

18 CHAPTER 9 FAMILY LAW RULES,

RULE 9.42 SUPERVISED VISITATION ~~MONITORS~~ PROVIDERS

A. Procedures for filing the Declaration of Supervised Visitation Provider Forms:

B.

1. All supervised visitation providers are required to meet the qualifications listed in *Family Code* §3200.5 and the Standards of Judicial Administration, standard 5.20. To ensure compliance with these standards, providers are required to file the appropriate Judicial Council Declaration of Supervised Visitation Provider form as follows:

- a. **Nonprofessional Providers** - Before serving as a visitation supervisor, nonprofessional supervised visitation providers must complete and file the Declaration of Supervised Visitation Provider (Nonprofessional) (Judicial Council Form FL-324(NP)) with the Family Law Clerk's Office.
- b. **Professional Providers** - Before serving as a visitation supervisor, professional supervised visitation providers must complete and file the Declaration of Supervised Visitation Provider (Professional) (Judicial Council Form FL-324(P)) with the Family Law Clerk's Office. In addition, professional providers are required to complete and file an updated FL-324(P) each time a report is submitted to the court.

C. Professional Supervised Visitation Provider List:

1. As a convenience for the parties, the court will provide a list of **professional supervised visitation** providers that have requested inclusion ~~and identified themselves as providing professional supervised visitation monitor service~~ and declared their compliance with all mandatory requirements for **professional providers** under *Family Code* §3200.5 and Standards of Judicial Administration, standard 5.20. In addition to the list, the court will provide a copy of *Family Code* §3200.5 and standard 5.20 to parties who may be using the services of a supervised visitation provider.

2.

~~s. Any individual or officer or manager of an organization professional supervised visitation provider requesting to be included on the list must complete and sign the Judicial Council Declaration of Supervised Visitation Provider (Professional) (Judicial Council Form FL-324(P)). (Mandatory Local Form) and submit an uncomformed copy which certifies that Family Code: (1) they have read and understand Family Code §3200.5 and California Rules of Court, Standards of Judicial Administration standard 5.20; (2) the individual, or persons providing services on behalf of or by referral through the organization, will meet all of the qualifications and training requirements for professional supervised visitation monitors as stated in Family Code §3200.5 and standard 5.20; and (3) the individual, or persons providing services on behalf of or by referral through the organization, will comply with all of the standards, procedures, responsibilities, requirements, and other provisions of Family Code §3200.5 and standard 5.20. The signed declaration is to be lodged with the court by delivery to the Ventura Superior Court Family Court Services Department located at the Hall of Justice, 800 South Victoria Avenue, Room 307, Ventura, CA 93009.~~

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3. Supervised visitation providers are encouraged to review the materials available at <http://www.courts.ca.gov/cfcc-accesstovisitation.htm> regarding the role and duties of a visitation supervisor.

4. The professional supervised visitation provider list will notify recipients that the court does not confirm the statements made by the providers in the FL-324(P) in the declarations, and does not endorse, evaluate, or monitor the service provided. Providers may be removed Removal from the list may be made without cause, notice, or explanation. The court will provide a copy of Family Code §3200.5 and standard 5.20 to parties who may be using the services of a supervised visitation monitor. (

(Revised eff. January 1, 2022~~13~~)

**CHAPTER 10 PROBATE,
- DECEDENTS' ESTATES, CONSERVATORSHIPS, GUARDIANSHIPS
AND TRUSTS**

**RULE 10.00 PROBATE COURT PROCEEDINGS GENERAL RULES –
DECEDENTS' ESTATES, CONSERVATORSHIPS, GUARDIANSHIPS OF
THE ESTATE ONLY AND TRUSTS**

~~G. PROBATE INVENTORY/APPRaisal. The court requires all appointed personal representatives to honor the time requirements of Probate Code §8800, et seq. with respect to the timely filing of an initial inventory and appraisal of estate assets. To accommodate this statutory time requirement, it is the personal representative's responsibility to pre-check the "probate referee" box on any proposed order for probate if the probate referee will be required.~~

~~H. ANNUAL STATUS REPORTS. The court requires all appointed personal representatives to honor the time requirements of Probate Code §12200 with respect to filing and hearing on any applicable one-year or 18-month status report. Absent a previously adjudicated or then pending petition for final distribution, the failure to have a status report timely filed, served and heard prior to the appropriate date will be ipso facto cause for the court to consider the possible application of Probate Code §12205 at such time as fiduciary and/or professional compensation is requested.~~

I. CONTINUANCES

1. The Legal Research section receives all of the probate files for calendared matters approximately fourteen (14) days preceding the hearing date. The Legal Research attorneys must be notified by telephone as soon as possible when a matter is to be continued or placed off calendar in order to avoid unnecessary review. Within this fourteen (14) day period, all continuances must be requested by a Request for Continuance (local form), a stipulation and proposed order, or a motion for continuance, not by an informal request to Legal Research.

