

## Contents

CHAPTER 4 - PROBATE .....	<u>42</u>
PART ONE. General .....	<u>42</u>
4.00 Form of Papers Presented for Filing. ....	<u>42</u>
4.01 Preparing for Hearing.....	<u>42</u>
4.02 (Deleted effective 1/1/2025) .....	<u>53</u>
4.03 Preparation of Notices. ....	<u>53</u>
4.04 Identify Persons to Receive Notice. ....	<u>63</u>
4.05 Probate Hearing Once Noticed Cannot be Advanced; Continuances in Probate Matters Other Than Conservatorship and Guardianship; Procedure for Resetting a Matter for Hearing .....	<u>63</u>
4.06 Remote Proceedings. ....	<u>64</u>
4.07 Calendar Matters Recommended for Approval.....	<u>74</u>
4.08 Response or Objections to Calendared Matters.....	<u>74</u>
4.09 Contested Matters. ....	<u>75</u>
4.10 (Deleted effective 1/1/2015) .....	<u>75</u>
4.11 Settlement Conferences. ....	<u>75</u>
4.12 Settlement of Contested Matters. ....	<u>86</u>
4.13 Trial Procedures. ....	<u>86</u>
4.14 (Deleted effective 1/1/2016) .....	<u>97</u>
4.15 Orders to Be Complete in Themselves.....	<u>97</u>
4.16 Formal Orders. ....	<u>97</u>
4.17 Assignment of Probate Referee.....	<u>107</u>
4.18 Notice Requirement on Court Appointed Attorney Fee Petition. ....	<u>107</u>
4.19 Ex Parte Petition for Final Discharge.....	<u>108</u>
4.20 Ex Parte Application .....	<u>108</u>
PART TWO. Guardianship .....	<u>129</u>
4.30 (Deleted effective 1/1/2015) .....	<u>129</u>
4.31 Appointment of Guardian of Minor. ....	<u>129</u>
4.32 Contested Guardianships. Recommending Mediation.....	<u>1210</u>
4.33 Confidential Mediation. ....	<u>1310</u>
4.34 Minor’s Funds for Support and Maintenance – Financial Support of Parents. ....	<u>1310</u>
4.35 Proceedings Under Probate Code Sections 3410 Et Seq. ....	<u>1310</u>
PART THREE. Conservatorship .....	<u>1311</u>

4.39	Appointment of Conservator .....	<u>1311</u>
4.40	Video Presentation of Conservator's Duties. ....	<u>1411</u>
4.41	Sale of Conservatee's Residence.....	<u>1411</u>
4.42	Proceeding for Spousal Property Transaction. ....	<u>1411</u>
4.43	Production of Estate Planning Documents in Proceedings Pursuant to Probate Code Sections 2580 or 3100.....	<u>1412</u>
PART FOUR. Decedent's Estates .....		<u>1512</u>
4.50	Presenting Wills for Lodging or Admittance. ....	<u>1512</u>
4.51	Proof of Wills by Affidavit or Declaration. ....	<u>1512</u>
4.52	Admission of Will or Codicil Containing Deletions and/or Interlineations. ....	<u>1513</u>
4.53	Lost Wills. ....	<u>1613</u>
4.54	Special Letters, Notice, and Appointment. ....	<u>1613</u>
4.55	Noticing Persons Listed in Petitions for Administration. ....	<u>1613</u>
4.56	Requirements for Giving Notice of Probate of Will. ....	<u>1614</u>
4.57	Independent Administration of Estates.....	<u>1614</u>
4.58	Waiver of Bond. ....	<u>1714</u>
4.59	Deposit of Personal Property for Reduction of Bond. ....	<u>1714</u>
4.60	Distribution of Property Held by Depository. ....	<u>1714</u>
4.61	Information Required of Personal Representatives Upon Acknowledgement of Duties. ...	<u>1715</u>
4.62	Multiple Representatives.....	<u>1715</u>
4.63	Notice of Administration to Creditors.....	<u>1815</u>
4.64	Petitions for Family Allowance. ....	<u>1815</u>
4.65	Character of Property and Transmutation in Summary Proceedings.....	<u>1815</u>
4.66	Evidence of Record Title in Proceedings Under Probate Code Sections 850 Et Seq. and Sections 17200 Et Seq. ....	<u>1815</u>
4.67	Sale of Specifically Devised Property. ....	<u>1816</u>
4.68	Petition for Final Distribution. ....	<u>1816</u>
4.69	Petition to Include Proposed Distribution. ....	<u>1916</u>
4.70	Distribution to Minors.....	<u>1917</u>
4.71	Apportionment of Statutory Compensation.....	<u>2017</u>
4.72	Compensation for Extraordinary Services. ....	<u>2017</u>
4.73	Account for Withhold.....	<u>2017</u>
4.74	Consent of Testamentary Trustee to Act. ....	<u>2018</u>
PART FIVE. Conservatorship, Guardianship, Decedent and Trust Accountings.....		<u>2018</u>

4.80	General Compliance with Probate Code 1063(g) and 1064 (a)(b).....	<u>2018</u>
4.81	Guardianship Accounts.....	<u>2118</u>
4.82	Guardianship Final Account and Report.....	<u>2119</u>
4.83	Conservatorship Final Account and Report.....	<u>2219</u>
4.84	Trust Accountings.....	<u>2219</u>
4.85	Report of Trustee.....	<u>2320</u>

