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PROBATE

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**TITLE 7  
PROBATE**

**DIVISION 1  
GENERAL PROVISIONS**

**(a)  
GENERAL PROCEDURE AND POLICY**

**RULE 7000  
APPLICATION OF RULES**

- A. Applicability of Rules. These rules apply to matters filed under any of the following authorities:
1. The Probate Code
  2. Division 5, Part 1 of the Welfare & Institutions Code, also known as the Lanterman-Petris-Short Act
  3. Division 9, Part 3, Chapters 11 (Elder Abuse and Dependent Adult Civil Protection Act) or 12 (Protective Placements and Custody of Endangered Adults) of the Welfare & Institutions Code
  4. Division 7 (Dead bodies) or 102 (Vital Records and Health Statistics) of the Health and Safety Code
- B. Sanctions
1. Sanctions may be imposed for violation of and/or failure to comply with the local court rules.
  2. If a party or counsel fails to comply with any of these rules, the court on motion of a party or on its own motion may:
    - a. Strike out all or any part of any pleading of that party; or
    - b. Dismiss the action or proceeding or any part thereof; or
    - c. Enter a judgment by default against that party; or
    - d. Impose other penalties of a lesser nature as otherwise provided by law.

The court may order the party, or his or her counsel, to pay to the moving party reasonable expenses in making the motion, including reasonable attorney fees.

No penalty may be imposed without prior notice to, and an opportunity to be heard by, the party against whom the penalty is sought to be imposed.

(Adopted 4-20-18, effective 7-1-18)

**RULE 7001  
VENUE**

## I. Geographical Locations For Filing

In all actions and special proceedings in which the alleged cause of action occurred or the subject matter of the action is located in the geographical area of the Western Region, Mid County Region or Desert Region of the Riverside County Superior Court, the documents initiating the action or special proceeding shall be filed in the relevant region at the court facility as designated in the Administrative Order – Where to File Probate Documents. The order can be located on the court's website at <http://www.riverside.courts.ca.gov/> by clicking on *Local Rules* under the *General Information* tab. Except for documents pertaining to appeals, all subsequent documents related to that action or special proceeding shall also be filed in the specified courthouse within that region. Documents pertaining to appeals shall be filed as specified in Title 8.

Self-represented litigants may visit a self-help center at any court location in the county for assistance in filing documents at the proper courthouse.

Actions and proceedings shall usually be heard in the courthouse in which they were filed or in another courthouse in the same region. For good cause, and to maximize efficient use of court resources, actions or proceedings may also be assigned for hearings in other regions.

(Adopted 11-4-11, effective 1-1-12; amended 5-13-13, effective 7-1-13)

### **RULE 7101 PLEADINGS AND PAPERS**

#### A. Form

1. California Rules of Court, Title 2, Division 2, commencing with Rule 2.100 shall apply to all probate filings.
2. All exhibits shall be typewritten or printed, or prepared by a photocopying or other duplication process that will produce clear and permanent copies equally legible to printing.

#### B. Caption of Petitions

1. The caption of petitions must be all-inclusive as to the nature of the petition and relief sought so that the matter may be properly calendared and noticed and filing fees, if any, determined. LPS cases shall indicate "W&I" after the case number.

2. Attorneys are encouraged to use subheadings in the body of the petition, particularly for required allegations.
3. All petitions, applications, reports, or accounts being filed in probate proceedings, which are not prepared on the form approved and required by the Judicial Council of California, shall bear pertinent code citation(s) beneath the nature or title of the paper.
4. All documentation pertaining to a hearing shall be filed with the Clerk at least four (4) court days before the hearing. Failure to comply with this rule will be cause for a continuance.
5. All pleadings and orders shall include in the caption the date, time and department of the matter heard or shall provide a space for the Clerk to insert this information.

C. Proposed Orders

Proposed orders or judgments in proceedings scheduled on the regular probate calendar should be presented to the Clerk's Office upon the filing of the petition.

D. Certificate of Assignment

The first paper filed in an action or proceeding to which the Probate Code applies must be accompanied by a certificate of assignment. The certificate must be on the local form prescribed by the court. The party who files the certificate is not required to serve the certificate on any party. The certificate is used for statistical purposes and may affect the assignment of the case to the location specified by local rule where certain types of actions or proceedings may be tried.

(Adopted 1-1-86; amended 3-17-89, effective 7-1-89; amended 10-21-89, effective 1-1-90; amended 3-16-91, effective 7-1-91; amended 4-4-92, effective 7-1-92; amended 4-28-06, effective 7-1-06; amended 10-21-09, effective 1-1-10; amended 10-22-10, effective 1-1-11; Moved from Title 6 and renumbered from Rule 6.0101, 8-1-11, effective 1-1-12)

**RULE 7103  
HEARINGS**

A. General Probate.

1. To the extent practicable, probate matters which require a hearing will, upon being filed with the Court, be set by the Clerk for hearing within statutorily



prescribed time periods. For a good cause shown, by oral or written application of petitioner, the Court may authorize the Clerk to assign an earlier hearing date.

2. Unless the will (and codicil or codicils, if applicable) shall have previously been deposited with the clerk for safekeeping, same shall be filed with the petition for probate unless a judge shall order otherwise.

**B. Contested Matters.**

1. Contested matters normally will not be heard on the daily calendar. Attorneys shall either (1) appear at the time scheduled for hearing, advise the Probate Judge of the contest, obtain a trial date from the Probate Judge; or (2) obtain a trial date from the Probate Judge in advance of the time scheduled for hearing.
2. As to will contests, trial and pre-trial rules of the Court, if any, shall apply. Counsel should inquire of the trial judge if any rules are applicable to that department.

**C. Time Limits.**

1. It is the practice of this Court to enforce Probate Code time limitations for the filing of inventory and appraisals, accountings, petitions for distribution and other required acts by the issuance of orders to show cause re suspension of powers and for imposition of monetary sanctions, as against either or both the attorney and the personal representative.

(Adopted 1-1-86; amended 3-17-89, effective 7-1-89; amended 10-21-89, effective 1-1-90; amended 4-28-06, effective 7-1-06; Moved from Title 6 and renumbered from Rule 6.0103, 8-1-11, effective 1-1-12)

**RULE 7106  
APPROVED MATTERS AND APPEARANCES**

The Probate Examiner will ordinarily review the daily probate calendar approximately ten (10) days in advance of the date of hearing, and shall indicate thereon those matters which, procedurally and jurisdictionally, are either deficient or are recommended for approval by the Court. The examiners' notes are finalized three (3) court days before the scheduled hearing date.

Notes appearing on the calendar are for the Court's benefit in reaching its determination and decision. Counsel may be informed of and may rectify said deficiencies by filing appropriate verified supplements and/or amendments provided appropriate notices are given as required by statute or rule. Supplements and corrections not received by the examiner prior to the three (3) day finalization of notes will not be reflected in the notes

reviewed by the Court, and such matters may be continued for further hearing to allow further examination and review. The Court, in its discretion, may consider such late-filed supplements/corrections.

The Probate Examiner will not ordinarily discuss said notes in detail nor advise counsel of the action to be taken, nor is the Clerk's Probate Section authorized to answer questions regarding probate notes. Counsel or their secretaries may call for Examiner's notes in advance of the hearing or may retrieve notes via the Court's Internet website. Each Court location may set its own hours for telephone availability of its examiners.

(Adopted 1-1-86; amended 3-17-89, effective 7-1-89; amended 10-21-89, effective 1-1-90; amended 4-28-06, effective 7-1-06; Moved from Title 6 and renumbered from Rule 6.0104, 8-1-11, effective 1-1-12)

## **RULE 7109 CONTINUANCES**

- A. Generally: Prior to the hearing on uncontested matters, Counsel or a self-represented party may request a continuance of at least three weeks by emailing the Probate Examiners at least four court days prior to the hearing. The email must indicate that the party requesting the continuance has notified all parties entitled to notice of the hearing and any other interested persons for whom he or she has reason to know may attend the hearing of the request for continuance.

The Court will rule on the request at the time of hearing. Requested hearing dates will be considered at the hearing, but a different date may be set depending on the number of matters already set on Calendar.