2. All continuances or off calendar requests must be made by the moving or petitioning party and must be with the agreement of the opposing party. A stipulation for continuance must be filed prior to the continued date. A "Notice of Continuance," not signed by both parties, has no effect. A non-stipulated

continuance will be granted only on noticed motion, made on an order shortening time.

3. Once the matter has been reviewed by Legal Research, no continuances will be granted, except by order of the court. This applies even if a written stipulation is received prior to the original hearing date.

4. Once the matter has been reviewed by Legal Research, it may not be taken off calendar, except by order of the court, or it is otherwise certain that the matter will not be re-calendared.

5. When utilizing a Request for Continuance form, the moving or petitioning party must notify Legal Research of the requested continuance no later than when the Request for Continuance is submitted to the court.

H. PETITIONS TO SHOW WHO IS ENTITLED TO NOTICE. All petitions shall identify the names, addresses, and relationships of all persons entitled to notice.

I. OPPOSITION AND REPLY PLEADINGS. If an oral objection or response is made at the time of the first hearing on a petition, the court will ordinarily continue the hearing to allow a written objection or response to be filed and to allow the petitioner to file a reply to the objection or response.

If the court continues a matter to allow a written objection or response to be made, and the responding or objecting party fails to serve and file a timely objection or response, the court may deem the objection or response waived.

An objection or other written response to moving papers will be deemed a waiver of further notice as to those papers.

RULE 10.02 CONSERVATORSHIP

K. ORDERS FOR SUPPORT

1. Court approval ordinarily is not required to expend funds up to \$4,000 per month for the support of a conservatee. Court approval should be sought to expend funds exceeding \$4,000 per month for the support of a conservatee, especially if there is a probability that the estate will be entirely consumed by reason of such payments.

2. Prior court approval is required to expend money for the support of anyone other than the conservatee, such as maintenance of dependents of the conservatee and the payment of surplus income to the family of a conservatee.

3. Notice of hearing must be given under Probate Code §1460.

~~L. FEES Probate Code §§2640-2646 govern the fees of the conservator and attorney. In addition to these statutory rules, the following apply:~~

~~1. In addition to a narrative of the services performed and value to the estate, the petition for fees shall set forth the dates, time spent, specific description of services performed and the hourly rate of the person(s) performing the services.~~

~~2. The court will review requests for fees on a case-by-case basis, considering the experience, knowledge, expertise and professional status of the conservator or attorney, as well as the difficulty or complexity of the case, responsibility assumed, and the urgency demanded. a. Principles by which the reasonableness of the requested fees will be reviewed include: (i) Whether conservators have subcontracted for services that do not require their level of skills and which can be billed at a lower hourly rate. These may include bookkeeping, transportation and housekeeping. The appointed conservator shall be responsible to ensure that the subcontractors have social security numbers and are licensed and insured if operating an automobile during the course of their duties. (ii) Costs for "overhead", including mileage, phone calls and photocopy charges, will not be found to be reasonable absent extraordinary circumstances.~~

~~3. In appropriate circumstances, particularly where all or a portion of the fee exceeds the cash on hand in the estate, the court may issue its order imposing a lien for fees on any or all of the assets of the estate, subject to liquidation for reasons other than satisfaction of the unpaid fee.~~

L. CONSERVATEE'S ATTORNEY FEES.

1. Counsel for conservatee may request fees by his/her own noticed motion or by submitting a declaration for fees with attached invoices and proposed order for review at hearing on an already-scheduled hearing date.

2. The request for fees must include a declaration that is sufficiently detailed as to comply with California Rules of Court, rules 7.751(b), and 7.702.