## CHAPTER 4 - PROBATE

### PART ONE. General

#### 4.00 Form of Papers Presented for Filing.

- (A) Accounts and descriptions of assets may be single spaced within each item.
- (B) When filing any document, the parties shall furnish the court with one original which is unbound and clipped or rubber banded in a format pursuant to California Rules of Court, rule 3.1110. This section shall not apply to any motion or petition filed pursuant to California Rules of Court, rule 3.1114.
- (C) All pleadings filed for use at a pending hearing shall bear the date and time of the hearing, and department number in which the hearing is set, under the case number on the first page of the pleading. If a hearing is not set, the pleading shall bear the words "No Hearing."
- (D) Amended Pleadings are amendments to pleadings
  - (1) All amended pleadings and amendments to pleadings shall:
    - (a) State what allegations in the previous pleading are proposed to be deleted, if any, and where, by page, paragraph, and line number, the deleted allegations are located; and
    - (b) State what allegations are proposed to be added to the previous pleading, if any, and where, by page, paragraph, and line number, the additional allegations are located.
  - (2) All amended pleadings and amendments to pleadings shall generate a new hearing date, which will be provided at filing.

(Adopted 1/1/2013; revised 1/1/2016, revised 1/1/2021, revised 1/1/2024)

#### 4.01 Preparing for Hearing.

- (A) Attorneys and parties shall subscribe to their case using the Public Portal on the court's website.
- (B) All amendments, supplements and documents pertaining to calendared probate matters shall be filed no later than five court days prior to the scheduled hearing date.
- (C) Probate calendar notes identifying deficiencies will be posted to the Public Portal on the court's website 10 to 12 court days before the date of hearing and in the lobby of Room 214/Department 129 the day of the hearing.
- (D) All deficiencies stated in the probate calendar notes shall be cleared at least five court days prior to the hearing. A written response to probate calendar notes shall be captioned "Response to Calendar Notes." The response shall list each calendar note and each note shall be written in paragraph form directly below the corresponding calendar note. If a calendar note

requires proof of a filed document, an endorsed copy shall be attached as an exhibit to the response. The response shall be signed and verified pursuant to Probate Code sections 1020 through 1023.

(E) Four court days prior to the hearing, updated probate calendar notes will be posted to the Public Portal on the court's website.

(F) Probate calendar notes that are not cleared at least five court days before the hearing, and depending on the matter before the court, may be placed off calendar and continued, or dismissed without prejudice. An order of the court continuing the hearing will be provided on probate calendar notes; an order dismissing will be provided on or after the hearing.

(G) The filing party shall notify the court of the Public Defender or County Counsel's involvement at the time of the filing.

(H) Application of this rule is optional in the case of a petition for appointment of a guardian of a person.

(Adopted 1/1/2013; revised 1/1/2025)

4.02 (Deleted effective 1/1/2025)

#### 4.02.01 Probate Law and Motion Calendar

(A) All motions in Probate shall be set on the Probate Law & Motion calendar.

(B) Matters set on the Probate Law & Motion calendar will be subject to this Rule and Local Rule 1.06, and the Court shall issue a tentative ruling regarding each matter in accordance with the Rules. All non-motion matters shall be addressed by Probate Notes.

(C) Parties filing matters that are set on the Probate Law and Motion calendar shall follow all procedures contained in Rule 1.06.

(D) All Notices of Motion shall include the advisory language contained in Local Rule 1.06(D). Parties are advised that failure to provide this advisory language in the Notion of Motion may, in the Court's discretion, constitute good cause for the motion to be dropped or continued.

(E) This rule does not apply to Probate ex parte applications.

(Adopted 7/1/2025)

4.03 Preparation of Notices.

(A) All notices required to be published (except the notice required by Probate Code section 8120) shall be captioned with the words "Notice of Hearing" followed by the general nature of the petition.

(B) When a clerk's posted notice is required, a completed Notice of Hearing (Judicial Council forms DE-120, GC-020 or GC-020(c)) together with all necessary copies shall be presented concurrently with the petition.

(Adopted 1/1/2013; revised 1/1/2018)

#### 4.04 Identify Persons to Receive Notice.

In all petitions, the names and addresses of the persons entitled to notice shall be set forth along with the status entitling the person to notice (e.g., "heir," "beneficiary," or "filed request for special notice").

(Adopted 1/1/2013)

#### 4.05 Probate Hearing Once Noticed Cannot be Advanced; Continuances in Probate Matters Other Than Conservatorship and Guardianship; Procedure for Resetting a Matter for Hearing.

(A) When a hearing on a probate matter has been noticed, or when it has been noticed and continued to a definite date, the matter cannot be heard before the date set, regardless of the filing of a new petition, an amended petition, a new notice, or otherwise.

(B) A party seeking a continuance of the date set for hearing or trial, if contested, must make the request for a continuance by noticed motion or an ex parte application with supporting declaration. The party must make the motion or application as soon as reasonably practical once the necessity for the continuance is discovered. Noticed motions or ex parte applications to drop or continue mandatory settlement conference, long cause hearing, or trial shall be heard by the Probate Judge.

(C) A stipulated request to drop or continue a hearing or trial in probate matters, other than conservatorship and guardianship, may be submitted by using Request to Drop or Continue Hearing, Long Cause Hearing or Trial by Stipulation (local form PR/E-CT-209) no less than ten business days before the hearing. Continuances requested by the party or attorney of record may be granted upon a showing of good cause. Continuances by stipulation are subject to approval of the Probate Judge.