If a party or client appears at the hearing, and represents that he or she was not notified of the Request, the Court may issue an Order to Show Cause why the requesting party should not be sanctioned for failing to notify the affected party/client of the requested continuance.

Email requests will not be taken on contested matters and Orders to Show Cause.

- B. Matters Not Approved. At the call of the calendar, if the matter is not ready for hearing, it will be continued for at least four (4) weeks, unless good cause is shown otherwise. Any matter continued two (2) times may be ordered off calendar or denied.
- C. Objections to Matters Recommended for Approval. At the call of the calendar if petitioner is not present and the matter has been recommended for approval by the probate examiners:

1. If objection or exception is taken to the matter, the Court shall continue the matter to allow for the filing of written objections or exceptions and the giving of notice thereof to petitioner, or
2. If the Court proposes to make a change in the relief prayed for, the matter shall be continued and petitioner shall be notified of the continuance and proposed change by the minute order.

(Adopted 1-1-86; amended 3-17-89, effective 7-1-89; amended 10-21-89, effective 1-1-90; amended 10-18-02, effective 1-1-03; amended 4-28-06, effective 7-1-06; Moved from Title 6 and renumbered from Rule 6.0105, 8-1-11, effective 1-1-12; amended 10-30-15, effective 1-1-16)

## **RULE 7112 LODGING OF REQUIRED DOCUMENTS FOR ACCOUNTINGS**

All original documents submitted by fiduciaries in support of their inventory and appraisals or accountings as required by Local Rule 7129 or Probate Code 2620(c), including financial account statements, original closing escrow statements, and original residential care facility or long-term care facility bills must be lodged separately from the inventory and appraisal or accounting as a confidential document complying with California Rules of Court, Rule 2.100 et seq. To facilitate scanning, the document must be loosely bound and not stapled. The caption page for the document must be the mandated local form RI-PR060 "Financial Document(s) Cover Sheet," and must include a statement regarding the total number of pages (including the cover sheet) submitted and a declaration by the fiduciary under penalty of perjury stating the documents attached are the originals. To facilitate return of the original document, the fiduciary must submit, at the time of filing, a self-addressed envelope with sufficient postage for mailing the documents or an attorney service pick up slip. Documents scanned by the Court shall constitute the Court's permanent record of such documents. After the documents are scanned, the Clerk is directed to return the documents to the fiduciary. The court will retain the documents in electronic form only. The fiduciary must retain the originals until the order approving the final account is final.

(Added 4-21-10; effective 7-1-10; moved from Title 6 and renumbered from Rule 6.0107, 8-1-11, effective 1-1-12; amended 11-8-14, effective 1-1-15)

## **RULE 7115 REQUESTS TO WAIVE COURT FEES AND COSTS BY A FIDUCIARY**

For purposes of this rule, the following are considered appointments in a fiduciary capacity: Conservator or Guardian of the Person or Estate, Trustee of a Trust, Personal Representative of a Decedent's Estate, or Guardian Ad Litem.

- (a) A request to waive court fees and costs filed under Title 8, Chapter 2, Article 6 of the Government Code (commencing with section 68630) for a petition for appointment in a fiduciary capacity will be based on the personal financial condition of the petitioner in her or her own individual capacity.
- (b) After a party has been appointed in a fiduciary capacity by order of the court, the person whose financial condition will be considered in a request to waive court fees and costs is that of the person or estate that the fiduciary represents and not the personal financial condition of the fiduciary in his or her own individual capacity. If the fiduciary capacity is that of a Trustee or a Personal Representative, requests to waive court fees and costs based on eligibility under Government Code § 68632(a) and (b) shall not apply. This rule will continue to apply after a fiduciary is removed or resigns until the court makes an order discharging the fiduciary.
- (c) The court may reconsider a waiver granted under subsection (a) of this rule after the petition for appointment is granted based on the financial condition of the person or estate that the appointed fiduciary represents under Government Code 68636 and 68637.
- (d) The court may deny a pending request or set a hearing to reconsider a granted request for an initial fee waiver filed pursuant to Government Code 68630 et seq. or a finding of hardship pursuant to Probate Code 1513.1 or 1851.5 based on the receipt of SSI or Medi-Cal benefits if the court finds that the recipient of the SSI or Medi-Cal benefits is also the beneficiary of a trust described in 42 U.S.C. 1396p(d)(4), commonly known as a special needs trust, and the trust holds liquid assets in excess of \$20,000.00.

(Added 5-4-11, effective 7-1-11; moved from Title 6 and renumbered from Rule 6.0108, 8-1-11, effective 1-1-12; amended 4-24-14, effective 7-1-14)

**RULE 7118**  
**PROBATE APPOINTED COUNSEL**

**A. GENERAL ELIGIBILITY REQUIREMENTS**

1. As provided in the California Rules of Court, Rule 7.1101(g), in addition to the requirements set forth in Rule 7.1101, counsel appointed by the court must complete at least twelve hours of MCLE either during the attorney's current State Bar reporting period or the most recent period that has expired in the subjects of decedent estates, conservatorships/guardianships, or trust administration, and must meet the requirements for each specific area(s) of interest selected from the following:
  - a) Decedent Estate and Trust Administration. Prior to filing the application and within the past three years, the attorney must have represented parties in at least six different probate or trust administration court proceedings, including three decedent estate or trust proceedings from inception through

final account and/or order for distribution. The attorney must have experience and/or training in tax-related issues sufficient to enable him or her to identify tax issues from the facts of the case and to competently represent the client's interests concerning the potential tax consequences of the particular matter.

- b) Conservatorships. Attorneys representing conservatees in Conservatorship proceedings must satisfy the requirements of California Rules of Court, Rule 7.1101(b)(2) and (f)(1).
- c) Guardianships. Attorneys representing wards in Guardianship proceedings must satisfy the requirements of California Rules of Court, Rule 7.1101(b)(1) and (f).
- d) Conservatorships of the Person. Prior to filing the application and within the past five years, the attorney must have represented parties in at least four conservatorship of the person matters (including at least two proceedings from their inception) which involve securing the appointment and qualification of the conservator of the person.
- e) Limited Conservatorships. Attorneys representing limited conservatees in Conservatorship proceedings must satisfy the requirements of California Rules of Court Title Seven, Rule 7.1101(b)(2). In addition, the attorney must understand the legal and medical issues arising out of developmental disabilities and the role of the Regional Center. The attorney must have at least three hours of MCLE in the areas of guardianships/conservatorships either during the attorney's current State Bar reporting period or the most recent period that has expired.
- f) Estate Planning and Taxation. Prior to filing the application and within the past three years, the attorney must have extensive experience in matters regarding estate planning, estate, gift, or income tax or related tax matters pertaining to trusts and decedent estates. The attorney must have represented parties in at least three substituted judgment (Probate Code section 2580 et seq.) or particular transaction matters (Probate Code section 3100 et seq.). The attorney must have at least ten hours of MCLE in the areas of estate planning and taxation either during the attorney's current State Bar reporting period or the most recent period that has expired.
- g) Medi-Cal Planning. Prior to filing the application and within the past three years, the attorney must have represented parties in at least three Probate Code section 3100 petitions, including at least two in which there was a request to increase either the Community/Spouse Resource Allowance and/or to obtain a support order. The attorney must be familiar with the laws and regulations for Medi-Cal eligibility, and shall be knowledgeable on the rules regarding the increase of the CSRA/MMMNA, exempt assets, gifting

rules, special needs trusts under 42 U.S.C. 1396p(d)(4)(a) and (c), and tax and estate planning ramifications related to Medi-Cal planning. The attorney must have at least three hours of MCLE in the areas of guardianships/conservatorships either during the attorney's current State Bar reporting period or the most recent period that has expired.