M. APPOINTMENT OF SUCCESSOR CONSERVATOR

1. The conservatee's presence at the hearing for appointment of a successor conservator will not automatically waive the investigation if there is any opposition or other concerns surrounding the circumstances at the time of the petition. In cases where an investigation is required, the petition shall be set for hearing no earlier than

forty-five (45) days following the filing in order to provide the court investigator with sufficient time to complete the investigation.

2. Judicial Council form GC-310 must be used in all petitions for appointment of successor conservators.

~~NN.~~ **TERMINATION** When the conservatorship is being terminated for reasons other than death, it is recommended that the attorney of record set a termination hearing at least thirty (30) days in advance in order to allow time for a court investigator report.

~~OO.~~ **SERVICE OF DOCUMENTS ON ATTORNEY FOR CONSERVATEE**

1. If the conservatee, ward or proposed conservatee or ward is represented by counsel that counsel must be served with all documents filed with the court, including the confidential documents, on or about the time of filing.

2. If the conservatee or proposed conservatee is alleged to suffer from a major neurocognitive disorder or a developmental disability, or if the petition is for a limited conservatorship, the petition and related court filings shall also be served on the Public Defender’s Office on or about the time of filing.

(Revised eff. January 1, 202~~2~~¹.)

RULE 10.03 PROVISIONS COMMON TO GUARDIANSHIP AND CONSERVATORSHIP
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~~D. VOLUNTARY AUDITOR~~

~~1. Petitions for approval of periodic accountings and for fees may be reviewed by a member of a Volunteer Auditor’s panel. The auditor may review the petition and accounting for the following: a. The timelines of the accounting; b. The filing of an inventory and Appraisal and Confidential Status Report; c. The balance of the Summary of Account; d. The rate of depletion of the estate; e. The sufficiency and validity of bond; f. The income of the estate, including whether all income of the estate is shown in Schedule “A” and whether all bank accounts are kept in California accounts; g. The disbursements of the estate, including the date, purpose and amount of each expenditure, and whether they are reasonable in light of the benefit to the conservatee/ward and/or the estate. The schedule of disbursements shall also be reviewed for any payments made to the conservator/guardian or counsel for~~

~~conservator/guardian; h. Whether sales of property, if any, have been made appropriately;~~

~~2. The fees requested by the conservator/guardian, if any, and whether such fee request is reasonable, and whether the statement of services provided is sufficiently detailed.~~

~~3. The review of the volunteer auditor may give the petition an overall rating, and if any action is called for, will specifically address such deficiencies to be corrected by the conservator/guardian. The report shall be reviewed by the office of the court investigator upon its completion, filed and served on all the parties. The content of the auditor report shall not be used as a basis for the parties to take further action unless specifically directed by order of the court.~~

D. FEES/COSTS

Probate Code §§2640-2646 govern the fees of the conservator and attorney. In addition to these statutory rules, the following apply:

1. In addition to a narrative of the services performed and value to the estate, the petition for fees shall set forth the dates, time spent, specific description of services performed and the hourly rate of the person(s) performing the services.

2. The court will review requests for fees on a case-by-case basis, considering the experience, knowledge, expertise and professional status of the conservator or attorney, as well as the difficulty or complexity of the case, responsibility assumed, and the urgency demanded. Principles by which the reasonableness of the requested fees will be reviewed include:

a. Whether conservators have subcontracted for services that do not require their level of skills and which can be billed at a lower hourly rate. These may include bookkeeping, transportation and housekeeping. The appointed conservator shall be responsible to ensure that the sub-contractors have social security numbers and are licensed and insured if operating an automobile during the course of their duties.

b. Ordinarily, no more than one (1) hour will be allowed to prepare each fee declaration.

3. Costs for "overhead" general will not be reimbursed except in extraordinary circumstances. These include expenses for costs of mileage, phone charges and photocopy charges and research (Lexis/Westlaw.) Such costs should be absorbed as part of the fees or commission.

4. In appropriate circumstances, particularly where all or a portion of the fee exceeds the cash on hand in the estate, the court may issue its order imposing a lien for fees on any or all of the assets of the estate, subject to liquidation for reasons other than satisfaction of the unpaid fee.

E. DEATH. Upon the death of the conservatee or ward, the conservator or guardian shall file a copy of a death certificate with the court within thirty (30) days.

F. FINAL ACCOUNTINGS FOLLOWING DEATH OF CONSERVATEE OR WARD. Conservators or guardians shall file a death certificate within thirty (30) days of the death of the conservatee or ward. The final accountings, as required in the Probate Code, shall be filed within ninety (90) days of the death of the conservatee or ward.

