

NOTICE
September 26, 2016 – AMENDED 10/3/16
Revision of the Uniform Local Rules of Court
(California Rules of Court 10.613(g))

The Sonoma County Superior Court Judges have approved proposed changes/additions to Sonoma County Local Rules of Court, effective January, 2017, and are making them available for comment for a 45 day period to those individuals and organizations specified under Rule 10.613(g) of the California Rules of Court. The deadline for the 45 day comment period is ~~November 10, 2016~~ **November 17, 2016**.

Comments may be directed to José Octavio Guillén, Court Executive Officer, Sonoma County Superior Court, 600 Administration Drive, Santa Rosa, CA 95403.

The proposed changes and additions to the Sonoma County Local Rules are indicated in the following fashion in the submissions below:

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

RULE 6 RULES APPLICABLE TO PROBATE PROCEEDINGS

6.1 INTRODUCTION

A. General

The Probate Rules for Sonoma County Superior Court set forth local policies and procedures of the probate department. These rules do not attempt to restate or summarize statutory or case law or estate administration in general. Guidance on probate law and practice may be found in publications such as California Decedent Estate Practice, California Trust Administration, and California Conservatorship Practice, which are published by CEB Continuing Education of the Bar - California.

These rules, although binding on parties, may be departed from in the discretion of the Court.

B. Contact Information

Website: For current contact information, tentative rulings, and the online probate calendars parties should refer to the court's website at: www.sonoma.courts.ca.gov (Click on the "Divisions" tab, then "Probate" in the drop-down list, to Access the probate page). All local forms referred to in this rule are available at and can be downloaded from the court website. (Click on the "Forms and Filing" tab on the courts home page, then " Common Local Forms" in the drop-down menu.)

One or more of the following may be helpful in matters presented to the Probate Court.

1. Clerk of the Probate Court: The address of the Probate Clerk is 600 Administration Drive, Santa Rosa, CA 95403. The physical address of the Probate Clerk's Office is 3055 Cleveland Avenue, Santa Rosa, CA 95403 (first floor).
2. Probate Court Examiner: The address for the Probate Court Examiner is 3055 Cleveland Avenue, Santa Rosa, CA 95403. The email address is ProbateExaminer@sonomacourt.org.

3. Office of the Probate Court Investigator: The address for the Office of the Probate Court Investigator is 600 Administration Drive, Santa Rosa, CA 95403. The telephone number is (707) 521-6586.

(Eff. 1/1/1997; Rev. 1/1/2006, 1/1/2007, 7/1/2007, 7/1/2009, 1/1/2010, 7/1/2010, 1/1/2011, 1/1/2014, 1/1/2015)

6.2 CALENDAR AND PROCEDURAL MATTERS

The current Probate, Conservatorship (including Limited and LPS Conservatorships), and Guardianship calendars are posted on the court's website. (Click on the link to "Current Probate Calendars" on the probate page).

A. General Guidelines

1. General Probate Matters

One department of the Superior Court shall be designated by the Presiding Judge of the Superior Court to hear general probate matters. General probate matters will be calendared and heard at such times and places as shall be designated by the Supervising Judge of the Civil Division (the "Regular Probate Calendar").

2. Probate Calendar Day on Judicial Holiday

When the date for the Regular Probate Calendar is a court holiday the calendar will be heard on a date and time as designated by the Supervising Judge of the Civil Division.

B. Calendaring Guidelines

~~PROBATE CALENDARS (Effective January 1, 2015)~~

~~Regular Probate Calendar: Called in Department 18, located at 3055 Cleveland Avenue, Santa Rosa, CA 95403.~~

~~Guardianship Calendar: Called in Department 12, located at 600 Administration Drive, Santa Rosa, CA 95403.~~

~~LPS Calendar: Called in Department 23, located at 3055 Cleveland Avenue, Santa Rosa, CA 95403.~~

~~Sonoma Developmental Center ("SDC") Calendar:
Called at the Sonoma Developmental Center, 15000 Arnold Drive, Eldridge, CA 95431.~~

1. Regular Probate Calendar Matters

Except as otherwise indicated in these rules, all probate petitions concerning the following are to be calendared for hearing on the Regular Probate Calendar:

- decedent's estates,
- trusts,
- conservatorships of the person and of the estate (other than limited conservatorships unless there is an estate involved and "LPS conservatorships"),
- guardianships of the estate

- Petitions for the appointment of a guardian of the estate only, and all petitions concerning the administration of an existing guardianship of the estate, are to be calendared for hearing on the Regular Probate Calendar.
- ◆ Special Needs Trusts
 - All petitions for an order approving a Special Needs Trust or for an order directing payment or delivery of any property or funds to a Special Needs Trust, pursuant to Probate Code §§ 3602, 3611, or other authority, shall be scheduled for hearing on the Regular Probate Calendar. When such a petition is a first-filed paper or arises out of a civil matter not pending before the Probate Court, the petition shall be filed with the Probate Clerk as a new case and given a new case number.

2. Petitions for Guardianship of the Person

Petitions for the appointment of the guardian of the person are to be calendared for hearing on the Guardianship Calendar.

3. Limited Conservatorships

a. Petitions for the appointment of a limited conservator of the person or of the person and estate of an adult alleged to be developmentally disabled who is in placement at the Sonoma Developmental Center (SDC) are to be calendared for hearing on the SDC Calendar, to be heard at such times and places as shall be designated by the Supervising Judge of the Civil Division.

b. All other petitions for the appointment of a limited conservator of the person or limited conservator of the person and the estate for an adult alleged to be developmentally disabled are to be calendared for hearing on the LPS Calendar.

4. LPS Calendar

All matters involving proceedings under the Lanterman-Petris-Short Act are to be calendared on the LPS Calendar.

C. Filing, Hearing, and Continuance Procedures

All petitions and supporting documents in matters to be heard on the probate calendar shall be filed with the Probate Clerk, at least twenty-two (22) days prior to the hearing, allowing sufficient time for notice and publication as required by law.

