Conservator must first be on file in the clerk's office and a case number issued before a Petition for Temporary Conservatorship will be heard.

a. Regular Notice:

Normally, a Petition for Temporary Conservatorship will be set for hearing at the time normally set aside for probate matters allowing for at least ten (10) days' notice of the petition.

b. Emergency Circumstances Ex Parte Application:

In very rare circumstances where the proposed conservatee is in immediate and grave danger of physical or irreparable financial harm, petitioner may notice the Petition for Temporary Conservatorship to be heard on the ex parte calendar.

B. Required Documents in Conservatorship Cases

In addition to the pleadings and papers normally required in a conservatorship matter, the following special instructions apply:

1. Appointment of Court Investigator

The Sonoma County Court Investigator shall be appointed for all conservatorship cases (excluding LPS conservatorships). Petitioner must submit the proposed Order Appointing Court Investigator to the Clerk with the first-filed Petition for Appointment of Probate Conservator, requesting appointment of the Office of the Sonoma County Court Investigator, with Boxes next to paragraphs 1 and 3 checked, at a minimum. (Judicial Council form GC 330)

2. Conservatorship Handbook

The required DUTIES OF CONSERVATOR AND ACKNOWLEDGMENT OF RECEIPT OF HANDBOOK (Judicial Council Form GC 348) shall be submitted with the first filed

Petition for Appointment of Probate Conservator. The HANDBOOK FOR CONSERVATORS is available at:
http://www.courts.ca.gov/documents/conservatorship_handbook.pdf.

3. Notification of Change of Contact Information

Any time the conservator or guardian or the conservatee or ward has a change of contact information, the Notice of Change of Address or Other Contact Information shall be filed and served on the Office of the Probate Court Investigator. (Judicial Council Form MC-040)

4. Confidential Contact Information Form

The Confidential Contact Information Form must be filed with all petitions for appointment of a conservator, including appointment of temporary, successors or co-conservators, and all petitions for approval of accounts of a conservatorship estate. The Confidential Contact Information Form shall be marked as "CONFIDENTIAL". (Sonoma County Local Form PR-12)

C. Procedures Specific to Guardianship Matters

1. Probate Court Investigator

The Office of the Probate Court Investigator oversees initial and subsequent probate petitions involving the guardian of the person, including cases involving both guardianship of the person and estate.

2. Report of Proposed Guardian

A Report of Proposed Guardian Form shall be filed with any Petition for Appointment of Guardian. (Sonoma County Local Form PR-2)

3. Temporary Guardianship Petitions

a. Applications for Temporary Guardianships of the Person may be submitted to the Sonoma County Court Clerk's Office, Probate Division, Monday through Friday, during normal business hours.

For applications submitted between 8:00a.m. and 8:30a.m., orders will be available for pickup after 2:00 p.m. the day the order is submitted.

A party or attorney for a party can call (707) 521-6893 to be informed of the status of the application.

- b. Opposition papers may be submitted in person at the Sonoma County Court Clerk's Office, Probate Division. A copy of the opposition papers shall also be served personally or by fax on the opposing party by 8:00 a.m. on the day of judicial review. If service of the opposition papers is not possible, an ex parte declaration shall be filed providing the reasons for the lack of service.
- c. Judicial review of the applications for ex parte orders shall be conducted Monday through Friday beginning at 8:30 a.m.
- d. Notice: The moving party must give notice of the ex parte request. The notice SHALL include copies of ALL papers submitted to the court. This notice requirement can be waived by the court if (1) notice is impossible, or (2) notice would frustrate the very purpose of the order, or (3) immediate and irreparable harm could be suffered if notice were given. (Sonoma County Local Form PR-10 should accompany the application.)

5. Petition for Visitation

A request for an order of visitation will be filed using Local Form PR-15, which can be located on the court's public website. The petition will be filed and served on all parties following the Probate Code, California Rules of Court and Local Rules for Conservatorships and Guardianships.

D. Independent Powers under Probate Code §2591 et. seq.

The provisions of this section apply both to conservatorship and guardianship matters. For simplicity only, the terminology for conservatorships is used.

1. Necessity Required

The conservator of the estate has broad powers to act for the conservatee's benefit under the Probate Code. The Court will generally limit a grant of Independent Powers under Probate Code §2590 et seq. to specific factual situations where necessity requires independent powers.

