

PROPOSED CHANGES TO SAN JOAQUIN SUPERIOR COURT LOCAL RULES – EFFECTIVE 7/01/2023

Rule 2 – Criminal

2-105. PRE-TRIAL CONFERENCES (Eff. 01/01/98)

Preparation of Attorneys

In felony and misdemeanor cases, the attorneys who attend the pre-trial conference should be thoroughly familiar with the case and authorized to make an offer for early resolution of the case. It is preferable that the attorneys assigned to the case attend the pre-trial conference. The assigned attorneys should review all existing investigative reports, preliminary hearing testimony, and rap sheets prior to the pre-trial conference.

~~B. Felony Cases – Pretrial Conference Questionnaire~~

~~In felony cases, the People shall be required to fill out a pre-trial conference questionnaire form. The form will be a standard form adopted for this court's use after consultation with the District Attorney's Office, Public Defender's Office and Lawyers Referral Service.~~

~~The People must serve and deliver the pretrial conference questionnaire to the courtroom where the conference is to be held no later than two court days prior to the scheduled pre-trial conference. Counsel for the defense are encouraged to submit a pre-trial conference questionnaire as well. These questionnaires shall remain confidential. (Eff. 07/01/98)~~

2-115 (suggested number) Eff. 07/01/2023

ABILITY TO PAY: CLERK DETERMINATIONS

- a. The clerk of the court may make ability-to-pay determinations in the Superior Court of California for the County of San Joaquin as authorized in Government Code 68645.3(e) when the following criteria have been met:
 1. The litigant submits that they receive public benefits, including those listed in subdivision (a) of Section 68632;
 2. Or, the litigant submits their household income is equal to or below 250% of the federal poverty level.
- b. The clerk of the court shall not modify the reduction rate recommended by the MyCitations online tool consistent with Court-established administrative settings for calculating reduction rates.

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- c. The defendant has the right to a review of the decision by a judicial officer in the trial court if the clerk of the court denies the reduction portion of the request.
- d. Criteria for reductions made by the clerk of the court are posted on the court's website.

Rule 4 - Probate

4-101. ALL PETITIONS (Eff. 01/01/20)

INTRODUCTION

- A. General. The Probate Rules for San Joaquin County Superior Court set forth local policies and procedures of the probate department. These rules do not attempt to restate or summarize statutory or case law or estate administration in general. Guidance on probate law and practice may be found in publications such as California Decedent Estate Practice, California Trust Administration, and California Conservatorship Practice, which are published by CEB, Continuing Education of the Bar California. These rules, although binding on parties, may be departed from at the discretion of the Court
- B. Contact Information. Website: For current contact information, tentative rulings, and the online probate calendars, parties should refer to the court's website at: www.sjcourts.org. All local forms referred to in this rule are available at and can be downloaded from the court website. (Hover over the "Forms and Filing" tab on the court's home page, then "Local Forms" in the drop-down menu.)

The following may be helpful in matters presented to the Probate Court:

Clerk of the Probate Court: The physical address of the Probate Clerk is 180 E. Weber Avenue, Fourth Floor, Stockton, CA 95202. The mailing address is Superior Court of California – San Joaquin, Probate Department, 180 E Weber Avenue, Suite 416, Stockton, CA 95202.

C. Pleadings / Calendaring

- 1. Petitions with all supporting papers, excepting the Notice of Hearing and or proof of service, must be on file four weeks before the hearing date. Failure to file all required paperwork in the time limits specified may result in the hearing being continued.