1. RULE 6.2(C)(1) Procedure for Obtaining a Hearing Date

In conservatorship matters and guardianships of the estate, petitioners shall comply with Local Rule 6.4 regarding contacting the Office of the Probate Court Investigator to obtain a hearing date. In all other matters, petitioners will be assigned a hearing date from the probate clerk at the time of filing. ~~petitioners shall contact the Office of Probate Examiner to request assignment of a hearing date. If the Probate Examiner has not responded within three (3) court days after the request is made, petitioners may contact the Probate Clerk's to request assignment of a hearing date. In requesting a hearing date, Petitioner shall take into consideration the requirements of notice, publication and filing proofs of service. For contact information for the Probate Clerk's office Probate Examiner and the Probate Court Investigator see Rule 6.1.B, above.~~

2. Procedure for Obtaining a Continuance

a. RULE 6.2(C)(2)(a) Continuance Requested by Counsel in Advance of Hearing:

Requests for continuances may be made up to five (5) **court days** prior to the hearing by contacting the Probate Examiner or Court Investigator, as applicable. If an opposition has been filed, the agreement of all counsel to a specific continuance date also must be provided to the Probate Examiner or Court Investigator in writing or by email.

b. RULE 6.3(C)(2)(b) Continuance Requested at Hearing:

Requests for continuances may be made at the hearing, and may be granted in the discretion of the Court.

c. RULE 6.2(C)(2)(c) Limitation on Continuances:

Normally no more than three continuances will be allowed before the matter is dismissed without prejudice.

d. RULE 6.2(C)(2)(d) Continuances for Probate Matters Assigned to Short Cause or Civil Master Calendar:

Any matter assigned to or set on the Short Cause Calendar or the Civil Master Trial Calendar shall be governed by the California Rules of Court and Superior Court Rules applicable to those calendars.

D. Submission of Proposed Orders and Other Pleadings Before Hearing Date

1. RULE 6.2(D)(1) Orders

Proposed orders shall be submitted to the Probate Clerk at the time of filing the petition. If a self-addressed, pre-paid envelope is provided when the order is submitted, the clerk will return a file endorsed copy by mail; or if requested in writing, the clerk will deliver a file endorsed copy to an Attorney Box at the Civil and Family Courthouse, 3055 Cleveland Avenue, Santa Rosa.

2. RULE 6.2(D)(2) Supporting Papers

Supporting papers shall be filed at the time of filing the Petition, except as otherwise provided in the Probate Code or these Local Rules.

3. RULE 6.2(D)(3) Proofs of Service

Proofs of Service for the initial petition shall be filed with the Clerk at least five (5) days prior to the day of hearing. Any other Proofs of Service shall be filed with the Clerk contemporaneously with the papers to which they pertain.

4. RULE 6.2(D)(4) Proofs of Publication

Proofs of Publication shall be filed with the Clerk at least five (5) days prior to the day of hearing.

5. RULE 6.2(D)(5) Copies Required for Court Staff

Copies of all filed pleadings and proposed orders in guardianship of the estate and conservatorship matters are required to be served on the Office of the Probate Court Investigator. Copies of all filed pleadings and proposed orders in decedent's estate and trust matters are required to be served on the Probate Examiner's Office. A drop box for copies hand-delivered to the Office of the Probate Examiner is provided for the convenience of the parties at the Probate Clerk's Office at 3055 Cleveland Avenue, Santa Rosa, CA 95403 and another drop box for copies hand-delivered to the Office of Probate Court Investigator is provided for the convenience of the parties at the Civil Clerk's Office, located at 600 Administration Drive, Santa Rosa, CA 95403.

E. Supplemental or Opposition Papers

In order for supplemental or opposition papers to be considered by the Court prior to the hearing, the documents must be first filed with the Court, and served as follows:

1. RULE 6.2(E)(1) Guardianships of the Person

Copies of all supplemental or opposition papers must be served on the Probate Court Investigator at least five (5) **court days** before the hearing, with the scheduled hearing date noted on the face sheet.

2. RULE 6.2(E)(2) All Conservatorships and Guardianships of the Estate Only

Copies of all supplemental or opposition papers must be served on the Office of the Probate Court Investigator at least five (5) **court days** before the hearing, with the scheduled hearing date noted on the face sheet.

3. RULE 6.2(E)(3) Decedent's Estates and Trust Matters

Copies of all supplemental or opposition papers must be served on the Probate Court Examiner at least five (5) **court days** before the hearing, with the scheduled hearing date noted on the face sheet.

F. Hearings and Tentative Rulings

1. RULE 6.2(F)(1) Notices of Hearing

Notices of hearing on cases scheduled for hearing on the Regular Probate Calendar shall indicate that the time for the commencement of the calendar is 8:30 a.m.

2. RULE 6.2(F)(2) Tentative Rulings – Regular Probate Calendar

During the court day preceding each weekly Regular Probate Calendar, at 11:00 a.m. or as soon thereafter as possible, the Court will cause to be recorded a tentative ruling for each matter noticed on such calendar. The tentative ruling may be obtained by telephoning (707) 521-6881 (choose Option #1) or online on the Court's website at www.sonoma.courts.ca.gov (Click on the "Online Services" tab on the home page, select "Tentative Rulings" in the drop-down menu, and the click on the link to "Probate"). The Tentative Rulings will also be posted at the probate department.

a. Parties who do not object to the tentative ruling need not appear at the hearing, unless the ruling requires appearances or another party has requested a hearing pursuant to the procedure in subdivision (b) below.

b. Any interested party who wishes to be heard in relation to the tentative ruling must call 707-521-6893 and leave a brief message that includes the name and telephone number of the party calling and the case name and number. Any interested party who wishes to be heard in opposition to a petition must also notify the attorneys for all represented parties as well as all unrepresented parties of their intent to appear.

Notifications to the court and all attorneys and unrepresented parties must be completed no later than 4:00 p.m. on the court day immediately preceding the day of the hearing.

- c. Unless notification has been given as provided in b, above, the tentative rulings shall become the rulings of the court at ~~8:45 a.m.~~ on the day of the hearing 15 minutes after the scheduled calendar time. Signed orders on approved matters are generally available at that time at the Probate Clerk's office for filing in person.

3. **RULE 6.2(F)(3) Tentative Rulings - Guardianship Calendar**

During the court day preceding each weekly guardianship calendar, commencing at 11:00 a.m., or earlier if feasible, the Court will cause to be recorded a tentative ruling for each matter noticed on such calendar. The tentative ruling may be obtained by telephoning (707) 521-6881 (Opt. #1) or by accessing the Court's website at www.sonoma.courts.ca.gov and selecting the option for Tentative Rulings. The tentative rulings will also be posted at the guardianship department.