(D) When a matter on calendar is to be reset, the petitioner shall request in writing that the current setting be dropped (specifying the date and time of the setting). A request to reset a dropped matter shall be filed within 90 days of the date the request to drop was made to the court. A copy of the drop request and a copy of the first page of the petition shall then be provided to the Probate Court to reset the matter.

(Adopted 1/1/2013; revised 1/1/2016, revised 1/1/2024)

#### 4.06 Remote Proceedings.

(A) The court uses the Zoom application to conduct remote proceedings. Instructions for using Zoom to participate in proceedings can be found on the court's website.

(Adopted 1/1/2024, revised 1/1/2025)

#### 4.07 Calendar Matters Recommended for Approval.

Matters that are Recommended for Approval (R.F.A.) on the probate calendar notes will be considered submitted if there is no appearance.

(Adopted 1/1/2013; revised 1/1/2015, revised 1/1/2024)

#### 4.08 Response or Objections to Calendared Matters.

A response or objection to a petition for affirmative relief may be filed at or before the hearing, pursuant to Probate Code section 1043. The court may determine any response or objection at the time of the hearing, may take the matter under submission, or continue the matter to consider and determine an objection or response.

A request for affirmative relief, other than a request for surcharge on an account, shall not be included in an objection to matters on calendar and shall not be considered except upon filing a separate petition, calendared for hearing and noticed as required by law.

(Adopted 1/1/2013)

#### 4.09 Contested Matters.

(A) Upon filing a written objection, the objecting party shall serve on all parties a copy of the objections along with blank copies of Alternative Dispute Resolution Certification and Selection (local form PR/E-LP-002) and Stipulation to Alternative Dispute Resolution (local form PR/E-LP-001).

(B) All parties to a contested matter who make an appearance shall serve and file local form PR/E-LP-002.

(Adopted 1/1/2013; revised 1/1/2016; revised 1/1/2018)

#### 4.10 (Deleted effective 1/1/2015)

#### 4.11 Settlement Conferences.

(A) If any party subject to this rule fails to comply with this rule, the court on motion of a party or on its own motion, may strike all or part of any pleading of that party, dismiss the action or proceeding or any part thereof, or enter a judgment by default against that party, or impose other penalties of a lesser nature as otherwise provided by law, and may order the offending party or their counsel to pay to the moving party the reasonable expenses in making the motion, including reasonable attorney fees. No penalty may be imposed under this rule without prior notice to, and an opportunity to be heard by, the party against whom the penalty is sought to be imposed.

(B) Settlement Conference Statements

(1) Prior to the scheduled settlement conference, and within the time required by California Rules of Court, each party shall insure that the original Settlement Conference Statement is submitted to the clerk in the department where the settlement conference is scheduled and a copy is served on all other parties. The Settlement Conference Statement shall not be made part of the court's file, except for good cause.

(2) The parties may not stipulate to waive the requirement of filing a Settlement Conference Statement.

(C) Excuses from Attendance; Telephone Appearance in Lieu of Personal Appearance.

(1) Any request to the court to excuse attendance of any person whose attendance is required by California Rules of Court shall be submitted to the Probate Court not less than five court days before the date set for the settlement conference. The request shall be made, in writing after service of a copy of the request on every other party. Submission of said request, or the granting of said request, does not excuse any party from the requirement to file a Settlement Conference Statement in conformity with the California Rules of Court and these Local Rules.

(2) Any person whose presence at a settlement conference is required may be excused by the court upon a showing of good cause. Any person so excused shall be and remain immediately available for telephone communication with the court on the day set for settlement conference until released by the court.

(D) If the matter is settled before the date of a settlement conference, attorneys or parties not represented by counsel shall immediately notify the clerk in the department where the settlement conference is scheduled within 24 hours of the settlement.

(Adopted 1/1/2013; revised 1/1/2016)

4.12 Settlement of Contested Matters.

(A) If the parties have settled the contested matters relating to petitions pending before the court prior to the trial date, the trial shall be vacated and the date set for trial treated as a status hearing regarding final disposition of all petitions pending before the court. If the parties require an earlier date, one may be requested by noticed motion or by ex parte application upon a showing of good cause.

(B) The petitioner(s) and any parties objecting to the petition shall personally appear or appear by counsel and present to the court the status of each matter pending on the court's calendar.

(Adopted 1/1/2013; revised 1/1/2016)

4.13 Trial Procedures.

(A) Not less than five court days prior to trial, the ~~objecting~~ parties shall submit the following at the Probate Court:



- (1) File and serve on all parties a trial statement setting forth each issue in dispute, and the legal and factual basis in support of the party's contention as to each disputed issue;
  - (2) File and serve all motions in limine and other pretrial motions.
  - (3) File written confirmation that each of the objecting parties has exchanged copies of all exhibits which may be offered in evidence, except exhibits that will be used for rebuttal or impeachment.
- (B) On the day of trial:
- (1) Immediately prior to the commencement of trial, pre-mark and submit all exhibits and submit a list of all exhibits to the trial department except for exhibits that may be used for rebuttal or impeachment.
    - (a) Petitioner's exhibits shall be marked numerically.
    - (b) Respondent's exhibits shall be marked alphabetically.
    - (c) All other exhibits shall be listed without numeric or alphabetic designation.
  - (2) Provide a list of all exhibits that will be entered into evidence by stipulation.
  - (3) Identify in writing all facts to which a stipulation will be entered.