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2. Notice of Hearing and or ~~Proofs-proofs~~ of ~~Service-service~~ for the initial petition shall be filed with the Clerk at least ten (10) court days prior to the day of hearing. Any other ~~Proofs-proofs~~ of ~~Service-service~~ shall be filed with the Clerk contemporaneously with the papers to which they pertain. Failure to contemporaneously file a proof of service with a document may result in the document being rejected for filing.
3. Proofs of Publication shall be filed with the Clerk at least five (5) court days prior to the day of hearing.
4. Matters involving the Public Defender, or the Public Conservator, must be set for hearing Tuesdays or Thursdays only, unless a stipulation for another day, signed by the Public Defender and or Public Conservator is filed at the same time as the initial petition. (Eff. 01/01/20; Rev. 01/01/~~2023~~; Rev. 07/01/23)

4-106. EX PARTE APPLICATIONS (Eff. 01/01/20)

The following ex parte applications are exempt from the notice requirements of this chapter:

1. Ex parte application for Withdrawal of Funds from Blocked Account;
2. Ex parte application for Appointment of Guardian Ad Litem;
3. Ex parte application to Increase Bond (Local Form) (only when increasing bond, not for a blocked account or to decrease bond);
4. Ex parte application to Petition for Final Discharge and Order;
5. Exceptions contained in CRC 3.1207.

The Probate Court will not entertain any ex parte petition that does not comply with California Rules of Court 3.1200 through 3.1206, and is not accompanied by a declaration that makes "an affirmative factual showing... containing competent testimony based on personal knowledge of irreparable harm, immediate danger, or any other statutory basis for granting relief ex parte." California Rule of Court 3.1202(c)

A. The Probate Court will not entertain any ex parte petition that does not comply with California Rules of Court 3.1200 through 3.1206, and is not accompanied by a declaration that makes "an affirmative factual

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showing... containing competent testimony based on personal knowledge of irreparable harm, immediate danger, or any other statutory basis for granting relief ex parte." California Rule of Court 3.1202(c).

Please refer to the court's website for the procedure on how to submit any ex parte matters, including but not limited to law and motion or a petition.

- A.B. ~~Please refer to the court's website for the procedure on how to submit any ex parte matters, including but not limited to law and motion or a petition.~~ If an ex parte petition for appointment of any conservator or a guardian is reviewed and given a date, the court will require five (5) days' notice has been given (Probate Code sections 2250(e) and 2250.2 through 2250.6), unless the petitioner has shown both irreparable harm or immediate danger, and "good cause" for waiving the notice requirements.
- B.C. Counsel requesting the waiver or shortening of any notice time periods prescribed by the Probate Code must submit a Declaration of Due Diligence to the Court citing the specific notice provision at issue, setting forth facts relating to the efforts to give such notice, or facts supporting the conclusion that it was impossible to give such notice; and explaining the "good cause" for waiving or shortening the time.
- C.D. A party seeking an ex parte order must submit the application and all supporting papers and fees to the Clerk for filing no later than 24 hours prior to the hearing.
- D.E. An ex parte order will not be granted unless accompanied by a verified petition (or a sworn declaration where applicable) containing facts and law to justify granting the requested relief.
- E.F. Ex parte petitions filed in decedent's estates for the sale of stock or personal property must allege whether the property is specifically bequeathed. If bequeathed, the consent of the specific legatee to the sale must accompany the petition.
- F.G. The Clerk may reject Petitions that do not comply with the subsections above. (Eff. 01/01/20; Rev. 01/01/~~20~~23)

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4-107. ADDITIONAL INFORMATION REQUIRED (Eff. 07/01/21)

- A. Where any petition calls for the relationship of the heirs or devisees, including but not limited to a Petition for Probate, Petition to Determine Succession to Real Property, An Affidavit re Real Property of Small Value or a petition ~~or~~ under Probate Code section 850, a chart ~~or list~~ of lineal descent must be included. If any beneficiary named in the Will, Trust or other document has predeceased the testator, the fact must be stated. The information shall be provided using local form Lineal Chart A (SJPR-203), Lineal Chart B (SJPR-204) and/or Lineal Chart C (SJPR-205).
- B. Where any petition calls for family members, or heirs and his or her address to be listed, the individual's name shall be listed, the individual's relationship to the decedent, settlor, conservatee and/or ward, and where an address would be listed "Deceased" shall be listed if the individual is deceased. In addition, proof of death is required. Proof of death can be established by, but is not limited to, a death certificate, an obituary, or a declaration. (Eff. 01/01/20; Rev. 07/01/22; Rev. 01/01/2023; Rev. 07/01/23)