- a. Parties who do not object to the tentative ruling need not appear at the hearing, unless the ruling requires appearances or another party has requested a hearing pursuant to the procedure in subdivision (b), below.
- b. Any interested party who wishes to be heard in relation to /the tentative ruling must call 707-521-6893 and leave a brief message that includes the name and telephone number of the party calling and the case name and number. Any interested party who wishes to be heard in opposition to a petition must also notify the attorneys for all represented parties as well as all unrepresented parties of their intent to appear. Notifications to the court and all attorneys and unrepresented parties must be completed no later than 4:00 p.m. on the court day immediately preceding the day of the hearing.
- c. Unless notification has been given as provided in b, above, the tentative rulings shall become the rulings of the court when announced by the courtroom clerk at 9:15a.m. on the day of the hearing.

4. **RULE 6.2(F)(4) Appearances**

No appearances are required for pre-approved matters unless an interested person has asked to be heard in response to the tentative ruling and has given the required notice of such a request.

G. **Contested Matters**

1. **RULE 6.2(G)(1) Written Objections**

- a. Before the Court will conduct a hearing in any contested proceeding, the party(ies) opposing or objecting to a petition, accounting or other matter scheduled for hearing shall file verified, written objections specifying the grounds for such objection or opposition. If oral objections are made at a hearing, the court may continue the matter in order to have the objections submitted in writing.
- b. Interested persons who oppose the granting of a petition for appointment of a guardian are encouraged to use Sonoma County form PR-9 (Objection(s) to Appointment of Guardian of the Person) to file objections.

2. **RULE 6.2(G)(2) Meet and Confer Requirement**

In the event of any contest or objection to any petition on the probate calendar, the parties or his or her respective attorneys shall make a reasonable and good faith attempt to informally resolve the controversy at a face-to-face conference, if possible, otherwise by

telephone conference, before any hearing of the contested petition. If such resolution is not possible, then each party shall file a Statement of Issues as provided in 3, below.

3. RULE 6.2(G)(3) Statement of Issues or Settlement

At least five (5) **court days** before the hearing, each party shall either (1) notify the Probate Clerk in the Superior Court Clerk's office or the probate department that the controversy has been resolved; or (2) file and serve the Statement of Issues. Each Statement of Issues must:

- a. Indicate that the parties or his or her respective attorneys have met face-to-face or, if that is not possible, have participated in a telephone conference to discuss the issues in dispute,
- b. identify the substantial issues in the controversy, with references to any supporting evidence and/or legal authority,
- c. include each party's opinion of any barriers to settlement,
- d. Provide an estimate of the time requirement for the hearing or resolution,
- e. Include each party's opinion as to the appropriate method for resolving the controversy (i.e., mediation, arbitration, short cause trial, etc.).

4. RULE 6.2(G)(4) Contested Matters on Probate Calendar

When the hearing on a contested matter is estimated to be 20 minutes or less, the hearing will be held before the Probate Judge on the Regular Probate Calendar if time permits. Otherwise, the matter will be set for an extended hearing.

5. RULE 6.2(G)(5) Transfer to Trial Calendar

If the hearing on a contested matter is estimated to exceed twenty (20) minutes or a jury trial is demanded, and counsel appear at the probate calendar, the matter may be transferred to the short cause calendar or may be assigned directly to one judge for all purposes.

H. Ex Parte Matters

1. RULE 6.2(H)(1) Presentation of Emergency Probate Petitions

If a party has reason to believe that orders are urgently needed to prevent irreparable harm to person or property, the petition may be presented on the civil/probate ex parte calendar. The petition must be accompanied by a declaration setting forth the facts upon which the petitioner is basing the allegation. The petition must be accompanied by a declaration identifying the persons entitled to notice under the applicable sections of the Probate Code or these rules, and either proof of service of notice or a statement of the facts which the petitioner believes justify an order dispensing with notice. Filing fees must be paid and a case number assigned before a party presents an ex parte application.

All ex parte probate matters shall be presented to the Probate Judge at the times and locations designated in Rule 17. Filing fees must be paid and a case number assigned before a party presents an ex parte application.

2. RULE 6.2(H)(2) Contents of Petition

A petition for an ex parte order must be verified and must contain sufficient evidentiary facts to justify issuing the order. Conclusions or statements of ultimate facts are not sufficient, and a foundation should be shown for the petitioner's personal knowledge.

3. RULE 6.2(H)(3) Special Notice Allegation

All petitions for ex parte orders must contain a statement on requests for special notices. The statement shall either recite that no request for special notice is in effect or shall list the parties requesting special notice and attach the specific waivers of notice by such parties or proof of service on such parties.

4. RULE 6.2(H)(4) Notice to Counsel/Opposing Party

Notice shall be provided in accordance with the California Rules of Court applicable to civil ex parte matters.

5. RULE 6.2(H)(5) Notice to Probate Court Investigator

Notice to the Probate Court Investigator shall be given when required under Local Rule 6.4.

6. RULE 6.2(H)(6) Order Must Accompany Petition

Except where a Judicial Council or a local form is used that includes an order, a petition for an ex parte order must be accompanied by a separate order that is complete in itself. It is not sufficient for such order to provide merely that the application has been granted, or that the sale of property or security set forth in the petition has been approved. The order must specify all relief ordered by the court.

I. Orders on Matters Not Requiring Hearing

1. RULE 6.2(I)(1) Conditions Required:

Petitions may be presented to the Probate Clerk for submission to the Probate Judge without a hearing, when the following circumstances exist:

- 1a.** The Order requested is one for which no hearing is required, or the Order is necessary in less time than is required to obtain a hearing date on the –Regular Probate Calendar, and
- 2a.** Either notice is not required in accordance with the Probate Code or these Rules, or notice has been waived by all persons entitled to notice, and
- 3a.** The petition or other relief requested is not contested.

2. RULE 6.2(I)(2) Verification:

A petition for an ex parte order must be verified, either in the petition or by a support declaration under penalty of perjury, and must contain sufficient evidentiary facts to justify issuing the order. Conclusions or statements ultimate facts are not sufficient and a foundation should be shown for the petitioner’s personal knowledge.

3. RULE 6.2(I)(3) Notice:

For petitions for an ex parte order, three (3) days’ notice, by telephone, email, or personal service, must be given to all interested parties. Proof of service must be attached to the petition.

4. RULE 6.2(I)(4) Special Notice:

All petitions for ex parte orders must contain a statement of special notice. The statement shall either recite that no request is on file and in effect or shall list the parties requesting

special notice and shall attach the proof of service on such parties or specific waivers of notice.