- h) Compromises/Judgments and Special Needs Trusts for Minors/Persons with Disabilities. Prior to filing the application and within the last three years, the attorney must have represented parties in at least three petitions for approval of compromise under Probate Code section 3500 or Code of Civil Procedure section 372 which involved creation of special needs trusts. The attorney must be familiar with the advantages and disadvantages of the various funding alternatives available under Probate Code section 3600 et seq., special needs trusts under 42 U.S.C. 1396p(d)(4)(a) and (c), and the application of MICRA to medical malpractice settlements. The attorney must have at least three hours of MCLE in the areas of guardianships/conservatorships either during the attorney's current State Bar reporting period or the most recent period that has expired.
- i) Fiduciary Appointments/Guardians ad Litem. The attorney must have at least five years in practice, with recent experience serving as a fiduciary or guardian ad litem. An attorney who acts as a guardian ad litem or fiduciary may not be covered by his or her professional liability insurance. Although insurance coverage is not a requirement, the attorney may wish to consult his or her professional liability insurance carrier prior to accepting such appointment.
- j) Evidence Code Section 730 Experts/Referees/Special Masters. The attorney must have at least five years in practice, with experience serving as an Evidence Code section 730 expert, Code of Civil Procedure section 638 referee, or special master. The attorney also must have substantial expertise in the substantive area of law involved in the matter.
- k) Health Care Decisions for Adults Without Conservators and Tuberculosis Detention Proceedings/Capacity Determinations. Prior to filing the application and within the past three years, the attorney must have extensive experience in matters relating to medical treatment and bio-ethical issues. The attorney must be familiar with Probate Code section 3200 or Health and Safety Code section 121365 proceedings. These cases often involve complex treatment issues and may require immediate attorney response to medical emergencies. Consequently, the attorney must be familiar with the medical parameters underlying these issues in order to adequately represent the client's interests. The attorney must have at least three hours of MCLE in the areas of guardianships/conservatorships either during the attorney's current State Bar reporting period or the most recent period that has expired.

2. Proof of compliance with the requirements set forth in this rule shall be provided using a mandatory local form filed as an attachment to Judicial Council form GC-011, and shall be filed in the same court location where proceedings under Welfare and Institutions Code section 5350 et seq. are filed.

#### B. COMMUNICATION WITH THE CLIENT

1. Subsection B of this rule shall apply to all counsel appointed by the court in a matter under the Probate Code either as a guardian ad litem for a party or as counsel for a proposed ward, ward, proposed conservatee, conservatee, or spouse or registered domestic partner. This subsection shall not apply to cases where counsel is appointed to represent a ward after appointment of a guardian at a hearing solely relating to an annual guardianship status report.
2. Counsel shall establish and maintain a meaningful and professional attorney-client relationship by having sufficient communication with the client. This communication shall be directly with counsel, and not through non-attorney staff.
  - a) The attorney is expected to establish the attorney-client relationship by an in-person meeting with the client prior to the date of the hearing.
  - b) The attorney is expected to confer with the client prior to the date of each subsequent court hearing.

(Adopted 10-19-12, effective 1-1-13; amended 4-28-17, effective 7-1-17)

### **(b)**

## **PROBATE REFEREES AND INVENTORIES**

### **RULE 7120**

#### **PROBATE REFEREES**

##### A. Appointment

1. The appointment of probate referees shall be on a rotational basis. No deviation in appointment rotation shall be authorized or permitted without prior written approval of the Court for good cause shown.
2. Whenever the appointment is not effected on the order for probate, the appointment of a probate referee may be accomplished by ex-parte application delivered to the Clerk's Office.

(Adopted 1-1-86; amended 3-17-89, effective 7-1-89; amended 10-21-89, effective 1-1-90; deleted 4-28-06, effective 7-1-06; Moved from Title 6 and renumbered from Rule 6.0601, 8-1-11, effective 1-1-12)

**RULE 7123**  
**INVENTORY AND APPRAISAL**

All inventory and appraisals of assets must be submitted in duplicate to the appointed referee for appraisal; and when completed and returned, filed with the Clerk in triplicate.

(Adopted 1-1-86; amended 3-17-89, effective 7-1-89; amended 10-21-89, effective 1-1-90; amend. 10-17-98, effective 1-1-99; Moved from Title 6 and renumbered from Rule 6.0602, 8-1-11, effective 1-1-12)

**RULE 7126**  
**KINDS OF INVENTORIES**

- A. Complete Inventory. An inventory entitled "Inventory and Appraisal ( ) Complete" will be deemed to be a full inventory of all the known assets of an estate, valued as of the date of death. All items specifically bequeathed (and in existence at the date of death) must be separately listed in the inventory.
- B. Partial Inventory. If the inventory and appraisal covers only a portion of the known assets of an estate, it shall be entitled "Inventory and Appraisal ( ) Partial No..."
- C. Final Inventory. The final inventory and appraisal will be deemed to be the last of the partial inventories and shall be entitled "Inventory and Appraisal ( ) Final."
- D. Supplemental Inventory. If property is newly discovered or received after the filing of what was thought to be a complete or final inventory and appraisal, it shall be entitled "Inventory and Appraisal ( ) Supplemental."
- E. Amended/Corrected Inventory. If the inventory and appraisal is filed to correct an error in one previously filed, it shall be entitled "AMENDED/CORRECTED Inventory and Appraisal (proper block to be checked). "It should show the total inventory amount as amended. This may result in a change in the date-of-death valuation and may have an effect on the computation of death taxes, if any, and statutory compensation. The entire inventory and appraisal shall be restated, not just the items being changed or corrected. An amendment to an inventory shall not be filed.
- F. Reappraisal Inventory. A reappraisal of realty as of a current date for sale purposes shall be entitled "Inventory and Appraisal ( ) Reappraisal for Sale. "Such reappraisal has no effect on date of death values. A reappraisal need not be signed by the personal representative.

(Adopted 1-1-86; amended 3-17-89, effective 7-1-89; amended 10-21-89, effective 1-1-90; amended 4-28-06, effective 7-1-06; Moved from Title 6 and renumbered from Rule 6.0603, 8-1-11, effective 1-1-12)



**(c)**  
**MISCELLANEOUS PROBATE PETITIONS, NOTICES AND ORDERS**

**RULE 7129**

**DECLARATION RE: ASSET RECEIVED ON INVENTORY AND APPRAISAL**

- (a) When a minor, conservatee, or decedent's estate receives an asset as the heir or beneficiary of a decedent's estate, the guardian, conservator, or personal representative who receives the asset shall file concurrent with the filing of the Inventory and Appraisal a declaration and attach a copy of the Order of Partial or Final Distribution, Spousal or Domestic Partner Property Order, Affidavit re Real Property of Small Value, Order Determining Succession to Real Property, or Affidavit for Collection or Transfer of Personal Property from the decedent's estate.
- (b) When a minor or conservatee receives an asset that was the subject of an order under Probate Code 3600 et seq., the guardian or conservator who receives the asset shall file concurrent with the filing of the Inventory and Appraisal a declaration and attach a copy of the order under Probate Code 3600 et seq.
- (c) When a minor, conservatee, or decedent's estate receives proceeds as the beneficiary of a life insurance policy, the guardian, conservator, or personal representative who receives the asset shall file concurrent with the filing of the Inventory and Appraisal a declaration and attach a copy of the check received from the life insurance company.
- (d) When a minor, conservatee, or decedent's estate receives an asset as the heir or beneficiary of a deceased conservatee or ward, the guardian, conservator, or personal representative who receives the asset shall file concurrent with the filing of the Inventory and Appraisal a declaration and attach a copy of the Order that requires distribution of the asset from the estate of the deceased conservatee or ward.
- (e) When an inventory and appraisal for the estate of a minor, conservatee, or decedent includes property to be appraised by the guardian or conservator or personal representative pursuant to Probate Code 2610(a) and / or Probate Code 8901(c) and (d), the guardian, conservator or personal representative shall lodge concurrently with the filing of the Inventory and Appraisal original account statements for each account showing the account balance as of the date of appointment of the guardian or conservator or the decedent's date of death. The account statements shall be lodged in the manner provided in Local Rule 7112. Submitting an account statement pursuant to this rule satisfies the requirement to file the statement pursuant to Probate Code 2620(c). Any variation between the statement and the balance reflected in the inventory or account that is not otherwise readily understandable from the statement shall be explained by a declaration filed with the lodged documents.

