



## CHECKING AND CLEARING PROBATE NOTES

This Guide includes instructions and sample forms. Links to download the blank forms are at the end of this Guide.

### BACKGROUND

In San Joaquin County, the probate examiner reviews the pleadings and court documents in each case filed in probate, and creates a list noting anything that remains to be filed, or which appears to be omitted from the documents. The list is posted on the court's website approximately 10-15 days prior to the court hearing in each case. The list is commonly referred to as "Probate Notes." This process will be different or may not exist in other County Superior Courts.

At least 1 week before the hearing, the Petitioner must submit a declaration responding to the Probate Notes, and file it and any necessary documents at the Probate Counter on the 4<sup>th</sup> Floor at the Stockton Courthouse.

Probate Notes may be viewed online at:

<https://www.sjcourts.org/online-services/tentative-rulings/>

You search for the Probate Notes by your case number, the full case number with letters and all the zeros is required. The San Joaquin Superior Court holds most probate hearings in Department 11A at the Stockton Courthouse; however, you will wish to confirm your department by checking your petition.

Your Probate Notes will contain informational notations that are numbered and may need a response. If any of the items need a response, it must be prepared and filed minimum of 1 week before the hearing. These responses must include reference to the specific probate note number that is needed, a response/explanation to the note and any requested documents. You must declare that your response is true and correct under penalty of perjury. Because of this, it is common to use a Declaration (MC-030), which includes the words "I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct" above the signature line. If you choose to use 28-Line Pleading Paper (formatted for San Joaquin Superior Court), be sure to include the wording above your signature.

Once your written response is complete, file the original (unstapled), plus two stapled copies, at the Probate Counter on the 4<sup>th</sup> Floor at the Stockton Courthouse. The Court will keep the original and one copy and return one stamped "Filed" to you. Be sure to bring this endorsed copy with you to all of your court hearings.

**Disclaimer:** This Guide is intended as general information only. Your case may have factors requiring different procedures or forms. The information and instructions are provided for use in the San Joaquin County Superior Court. Please keep in mind that each court may have different requirements. If you need further assistance consult a lawyer.

### STEP-BY-STEP INSTRUCTIONS

#### Step 1: Complete the Required Forms

Instructions for completing the necessary forms are included at the end of this packet. You may use any of these forms to clear Probate Notes:

- Declaration (MC-030); or
- 28-Line Pleading Paper (formatted for San Joaquin Superior Court)

#### Step 2: Copying

Make a photocopy of the forms for each party, plus two copies of your response to Probate Notes, regardless as to which of the above-listed forms you use. (San Joaquin County Superior Court scans documents; therefore, the original to any multi-page documents are left unstapled, which each copy is stapled.). Make an additional copy for yourself, if you want one for your records while you wait for the court to return the file endorsed copy.

#### Step 3: Service

**You cannot serve your own documents. Documents must be served by someone over 18 who is NOT a party to the case.** Give the copies you made in Step 2 to the person mailing your documents (the “Server”).

##### STEP A: COMPLETE A PROOF OF SERVICE BY MAIL FORM

The Server should fill out, but should NOT sign a Proof of Service by Mail (POS-030). Instructions for completing this form are at the end of this Guide.

If more than one party is being served, attach Attachment to Proof of Service by First-Class Mail – Civil (Persons Served) (POS-030(P)), and list all persons to whom copies were mailed.

If there is not enough room on Proof of Service by Mail (POS-030) to list all the documents being served, attach Attachment to Proof of Service by First-Class Mail – Civil (Documents Served) (POS-030(D)), and list each document served.

##### STEP B: PHOTOCOPY THE UNSIGNED PROOF OF SERVICE FORM

Make a photocopy the unsigned Proof of Service (POS-030) (and attachments, if used) for each party to be served.

##### STEP C: PREPARE THE DOCUMENTS FOR SERVICE

For each party to be served, the Server should put one copy of the documents to be served in an envelope, along with a copy of the unsigned Proof of Service (POS-030).

Address the envelope(s) to the attorney(s) or self-represented litigant(s) persons being served at the address listed in the caption of his/her/its/their court papers. If the party is represented by an attorney, the attorney and the party, should be served. Adequate postage must be on the envelope. Make a copy of the envelope for the records of the party for whom the Server serving the documents.

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### STEP D: MAIL THE DOCUMENTS

The Server should deposit the envelope with the US Postal Service, either at the post office or in a regular post office mail box. If your place of business has regular mail pick-up, and mail deposited in the business's outgoing mail is delivered to the post office the same day, the envelope may be placed in your business's outgoing mail drop.

### STEP E: SIGN THE ORIGINAL PROOF OF SERVICE FORM

The Server will be signing under penalty of perjury that he or she mailed the documents listed on the Proof of Service (POS-030) form.

### STEP F: MAKE PHOTOCOPIES OF SIGNED PROOF OF SERVICE FORM

Make two photocopies of the signed Proof of Service (POS-030) form. Make an additional copy if the party for whom the documents were served wants one for his or her records while waiting for the court to return the endorsed copy.

### **STEP 4: Filing**

Your response to clear Probate Notes must be filed at the Probate Counter on the 4<sup>th</sup> Floor at the Stockton Courthouse. The court will keep the original and one copy and return one stamped "Endorsed/Filed" to you. Bring the endorsed copy to all of your court hearings. There is no fee for filing your response to Probate Notes.

## **FOR HELP**

### **San Joaquin County Public Law Library**

20 N. Sutter Street  
Stockton, CA 95202  
(209) 468-9968

<https://sjclawlibrary.org>

Monday-Friday 8:00 am – 4:30 pm

Services Provided: The San Joaquin County Public Law Library provides general information and basic assistance to self-represented litigants on a variety of civil legal issues, including assistance with responding to Probate Notes.

### **San Joaquin Superior Court Pro Per Clinic**

180 E. Weber Ave. Ste 105  
Stockton, CA 95202

MON, TUES, THURS, FRI – 8:00 am to 3:30 pm & WED – 8:00 am to 12:00 pm