4-110. LAW AND MOTION; TENTATIVE RULINGS

- A. A tentative ruling for each law and motion matter on calendar will be available to counsel and litigants on the first court day before the scheduled hearing. The tentative rulings will be posted to the court's website and can be accessed at: <https://www.sjcourts.org/online-services/probate-notes-tentative-rulings/>

The tentative ruling shall become the ruling of the court unless there is opposition by counsel or self-represented litigants (SRL). Counsel or SRL is responsible for reviewing the tentative ruling and notifying the superior court and all other counsel and ~~self-represented litigants-SRL~~ no later than 4:00 p.m. on the day preceding the scheduled hearing of his or her intent to appear to argue. The procedures for noticing all parties is provided on the Court's website at <https://www.sjcourts.org/online-services/probate-notes-tentative-rulings/> (Eff.01/01/2023; Rev. 07/01/23 [Former 4-110 Repealed 01/01/20])

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4-114. PROBATE ~~CODE 850~~-PETITIONS CONFIRMING PROPERTY (Eff. 01/01/20)

A. Any petitioner requesting an order concerning title to real property held in whole or in part by the decedent, conservatee, settlor or other party shall attach to the petition a copy of all deeds by which the decedent, conservatee, settlor or other party acquired title. Petitions concerning title shall include, but not limited to Probate Code 850, Probate Code 13150 et seq. (Petition to Determine Succession to Real Property, form DE-310), or Probate Code 13650 et seq. (Spousal or Domestic Partner Property Petition, form DE-221).

A.B. Whenever a ~~Petition~~ petition is filed under the authority of Probate Code §850, et seq, which seeks to establish the owner of an interest in property, the ~~Petition~~ petition shall plead facts which establish the claimed ownership interest, and list the person(s) to be served pursuant to Probate Code §851, including, but not limited, to the following persons:

B.C. The petition shall set forth the form of record title and character of ownership at all relevant times covered by the ~~Petition~~ petition.

C.D. If the form of record title is based on a written document, a copy of the document shall be filed with the petition. (e.g., ~~Copy~~ copy of all relevant deeds, copy of bank statement(s) or stock certificate(s)/statement(s), etc.) (Eff. 01/01/20; Rev. 07/01/22)

4-115. COSTS GENERALLY NOT ALLOWED ~~TO~~ COUNSEL, ADMINISTRATOR, TRUSTEE, CONSERVATOR, OR GUARDIAN (Eff. 01/01/20)

B. For all General hearings, Law and Motion hearings, Ex Parte hearings, and Orders to Show Cause, parties may appear remotely with no notice to the other parties or to the Court. However, when noticing any hearing, motion, application, or request in the probate department, a copy of the local form, Notice of ~~Teleconference~~ Remote Appearance and Requirements (SJPR-001) must be attached to the Notice of Hearing or served separately and a proof of service completed. The court's preference is the Notice of Remote Appearance and Requirements is attached to the Notice of Hearing, rather than filed separately, whenever possible.

C. For all General hearings, Law and Motion hearings, Ex Parte hearings, and Orders to Show Cause, the Court has a ~~telephone~~ Bridge Conference Line platform that supports audio-only Zoom video platform.