J. RULE 6.2(J) Appointment of Probate Referee

Where the relevant Judicial Council form order includes a provision for the appointment of the probate referee, the appointment of the probate referee will be made on the form (e.g., Order for Probate, Order Appointing Conservator, etc). Unless the appointment of a particular referee is requested by the fiduciary in a petition as per Probate Code section 8921 et seq, and designated by the court, the appointment of the probate referee will be made on a rotating basis among the probate referees appointed for the county. In pending cases for which a probate referee has not been appointed in the initial order appointing the fiduciary, an application for appointment of a probate referee shall be submitted to the office of the Clerk on Sonoma County Local Form PR-1. The Application for appointment of a probate referee may be submitted as an “Order on Matter Not Requiring Hearing” under Local Rule 6.2.I.

K. RULE 6.2 (K) Compliance with Filing Deadlines

All Probate Code and Court ordered due dates for filing shall be strictly observed (e.g., inventories, accountings, status reports and receipts on blocked accounts). Failure to comply with statutory or Court ordered filing deadline requirements may result in imposition of surcharges and/or sanctions absent a showing of good cause for the late filing.
(Eff. 1/1/1997; Rev. 7/1/2006, 1/1/2007, 7/1/2007, 7/1/2009, 1/1/2010, 7/1/2010, 7/1/2013, 1/1/2014; 1/1/2015, 1/1/2017)

6.3 RULES REGARDING DECEDENTS’ ESTATES

A. RULE 6.3(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. RULE 6.3(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 not less than four (4) weeks 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. Claims of Personal Representative and Attorneys of Record

1. RULE 6.3(C)(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. RULE 6.3(C)(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.

D. RULE 6.3(D) 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.

E. Accountings

1. RULE 6.3(E)(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. RULES 6.3(E)(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.

3. Rule 6.3(E)(3): Notation of Omitted Schedules

Where a particular schedule is unnecessary, it need not be included and that fact must be noted in the Summary of Account with the word "none" in the blank provided for the total from the schedule.

F. Retention of Closing Reserve:

1. Rule 6.3(F)(1): Informal Accounting

Petitions for final distribution that request the retention of funds from distribution (a closing reserve) in excess of \$5,000.00 shall be subject to an informal accounting to be filed with the Court within six (6) months of the date of the order for final distribution. The informal accounting shall be filed with the Court ten (10) days prior to the six-month status hearing which the Court shall set at the time the order for final distribution is made. If the informal accounting is timely filed and meets with the Court's satisfaction, the status hearing for the informal accounting may come off calendar and no appearance at the hearing will be required.

2. Rule 6.3(F)(2): Requirements of Order for Final Distribution

Where the closing reserve is in excess of \$5,000.00 an order for final distribution of an estate shall specifically set forth the use that may be made of the funds retained for closing reserve. The informal accounting of funds retained for closing reserve shall specify the date of payments and all

uses of the retained funds (i.e., income taxes, final closing costs, property tax assessments). The Court in its discretion may require a noticed hearing on the accounting and/or a more formal accounting of the funds retained for closing reserve.

3. Rule 6.3(F)(3): Requirements of Application for Final Discharge

Where the closing reserve is in excess of \$5,000.00 the application for final discharge of the personal representative must include the disposition of all funds retained for closing reserve and receipts from beneficiaries shall be filed for any distributions of the retained funds to beneficiaries.

4. Rule 6.3(F)(4): Prohibited Uses

No closing reserve funds shall be used for attorney fees or personal representative commissions. (Eff. 1/1/1997; Rev. 1/1/1999, 7/1/2007, 1/1/2009, 7/1/2010, 1/1/2015, 2017)

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. 6.4(A)(1) Probate Conservatorships Generally

Prior to selecting a hearing date, petitioner shall contact the Office of the Sonoma County Court Investigator to determine the amount of time it will require to complete the required investigation and report.

2. RULE 6.4(B)(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 should be noticed for hearing at the time normally set aside for probate matters. Petitioner should contact the Office of the Sonoma County Court Investigator to determine a hearing date next available 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. Petitioner should contact the Office of the Sonoma County Court Investigator as soon as the necessity for such a hearing becomes apparent.

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. RULE 6.4(B)(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. **RULE 6.4(B)(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. **RULE 6.4(B)(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 Notification of Change of Contact Information shall be filed and served on the Office of the Probate Court Investigator. (Sonoma County Local Form PR-3)

4. **RULE 6.4(B)(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” and placed in the “SECRET” section of the court file. (Sonoma County Local Form PR-12)

C. **Court Investigator Procedures**

1. **RULE 6.4(C)(1) Calendaring Conservatorship Hearings When Investigation Required**

When an investigation is required pursuant to Probate Code § 1826 and 1851, the petitioner or his/her attorney shall contact the Office of the Sonoma County Court Investigator to determine the amount of time required to complete the investigation and report and to select a hearing date.

2. **RULE 6.4(C)(2) Documents to Be Served on Court Investigator**

- a. Copies of ALL papers filed in each conservatorship proceeding, and the proposed Order for any petition filed, shall be served on the Office of the Sonoma County Court Investigator at the time of filing. Service on the Court Investigator shall be shown on the Proof of Service filed with the clerk.
- b. Where a party intends to submit a Petition for Temporary Conservatorship on an ex parte basis, copies of ALL papers filed or presented to the court in support of such a petition shall be served on the Office of the Sonoma County Court Investigator no later than five (5) **court days** prior to the ex parte hearing.
- c. Any opposition to an ex parte petition shall be served on the Office of the Probate Court Investigator no later than one full day prior to the ex parte hearing.

D. Procedures Specific to Guardianship Matters

1. RULE 6.4(D)(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. RULE 6.4(D)(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. RULE 6.4(D)(3) Documents to Be Served on Court Investigator

a. Copies of ALL papers filed in cases involving guardianship of the person, including cases involving guardianship of both person and estate, shall be served on the Office of the Probate Court Investigator at the time of filing, including proposed Orders for any Petition filed. Service on the Probate Court Investigator shall be shown on the proof of service filed with the clerk. The Office of the Probate Court Investigator may recommend whether or not the Court should require an investigation under Probate Code § 1513.

b. Copies of ALL papers filed in cases involving guardianship of the estate only, and proposed Orders for any petition filed, shall be served on the Office of the Probate Court Investigator at the time of filing. Service on the Office of the Probate Court Investigator shall be shown on the proof of service filed with the clerk.