(Adopted 11-4-11, effective 1-1-12; amended 4-24-14, effective 7-1-14; amended 11-8-14, effective 1-1-15)

**RULE 7130  
APPLICATIONS FOR EX-PARTE ORDERS**

- A. General. All ex-parte matters shall be submitted to the Probate Department.
- B. Special Notice. Petitions for ex-parte orders must contain an allegation that no special notice has been requested or that any such notice has been waived (stating the person requesting such notice); any such waivers must accompany the petition.
- C. Specifically Bequeathed Property. Petitions for sale of stock or personal property must allege whether the property is specifically bequeathed. If the property is so bequeathed, the consent of the beneficiary must accompany the petition.
- D. Applications for Ex-Parte Orders. All applications for ex-parte orders must be accompanied by a separate order complete in itself and shall be presented to the clerk. It is not sufficient for such an order to provide merely that the application has been granted, or that the sale of property as set forth in the petition has been approved. Since no testimony is taken in connection with ex-parte petitions, the petition must contain all facts essential for the granting of the prayer.

(Adopted 1-1-86; amended 3-17-89, effective 7-1-89; amended 10-21-89, effective 1-1-90; amended 4-4-92, effective 7-1-92; amended 10-17-98, effective 1-1-99; amended 4-28-06, effective 7-1-06; Moved from Title 6 and renumbered from Rule 6.0701, 8-1-11, effective 1-1-12)

**RULE 7131  
CONFIDENTIAL FILING OF TERMS OF THE TRUST**

Where notice is required to be given pursuant to Probate Code § 1208(b) such as where a trust is a beneficiary of a decedent's estate, the petitioner shall file separately from the petition as a confidential document a true and correct copy of the trust, including any amendments, disclaimers, and any directions or instructions to the trustee that affect the disposition of the trust. The confidential document shall be filed using the court's mandatory local form RI-PR058 – Trust Documents Coversheet – Confidential – as the cover page. The confidential document shall not be released to any party absent a prior order of the court.

(Adopted 10-15-13, effective 1-1-14; amended 11-8-14, effective 1-1-15)

**RULE 7133  
PETITION FOR AUTHORITY TO OPERATE BUSINESS**

The petition shall set forth sufficient facts for the Court to determine the advisability of the continuance of the business and the parties to whom notice of the hearing should be given. Ordinarily, the Court will require that at least fifteen (15) days notice of the hearing be given to the five (5) largest creditors of the estate, in addition to the notice required under Probate Code Section 1220.

(Adopted 1-1-86; amended 3-17-89, effective 7-1-89; amended 10-21-89, effective 1-1-90; Moved from Title 6 and renumbered from Rule 6.0703, 8-1-11, effective 1-1-12)

**RULE 7136**  
**MISCELLANEOUS PROVISIONS CONCERNING ORDERS**

- A. Material Required in Probate Orders.
1. All orders in probate matters must be complete in themselves in that they shall set forth all matters actually passed on by the Court, the relief granted, the names of persons and descriptions of property affected with the same particularity required of judgments in civil matters. Orders settling accounts must also contain a statement as to the balance of the estate on hand, specifically noting the amount of cash included in said balance.
  2. It is the duty of the Court, upon distribution, to determine whether a valid trust has been created by a will, to determine the scope and terms of the trust, and to order distribution of the trust property to the trustee. Since the decree of distribution supersedes the will, the terms of the trust shall be incorporated in the decree in such manner as to give effect to the conditions existing at the time distribution is ordered.

(Adopted 1-1-86; amended 3-17-89, effective 7-1-89; amended 10-21-89, effective 1-1-90; amend. 10-17-98, effective 1-1-99; amended 4-28-06, effective 7-1-06; Moved from Title 6 and renumbered from Rule 6.0706, 8-1-11, effective 1-1-12)

**RULE 7139**  
**PROBATE CODE SECTION 850 PETITIONS**

- A. Any Petition under Probate Code section 850 must state the names and last known addresses of all parties entitled to notice pursuant to Probate Code section 851.
- B. For any Petition under Probate Code section 850(a)(3)(B), the parties entitled to notice pursuant to Probate Code section 851(b) shall include the following:
1. The parties entitled to notice under Probate Code section 851(b)(1) shall include the following:
    - a) If a will and any codicil has been conclusively admitted to probate in the State of California within the meaning of Probate Code sections 8226 and 8007, to all beneficiaries mentioned in that will and codicil.

- b) If a court in the State of California has ordered appointment of an administrator and if the later of the following time periods has elapsed: (1) one hundred twenty (120) days after such appointment of administrator and (2) sixty (60) days after proponent of a Will first obtains knowledge of the Will, to all heirs at law.
  - c) If a court in the State of California has made an order determining entitlement and the order is final within the meaning of Probate Code section 11705, to all heirs or beneficiaries identified in the order.
  - d) If none of (a) or (b) or (c) applies, then to all beneficiaries mentioned in every known Will, whether admitted to probate or not, to all beneficiaries mentioned in every known Codicil, whether admitted to probate or not, and to all heirs at law.
2. The parties entitled to notice under Probate Code section 851(b)(3) shall include each person listed in section 17203.
- C. For any Petition under Probate Code section 850 that concerns a lease of land held by the Bureau of Indian Affairs, the parties entitled to notice pursuant to Probate Code section 851(a)(2) shall include the Bureau of Indian Affairs.
- D. For any Petition under Probate Code section 850 that concerns an asset which is subject to the Employee Retirement Income Security Act (ERISA--29 USC sections 1001 et seq.) and which is held by an institution defined in Probate Code section 2890(c) or by a financial institution defined in Probate Code section 2892(b), the parties entitled to notice pursuant to Probate Code section 851(a)(2) shall include the financial institution.

(Adopted 5-4-12, effective 7-1-12)

**(d)**  
**SALES**

**RULE 7140**  
**REAL PROPERTY SALE - BROKER'S COMMISSION**

Where more than one broker is involved, petitioner shall indicate the manner in which the commission is to be allocated if agreed upon between the brokers. No commission shall be paid to a broker who is a buyer or related to the buyer within the 2nd degree.

(Adopted 1-1-86; amended 3-17-89, effective 7-1-89; amended 4-28-06, effective 7-1-06; Moved from Title 6 and renumbered from Rule 6.0903, 8-1-11, effective 1-1-12)

**RULE 7142**  
**SALE OF SPECIFICALLY DEVISED PROPERTY**

Notice of time and place of hearing of the return of sale must be given to the specific devisee of the property if the sale is for abatement, otherwise his/her consent must be filed prior to hearing on the return.

(Adopted 1-1-86; amended 3-17-89, effective 7-1-89; amended 10-21-89, effective 1-1-90 amended 10-17-98, effective 1-1-99; Moved from Title 6 and renumbered from Rule 6.0904, 8-1-11, effective 1-1-12)

**RULE 7143  
WRITTEN OVERBIDS**

At the hearing on confirmation of sale at which an overbid is accepted, a written overbid is required to be filed with the Court by the successful bidder.

(Adopted 1-1-86; amended 3-17-89, effective 7-1-89; amended 4-28-06, effective 7-1-06; Moved from Title 6 and renumbered from Rule 6.0905, 8-1-11, effective 1-1-12)

**RULE 7145  
PERSONAL PROPERTY MUST BE APPRAISED BEFORE SALE**

Sales of securities will not be approved under Probate Code 10200 et seq., sales of personal property under Probate Code 10250 et seq., unless the property has been appraised. A reappraisal for sale will be required if the personal property has not been appraised within one year prior to the date of the confirmation hearing, unless the court dispenses with such reappraisal. When necessary, a partial inventory and appraisal may be filed for this purpose.

(Adopted 1-1-86; amended 3-17-89, effective 7-1-89; amended 10-21-89, effective 1-1-90; amended 4-28-06, effective 7-1-06; Moved from Title 6 and renumbered from Rule 6.0906, 8-1-11, effective 1-1-12)

**(e)  
ACCOUNTS, FEES, AND DISTRIBUTIONS**

**RULE 7150  
TAXES**

Petitions for preliminary or final distribution shall contain an allegation that all real or personal property taxes, current federal and California income taxes, and all federal and California estate taxes have been paid or that such estate taxes have been adequately secured to the satisfaction of the Internal Revenue Service.