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- a. The ~~Bridge Conference Line call in numbers and rules for teleconference appearance~~Zoom video platform link and login information, as well as the rules and requirements are listed on the Court's website as well as in local form SJPR-001.
 - ~~b. At the discretion of the Judicial Officer, a Zoom video platform may be provided for the parties to appear. The Court will provide the video access meeting link, or require a party to provide notice of the video access meeting link.~~
 - ~~e.b.~~b. Any recording, reproduction, or re-broadcasting of a court proceeding held remotely, including screenshots or other visual or audio copying of a hearing, is prohibited.
 - ~~d.c.~~c. Nothing in this rule limits the discretion of the judicial officer to require parties to appear in person for General hearings, Law and Motion hearings, Ex Parte hearings, and Orders to Show Cause.
- D. For Evidentiary Hearings, Settlement Conferences, Bench or Court Trials, and Jury Trials, parties must appear in person, unless the party or attorney requests and receives express written authorization to appear remotely by the judicial officer.
- 1. A party may request to appear remotely by filing and serving a Notice of Remote Appearance ([Judicial Council Form RA-010](#)) and [proposed Order Regarding Remote Appearance \(Judicial Council Form RA-020\)](#) with the Court no later than ten (10) court days before the Evidentiary Hearing, Settlement Conference, Bench or Court Trial, or Jury Trial.
 - 2. In response to a notice of remote appearance, any party may file and serve an Opposition to Remote Proceedings Form RA-015 no later than five (5) court days before the hearing in question.
 - 3. A party must deliver a courtesy copy of any written Notice or Opposition under (1) or (2) listed directly above to Department 11A.
 - 4. If approved, a Zoom video platform will be provided for the parties to appear. The Court will provide the video access meeting link, or require a party to provide notice of the video access meeting link.
- E. Even when a remote appearance is allowed or authorized and commences, the judicial officer may terminate a remote appearance and continue the matter so that an in-person appearance can occur if technology or audibility issues interfere with the judicial officer's ability to make a determination required by the hearing, the in-person appearance is necessary to assist in the determination of the specific hearing, the court reporter's ability to make an accurate record is in question, counsel's ability to provide effective representation is in question, an interpreter's ability to provide language access is in question, or for any other reason which constitutes good cause under the circumstances. (Eff. 01/01/22; Rev. 07/01/22; Rev. 07/01/23)

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4-118. NOTICE INFORMATION ~~IN PLEADING~~

All probate petitions presented to the court ~~on pleading~~, including but not limited to a petition for final distribution, petition for approval of accounting, a petition under Probate Code section 850, must include the names, relationship and address for service for all parties entitled to notice. (Rev. 07/01/22; Rev. 07/01/23)

4-201. NOTICE TO NAMED CONTINGENT LEGATEES AND BENEFICIARIES (Eff. 01/01/08)

In addition to the ~~Notice of Hearing~~notice required to be mailed by Probate Code Sections 8110-8113, notice shall also be mailed to all contingent devisees and beneficiaries named in the Will. (Eff. 01/01/08; Rev. 01/01/2023; Rev. 07/01/23)

The confidential document shall be filed using the court's mandatory local form Confidential - Trust Documents Coversheet (PRSJPR-301) as the cover page. The confidential document shall not be released to any party absent a prior order of the court.

4-203. NOTICE OF REFUSAL TO PROBATE REJECTED WILL OR CODICIL (Eff. 01/01/20)

- A. A petitioner who files a petition for letters of administration, letters of administration with ~~will~~Will annexed, probate of ~~will~~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~~Will and/or codicil has been lodged as an original with the court or a copy of a ~~will~~Will and/or codicil has been otherwise filed with the court.
 2. The petition requests probate of or distribution under a ~~will~~Will and/or codicil, and a different ~~will~~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~~Will and/or codicil attached to ~~Local~~ fForm Notice of Refusal to Petition for Probate of Will

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or Codicil ([SJPR-202](#)) 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~~Will that purports to have been executed after the date of rejected ~~will~~Will and/or codicil and that expressly revokes all prior ~~will~~Wills. (Eff. 01/01/20; [Rev. 07/01/23](#))

4-204. COURT CONFIRMATION OF SALE BY REPRESENTATIVE WITH FULL AUTHORITY UNDER I.A.E.A (Eff. 01/01/09)

An executor or administrator who has been appointed with full powers under the [I.A.E.A. Independent Administration of Estates](#) but who voluntarily petitions for court confirmation of the sale of real property must meet the requirements for sale by a representative without full authority. (Eff. 01/01/09; [Rev. 07/01/23](#))

4-205. CONTRACTS WITH BROKER OR AGENT (Eff. 01/01/20)

[A.](#) Any application for order approving an exclusive listing agreement with a real estate broker or agent shall include a completed copy of the proposed written listing as an attachment. Such application may be submitted ex parte as an "Order on Matter Not Requiring Hearing" as described in [San Joaquin County](#) Local Rule 4-106 E.