(Adopted 1/1/2013; revised 1/1/2016; revised 7/1/2025)

4.14 (Deleted effective 1/1/2016)

4.15 Orders to Be Complete in Themselves.

(A) All orders issued by the court shall set forth the names of persons and descriptions of property (including assessor's parcel number and specific legal description), amounts of money affected, the terms of trusts, and the provisions of leases or other agreements.

(B) In addition to the requirements of California Rules of Court, rule 7.650(b), the names of current beneficiaries of the trust, along with their dates of birth if distributions are conditioned upon the beneficiaries having attained certain ages, shall be included in the order.

(Adopted 1/1/2013)

4.16 Formal Orders.

The proposed formal order for a noticed hearing shall be presented to the Probate Court five court days prior to the hearing if lodged in person or eight court days prior to the hearing if lodged through the mail.

(Adopted 1/1/2013; revised 1/1/2016)

#### 4.17 Assignment of Probate Referee.

A probate referee will be assigned on a rotational basis from the panel of probate referees. In the event separate proceedings are filed for related wards or conservatees of the estate, the court will permit an exception to this rule upon proper showing.

(Adopted 1/1/2013)

#### 4.18 Notice Requirement on Court Appointed Attorney Fee Petition.

An attorney appointed by the court pursuant to Probate Code section 1470 and section 1471 shall request payment for compensation and expenses by filing a Motion for Attorney Fees. If the Motion raises issues that the party is financially unable to pay all or a portion of the costs of counsel as fixed by the court, the Notice of Motion shall be served on the County of Sacramento by serving the County Counsel at 3331 Power Inn Road, Suite 350, Sacramento, CA 95826.

(Adopted 1/1/2013)

#### 4.19 Ex Parte Petition for Final Discharge

Petitions shall include filed endorsed copies of all proper receipts.

(Adopted 1/1/2021; revised 1/1/2025)

#### 4.20 Ex Parte Application

(A) Ex Parte applications are governed by California Rules of Court, rules 3.1200 and 7.1062. A judge will only grant ex parte relief if the party requesting it shows a risk of irreparable harm, immediate danger, or any other statutory basis for granting relief ex parte as set forth in California Rule of Court, rule 3.1202(c).

(B) (1) The court considers ex parte applications Monday through Friday at 8:30 a.m. for conservatorships and other ex parte applications, and 10:00 a.m. for guardianships. The court makes its decisions based solely on the documents filed by the parties, or the court may require parties to appear for a hearing. The moving party, opposing/interested party(ies) and attorneys must be reachable by email or phone on the day of the requested ex parte hearing from 8:30 a.m. to noon. If an appearance is required, the court will contact the parties and their attorneys with a time to appear for the hearing. ~~More information about the Emergency/Temporary Order process can be located on the court's website.~~

(2) Unless an immediate order is being requested, the following ex parte applications may be dropped off Monday through Friday, between 8:00 a.m. and 5:00 p.m., in the drop box on the first floor of the Williams R. Ridgeway Family Relations Courthouse.

- Increase Bond (Probate Code section 10150)
- Small Estate (Probate Code section 7660)
- Withdrawal of Minor's Funds (California Rule of Court, rule 7.954)

- Lanterman-Petris-Short (LPS) Proceedings (Welfare & Institutions Code section 5000)
- Court Appointed Counsel for Conservatorship (Probate Code section 1471)

All applications and petitions shall be accompanied by local form Declaration of Notice of Ex Parte Application (PR-E-LP\_036) and Attachment (PR-E-LP-043) as needed.

(C) Requirements of the Moving Party:

(1) Notice and service to opposing/interested party(ies).

The moving party must:

- (a) Serve the opposing/interested party(ies) with a copy of the ex parte application. The application may be served personally, by fax, by electronic means if permitted, or by overnight mail or other overnight carrier.
- (b) Notify the opposing/interested party(ies) or their attorney that (i) they must be reachable between 8:30 a.m. and noon on the requested ex parte hearing date if the court determines that an appearance is required; and (ii) they must submit their response or objection by using the court drop box or through the electronic filing program by 8:30 a.m. on the requested ex parte hearing date with a copy to the moving party. Notice may be given personally, by telephone, in writing, by voicemail, or by electronic means if permitted.
- (c) Complete (a) and (b) above no later than 10:00 a.m. the court day before the moving party wants the matter to be considered by the court, as stated in California Rules of Court, rule 3.1203(a).

(2) Notice to the court.

The moving party must:

- (a) Submit their ex parte application to the court via drop-box or through the electronic filing program by 8:30 a.m., the day before the ex parte hearing date.
- (b) Provide the court with current telephone numbers and emails addresses for all parties and their attorney's using the Document Drop-Off Sheet for Domestic Violence and Ex Parte Applications form (FL/E-LP-668). This will allow the court to contact all parties if they need to appear for a hearing.

(3) Completed Proof of Service.

The moving party must submit a completed proof of service to the assigned court department by 8:30 a.m. on the scheduled ex parte hearing date showing they have complied with items 1(a), 1(b), and 1(c) above. If the party fails to do this, the court may deny the ex parte request or set a later hearing to ensure that the opposing/interested party(ies) have been properly notified and served.