(Adopted 1-1-86; amended 3-17-89, effective 7-1-89; amended 10-21-89, effective 1-1-90; amended 4-28-06, effective 7-1-06; Moved from Title 6 and renumbered from Rule 6.1007, 8-1-11, effective 1-1-12; amended 4-24-14, effective 7-1-14)

**RULE 7153  
OVERHEAD COSTS**

In decedent's estate administration cases, statutory fees or commissions are intended to cover all expenses incurred to carry out the ordinary duties of a personal representative that would be considered business overhead, including duplication of documents, long distance telephone calls, postage charges, and travel costs. Therefore, the Court will only allow reimbursement for these costs in extraordinary circumstances, such as those incurred to render services that could be the subject of a request for extraordinary fees or commissions.

(Adopted 1-1-86; amended 3-17-89, effective 7-1-89; amend. 10-21-89, effective 1-1-90; amended 4-4-92, effective 7-1-92; Moved from Title 6 and renumbered from Rule 6.1010, 8-1-11, effective 1-1-12; amended 4-2-18, effective 7-1-18)

**RULE 7156  
NOTICE TO INDIAN TRIBE**

- (a) Notice of the time and place of hearing on a petition, report, or account, and a notice of the filing of an inventory, together with a copy of the petition, report, inventory, or account, shall be mailed to the Indian tribe of the minor or conservatee at least 15 days before the hearing, or within 15 days after the inventory is filed, if both of the following conditions exist:
- (1) The guardianship or conservatorship estate includes money received from the minor or conservatee's Indian tribe, property acquired with that money, or revenue or profit from that money or property.
  - (2) The petition, report, inventory, or account is filed under any one or more of the following provisions: Section 1510, 1601, 1820, 1861, 1874, 2422, or 2423; Article 7 (commencing with Section 2540) of Chapter 6 of Part 4; Section 2570, 2571, 2580, 2592, 2610, 2613, or 2620; Chapter 8 (commencing with Section 2640) of Part 4; Chapter 9.5 (commencing with Section 2670) of Part 4; Section 3080 or 3088; or Chapter 3 (commencing with Section 3100) of Part 6.
- (b) Notice to the tribe shall be to the tribal chairperson, unless the tribe has designated another agent for service.

(Adopted 5-4-12, effective 7-1-12)

**RULE 7158  
ACCOUNTING FOR CASH**

- A. Transfers Between Cash Accounts. Transfers of cash between accounts as defined in Probate Code § 21 or money market mutual funds as defined in subdivision (b) of Probate Code §9730 shall not be reported in the detailed schedules required by Probate Code §1062(a) (receipts), (b) (disbursements), (d) (calculation of gains or losses on sale or other disposition), or Probate Code § 1063(b) (purchases or other changes in the form of assets).
- B. Totals for Gains and Losses. Each detailed schedule required by Probate Code § 1062(d) (calculation of gains or losses on sale or other disposition) shall contain a calculation of the total of the sales price column of the schedule.
- C. Total for Purchases. Each detailed schedule required by Probate Code § 1063(b) (purchases or other changes in the form of assets) shall contain a calculation of the total of the column of the schedule providing the purchase price of the assets. Items that are not purchased or sold in exchange for cash shall not be included in this total.
- D. Cash Reconciliation. The Probate Examiner's notes shall include language if court staff cannot verify the ending cash on hand by calculating a cash reconciliation. The process for calculating a cash reconciliation is as follows:
  - 1. Add either the cash on hand from the prior accounting or if there is no prior accounting the total of attachment 1 and all accrued dividends from attachment 2 from all Inventory and Appraisals,
  - 2. Add the receipts,
  - 3. Add the total sales price from the detailed schedules required by Probate Code § 1062(d) (calculation of gains or losses on sale or other disposition),
  - 4. Subtract the disbursements,
  - 5. Subtract the distributions of cash, and
  - 6. Subtract the total of the column of the schedule required by Probate Code § 1063(b) (purchases or other changes in the form of assets) providing the purchase price of the assets purchased or sold in exchange for cash.

(Adopted 4/24/14, effective 7-1-14)

**RULE 7160**  
**ACCOUNTING FOR RESERVE**

If an order for final distribution of an estate of a decedent, ward, conservatee or trust includes a reserve of more than \$1,500, an accounting of the reserve shall be attached to the Ex Parte Petition for Final Discharge (Judicial Council form DE-295 or GC-395). If the reserve amount is \$10,000 or more, the Ex Parte Petition for Final Discharge shall be set for hearing, and notice of hearing shall be given in the same manner as is required for an accounting.

(Adopted 11-8-14, effective 1-1-15)

**DIVISION 2  
DECEDENT'S ESTATES**

**(a)  
GENERAL PROCEDURE AND POLICY**

**RULE 7200  
FILING OF COPY OF DEATH CERTIFICATE**

A copy of the decedent's death certificate, with the decedent's social security number redacted, shall be filed with any Petition for Probate (Probate Code 7000 et seq), Petition to Determine Succession to Real Property (Probate Code 13150 et seq) or Spousal Property Petition (Probate Code 13500 et seq).

(Adopted 10-30-15, effective 1-1-16)

**RULE 7201  
NOTICE OF PETITION TO ADMINISTER**

(Adopted 1-1-86; amended 3-17-89, effective 7-1-89; amended 20-21-89, effective 1-1-90; amended 4-4-92, effective 7-1-92; amended 4-28-06, effective 7-1-06; Moved from Title 6 and renumbered from Rule 6.0203, 8-1-11, effective 1-1-12; repealed 10-30-15, effective 1-1-16)

**RULE 7201  
NOTICE OF REFUSAL TO PROBATE REJECTED WILL OR CODICIL**

- (a) A petitioner who files a petition for letters of administration, letters of administration with will annexed, probate of will and for letters testamentary, to determine succession to real property, or a spousal property petition must comply with this rule if either of the following is true:
- (1) The petition requests a finding that the decedent died intestate when a will and/or codicil has been lodged as an original with the court or a copy of a will and/or codicil has been otherwise filed with the court.
  - (2) The petition requests probate of or distribution under a will and/or codicil, and a different will and/or codicil has been lodged as an original with the court or a copy has otherwise been filed with the court.
- (b) The petitioner shall serve a copy of the rejected will and/or codicil attached to Local Form RI-PR070 on all heirs of the decedent or potential beneficiaries under the document at least 15 days prior to the hearing on the petition.
- (c) This rule does not apply if any of the following is true:



- (1) The petition requests probate of or distribution under a will that purports to have been executed after the date of rejected will and/or codicil and that expressly revokes all prior wills.
- (2) The petition is for letters of administration or distribution under intestate succession and the rejected will and/or codicil provides for distribution that is identical to intestate succession and does not appoint a party other than petitioner to serve as executor.

(Adopted 10-30-15, effective 1-1-16)

**RULE 7203  
REQUEST FOR BOND WAIVER**

In all cases where a waiver of bond is being requested, the petitioner must submit a declaration using mandatory local form RI-PR069 which provides the following information:

- (1) An estimate of any federal, state, or county tax liabilities of the estate;
- (2) An estimate of the total maximum potential liability of the estate to any known or reasonably-ascertainable potential unsecured creditors of the estate, including known contingent liabilities;
- (3) Whether the estate is expected to be solvent;
- (4) The name and address of any known or reasonably-ascertainable potential unsecured creditors of the estate, including known contingent liabilities; and
- (5) A detailed description of the efforts taken to obtain the information required by this rule.

(Adopted 4-24-15, effective 7-1-15; amended 10-30-15, effective 1-1-16)

**RULE 7204  
CONFIDENTIAL FORMS**

**A. CONFIDENTIAL SUPPLEMENT TO DUTIES AND LIABILITIES OF PERSONAL REPRESENTATIVE(S)**

The Confidential Supplement to Duties and Liabilities of the Personal Representatives(s) Judicial Council Form DE-147(S) must be submitted by each personal representative and must contain the personal representative's date of birth and driver's license number. This form shall be filed as confidential and shall not be released to any party absent a prior order of the court. The clerk must maintain the form in a manner that will protect and preserve its confidentiality.