2. Special Rules for Independent Powers

The following rules shall apply to all cases involving requests for independent powers, except LPS conservatorships:

a. Temporary Conservatorship of the Estate:

Independent powers will be granted in a temporary conservatorship of the estate only in unusual situations upon a showing of good cause.

b. Factual Showing:

Any request for independent powers shall be accompanied by an affidavit or declaration setting forth the facts which explain why: (1) the power requested is needed to administer the estate or protect the conservatee; and (2) granting such power would be to the advantage, benefit and in the best interests of the estate and the conservatee.

c. Specific Enumeration of Powers:

Each power must be described in detail. Quoting the specific language of the subsection enumerating the requested power is preferred. It is not sufficient to incorporate by reference Probate Code §2591 in the petition.

d. Real Property Description:

Where the power to sell real property is requested, the request shall describe the real property to be sold by the street address or legal description, and whether or not the property is the conservatee's home or former home. The notices of the request shall include the street address.

e. Court Confirmation of Real Property Sales:

Where the independent power to sell real property is granted, the Court will normally require the sale be returned to the court for confirmation. This requirement may be waived by the Court upon showing of good cause.

f. Enumerated Special Powers in Order and Letters:

Any special powers granted must be set forth in detail in the Order and in the Letters of Conservatorship. In addition, if the power to sell real property has been granted, the Order and Letters shall describe the property to be sold by street address or legal description, and whether court confirmation of the sale is required.

E. Conservatorship/Guardianship Accountings

1. Format

A standard accounting lists receipts and disbursements in subject-matter categories, with each receipt and disbursement category subtotaled.

Accounts of conservators and guardians shall be filed as a standard accounting unless prior court approval is sought and obtained to file a simplified accounting.

2. Adequacy of Bond

Reports of conservators and guardians shall state the total amount of the current bond and whether additional bond is necessary. The report shall set forth the calculation of the minimum bond amount, including the amount for recovery. Each report should also specify any blocked bank accounts or assets and the current value of any such assets. Any significant changes in the value of assets should be reported, together with the effect on the adequacy of the bond.

3. Requests for Extension of Accountings

Extensions to file accounts in conservatorships and guardianships may be approved in the court's discretion. When requesting an extension, the conservator/guardian shall do so by filing an ex parte application and declaration in support of the extension as an "Order on Matter Not Requiring a Hearing" under the applicable Local Rule.

4. Original Account Statements in Conservatorship and Guardianship Matters

Wherever the Probate Code or these rules require the filing of original financial account, billing and/or escrow statements, such statements will be "lodged" with the clerk and not filed. ~~To facilitate scanning, the document must be loosely bound and not stapled. All persons required to file documents electronically under these Local Rules shall confidentially lodge the documents through the e-filing system. A pleading caption page must be page one, and the first chronological statement of each financial institution shall be bookmarked separately. If multiple e-filing envelopes are required, please make a note in the comments box. Original scanned papers must be retained and delivered to the Court for inspection upon request.~~

Persons not mandated to electronically file may still do so or deliver paper copies to the Court for filing.

When paper documents are lodged, the documents must not be bound and must be contained in a 9" x 12" (or larger, if necessary) envelope. The envelope shall be prominently marked as "CONFIDENTIAL" and display the case title, number, and a brief description of the contents. If requested, original papers will be returned to the filer after the Court's determination of the account becomes final. In that case, the fiduciary must submit a self-addressed envelope of sufficient size and with adequate postage affixed to return the documents by mail at the time of lodging.

However the documents are submitted, the documents shall be organized by account and then chronologically for each account. If the document exceeds a hundred pages, an index should be included.

~~Statements shall be organized by account, and then chronologically for each account. The account statements shall not be attached to the pleadings but contained in an 9" x 12" envelope with the case title and number written on it, together with a brief description of the contents (e.g. "Original bank statements for the account period XXXXX to XXXXX"), which envelope shall be prominently marked "CONFIDENTIAL".~~

~~The original statements will be returned to the party filing the account after the Court's determination of the Account becomes final. To facilitate return of the original documents, the fiduciary must submit, at the time of filing, a self-addressed envelope of sufficient size and with an attorney box number or sufficient postage affixed to mail the documents.~~

5. Waiver of Accounts

- a. **General Rule.** Except as noted below, no request or petition for waiver of any account or final account (upon the death of the conservatee or minor) in any conservatorship or guardianship will be approved.
- b. **Small Estates.** Waivers of Account in conservatorships and guardianships may be approved for small estates in the court's discretion under the provisions of Probate Code §2628. The conservator/guardian shall request the waiver of account by completing and filing the local form PR6, and submitting the request as an "Order on Matter Not Requiring Hearing" as described in Local Rule. After the court has ordered a waiver of accounting in either a conservatorship or guardianship, the conservator/guardian shall either biennially file the local form PR-6 if the estate continues to meet the conditions of Probate Code §2628 to waive an account, or file an account and report.
- c. **Guardianship Final Account Waivers.** Waivers of final guardianship accounts on termination are discouraged. Where the ward waives the final account, the court may require the ward to be present at the hearing.

F. Final Distribution in Conservatorships and Guardianships.

1. Investigator's Assessment on Final Accounting

Prior to the filing of a Petition for Termination of a conservatorship, counsel shall contact the Court Investigator to determine the Court Investigator's assessment of the conservatorship estate for services rendered. A request to pay the assessment

and the amount of the assessment shall be included in the petition and final account and order thereon.