(4) Request to Waive Notice.

A party may ask the court to waive notice to all parties and their attorneys of the request for emergency orders. To make the request, the party must file a written declaration signed under penalty of perjury that includes facts showing good cause not to give notice, as explained in California Rules of Court, rule 3.1204(b)(3).

(D) Requirement of the Opposing/Interested Party(ies):

(1) If the opposing/interested party(ies) want(s) to submit a written response for the court to consider, they must submit it using the court drop box or through the electronic filing program by 8:30 a.m. on the scheduled ex parte hearing date, with proof of service to the moving party. Service may be by personal, by fax, by electronic means if permitted, or by overnight mail or other overnight carrier.

(E) After the Court Issues a Ruling:

(1) Once the court rules, based on the pleadings and/or after the ex parte appearance, a court representative will make the orders and documents available either by pick-up from the drop-box or attorney box.

(2) The moving party must serve the opposing/responding party with the ex parte order and file proof of service before the return hearing date.

(Adopted 1/1/2024, revised 1/1/2025; revised 7/1/2025)

## PART TWO. Guardianship

4.30 (Deleted effective 1/1/2015)

4.31 Appointment of Guardian of Minor.

(A) Petitions for guardianships shall contain an allegation as to whether or not the minor(s) has been or is a party to a civil action in which monetary damages are claimed. If the minor(s) is such a party, the file number of the action shall be indicated, as well as the name of the court in which the case is pending (Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) (Judicial Council form FL-105)).

(B) Children with a common parent shall be included in the same petition. Otherwise, separate petitions and case numbers shall be required.

(Adopted 1/1/2013; revised 1/1/2018)

4.32 Contested Guardianships. Recommending Mediation.

When the appointment of a guardian of the person is contested, the court may order the matter to non-confidential mediation for visitation. Absent full agreement at mediation, a written report including recommendations shall be provided to the parties, counsel, and the court. Said reports and recommendations may be offered for admission into evidence at hearing or trial, subject to procedural or evidentiary objection. "Mediation" shall be formally known as "child

custody recommending counseling" and a "mediator" shall be formally known as a "child custody recommending counselor."

(Adopted 1/1/2013)

#### 4.33 Confidential Mediation.

Mediation resulting from a Petition for Confidential Mediation shall be confidential and, except as otherwise authorized by law, there shall be no mediation report offered to the court.

(Adopted 1/1/2013)

#### 4.34 Minor's Funds for Support and Maintenance – Financial Support of Parents.

Absent good cause, funds shall not be used for a minor's support. A request for funds shall be supported by an Income and Expense Declaration (Judicial Council form FL-150) and a Property Declaration (Judicial Council form FL-160).

(Adopted 1/1/2013)

#### 4.35 Proceedings Under Probate Code Sections 3410 Et Seq.

(A) Petitions filed under Probate Code section 3410 et seq. shall be filed in a separate proceeding under the name of the minor, and shall set forth jurisdictional facts and state the current holder of the funds, amount to be paid, requested amount of fees and costs and to whom and the net proceeds to be deposited in a specific bank or savings and loan association in the manner provided by law.

(B) If the petition merely seeks the deposit of funds subject to reimbursement for costs expended for the filing of the petition, the petition may be granted by the court without notice. If, however, attorney's fees are sought, the matter shall be set for hearing on the court's regular calendar.

(Adopted 1/1/2013)

### PART THREE. Conservatorship

#### 4.39 Appointment of Conservator

(A) Absent a court order, separate case numbers shall be required for all proposed conservatees. A separate petition for each proposed conservatee is required.

(B) Requests to include more than one proposed conservatee in the same case number shall be made by an ex parte application at the filing of the Petitions for Appointment. The ex parte application shall include a declaration providing why a combined case number is in the best interest of the proposed conservatees. The hearing date(s) will be provided upon determination of the ex parte application.

(Adopted 1/1/2021)

4.40 Video Presentation of Conservator's Duties.

Prior to the hearing for appointment, the proposed conservator shall verify in writing that he or she has viewed an approved videotaped presentation located on the court's website on the duties and responsibilities of conservators.

(Adopted 1/1/2013; revised 1/1/2025)

4.41 Sale of Conservatee's Residence.

Sale of a conservatee's residence requires prior authorization in compliance with Probate Code section 2540(b). Petitions for authorization of sale of the conservatee's residence and/or authorization to execute a listing agreement for sale of the conservatee's residence will be considered only upon a calendared motion with notice given pursuant to Probate Code section 1460 (general mailed notice) and Probate Code section 2702 (special notice). If permission is granted to sell the conservatee's residence, a listing agreement may be approved ex parte, subject to Probate Code section 2702.

(Adopted 1/1/2013)

4.42 Proceeding for Spousal Property Transaction.

Petitions pursuant to Probate Code sections 3100 et seq.:

(A) The petition shall be supported by a declaration of a licensed physician or licensed psychologist within the scope of his or her licensure as to the capacity of the non-petitioning spouse (Probate Code section 810 et seq.).

(B) When the petition is predicated upon the non-petitioning spouse's qualification for Medi-Cal benefits, notice shall also be given to the Director of the California Department of Health Care Services.

(C) Petitions to transfer assets related to Medi-Cal eligibility, the petitioner shall file an Income and Expense Declaration (Judicial Council form FL-150) and a Property Declaration (Judicial Council form FL-160).