[A.B.](#) Upon the confirmation of the sale of real property, justification is required for any commission in excess of six percent. (Eff. 01/01/20; [Rev. 07/01/23](#))

4-207. PETITION FOR PRELIMINARY DISTRIBUTION (Eff. 01/01/11)

- A. A petition for preliminary distribution shall not be granted unless the inventory and appraisal has been filed.
- B. The petition for preliminary distribution must state:
 1. The approximate value of the property remaining in the estate after the proposed distribution.

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2. An estimate of the total amount of outstanding liabilities, including but not limited to unpaid taxes, unpaid claims and/or unpaid administration expenses or reimbursements.
- C. If waiver of bond for any distribution is sought, the petition shall include allegations that:
 1. Notice to any known and reasonably ascertainable creditors has been given;
 2. The estate is solvent; and
 3. The good cause, if any, why bond should not be required, including that time for filing or presenting claims against the estate has expired and that all taxes and uncontested claims have been paid or are sufficiently secured. (Eff. 01/01/11; Rev. 07/01/22; Rev. 07/01/23)

4-208. REQUEST FOR PARTIAL ALLOWANCE ON STATUTORY COMPENSATION BEFORE A PETITION FOR FINAL DISTRIBUTION (Eff. 01/01/11)

- A. A petition requesting partial allowance of statutory compensation, before a petition for final distribution, must contain the following allegations:
 1. That the requested sums can be paid without detriment to the estate or to any person interested in the estate or to any creditor thereof.
 2. The percentage that the requested amount bears to the total statutory compensation to which the petitioner or the attorney will be entitled on the final settlement of the estate, and that (a) the same percentage, or more, of the total ordinary work required in the estate has been completed, and (b) payment of the requested allowance would leave a reserve exceeding the ordinary work remaining to be done.
 3. A recital of the work actually completed. Ordinarily the last 30 percent of the statutory compensation will not be allowed prior to the approval of the final accounting

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- B. The attorney shall submit a declaration attesting to the truth of the allegations and serve notice of the request and the declaration. (Eff. 01/01/11; Rev. 07/01/22)

4-209. STATUS REPORTS (Eff. 01/01/20)

- ~~1.~~ The status report required by Probate Code Section 12200 shall be made on local form ~~SJPR-201~~ “Status Report of Administration.” (SJPR-201).

~~2. When there is a compliance hearing for an Account and Report and Petition for Final Distribution, but the party will not have the Petition for Final Distribution filed at least 15 days before the compliance hearing, the Status Report of Administration must be filed and served for the compliance hearing at least 15 days before the compliance date. (Eff. 01/01/20; Rev. 07/01/22; Rev. 07/01/23)~~

4-211. ~~“RESERVED FOR FUTURE USE” (4-211 Repealed 01/01/14)~~ SPOUSAL PROPERTY ELECTIONS (EFF. 07/01/23)

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 their 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. (Eff. 07/01/23)

4-213. EXTRAORDINARY ATTORNEY FEES (Eff. 01/01/20)

A. Petition and Prayer

—Application for extraordinary compensation will not be considered unless both the caption and the prayer of the Petition and the Notice of Hearing contain a reference to such application.

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B. Notice of Hearing

—In every case, notice shall be sent to all persons entitled to a share in the estate, except those whose shares will not be charged with the extraordinary compensation requested. Notice shall include a copy of the petition as set forth in Local Rule 4-109. An appearance by the attorney will normally be required.

C. Declaration Regarding Fees

—The requirements of California Rule of Court 7.702 shall be set out in a declaration separate from the Petition. The Declaration shall outline all services rendered, including both statutory and extraordinary services that were provided. Statutory time is reviewed and considered for the purposes of awarding extraordinary fees only, not to reduce or alter statutory fees. The Declaration must:

1. Set forth categories of services rendered; statutory services can be lumped together in a category labeled “Statutory;”
2. Set forth in each category the date and a description of the services rendered;
3. Set forth in each category the hourly rate of each person who performed the services and the hours spent by each of them; and
4. Comply with the requirements set forth in rule 7.703(e) of the California Rules of Court if paralegals are used. (Eff. 01/01/20; Rev. 07/01/22)

4-215. REQUIRED ALLEGATIONS IN A PETITION FOR FINAL DISTRIBUTION (Eff. 01/01/14)

In addition to other items required by law, a petition for final distribution shall contain the following:

- A. Facts specifically showing the entitlement of each heir to the portion of the estate to be distributed to that heir, including any information concerning predeceased children.
- B. If there is insufficient cash available to pay the statutory commissions, attorney fees, court costs, and any other items requested to be ordered by the Court to be paid, the Petition must include a statement setting forth the source of the funds for such payment.