**B. NOTICE TO DEPARTMENT OF HEALTH CARE SERVICES**

The optional local form for Notice to the Department of Health Care Services (RI-PR036) contains the decedent's social security number. Consequently, the form shall be filed as confidential, and shall not be released to any party absent a prior order of the court. The clerk must maintain the form in a manner that will protect and preserve its confidentiality.

**C. NOTICE TO VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD**

The optional local form for Notice to the Victim Compensation and Government Claims Board (RI-PR039) contains the date of birth of the heirs and/or beneficiaries of the decedent's estate. Consequently, the form shall be filed as confidential, and shall not be released to any party absent a prior order of the court. The clerk must maintain the form in a manner that will protect and preserve its confidentiality.

**D. NOTICE TO FRANCHISE TAX BOARD**

The optional local form for Notice to the Franchise Tax Board (RI-PR038) contains the decedent's social security number. Consequently, the form shall be filed as confidential, and shall not be released to any party absent a prior order of the court. The clerk must maintain the form in a manner that will protect and preserve its confidentiality.

(Adopted 10-22-10, effective 1-1-11; Moved from Title 6 and renumbered from Rule 6.0207, 8-1-11, effective 1-1-12; amended 4-29-16, effective 7-1-16)

**RULE 7205  
SPOUSAL PROPERTY ELECTIONS**

Any written election under Probate Code section 13502 must include a declaration under penalty of perjury by the electing surviving spouse or registered domestic partner, or by the personal representative, guardian, or conservator of his or her estate acknowledging the following:

1. That the alternative procedures available pursuant to Probate Code sections 13540, 13541, 13545, 13600, and 13650 have been considered; and
2. That inclusion of the property in the administration of the decedent's estate could result in probate fees, personal representative commissions, and attorney fees that are higher than if an alternative procedure was used.

(Adopted 10-19-12, effective 1-1-13)

**(b)  
SMALL ESTATE PROCEEDINGS**

**RULE 7210  
SMALL ESTATE WITHOUT ADMINISTRATION**

**SUCCESSION PETITIONS  
SPOUSAL PROPERTY PETITIONS  
DEPOSIT OF WILL**

- (a) If a Petition to Determine Succession to Real Property (Probate Code 13150 et seq) or Spousal Property Petition (Probate Code 13500 et seq) is based upon the decedent's will or codicil, the will or codicil shall be filed with the court prior to or concurrent with the filing of the petition.
- (b) An original will shall be deposited with the court pursuant to Probate Code Section 8200.
- (c.) If the original will has been deposited with a foreign jurisdiction, a duly authenticated copy of the will shall be filed as an attachment to the petition.
- (d) If the original will is lost, a copy of the lost will or a document setting forth the terms of the lost will shall be filed as an attachment to the petition. The attachment must clearly indicate that the original will is lost, and shall be accompanied by a declaration addressing the presumption of revocation under Probate Code 6124.

(Adopted 10-26-07, effective 1-1-08; Moved from Title 6 and renumbered from Rule 6.0403, 8-1-11, effective 1-1-12; amended 10-30-15, effective 1-1-16)

**RULE 7215  
AFFIDAVITS FOR REAL PROPERTY OF SMALL VALUE**

When an Affidavit for Real Property of Small Value is filed pursuant to Probate Code section 13200, one of the following must be attached to the affidavit:

- (a) If the decedent died testate, a statement that the decedent died testate and an executed copy of the will; or
- (b) If the decedent died intestate, a statement using mandatory local form RI-PR076 identifying the relationship of the heir(s) which establishes the affiant's claim to entitlement.

(Adopted 4-24-15, effective 7-1-15; amended 4-29-16, effective 7-1-16)

**(c)  
CREDITOR'S CLAIMS**

**RULE 7220  
PAYMENT OF INTEREST ON FUNERAL AND INTERMENT CLAIMS**

When accrued interest has been paid in connection with the delayed payment of claims for the reasonable costs of funeral expenses, a specific allegation must be made in the report accompanying the account in which credit for such payment has been taken setting forth the reasons for credit for payment of interest where the delay in payment of the claims is not justified by the facts set forth. Interest for funeral and interment claims will be allowed only as provided by Health and Safety Code Section 7101, and will be separately set forth.

(Adopted 1-1-86; amended 3-17-89, effective 7-1-89; Moved from Title 6 and renumbered from Rule 6.0804, 8-1-11, effective 1-1-12)

**RULE 7230  
WAIVER OF ACCOUNT**

Any waiver of account presented under Probate Code 10954 shall be filed using the mandatory local form RI-PR056 – Waiver of Accounting.

(Adopted 11-8-14, effective 1-1-15)

**DIVISION 3  
GUARDIANSHIPS**

**RULE 7301  
RELATIVE AND NON-RELATIVE GUARDIANSHIPS OF THE PERSON AND/OR  
ESTATE**

A. Guardianship of the Person

1. Upon filing of the initial or successor petition for appointment of the guardian of the person, the petitioner or the petitioner's attorney shall furnish to the Clerk a completed Guardianship Investigation Packet, Local Form RI-P18, and a completed Confidential Cohabitant Screening Form, Local Form RI-PR040.
2. If there is more than one proposed guardian of the person, a Social History and Personal Data form (included in the Guardianship Investigation Packet, Local Form RI-P18), and a Confidential Cohabitant Screening Form, Local Form RI-PR040, must be completed and signed by each proposed guardian.

B. Guardianship of the Estate

When a petition requests appointment of a guardian of the estate only, the investigation otherwise required by Probate Code section 1513 is waived unless ordered by the court.

C. Confidentiality

1. The forms included in the Guardianship Investigation Packet, Local Form RI-P18 are confidential and shall only be made available to persons who have been served in the proceedings or their attorneys. The clerk of the court shall make provisions to limit access to these documents exclusively to persons entitled to receipt.
2. The information on the Confidential Cohabitant Screening Form, Local Form RI-PR040 is used by the court and by persons or agencies designated by the court to assist the court in determining whether a proposed guardian should be appointed. The form and the information obtained on the form are confidential and shall not be released to any party or their attorney absent a court order. The clerk must maintain these forms in a manner that will protect and preserve their confidentiality.
3. The results of the screening by the Riverside County Department of Social Services required by Probate Code 1516 are confidential and shall only be made available to the person who is the subject of the screening results or his or her attorney. The clerk of the court shall make provisions to limit access to the results exclusively to persons entitled to receipt.
4. Confidential information from the California Law Enforcement Telecommunications System obtained by the Probate Investigator to complete the investigation required by Probate Code 1513(a) shall be in a separate attachment to the investigation report and shall only be made available to the person who is the subject of the screening results or his or her attorney. The clerk of the court shall make provision to limit access to the results exclusively to persons entitled to receipt.

(Adopted 1-1-86; amended 3-17-89, effective 7-1-89; amended 10-21-89, effective 1-1-90; amended 4-4-92, effective 7-1-92; amended 10-30-99; effective 1-1-00; amended 4-28-06, effective 7-1-06; Moved from Title 6 and renumbered from Rule 6.1101, 8-1-11, effective 1-1-12; amended 10-3-15, effective 1-1-16)

### **RULE 7303**

#### **DUTIES OF GUARDIAN - LIABILITY OF PARENTS TO SUPPORT CHILD**

As parents are required by statute to support their children, the Court will not permit guardianship funds to be used for the minor's maintenance where one or both parents are living, except upon a showing of the parents' financial inability or other circumstances which would justify the Court in departing from this rule in the best interests of the minor.

(Adopted 1-1-86; amended 3-17-89, effective 7-1-89; Moved from Title 6 and renumbered from Rule 6.1103, 8-1-11, effective 1-1-12)

### **RULE 7306**

## **GUARDIAN'S ACCOUNTS**

Where a guardian accounts for the assets of more than one minor, an accounting for each minor must be set forth separately.