(Adopted 1/1/2013)

4.43 Production of Estate Planning Documents in Proceedings Pursuant to Probate Code Sections 2580 or 3100.

(A) If a petition under Probate Code section 2580 or section 3100 seeks to provide gifts or otherwise affect the estate planning of the conservatee or incapacitated spouse, said petition shall include one copy of all estate planning documents unless the petitioner obtains an order to deliver the documents to a custodian pursuant to Probate Code section 2586(d).

(B) If the petitioner does not have possession of the estate planning documents, the petition shall include a statement of the name, address and telephone number of the person(s) having possession of said documents to enable the court to issue an order for delivery of the documents pursuant to Probate Code section 2586(b).

(C) Estate planning documents subject to subsection (A) shall be enclosed in an envelope or suitable container for delivery to the court. The party submitting the documents shall affix a cover sheet to the envelope or container entitled, "Estate Planning Documents of (name) For In Camera Review Pursuant to Probate Code section 2586" stating: (1) the caption of the case and (2) the date, time and department of the hearing.

(D) Upon conclusion of the proceedings, the documents shall be returned to the party who submitted them.

(Adopted 1/1/2013; revised 1/1/2016)

## PART FOUR. Decedent's Estates

### 4.50 Presenting Wills for Lodging or Admittance.

All Wills presented to Probate shall include the unaltered, signed original Will and one copy for the court. If the person for whom the Will is being submitted is deceased, proof of death is required at the time the Will is presented. Proof of death shall be in the form of a death certificate, an obituary or a declaration indicating the date of death.

(Adopted 1/1/2013)

### 4.51 Proof of Wills by Affidavit or Declaration.

(A) Proof as to the admissibility of each testamentary document shall be submitted, except that in the event there is a codicil which expressly republishes the Will, proof of the execution of the codicil is deemed sufficient.

(B) The copy of the Will attached to the proof of subscribing witness shall be certified by the attorney of record.

(Adopted 1/1/2013)

### 4.52 Admission of Will or Codicil Containing Deletions and/or Interlineations.

A petition for probate of a Will and/or codicil which includes deletions and/or interlineations shall include a request for determination of the validity of said deletions and/or interlineations and include any documentary evidence in support of the petitioner's position.

In addition to mailing a Notice of Petition to Administer the Estate, the petitioner shall cause notice by mail of a copy of the petition and all supporting documents at least 15 days prior to the hearing to all persons requiring notice pursuant to Probate Code section 8110 and to all persons affected by the deletions and/or interlineations.

(Adopted 1/1/2013)

4.53 Lost Wills.

- (A) Notice mailed for a petition to admit a lost Will shall identify that the Will is lost.
- (B) A copy of the lost Will shall be attached to the order admitting the Will to probate.

(Adopted 1/1/2013)

4.54 Special Letters, Notice, and Appointment.

- (A) A petition for special letters of administration shall be presented separately from and not included in a petition for general letters.
- (B) Neither general powers nor IAEA authority can be given to a special administrator, except at a hearing for which notice has been mailed and published as provided in Probate Code section 8545.
- (C) If the petition for special administrator requests authority to defend suits or negotiate claims against the estate, then the petition shall pray for general powers, unless good cause is stated why notice to creditors pursuant to Probate Code section 9050 will not be necessary.

(Adopted 1/1/2013)

4.55 Noticing Persons Listed in Petitions for Administration.

All living persons named shall be given notice of the petition for letters of administration or letters testamentary.

(Adopted 1/1/2013)

4.56 Requirements for Giving Notice of Probate of Will.

The notice of hearing of a petition for probate of Will is sufficient notice respecting all instruments which are offered for probate in the petition for which the notice of hearing is given. If any other instruments, e.g., alleged Wills or codicils not mentioned in the petition, are presented to the court by way of an amended petition, a second petition, or otherwise, a new notice thereon must be given setting a date of hearing not earlier than the date set in the original notice.

(Adopted 1/1/2013)

4.57 Independent Administration of Estates.

In addition to the requirements of California Rules of Court, rule 7.250, the Notice of Proposed Action with proof of service, and any objections, consent and waiver, shall be filed with the court.



(Adopted 1/1/2013)

4.58 Waiver of Bond.

Personal representatives who are not California residents will be required to post bond unless (1) bond is waived by the beneficiaries or (2) bond is waived in the Will and it appears from the face of the Will that the testator was aware at the time that the nominee did not reside in California.

(Adopted 1/1/2013)

4.59 Deposit of Personal Property for Reduction of Bond.

When an order restricting withdrawals and reducing bond is obtained under Probate Code section 8483, a receipt of the depository acknowledging the restrictions on withdrawal, without liability disclaimers, shall be filed within 10 days of the order or if the property to be deposited is not then in the possession of the fiduciary, within 10 days of receipt of the property by the fiduciary.

(Adopted 1/1/2013)

4.60 Distribution of Property Held by Depository.

Unless the judgment distributing cash or other personal property held pursuant to Probate Code section 8483 or section 9701 directs the depository to pay the funds or distribute the property so held to the distributees, additional bond to comply with Probate Code section 8480 shall be furnished.

(Adopted 1/1/2013)

4.61 Information Required of Personal Representatives Upon Acknowledgement of Duties.

The driver's license number and date of birth of personal representatives (other than public officers or trust companies) shall be provided in the confidential supplement to the duties and liabilities required by Probate Code section 8404.