4. RULE 6.4(D)(4) 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.

Applications must be submitted between 8:00a.m. and 8:30a.m. Orders will be available for pickup after 2:00 p.m. the day after 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. (Sonoma County Form FL9).

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 FL10 should accompany the application.)

5. RULE 6.4(D)(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.

E. 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. RULE 6.4(E)(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. RULE 6.4(E)(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.

F. Conservatorship/Guardianship Accountings

1. RULE 6.4(F)(1) Format

Accounts of conservators and guardians shall follow the format prescribed in these Local Rules for decedents' estates in the Probate Code and California Rules of Court.

2. **RULE 6.4(F)(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. **RULE 6.4(F)(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 Local Rule 6.2.I.

4. **RULE 6.4(F)(4) Original Account Statements in Conservatorship and Guardianship Matters**

Wherever the Probate Code requires the filing of original financial account, billing and/or escrow statements, such statements will be "lodged" with the clerk and not filed. The original statements will be returned to the party filing the account after the Court's determination of the Account becomes final. 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 statements shall also be accompanied by a self-addressed envelope of sufficient size and with sufficient postage affixed for the return of the statements after the determination of the account becomes final.

5. **RULE 6.5(F)(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 6.2.I. 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.

G. **Final Distribution in Conservatorships and Guardianships.**

1. **RULE 6.4(G)(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. **RULE 6.4(G)(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. **RULE 6.4(G)(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.

H. **Limited and LPS Conservatorships**

1. **RULE 6.4(H)(1) Limited Conservatorship Filings**

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

2. **RULE 6.4(H)(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. **RULE 6.4(H)(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. **RULE 6.4(H)(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. **RULE 6.4(H)(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. A copy of limited conservatorship or LPS accountings shall be furnished to the Office of the Probate Court Investigator at the time of filing.

6. RULE 6.5(H)(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, 1/1/2017)

6.5 COMPENSATION OF FIDUCIARIES AND ATTORNEYS

A. RULE 6.5(A) Fees and Commissions in General

All requests for compensation of fiduciaries and attorneys in decedent's estates, guardianship, conservatorship and trust proceedings shall be submitted in strict compliance with the Code of Civil Procedure, Probate Code, California Rules of Court, and these local rules.

B. Fees for Extraordinary Services in Decedents' Estates

1. RULE 6.4(B)(1) General Rule

Each request for fees for extraordinary services will be considered on its individual merits. Such services may include, but shall not be limited to, leases and foreclosures of real property, tax matters (including preparation of returns, audits and tax litigation), operating a business, heirship proceedings, special services that may be necessary for the personal representative or attorney to perform, and those matters specifically mentioned in the California Rules of Court.

2. RULE 6.5(B)(2) Determination of Entitlement and Amount

In addition to the factors set forth in California Rules of Court, the Court may consider the following factors, among others, in exercising its discretion in any application for fees for extraordinary services:

- a. Time devoted to the matter categorized by subject matter of services provided. The Court must be provided with a statement of facts containing sufficient information in order to enable it to analyze the reasonableness of the rate and the amount of time devoted to the matter. Detailed time records may be provided to support the statement of facts, but are not required in all cases.
- b. The benefits of the services to the estate. It is recognized that the representative or his or her attorney may occasionally be under a duty to pursue certain matters which do not provide a financial gain to the estate. Such services may nevertheless be compensable.
- c. Whether, if not performed by the attorney or personal representative, the extraordinary services would have been performed by an independent professional and the reasonable expected cost of such independent services.

3. RULE 6.5(B)(3) Service of Petition for Compensation

In addition to other papers required to be served, copies of any petitions requesting allowance of fees or commissions for extraordinary services in decedents' estates shall be

served on all persons entitled to receive notice of the hearing on the petition (except beneficiaries of specific gifts whose interests are not affected by the compensation requested).

4. Rule 6.5(B)(4): The court will allow the following amounts as extraordinary fees for attorneys without further justification or declaration as would otherwise be required by California Rules of Court, Rule 7.702-7.703:

a. One thousand dollars for court-confirmed sales of real property; and

b. Seven hundred fifty dollars for non court-confirmed sales of real property under the Independent Administration of Estates Act.

5. Rule 6.5(B)(5): Service of Petition for Compensation

In addition to other papers required to be served, copies of any petitions requesting allowance of fees or commissions for extraordinary services in decedents' estates shall be served on all persons entitled to receive notice of the hearing on the petition (except beneficiaries of specific gifts whose interests are not affected by the compensation requested).

C. Compensation of Conservators, Guardians and Their Legal Counsel

1. RULE 6.5(C)(1) Court Appointed Counsel for Conservatees

Hourly rates for court appointed counsel for conservatees will be set at the time of appointment.

2. RULE 6.5(C)(2) Allowance of Fees

Each request for fees in guardianship and conservatorship matters will be considered on its individual merits.

3. RULE 6.5(C)(3) Factors in Allowing Compensation

In addition to the factors set forth in California Rules of Court, the Court may consider the following factors, among others, in exercising its discretion in any application for fees for services:

- a. Time devoted to the matter categorized by subject matter of services provided. The Court must be provided with a statement of facts containing sufficient information in order to enable it to analyze the reasonableness of the rate and the amount time devoted to the matter by each person whose time is charged. Time records may be provided to support the statement of facts, but are not required in all cases. However, if the court has questions about fees, time records may be requested. To avoid delay in approval of fees, counsel may want to submit time records at the time of filing their fee request.
- b. The quality and extent of the services performed.
- c. The responsibility assumed and exercised.
- d. In a final account, a reasonable estimate of work and time to complete estate affairs and distribution.

4. RULE 6.5(C)(4) Attorney Representing Conservatee or Ward

An attorney representing the conservatee or ward may file a petition for fees at any time after the hearing on the petition for appointment of probate conservator or guardian.