2. Small Estates

If the value of the conservatorship/guardianship estate does not exceed the amount determined under Probate Code § 13100 and distribution is intended by affidavit procedure pursuant to Probate Code § 13101, notice of hearing, a copy of the final account and report of the conservator/guardian, and a copy of the petition for final distribution, shall be served on the successor(s) of the deceased conservatee/ward.

3. Other Probate Estates

In all other cases, a petition for final distribution upon the death of conservatee or ward shall be approved only after appointment of a personal representative of the estate of the conservatee/ward. The final account and petition for distribution of the conservator/guardian shall identify the personal representative and the court and case number of the probate proceeding for the deceased conservatee/ward. Notice of hearing, a copy of the final account and report of conservator/guardian, and a copy of the petition for final distribution, shall be served on the personal representative of the estate of the deceased conservatee/ward.

G. Limited and LPS Conservatorships

1. Limited Conservatorship Filings

Every conservatorship involving a developmentally disabled proposed conservatee shall be filed as a limited conservatorship proceeding.

2. Disclosure of Developmental Disability

The involvement of a developmentally disabled conservatee shall be clearly set forth in all conservatorship and guardianship petitions and accountings.

3. Limited Conservatorships Regional Center

a. Calendar Setting if Regional Center Report Required

Any conservatorship proceeding requiring a Regional Center report shall be set at least thirty (30) days after mailing notice of the proceeding to the Regional Center, to allow the Regional Center report to be filed prior to the hearing.

b. Regional Center and Public Defender Appointment

The Order Appointing Regional Center (Sonoma County Local Form # PR-4) may be utilized to facilitate ordering the Regional Center report and appointment of the Public Defender to represent the conservatee. Such Orders shall be submitted with the initial Petition.

4. Review of General Conservatorships

In existing general conservatorships involving a developmentally disabled conservatee the court may direct that a new petition for conservatorship be filed under the limited conservatorship code provisions.

5. Accountings

Any accounting required in LPS or limited conservatorship matters shall comply with accounting requirements in other Sonoma County conservatorship estate matters unless otherwise directed by the court designated to hear the LPS calendar.

6. Closed Status of Reports

Reports by a Regional Center and the Office of the Probate Court Investigator, and other documents or materials containing sensitive information filed in LPS and limited conservatorship hearings, shall be maintained in a confidential status in the case file with disclosure only to authorized persons pursuant to Court order.

(Eff. 1/1/1997; Rev. 7/1/2006, 1/1/2007, 7/1/2007, 1/1/2008, 7/1/2009, 1/1/2010, 7/1/2010, 1/1/2011, 7/1/2012, 1/1/2014, 1/1/2015; Rev. and renumbered 1/1/2021; revised 7/1/2021)

RULE 8 RULES APPLICABLE TO CRIMINAL TRIAL PROCEEDINGS

8.12 CALENDARING SYSTEM

A. First Appearance Date

First appearance date for out of custody felony defendants will be two weeks after arrest.

First appearance date for out of custody misdemeanor defendants will be four (4) weeks after arrest except in cases where defendant is charged with violations of §§11550 and 11377 of the Health and Safety Code in which the first appearance date shall be ten (10) days after arrest. See, Penal Code §853.6

When a defendant is charged with violations of Penal Code §§243(e)(1), 273.5, 273.6, 166(a)(4) or 422, the first appearance date shall be fourteen (14) days after date of arrest when the defendant is not in custody.

B. Arraignments

Public Defender and District Attorney shall be present at all arraignments.

Any person appointed an attorney shall be assessed fees if that person is found able to pay them.

C. Schedule of Events

Misdemeanors: After the entry of a plea of not guilty, the case shall be set for a settlement conference. If there is no settlement and no motions to be filed, the next event set shall be a readiness conference and jury trial. Misdemeanor cases shall be disposed in accordance with California Rules of Court - Judicial Administration Standards 2.2. (Effective 1/1/1997; Revised 1/1/2021)

D. Calendar Events

1. Arraignments

The District Attorney shall give a defendant, designated by the court as in pro per, or an attorney appearing generally, a copy of all police and laboratory reports and the complaint.

District Attorney shall file P.C. 1000 declarations if applicable.

2. Jury Trials

a. Felony cases: Defendant is to be present at jury trial unless waived. Each judge shall conduct a pretrial conference to discuss in limine motions, jury instructions, witness schedules and voir dire procedures. (Eff. 1/1/1997; Rev. 1/1/2006, 7/1/2007; 7/1/15)

b. Misdemeanor Cases: Defendant is to be present at jury trial unless waived. Each judge shall conduct a pretrial conference to discuss in limine motions, jury instructions, witness schedules and ~~voir~~ voir dire procedures. All motions in limine, requested jury instructions listed by name and number, witness list, and verdict forms shall be filed with the court no later than the first day of trial. Unless specially set, the first day of trial is Thursday at 10:30 a.m. (Eff. 7/1/15)