(Adopted 1/1/2013)

4.62 Multiple Representatives.

When multiple representatives are appointed by the court, letters will not be issued unless each representative has complied with Probate Code section 8403 and section 8404 and Local Rules, rule 4.61.

(Adopted 1/1/2013)

#### 4.63 Notice of Administration to Creditors.

If Notice of Administration of Estate is mailed to creditors, the original notice and proof of service shall be filed with the court.

(Adopted 1/1/2013)

#### 4.64 Petitions for Family Allowance.

A petition seeking an allowance shall set forth the income from sources outside the estate available to the person for whom the allowance is sought, as well as an itemization of that person's separate property and monthly expenses. If the petition is not filed by the personal representative, prior to the hearing on the petition, the personal representative shall file a declaration setting forth the current assets and liabilities of the estate.

(Adopted 1/1/2013; revised 1/1/2014)

#### 4.65 Character of Property and Transmutation in Summary Proceedings.

In any summary proceeding under Probate Code section 13150, section 13200, or section 13650 where the court is to consider or determine the character of property as community or separate, the petition shall set forth the form of record title and character of ownership at all relevant times. If there is an alleged transmutation of ownership interests based on a written document, a copy of the document shall be filed with the petition.

(Adopted 1/1/2013)

#### 4.66 Evidence of Record Title in Proceedings Under Probate Code Sections 850 Et Seq. and Sections 17200 Et Seq.

In a proceeding to determine ownership of property under Probate Code section 850 et seq. or section 17200 et seq., the petition shall set forth the form of record title and character of ownership at all relevant times. If the form of record title is based on a written document, a copy of the document shall be filed with the petition.

(Adopted 1/1/2013)

#### 4.67 Sale of Specifically Devised Property.

On a sale of specifically devised real or personal property, absent the devisee's written consent of such sale, notice of hearing of the petition for confirmation shall be given to the devisee.

(Adopted 1/1/2013)

#### 4.68 Petition for Final Distribution.

(A) Petitions for final distribution shall include a report of the following:

- (1) The character of all assets as separate or community where there is a surviving spouse;
- (2) All capital transactions and other actions taken under the Independent Administration of Estates Act, including the amounts of any gains or losses;
- (3) Disclosure of liabilities and other matters necessary to show the condition of the estate (Probate Code section 10900);
- (4) Declaration of compliance with Local Rules, rule 4.69 (Petition to Include Proposed Distribution);
- (5) That no federal or California estate taxes are payable or that they have been paid;
- (6) That income taxes and all other taxes (e.g., supplemental real property or personal property taxes, if any) have been paid or otherwise provided for;
- (7) Whether the personal representative has complied with the provisions of Probate Code section 8800(d), concerning the change of ownership requirements of Revenue & Taxation Code section 480.

(B) If estate taxes are payable or paid: (1) the petition must set forth whether said taxes were prorated pursuant to Probate Code section 970/20100 et seq. or the provisions of the Will; and (2) the petition must reflect whether or not there are nonprobate assets includable in the gross estate for estate tax purposes.

(Adopted 1/1/2013)

#### 4.69 Petition to Include Proposed Distribution.

(A) Details of the proposed distribution shall be set forth either in the body of the petition or by attachment. Terms of the Will as to disposition of property and what is to be distributed under the laws of intestate succession shall be set forth. When the proposed distribution includes establishing a testamentary trust, the proposed terms shall be fully stated in the petition.

(B) Where an issue concerning distribution is presented, the petition shall fully set forth that issue including apparent alternative resolutions for the court's consideration. Distribution issues include interpretation of the Will, validity of a testamentary trust or its provisions, issues of heirship or intestate succession. The caption and notice of hearing on the petition shall include notice to affected persons that an issue concerning distribution will be submitted for the court's determination.

(Adopted 1/1/2013)

#### 4.70 Distribution to Minors.

A parent, legal guardian or custodian under the California Uniform Transfers to Minors Act shall be permitted distribution on behalf of a minor only if authorized by the provisions of Probate Code section 3401 or by court decree. Proof of appointment or authorization shall be supported

by certified court orders, affidavits or declarations prior to the hearing on the petition for distribution. The distributee's receipt shall be signed by the parent, guardian or custodian

(Adopted 1/1/2013)

#### 4.71 Apportionment of Statutory Compensation.

An allowance on account of statutory compensation will ordinarily not be granted until the judgment of final distribution for an attorney who withdraws or for a personal representative who resigns or is removed.

(Adopted 1/1/2013)

#### 4.72 Compensation for Extraordinary Services.

(A) In addition to the requirements of California Rules of Court, rule 7.702, a petition for extraordinary services shall include the date each service is rendered.

(B) In every case where the combined extraordinary commissions and extraordinary attorney's fees exceed \$1,000, the heirs or residuary devisees shall be given notice of the amounts requested. Notice may be given by mailing a copy of the petition or by including the amounts requested in the caption of the petition.

(Adopted 1/1/2013)

#### 4.73 Account for Withhold.

A supplemental account shall be presented if assets in excess of \$5,000 are withheld from initial final distribution, unless the account has been waived.

(Adopted 1/1/2013)

#### 4.74 Consent of Testamentary Trustee to Act.

When distribution is to be made to a testamentary trustee, the consent of the trustee to act shall be filed prior to the hearing on the petition for distribution.