D. Reimbursement of Costs in Conservatorships and Guardianships

1. RULE 6.5(D)(1) Reimbursement of Costs.

- a. Allowed Reimbursements.** Allowable reimbursement of reasonable costs that benefit the conservatorship estate include, but are not limited to:
 - i.** Court Clerk's fees;
 - ii.** Newspaper publication fees;
 - iii.** Surety bond premiums; and
 - iv.** Appraisal fees.
- b. Not reimbursable.** The following costs are considered part of normal overhead and may not be reimbursed absent a showing of special circumstances:
 - i.** Routine photocopies and postage;
 - ii.** Secretarial time and paralegal time for secretarial services;
 - iii.** Local telephone calls; and
 - iv.** Mileage and parking.
- c. Reimbursed Only in Court's Discretion.** The following costs may be reimbursed in the Court's discretion:
 - i.** Unusually large costs for photocopies and postage;
 - ii.** Substitutes for U.S. Postal Service (Federal Express, UPS, etc.);
 - iii.** Long distance telephone;
 - iv.** Travel outside of Sonoma County; and
 - v.** Other costs found to be extraordinary.

(Eff. 1/1/1997; Rev. 1/1/1999, 7/1/2009, 7/1/2010, 01/01/2015; 1/1/2016, 1/1/2017)

6.6 BONDS

A. RULE 6.6(A) Increasing or Decreasing Bond Amount

The fiduciary may normally petition to increase or decrease the required amount of bond on an ex parte basis, using the procedure for obtaining an "Order on Matter Not Requiring Hearing" described in Local Rule 6.2.I. Where objections to the amount of bond are expected, the petition should be noticed for hearing on the regular probate calendar.

B. RULE 6.6(B) Use of Blocked Accounts

A fiduciary shall evaluate whether holding liquid assets in blocked accounts with financial institutions would be advantageous to the estate and request authorization for such holdings, where appropriate.

C. Waiver of Bond in Conservatorships and Guardianships

The Court generally will not waive bond for conservatorships or guardianships except in the following circumstances:

1. RULE 6.6(C)(1) Conservator Spouse of Conservatee

Where the conservator is the spouse of conservatee, all or most of the property of the conservatee is shown to be community property, to the Court's satisfaction, and the community property is to be excluded from estate administration.

2. RULE 6.6(C)(2) Conservatee Waiver

In matters where the conservatee gives consent, as a competent person, to waiver of bond.

3. **RULE 6.6(C)(3) Small Estates**

In small estates as defined in the Probate Code. Sonoma County Local Form PR-6 is available for this purpose.

D. **Reducing Bond Through Use of Blocked Account.**

1. **RULE 6.6(D)(1) Issuance of Letters**

Where assets are to be placed in a blocked account, the fiduciary shall file the Receipt and Acknowledgment of Order Restricting Release of Property of the Financial Institution within thirty (30) days of issuance of Letters. Sonoma County Local Form PR-5 is available for this purpose.

Proposed orders pertaining to blocked accounts should contain appropriate language to allow deposits in conformance with the Probate Code and Financial Code § 1586.

2. **RULE 6.6(D)(2) After Appointment**

Bonds may be reduced at any time after appointment by an ex parte petition and order reducing bond, together with the Receipt and Acknowledgment of Order Restricting Release of Property of the Financial Institution showing that assets have been deposited. Such a petition must set forth the total assets of the estate and designate those held in blocked accounts. The reduced bond must satisfy the minimum bond requirements. Such a petition may be presented as an “Order on Matter Not Requiring Hearing”, as described in Local Rule 6.2.I.

3. **RULE 6.6(D)(3) Direct Transmittal to Financial Institution**

If the assets to be deposited are in the possession of a financial institution other than the named financial institution, the order should direct the entity in possession to deliver such assets directly to the named financial institution and further direct the financial institution, on receiving such assets, to issue its receipt and agreement to the fiduciary, who shall forthwith file the same with the Court.

4. **RULE 6.6(D)(4) Withdrawals or Releases from Blocked Accounts**

An application for an order authorizing release of assets from a blocked account may be submitted ex parte as an “Order on Matter Not Requiring Hearing” as described in Local Rule 6.2.I. The petition should set forth the approximate value of the assets on hand, the approximate value of all assets in blocked accounts, the amount of the existing bond and the purpose for which the withdrawal is requested.

E. **Discharge of Bond and Exoneration of Surety**

1. **RULE 6.6(E)(1) Receipts Must be Filed**

Bond shall not be discharged and surety exonerated until all Receipts on Distribution have been filed with the Court.

2. **RULE 6.6(E)(2) Guardianship Bonds on Termination**

The guardian of the estate shall maintain the guardianship bond during the one (1) year period that commences when the ward reaches the age of majority. The Order terminating

the guardianship of the estate may include an authorization to retain a reserve for payment of the bond premium for the additional one year period and related fees and costs.

The Order terminating the guardianship of the estate may recite that the bond is discharged and the surety on the bond exonerated on the date that is one (1) year after the ward's 18th birthday, unless suit has been filed within that one (1) year period.
(Eff. 1/1/1997; Rev. 1/1/2003, 1/1/2010, 7/1/2010, 01/01/2015, 1/1/2017)

6.7 SALES OF REAL PROPERTY

A. Reappraisals

1. Rule 6.7(A)(1): When reappraisal is required

When the date of the confirmation hearing is more than one year after date of death, a reappraisal for sale must be filed with the court before the confirmation hearing can proceed.

2. Rule 6.7(A)(2): Responsibility for performing reappraisal

Reappraisals must be made by the probate referee unless the court has waived appointment of the referee.

3. Rule 6.7(A)(3): Contents

The following information should be inserted in the reappraisal for sale immediately after the legal description of the real property:

- (i) The appraised value as of the date of death;
- (ii) The appraised value as of the date of the appraisal.

B. Rule 6.7(B): Notice of Confirmation Hearing

In addition to complying with the requirements for notice that are contained in Probate Code section 10308, subdivision (c), notice of the hearing from confirmation of a sale of real property must be mailed at least 15 days prior to the hearing date to all heirs and beneficiaries who may have an interest in the subject real property.

~~A~~ C. RULE 6.7(C) Overbids in Court Confirmation of Sale

When there is successful overbid in open court on a sale of real property, counsel must complete and the successful bidder must sign an "Increased Bid In Open Court" form and file same. (Sonoma County Local Form PR-14) The order will not be signed unless the form is filed. Copies of the Increased Bid In Open Court form will be available in the Probate Department when a sale of real property is on calendar.

~~B~~ D. RULE 6.7(D) No Commission -- Special Situations

No real estate commission shall be allowed or credited to or for the benefit of a personal representative or fiduciary in the subject probate proceeding who is a licensed real estate broker or salesperson in any probate sale of real property in the proceeding, directly or indirectly. The petition for confirmation of sale shall state any known claim of the personal representative, fiduciary or purchaser to all or any part of the proposed real estate commission, directly or indirectly.