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- C. A schedule showing the pro-ration of fees and costs, if applicable.
- D. The Federal Estate Tax has been paid, or, the Federal Estate Tax has not been paid because the estate is too small to require payment of tax, or, the Federal Estate Tax has been deferred by agreement with the taxing agencies. If deferred, whether a lien has been imposed, and pertinent information about the lien.

When proration is required by Probate Code Section 20111, the accompanying account should include a schedule indicating the method by which the proration has been computed.

- E. One of the following allegations concerning creditor's claims:
 - 1. A notice to creditors was given, in the form prescribed by the Probate Code, to all known and reasonably ascertained creditors of the estate; or
 - 2. Notice to creditors was not required because of the provisions of Probate Code Section 9054; or
 - 3. No notice to creditors was given because there were no known or ascertainable creditors.
- F. A Proposed Distribution Schedule setting forth in detail the specific items and/or property being distributed to each heir/distributee; including approximate dollar values if distributing cash.
- G. A statement of the community or separate property status of all assets to be distributed.
- H. If the personal representative or the attorney for the personal representative is seeking reimbursement for costs in excess of \$1,500.00, an itemization of those costs must be set forth.
- I. When applicable, the following allegations should also be included in the petition for final distribution:
 - 1. Distribution to Minor(s)

When distribution is to be made to a minor a guardian of the estate is ordinarily required and a current certified copy of the letters of

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guardianship should be attached to the petition. When distribution is proposed to be made under Probate Code sections 3400 through 3402 or under section 3410, the Petition for Distribution must meet the requirements of the statute.

A decree ordering distribution to minor shall provide that the property be distributed to the fiduciary or other person approved by the ~~Court~~ court on behalf of ~~the distributee~~ the distributee and identify under what authority. The fiduciary or other person shall sign ~~the distributee's~~ the distributee's receipt and identify under what authority the fiduciary or other person acts.

2. Distribution to a Conserved Person

A decree ordering distribution to a conservatee shall provide that the property be distributed to the conservator of the estate. The conservator of the estate shall sign ~~the distributee's~~ the conservator's receipt identified as the conservator of the estate for ~~the distributee~~ the conservatee.

3. Distribution to Trust(s)

- a. If distribution is to be made to a trust already in existence, an acknowledged statement by the trustee accepting the property under the terms of the trust must be filed with the petition for distribution. Lacking this, a declination to act must be filed, in which case it should be accompanied by a petition by the personal representative for the appointment of a substitute trustee.
- b. If distribution is to be made to a testamentary trust set up by the decedent's ~~will~~ Will, the terms of the trust and the powers of the trustee must be set out in full in the decree of distribution, and not merely incorporated by reference. When appropriate, the language of the ~~will~~ Will should be paraphrased in the decree to eliminate references to "my" and to substitute "the decedent's".

4. Distribution to Assignee(s)

If distribution is to be made pursuant to an assignment of interest, the assignment must be filed and the details of the consideration, if

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any, set forth in the petition. The assignment must be acknowledged before a notary public.

5. Distribution Pursuant to Agreement

If the distribution is sought other than as provided by the ~~will~~Will or by the laws of intestate succession, that fact should be alleged, and a written agreement must be filed signed by all distributees and acknowledged before a notary public.