(Adopted 1/1/2013)

### PART FIVE. Conservatorship, Guardianship, Decedent and Trust Accountings

#### 4.80 General Compliance with Probate Code 1063(g) and 1064 (a)(b).

A petition for approval of an account shall include a report affirmatively addressing Probate Code section 1063(g) and section 1064(a) and (b).

(Adopted 1/1/2013)

#### 4.81 Guardianship Accounts.

- (A) The first account shall be for a minimum period of nine months from date of appointment.
- (B) Where there are multiple wards or conservatees joined in a single guardianship or conservatorship proceeding, an account shall reflect a separate accounting for each of them.
- (C) Each account except a final account shall be accompanied by a report on the sufficiency of the bond, including (1) the total amount of bond currently posted; (2) which accounts are blocked and the balances thereof and (3) setting forth the annual income and assets subject to bonding as provided in Probate Code section 2320(c).
- (D) The financial institution account statement required by Probate Code section 2620(c) shall consist of the most current statement showing the balance as of the close of the account period.
- (E) The financial institution account statements shall be presented in the same sequence as the assets are listed in the schedule of property on hand. The petitioner shall in addition highlight the following information contained on each account statement:
  - (1) Name, address of account holder;
  - (2) The account or property description number;
  - (3) The account type or property description;
  - (4) The statement period;
  - (5) The reported balance at the close of the accounting period.
- (F) Petitioner shall file a reconciliation declaration when the reported balance on the financial institution account statement is not the same as stated in the schedule of property on hand. The declaration shall explain the reason for the discrepancy between the balances listed.

(Adopted 1/1/2013)

#### 4.82 Guardianship Final Account and Report.

- (A) Waiver of guardian's final account will be permitted for good cause.
- (B) Waiver of a guardian's account by a ward who has attained the age of majority will not be accepted unless the ward personally appears and confirms the waiver or a written waiver by the ward is filed which includes a complete list of the assets to be distributed to the ward.
- (C) The final report and/or account shall include a description of the remaining assets on hand to be distributed to the ward.

(Adopted 1/1/2013)

4.83 Conservatorship Final Account and Report.

(A) If the conservatee is deceased, notice of hearing shall be given to the personal representative or trustee of conservatee's Living Trust. If the conservator is also the personal representative of the deceased conservatee's estate or there is no personal representative, notice shall be given to the deceased conservatee's heirs and devisees.

(B) A final account shall be required on termination of the conservatorship of an estate.

(Adopted 1/1/2013)

4.84 Trust Accountings.

(A) A petition for approval of a trust accounting that includes disbursements for trustee fees or attorney fees shall include a declaration to support the payment of fees stated in the accounting. If "reasonable fees" are authorized by the trust or if compensation is paid based on Probate Code section 15681, the trustee shall set forth how the "reasonable fee" was calculated. Trustee fees which are provided in the Trust instrument subject to review and determination of the court shall also set forth how the fees were calculated.

Requests for approval of fees shall comply with California Rules of Court, Rule 7.776 and shall be categorized by the services performed and shall include state the hourly rate, hours performed and total amount of fees rendered for each category of services. Each request shall also include a statement of the total hours and total amount of fees incurred for the accounting period.

Trustee fees are based on fee schedules that are not in compliance with California Rules of Court, Rule 7.776 will not be accepted by the court to support a request for fees.

Trustee compensation shall be presumed reasonable if the total compensation requested does not exceed one percent (1%) per annum of the fair market value of the assets at the end of the accounting period for all services rendered during the account period by Trustee and its affiliates that provide administrative and financial Trust management services. If the total compensation requested exceeds one percent (1%) per annum of the fair market value of the assets at the end of the accounting period, then the request must be supported by a detailed description of the services rendered, their necessity, benefit to the estate, expertise required, time expended, and hourly rate.

If the Trustee engages affiliates who act as investment advisors or financial managers, the Petition must disclose the affiliate, the affiliate's total compensation, and state how compensation was calculated.

(B) Trust accountings require the following:

(1) A schedule for receipts and for disbursements shall be categorized into sub-schedules reflecting the particular income sources or payees from whom there are more than twelve entries per accounting period.

(2) A schedule for disbursements shall contain a separate listing for all compensation paid to any fiduciary, attorney or accountant during the accounting period from trust assets.

(C) Special Needs Trusts require notice of the hearing on a petition for approval of an account of a special needs trust established pursuant to Probate Code section 3604 shall be provided to the Directors of the Department of State Health Services, Department of Developmental Services, and the Department of State Hospitals at the Sacramento office on a petition for approval of an account of a special needs trust established pursuant to Probate Code section 3604.

(Adopted 1/1/2013; revised 1/1/2016; revised 7/1/2025)

#### 4.85 Report of Trustee.

A report shall accompany each account of a trustee and shall include the following:

- (1) A concise reference to the purpose of the trust and how they have been satisfied by the trustee during the period of the account;
- (2) A list of the beneficiaries (both present and future), the address, relationship to the trustor, whether they are a minor or an adult, and the beneficiary's age, if age is relevant;
- (3) A brief summary of distributions made to or for their benefit, as reflected in the account;
- (4) Investment objectives, and results with reference to the purpose of the trust, by setting forth a brief summary of the account measured in terms of the specific trust objectives and requirements.

(Adopted 1/1/2013)