~~C~~ E. RULE 6.7(E) Disputes Between Agents or Brokers Regarding Compensation

Should a dispute arise between agents or brokers seeking compensation upon the sale of real property under the purview of Section 10161 and/or Sections 10162.5 through 10166 of the Probate Code, there shall be a separate evidentiary hearing to resolve the dispute. Before the hearing the agents or broker, or their respective attorney, shall "meet and confer" (face-to-face) in a reasonable and good faith attempt to resolve the dispute, informally or by other means, and notify the court of the results at least two (2) **court days** before the hearing. The sale of real property may be confirmed at the hearing on the sale and need not be delayed by virtue of any dispute for compensation by or between real estate agents or brokers.

D E. RULE 6.7(F) Contracts With Broker or Agent

Any application for order approving an exclusive listing agreement with a real estate broker or agent shall include a completed copy of the proposed written listing as an attachment. Such application may be submitted ex parte as an "Order on Matter Not Requiring Hearing" as described in Sonoma County Local Rule 6.2.I. (Eff. 1/1/1997; Rev. 1/1/1999, 7/1/2010, 01/01/2015, 1/1/2017)

6.8: INHERITANCE BY SURVIVING SPOUSE

Formal probate of community property, quasi-community property, or separate property passing or confirmed to a surviving spouse in a decedent's estate pursuant to Probate Code section 13502 must be supported by a timely written election expressing acknowledgement of a consideration of the alternative procedures available pursuant to Probate Code section 13650. Written elections pursuant to Probate Code section 13502 shall contain an express acknowledgment that the inclusion of property passing to or belonging to the surviving spouse in the probate estate could result in additional appraisal fees, commissions, and attorney fees. (Eff. 1/1/2017)

RULE 9 RULES APPLICABLE TO FAMILY LAW PROCEEDINGS

9.5 COLLABORATIVE LAW CASES

C. As to any case designated as a collaborative law case, the court will:

1. Consider collaborative counsel to be advisory and not attorneys of record, except as provided in paragraph A.2. of this rule.
2. Refuse to set any hearings, impose discovery deadlines or enter scheduling orders.
3. Give priority in processing of stipulated orders.
4. ~~Waive any requirement for payment of the respondent's first appearance fee with the collaborative law stipulation and order.~~
5. 4. Provide notice and an opportunity to be heard prior to any dismissal based upon a failure to prosecute or for delay.

D. The designation of a case as a collaborative law case is totally voluntary and requires the agreement of all parties. The collaborative law case designation will be removed upon stipulation or filing and service of a termination election as provided in the collaborative law stipulation and order. In the event collaborative law procedures are terminated, any party filing a Request for Order shall include a request for scheduling of a case management conference prior to the hearing.

E. Except as otherwise provided in this rule, collaborative law cases are governed by the Family Code and the California Rules of Court. (Eff. 1/1/2005; Rev. 7/1/2005, 7/1/2009, 7/1/2010, 1/1/2013, 1/1/2017)

9.12 EX PARTE/EMERGENCY FAMILY LAW ORDERS

Judicial Review

Judicial review of the applications for ex parte/emergency family law orders shall be conducted Monday through Friday beginning at 10:00 a.m. by a judicial officer designated by the Presiding Judge.

At the discretion of the judicial officer, oral argument may be taken. If this is to occur, the court will notify counsel or parties by noon, ~~a.m.~~ on the day of the review. If counsel or parties wish to appear by telephone, their pleadings shall so indicate.

9.13 DOMESTIC AND CHILD SUPPORT CALENDARS

E. Financial Matters

1. **Financial Documents**

If financial matters are at issue, pursuant to CRC 5.92, the parties shall serve an Income and Expense Declaration or Financial Statement (Simplified) with the Request for Order or the Responsive Declaration, ~~if spousal support or attorney fees F9.20 are an issue~~. If the moving party is only seeking Family Code Section 271 fees (and no other financial relief), the moving party need not file an Income and Expense Declaration. However, a party objecting to an attorney fee request based on their inability to pay attorney's fees shall be required to file an Income and Expense Declaration. The Income and Expense Declaration shall have the following documents attached:

- a. W-2's or 1099 forms if the income tax return is unavailable; and
- b. Last three (3) pay stubs.
- c. Self-employed individuals shall attach a profit and loss statement for the preceding twelve (12) months, or other appropriate time period, at least as detailed as the IRS form Schedule C, to their Income and Expense Declaration.

In addition, if more than three (3) months have elapsed since the filing of the Income and Expense Declaration, self-employed individuals shall prepare a supplemental profit and loss statement, again at least as detailed as the IRS form Schedule C, for the period of time between the ending date of the profit and loss statement attached to the Income and Expense Declaration and the time of the hearing. Any supplemental profit and loss statement shall be delivered to the other party no later than three (3) court days preceding the hearing date.

2. **Format and Timing**

All supporting documents shall be attached to the Income and Expense Declaration or Financial Statement (Simplified), except that income tax returns shall be exchanged between the parties and provided to the court as required by this rule, but shall not be filed with the court. If the court determines that it wants to retain the tax returns they shall be sealed and maintained as a confidential record of the court pursuant to Family Code section 3552(c).

It is not necessary to deliver a copy of any documents obtained from the other side or known to be in their possession.

Income and Expense Declaration or Financial Statement (Simplified) forms filed three (3) months or more before the date of the hearing are considered by the court out of date and

require the filing of a new Income and Expense Declaration or Financial Statement (Simplified).

In the event that depositions are necessary in connection with a Request for Order relating to financial matters, the deposition of any party may be bifurcated and taken as to financial issues without violating the statutory limitation of a single deposition, provided the notice of taking deposition specifies that only financial matters will be investigated and that the deposition will be adjourned to a later date for all other issues. This procedure also may be applied to a deposition regarding issues which have been bifurcated for trial.

F. Attorney Fees

With respect to requests for attorney's fees and costs based on financial need this section has been superseded by California Rules of Court, Rule 5.427. Please note, three new *optional* Judicial Council forms for requesting and responding to requests for attorney's fees were approved effective January 1, 2012: FL-158 (Supporting Declaration), FL-319 (Request), and FL-346 (Order Attachment).