NOTE: If any distributee is a minor or conservatee, the agreement must be signed by that party's appointed legal representative. Court approval of a fiduciary's agreement must be provided with the distribution petition or a petition for approval or the agreement may be noticed for hearing together with the petition for distribution. (Eff. 01/01/14; Rev. 07/01/22)

4-501. APPOINTMENT OF COURT INVESTIGATOR (Eff. 01/01/20)

- A. A Court Investigator of the Superior Court for the County of San Joaquin is automatically appointed to investigate all petitions for appointment of temporary or general conservator, ~~grant of extraordinary powers, sale of personal residence, exercise of substituted judgment, annual~~ conservatorship accountings, ~~and~~ reviews, ~~and petitions regarding proceedings for particular transactions~~. In these matters no petition for appointment is necessary. To avoid automatic appointment, a petition to waive appointment must be filed concurrently with the underlying petition.
- B. A courtesy copy is required for any petition that requires a report from ~~the a probate Court investigator Investigator~~. The courtesy copy shall be submitted to the Clerk's Office ~~for the court investigator, marked in red in the upper left-hand corner "Investigator's Copy"~~ at the time the original is filed, or within 5 court days of filing if electronically filed; ~~marked in red in the upper left-hand corner "Investigator's Copy"~~. (Eff. 01/01/20; Rev. 07/01/2021; Rev. 07/01/22; Rev. 07/01/23)

4-504. CONSERVATORSHIP REVIEW (Eff. 07/01/2021)

- A. At least 30 days before a review hearing, the conservator of the person only shall complete and return the local form Conservatee Status Report-Person Only (~~local form~~-SJPR-301.)

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- B. The conservator of the person and estate or estate only shall complete and return the Conservatee Status Report-Person & Estate (local form SJPR-302).
- C. This rule shall apply to conservatorship cases only and not to guardianship cases.

[Eff. 07/01/2021; Rev. 07/01/22; Rev. 01/01/2023; Former 4-504 Repealed 01/01/20]

4-505. COMPENSATION AND FEES FOR ATTORNEY OF CONSERVATEE OR MINOR (Eff. 01/01/20)

A. Fees of Attorney for a Conservatee or a Minor

1. The Conservator(s) or Guardian(s) or attorney for the Conservator(s) or Guardian(s) and the attorney for the Conservatee or Minor shall communicate with each other regarding the issue of attorney fees for the attorney for the Conservatee or Minor. A request for fees for the attorney for the Conservatee or Minor shall be addressed in all accounts.
2. The ~~Court~~court will ordinarily allow a sum not to exceed \$1,000.00 as fees for the attorney for the Conservatee or Minor without specific itemization. The work covered by this fee includes the review of the Court Investigator's report, review of an account, if any, conferring with the Conservatee or Minor, and a report to the ~~Court~~court, either orally or in writing.
3. If fees for the Attorney for a conservatee or minor is not addressed in the petition for accounting, an attorney for the ~~Conservatee~~conservatee or ~~Minor~~minor who requests attorney fees not to exceed \$1,000.00 may make the request by way of Ex Parte Application as follows:
 - a. The Ex Parte Application must be accompanied by a Notice of Hearing with a ~~Proof~~proof of ~~Service~~service of ~~Mailing~~mailing of the ~~Application~~application and ~~Notice~~notice to all parties otherwise entitled to ~~Notice~~notice of a ~~Petition~~petition for ~~Fees~~fees.

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- b. The Ex Parte Application must be submitted with the filing fee required by GC §70657(a)(2), as amended,
- c. The Ex Parte Application will be set for hearing on the ~~Court's~~ court's Ex Parte calendar on ten (10) days' Notice. No appearance will be required at the Ex parte hearing. If there are any issues at the time of the Ex parte hearing, the ~~Court~~ court will continue the matter so that the attorney will have an opportunity to appear.
- d. An Order shall be submitted with the Ex Parte Application. If there are no Objections to the Ex Parte Application, the Court will issue the Order for Fees at the hearing. (Eff. 01/01/20; Rev. 07/01/22).

4-508. SUBSTITUTED JUDGMENT (Eff. 01/01/11)

A. Documents Which May Have Testamentary Effect

The petition shall be supported by copies of any known documents which may have testamentary effect or which purport to gift any property of the ~~Conservatee-conservatee~~ before death. Such documents may be submitted with a request and proposed order that they be kept under seal, not to be examined by anyone except the Court except upon order of the court. The court shall seal any such document for which a request is made by the party submitting the document.