(Adopted 1-1-86; amended 3-17-89, effective 7-1-89; amended 10-21-89, effective 1-1-90; amended 4-28-06, effective 7-1-06; Moved from Title 6 and renumbered from Rule 6.1104, 8-1-11, effective 1-1-12)

### **RULE 7309**

#### **ESTABLISHING CHILD SUPPORT ORDERS IN A GUARDIANSHIP CASE (PROBATE CODE SECTION 1500 ET. SEQ. AND FAMILY CODE SECTION 3950, 4000 AND 17400 ET. SEQ.)**

When the Appointment of a Guardian is granted in a Probate proceeding and the Guardian seeks to establish child support orders, the Guardian shall petition the court by filing a Request for Order using the mandatory Family Law Judicial Council Form with all supporting attachments in the existing Guardianship case. A hearing shall be scheduled in the family Law Department to address child support issues.

If an Income and Expense Declaration is filed by the guardian, the declaration shall report the income and expenses of the minor and need not report the income and expenses of the guardian.

(Adopted 4-28-06, effective 7-1-06; Moved from Title 6 and renumbered from Rule 6.1106, 8-1-11, effective 1-1-12; amended 5-4-12, effective 7-1-12; amended 10-19-12, effective 1-1-13)

### **RULE 7311**

#### **CONFIDENTIAL GUARDIANSHIP STATUS REPORTS**

- (a) If a guardian is required to file a confidential guardianship status report and an adult has moved into the child's home after the guardianship was established, in addition to the mandatory Judicial Council form the guardian shall file a confidential local form. The form shall provide the date of birth, driver's license number, and social security number of each adult who has moved into the child's home after the guardianship was established.
- (b) The form required by this section and the information contained on the form are confidential. The clerk must maintain these forms in a manner that will protect and preserve their confidentiality.
- (c) The clerk shall obtain State summary criminal information, as defined in Penal Code section 11105, concerning each adult who is indicated on the form filed pursuant to this rule and shall provide the information to the judicial officer who is reviewing the guardianship status report.

(Adopted 5-13-13, effective 7-1-13)

**DIVISION 4  
CONSERVATORSHIPS**

**RULE 7400  
REQUIRED EDUCATIONAL PROGRAM FOR NON-PROFESSIONAL  
CONSERVATORS**

- a. Each proposed conservator shall attend the educational program for non-professional conservators provided by the court pursuant to Probate Code section 1457 before the hearing on the petition for his or her appointment as a conservator. A conservator who resides outside of Riverside County may make arrangements to attend an equivalent program at a Superior Court in another county in California where available. The proposed conservator shall file written proof of attending the educational program at least four court days prior to the hearing.
- b. If a proposed conservator fails to meet these requirements, the court may continue or deny the petition for appointment, or make other appropriate orders. If the proposed conservator has been appointed as temporary conservator and fails to meet these requirements, the temporary conservator must attend the hearing on the petition for appointment as conservator. If the temporary conservator fails to attend the hearing or fails to show good cause why he or she failed to attend the educational program, the court may suspend the powers of the temporary conservator, terminate the temporary conservatorship, deny or continue the petition for appointment of conservator, or make other appropriate orders.
- c. This rule does not apply to a trust company as defined in Probate Code section 83, a public guardian as defined in Government Code section 27430 et seq., a regional center established pursuant to Chapter 5 (commencing with section 4620) of Division 4.5 of the Welfare and Institutions Code, a licensed professional fiduciary as defined in Probate Code section 60.1, a conservator appointed under Welfare and Institutions Code section 5350 et seq., a limited conservator authorized to consent to the sterilization of an adult with a developmental disability pursuant to Probate Code section 1852, or a temporary conservator appointed pursuant to Probate Code section 2250 unless otherwise ordered by the court.

(Adopted 10-19-12, effective 1-1-13)

**RULE 7401  
TEMPORARY CONSERVATORSHIPS**

In addition to the notice required pursuant to Probate Code, Section 2250, all persons entitled to notice on the general petition shall be given at least twenty-four (24) hour,

telephonic notice of the request for appointment of a temporary conservator.

(Added 10-21-89, effective 1-1-90; amended 4-28-06, effective 7-1-06; Moved from Title 6 and renumbered from Rule 6.1200, 8-1-11, effective 1-1-12)

#### **RULE 7403**

#### **CAPACITY TO GIVE INFORMED CONSENT FOR MEDICAL TREATMENT**

- A. If a separate petition is filed concerning capacity of the conservatee to consent to medical treatment pursuant to Probate Code 1880, et seq., the petition must be filed in duplicate with a Riverside Superior Court form entitled "Order Appointing Probate Investigator" and "Probate Investigator's Referral Form" (even if previously filed), and shall contain a statement that there is on file a current Notification to Court of Current Address of conservatee.
  
- B. Termination of Life Support Treatment. Notwithstanding that the conservator has the authority to give medical consent for the conservatee, the conservator shall not withhold or terminate life support treatment without prior court authorization. Advice of a licensed physician as well as the consents of the immediate family members are required.

(Adopted 1-1-86; amended 3-17-89, effective 7-1-89; amended 10-21-89, effective 1-1-90; amended 10-17-98, effective 1-1-99; Moved from Title 6 and renumbered from Rule 6.1203, 8-1-11, effective 1-1-12)

#### **RULE 7404**

#### **CONFIDENTIALITY**

- A. Capacity Declaration and Dementia Attachment
  - 1. Use of Form. The Capacity Declaration Form (form GC-335) and Dementia Attachment to Capacity Declaration (form GC-335A) provide the diagnoses, medications, and the testimony of a physician or psychologist concerning the following information relating to a conservatee or proposed conservatee:  
Medical inability to attend the hearing as required by Probate Code 1825(b);  
Mental function deficits as required by Probate Code 810 et seq., 1801, and 1821(a);  
Capacity to give informed consent for medical treatment as required by Probate Code 1890(c); and  
Findings concerning placement in a secured perimeter residential care facility for the elderly or administration of medications appropriate for the care and treatment of dementia as required by Probate Code 2356.5(f)(3).
  - 2. Constitutional Findings. There is a substantial probability that the privacy of the medical information will be prejudiced if these forms are not filed as confidential. This privacy interest requires that the forms be filed as confidential,



and overcomes the right of public access. This rule is narrowly tailored, and is the least restrictive means to protect the privacy of the proposed conservatee or conservatee.

3. Confidentiality. The Capacity Declaration and Dementia Attachment to Capacity Declaration shall be confidential and shall be made available only to parties, persons given notice of the proceedings who have requested these forms or who have appeared in the proceedings, their attorneys, and the court. The court shall have the discretion at any other time to release the forms to other persons if it would serve the interests of the conservatee. The clerk of the court shall make provision for limiting disclosure of the forms exclusively to persons entitled to receive them under this rule.

B. Probate Investigators Referral Report

1. Use of Form. The Probate Investigator's Referral Report (local form RI-PR016) provides phone and email contact information for relatives of the conservatee, contact information concerning the conservatee's residence and school or day program, need for an interpreter, and the conservatee's current medical diagnoses and medications. This information is provided to assist the probate investigator in completing the duties required by law.
2. Confidentiality. The Probate Investigator's Referral Report shall be confidential and shall be made available only to parties, persons given notice of the proceedings who have requested these forms or who have appeared in the proceedings, their attorneys, and the court. The court shall have the discretion at any other time to release the forms to other persons if it would serve the interests of the conservatee. The clerk of the court shall make provision for limiting disclosure of the forms exclusively to persons entitled to receive them under this rule.

(Adopted 10-30-15, effective 1-1-16)

**RULE 7405  
TRUSTS**

At the filing of a petition for conservatorship of an estate, the petitioner shall advise the court if the conservatee is the settlor of a pre-existing trust, wherein the proposed conservatee is a beneficiary of such trust. The petitioner shall also advise the court of whether the proposed conservator of the estate is a trustee of said trust. The court shall provide a form for such disclosure, which shall accompany the petition upon filing.