Requests for attorney's fees as sanctions pursuant to Family Code § 271 must comply with the provisions of Rule 5.93 except that a request *for* § 271 sanctions need not be accompanied by a current Income and Expense Declaration. However, a reply to a request for § 271 sanctions based on the inability to pay all or part of the fees requested as sanctions must be accompanied by a current income and Expense Declaration.

(Eff. 7/1/2005; Rev. 1/1/2007, 7/1/2007, 1/1/2008, 7/1/2008, 1/1/2009, 7/1/2009, 7/1/2010, 1/1/2011; Revised and Renumbered 7/1/2011 – formerly Rule 9.12; Rev. 1/1/2012, 7/1/12, 1/1/2013, 7/1/2013, 7/1/14; 7/1/15, 1/1/2016, 1/1/17)

9.17 PREPARATION OF ORDERS AFTER HEARING

A. Unless otherwise ordered by the court, the moving party must, within ten (10) days of the ruling, prepare a written order following any hearing. Parties shall follow the procedures outlined in CRC 5.125.

~~The preparing party must serve the order upon the responding party and the responding party shall within twenty(20) days of the ruling, approve or refuse the order stating an alternative proposed order.~~

~~If the responding party fails to respond within twenty (20) days of the ruling, the preparing party must, within 25 days of the ruling, mail the order to the hearing judicial officer for signature, accompanied by a letter stating the events and circumstances surrounding the failure to approve the order or judgment and asking the judicial officer to sign it.~~

~~If the preparing party fails to prepare, circulate and submit an order as required above, the responding party may prepare the order and serve it upon the other side for approval. If the order is not approved nor suggestions made for its revision within 5 days of service of the proposed order, it may be submitted to the judicial officer for signature along with a letter describing the circumstances leading to the submission of the order.~~

~~If there is a disagreement between the parties concerning the accuracy of a prepared order, the parties shall each submit their proposed order along with a copy of the court transcript, if needed, and the Court shall either issue its order or set the matter for a further hearing.~~

B. On the Child Support Calendar, the order shall be prepared and presented to the court for approval before the end of the court session whenever possible.

C. On the Domestic Violence Calendar, the order shall be prepared and presented to the court for approval before the end of the court session.

D. Any order that includes an order for child or family support shall have attached the following Judicial Council forms:

- 1.** Notice of Rights and Responsibilities, Health Care Costs and Reimbursement Procedures (Judicial Council form FL192);
- 2.** Information Sheet on Changing a Child Support Order (Judicial Council form FL 192 side 2);
- 3.** A Judicial Council approved computer generated support calculation. If the parties do not agree upon a single calculation, each party may attach a computer generated calculation; and
- 4.** Notice of Rights and Responsibilities, Child Care Costs and Reimbursement Procedures if the order provides for payment of a percentage or ratio of child care costs (Sonoma County form FL020).

In addition, the parties shall submit a completed Child Support Case Registry Form (Judicial Council form FL-191) with the order. This form is not required if the local child support agency is an intervener in the case.

E. The Court shall set a compliance calendar date within 90 days after the hearing to assure the Order After Hearing is filed.

F. In accordance with LR 9.4.B.2, for cases in which both parties are self-represented, the Court may direct the Family Law Facilitator/Self Help Center staff to complete Judgment documents based on settlements reached during Settlement Conferences at court, or after Trial. The Family Law Facilitator / Self Help Center is not limited to 10 days in which to draft the Judgment.

After Settlement Conference, if the parties are not at court to review and sign the Judgment, the draft shall be mailed to the parties, who shall have 20 days from the date the drafted Judgment is mailed in which to approve or refuse to sign the drafted Judgment.

If the Judgment is approved by the parties, they shall cooperate in signing the Judgment and any other necessary documents, and submit them for filing prior to the date of the compliance date. The parties may use the service of the Family Law Facilitator / Self Help Center staff for assistance in signing and submitting the Judgment documents. Once the Judgment is filed, the compliance date shall be dropped.

If either party refuses to approve the drafted Judgment, the refusing party shall provide the other party, in writing, with an itemization of objections and a proposed alternative to the drafted judgment.

If the refusal is resolved, and parties agree to sign the proposed Judgment or an alternative to the Judgment, they shall follow the procedures after approval as stated in #2 above.

If the parties do not resolve the refusal, they shall appear at the compliance hearing. 10 days prior to the hearing, the refusing party(ies) shall file and serve a declaration itemizing the items refused and the reasons for the refusal.

After trial, drafted Judgment shall be submitted directly to the Judge for approval.

(Eff. 1/1/2006; Rev. 1/1/2007, 7/1/2008, 7/1/2009, 7/1/2010; Revised and Renumbered 7/1/2011 – formerly Rule 9.14, 7/1/12, Rev., 1/1/2016, 1/1/2017) (Revised and renumbered 1/1/2016)

~~9.28~~ CASES DESIGNATED TO A PRIVATE JUDGE

~~The Court will waive any requirement for payment of the respondent's first appearance fee with the stipulation and order appointing private judge. (Eff. 7/1/15), (renumbered 1/1/2016, Repealed 1/1/2017)~~

~~9.31~~ POST-JUDGMENT GRANDPARENT VISITATION

~~Petitioner(s) shall file the *Petition for Grandparent Visitation* (Local Form FL-038). A completed Summons (SUM-100) and Declaration under the Uniform Child custody Jurisdiction and Enforcement Act (FL-105) shall accompany the Petition. The documents shall then be personally served on each of the parents of the minor(s), and/or any other parties who have physical custody of the minor(s).~~

~~[Effective July 1, 2016]~~

RULE 11 RULES APPLICABLE TO APPELLATE DIVISION PROCEEDINGS

11.1 LIMITED CIVIL AND MISDEMEANOR CASES

F. This rule shall not be deemed to preclude the parties' rights to proceed pursuant to California Rules of Court, Rule 8.836 or 8.837.

G. Pursuant to CRC 8.834 (d) (1) all certified shorthand court reporters transcribing misdemeanor and limited civil matters for appeal pursuant to CRC 8.834 shall automatically be granted a 30 day extension. All transcripts where a defendant appeals from a Judgement of conviction shall be due within 50 days after the filing of the Notice of Appeal.

(Eff. 1/1/1997; Rev. 7/1/2003, 1/1/2007, 7/1/2008, 7/1/2011, 1/1/15, 1/1/2017)