B. "Community Resource Allowance" and "Minimum Monthly Maintenance Needs Allowance"

The court will not hear petitions, nor issue orders, regarding "Community Resource Allowance" or "Minimum Monthly Maintenance Needs Allowance" unless such petition is accompanied by points and authorities specifying the jurisdiction and authority of the Probate Court to hear and decide such matters.

C. The Effect upon the Conservatee

The petition shall set forth the circumstances of the ~~Conservatee~~ conservatee should the petition be granted, including, but not limited to,

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assets remaining, the projected needs of the ~~Conservatee~~conservatee and the manner in which those needs will be met.

Where a petition seeks transfer of all, or a major portion, of a spouse's assets for the purpose of eligibility for public benefits the estate plan of the receiving spouse for those assets must be set forth for the court.

The documents may be submitted with a request and proposed order that they be kept under seal, not to be examined by anyone except the ~~Court~~court except upon order of the court. The court shall seal any such document for which a request is made by the party submitting the document.

- D. When a trust is created under PC Section 2580 or 3100 the Order shall provide, as a condition of approval that the Trustee shall commence a separate trust proceeding with a probate case number in this county by filing an Acceptance of Trust by Trustee, with a certified copy of the Order for Substituted Judgment and the Trust attached. This shall be done within 30 days of the Order being signed. A Receipt of Assets by the Trustee shall be filed in the new case file along with the Acceptance of Trust, and the Bond, if there is a bond to be posted under the terms of the trust. (Eff. 01/01/11; Rev. 07/01/22; Rev. 01/01/2023)

4-702. GUARDIANSHIP QUESTIONNAIRE [Eff. 07/01/2021; Former 4-702 Repealed 01/01/20 (Incorporated into 4-703)] (Eff. 01/01/20)

RELATIVE AND NON-RELATIVE GUARDIANSHIPS OF THE PERSON AND/OR ESTATE

- A. The Confidential Guardianship Questionnaire (SJPR-400) shall be completed, signed under penalty of perjury, and submitted with all petitions for probate guardianship. Each proposed guardian shall sign the Guardianship Questionnaire. The Guardianship Questionnaire is used by the court and/or by the ~~San Joaquin~~ Court Investigator to prepare reports under Probate Code 1513 or as ordered by the court. The Guardianship Questionnaire and the information contained in the Guardianship Questionnaire is confidential. The Guardianship Questionnaire shall not be released to any party or their attorney absent a court order. The clerk must maintain the Guardianship Questionnaire in a manner that will protect and preserve the proposed guardian's and the minor's confidentiality.

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Rule 7 - Family Law

7-102.5. DECLARATIONS SUPPORTING AND RESPONDING TO A REQUEST FOR ORDER (Eff. 01/01/19)

All declarations supporting and responding to a Request for Order, a Domestic Violence Restraining Order (DVRO), and an Elder Abuse Restraining Order (EARO) must comply with California Rules of Court, Rule 5.111. A party shall be permitted to file no more than one (1) declaration in support of or in response to a Request for Order, and one (1) reply declaration (in response to the responsive declaration is permitted if necessary.) No additional declarations (surrebuttal) may be filed until the matter has been continued for a review hearing 60 days or more from the date the matter was initially heard. In such cases, declarations should raise only issues not raised in previous filings. Any evidentiary documents attached to declarations shall not exceed 10 pages in length. However, a party may apply to the court ex parte with notice of the application to the other parties for permission to submit additional pages. The requested additional pages shall not be attached to the separate ex parte application. The ex parte application shall list and describe the requested additional attachments separately, state the exact reasons why each additional attachment is relevant and necessary, and must comply with California Rules of Court, Rule 5.151. Without this prior approval, the court will not consider any attachments exceeding 10 pages or multiple declarations. Parties should not attach copies of pleadings already contained in the Court file to any new pleading. This rule shall not apply to discovery motions. (Rev 07/01/2023)