The court may order a conservator of the estate, who is also acting as the trustee of said trust, to account for the trust, concurrent with any account for the conservatorship.

(Adopted 10-30-15, effective 1-1-16)

**RULE 7406**

## **EMPLOYMENT OF CARE PROVIDERS**

All payments made to care providers (relative or non-relative) for personal care to the conservatee must be authorized by the court prior to the rendition of services.

(Added 10-19-96, effective 1-1-97; amend. 10-17-98, effective 1-1-99; Moved from Title 6 and renumbered from Rule 6.1204.1, 8-1-11, effective 1-1-12)

## **RULE 7407 LIMITED CONSERVATORSHIPS**

- (1) All petitions for limited conservatorship of person, limited conservatorship of estate, or limited conservatorship of person and estate, must include mandatory local form RI-PR059 as an attachment setting forth the specific powers and duties over the Person and/or Estate being requested.
- (2) All orders and letters for limited conservatorship of person, limited conservatorship of estate, or limited conservatorship of person and estate, must include mandatory local form RI-PR062 as an attachment, setting forth the specific powers and duties over the Person and/or Estate granted by the Court.

(Adopted 4-28-17, effective 7-1-17)

## **RULE 7409 CONSERVATOR'S ACCOUNTS**

- A. Copies to be Sent. At the time of filing an accounting or a Declaration in Support of Order Dispensing With Accounting, a Riverside Superior Court form entitled "Probate Investigator's Referral Form", must be. A copy of the accounting or declaration shall be mailed to counsel for the conservatee, or to conservatee personally if unrepresented, at least fifteen days before the hearing.
- B. Conservatee's Address. The conservatee's current residence address shall be set forth in each accounting or Declaration in Support of Order Dispensing With Accounting filed.
- C. Declaration in Support of Order Dispensing With Accounting. Any request for an order dispensing with an accounting under Probate Code 2628 must be submitted using local form RI-PR061. If the estate qualifies under Probate Code 2628 and the conservator elects to use this procedure instead of an accounting, the fully-completed form must be submitted in the same frequency as an accounting under Probate Code 2620.

(Adopted 1-1-86; amended 3-17-89, effective 7-1-89; amended 10-21-89, effective 1-1-90; amended 10-4-91, effective 1-1-92; amend. 10-22-94, effective 1-1-95; amend. 10-17-98, effective 1-1-99; amended 4-28-06, effective 7-1-06; amended 10-26-07, effective

1-1-08; Moved from Title 6 and renumbered from Rule 6.1205, 8-1-11, effective 1-1-12; amended 10-30-15, effective 1-1-16; amended 4-20-18, effective 7-1-18)

**RULE 7412  
INVENTORIES AND APPRAISALS**

Copies of all inventories and appraisals shall be served on any attorneys of record for any conservatee at the time of filing with the Clerk.

Adopted 1-1-86; amended 3-17-89, effective 7-1-89; amended 10-21-89, effective 1-1-90; amended 4-28-06, effective 7-1-06; Moved from Title 6 and renumbered from Rule 6.1208, 8-1-11, effective 1-1-12)

**RULE 7415  
APPOINTMENT OF COUNSEL**

When appointment of counsel is required by statute in a proceeding under the Probate Code, that appointment shall be made upon the filing of the petition.

(Adopted 4-28-06, effective 7-1-06; Moved from Title 6 and renumbered from Rule 6.1210, 8-1-11, effective 1-1-12; amended 4-24-14, effective 7-1-14)

**RULE 7418  
FINDINGS REQUIRED REGARDING PAYMENT OF ATTORNEY FEES TO COURT  
APPOINTED COUNSEL**

One of the following findings shall be made in conservatorship matters where counsel has been appointed:

The conservatee, proposed conservatee, limited conservatee, proposed limited conservatee, or person alleged to lack legal capacity is:

- Able to pay court-appointed counsel's attorney fees.
- Unable to pay court-appointed counsel's attorney fees.
- Able to pay a portion of the sum in the amount of \$\_\_\_\_\_.
- The court presently lacks sufficient information to determine whether the conservatee, proposed conservatee, proposed limited conservatee, or person alleged to lack legal capacity, or the conservator of such person's estate has sufficient funds to pay all or a portion of the attorney's fees. Therefore, the court orders the County of Riverside to pay attorney an amount to be determined upon submission of the payment voucher.

Note: If this finding is made, the court shall reconsider the ability to pay all or a portion of the attorney's fees paid by the County of Riverside at the time of the hearing on the First Accounting, and the probate examiner(s) shall make a note regarding same.

Should the court determine that there is an ability to pay, an order shall be made that the County of Riverside be reimbursed, from the estate, for attorney's fees advanced, payable to the County of Riverside.

(Adopted 4-28-06, effective 7-1-06; Moved from Title 6 and renumbered from Rule 6.1211, 8-1-11, effective 1-1-12)

**RULE 7420  
NOTICE OF DEATH OF CONSERVATEE**

A conservator of the estate has the same duty to provide notice of a conservatee's death that is imposed on a conservator of the person by Probate Code 2361.

(Adopted 4-28-17, effective 7-1-17)

**DIVISION 5  
OTHER PROTECTIVE PROCEEDINGS – MINORS AND CONSERVATEES**

**RULE 7501  
COMPROMISE OF DISPUTED CLAIMS - SPECIAL NEEDS TRUSTS**

When a Petition to Approve Compromise of Disputed Claim or Pending Action or Disposition of Proceeds of Judgment for Minor or Adult Person with a Disability is filed where a request is made for the establishment of a Special Needs Trust, a separate probate petition shall be filed requesting the establishment of the Special Needs Trust, to be heard concurrently with the Petition to Approve Compromise of Disputed Claim. The probate petition shall be filed in a new file with a probate case number, and there shall be no initial filing fee for such petition.

(Adopted 10-24-08, effective 1-1-09; Moved from Title 6 and renumbered from Rule 6.1505, 8-1-11, effective 1-1-12)

**DIVISION 6  
MENTAL HEALTH MATTERS**

**RULE 7610  
MEDICATION CAPACITY/RIESE HEARINGS (FACILITY-BASED)**

- (a) The person filing a petition for a medication capacity hearing pursuant to Welfare & Institutions Code § 5332 must promptly send an email to the Court Services Supervisor and Division Manager for the Probate Department in the region where the hearing will be conducted with notice that the petition will be filed, the name of the patient, and the date, time, and location of the requested hearing. If an interpreter is necessary for the patient, the email and the petition shall request the presence of an interpreter and must indicate the language required.
- (b) The medical facility must ensure that the patient is present at the appointed time of the hearing unless the patient has waived his or her presence.
- (c) The hearing will be closed to all but necessary participants except for persons expressly invited by the patient and permitted to attend at the judicial officer's discretion, and persons permitted to attend by the judicial officer for safety reasons or training purposes.
- (d) For hearings conducted at the medical facility, it is the responsibility of the medical facility to provide adequate security for the hearing. The following security measures must be met by each medical facility conducting such hearings:
  - 1. Competent and capable security personnel or orderly must be present in the hearing room at all times;
  - 2. A table that is a minimum of 60" wide by 24" deep must be present between the patient and the judicial officer. This table shall be secured to the floor in order to provide a physical barrier. There shall be a minimum of 3'-5" between the edge of the table and the wall behind to accommodate a wheelchair or mobility device and allow the judicial officer sufficient work area;
  - 3. All furniture and potentially dangerous objects in the room shall be secured to the floor; and
  - 4. A separate exit door on the judicial officer's side of the table.

In lieu of the above security requirements, the medical facility may provide video conference equipment to allow the patient and the doctor to appear for the hearing by video. The video equipment must provide two-way video and audio communication compatible with the video conference equipment of the court. The equipment must also provide the ability for the judicial officer to simultaneously view both the patient and the doctor.
- (e) A patient may request judicial review by notifying a member of the facility staff, the court, or the patients' rights office who shall then notify the Public Defender's office. The person filing an appeal to the superior court pursuant to Welfare & Institutions Code § 5334(e)(1) must provide notice in the same manner required by subsection (a).

(Adopted 10-30-15, effective 1-1-16)