(Revised eff. ~~January~~uly 1, 202~~20~~)

RULE 10.04 PROBATE PROCEEDINGS

B. PROBATE REFEREES. Requests for appointment of probate referees shall be submitted to the Executive Officer and Clerk, together with appropriate forms of orders. The Executive Officer and Clerk shall complete the orders, entering the names of referees in accordance with an approved plan of assignment. Variance from appointment in accordance with the plan shall be made only by a judge.

~~C. PROBATE BOND. Absent exceptional circumstances, the court will require full statutory bond of personal representatives residing out of state, as set out in Probate Code §8571 and California Rules of Court, rule 7.201(b).~~

C. METHOD OF GIVING VARIOUS NOTICES

1. Unknown Address. If the address of an heir or beneficiary is unknown, the Court requires a declaration stating specifically what efforts were made to locate such heir or beneficiary before the Court will dispense with notice or prescribe an alternate form of notice. (See Probate Code §1212 and Code of Civ. Procedure §413.30 as to what efforts are necessary.) In general, these efforts shall include inquiry of relatives, friends, acquaintances, and employers, an internet search and an investigation of appropriate city and telephone directories and of the real and personal property index at the County Assessor's Office of the county of last known residence of the missing heir or beneficiary. (See California Rules of Court, rule 7.52). See Optional Local Form VN261.

2. Minors. Except as permitted in Probate Code §1460.1 for guardianships, conservatorships, and certain protective proceedings under division 4 of the Probate Code, notice to a minor must be sent directly to the minor. A separate copy of the notice must be sent to the person or persons having legal custody of the minor, with whom the minor resides. (California Rules of Court, rule 7.51(d).)

D. DECLINATIONS TO SERVE. It is insufficient to allege merely that the person named in the decedent's will as executor declines to act as executor. A written declination to act, signed by the declining named executor, must be filed with the court.

E. MULTIPLE REPRESENTATIVES. When multiple personal representatives are appointed, the clerk will not issue letters to less than all of them or separately to any of them, unless the order specifies otherwise.

F.D. APPOINTMENT OF SPECIAL ADMINISTRATOR

1. Notice. Unless good cause is shown, petitions for special letters of administration will not be granted without notice to the surviving spouse or domestic partner, the person nominated as executor, and any other person whom the court in its discretion determines is entitled to notice.

2. Preference. In making the appointment of a special administrator, the court will give preference to the person(s) entitled to letters testamentary or of administration. If a contest is pending, the court may appoint a disinterested person or the Public Administrator, as special administrator.

3. Bond. The special administrator, including a named executor, will be required to post a bond absent good cause.

4. Necessity. Absent exigent circumstances, a special administrator will not be appointed.

5. Powers. If letters have not previously been issued to a general personal representative, 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 required under Probate Code §8003(b). (See Prob. Code §8545(a).) This rule does not apply to an Ex Parte Request for Appointment of Special Administrator with Special Powers. (See Prob. Code §§8540(b) and 8544.)

G. PROBATE BOND

1. Out of State Personal Representative. Absent exceptional circumstances, the court will require full statutory bond of personal representatives residing out of state, even if the personal representative is the sole beneficiary and even if all beneficiaries waive bond, as set out in Probate Code §8571 and California Rules of Court, rule 7.201(b).

2. Duty to Request Bond Increase. It is the duty of the fiduciary or the fiduciary's attorney, upon becoming aware that the bond is insufficient (e.g., upon filing an inventory and appraisal or an accounting), to apply immediately for an order increasing the bond. Such application may be made ex parte.

H. PROBATE INVENTORY/APPRAISAL. The court requires all appointed personal representatives to honor the time requirements of Probate Code §8800, et seq. with respect to the timely filing of an initial inventory and appraisal of estate assets. To accommodate this statutory time requirement, it is the personal representative's responsibility to pre-check the "probate referee" box on any proposed order for probate if the probate referee will be required.

I. ANNUAL STATUS REPORTS. The court requires all appointed personal representatives to honor the time requirements of Probate Code §12200 with respect to filing and hearing on any applicable one-year or 18-month status report. Absent a previously adjudicated or then-pending petition for final distribution, the failure to have a status report timely filed, served and heard prior to the appropriate date will be ipso facto cause for the court to consider the possible application of Probate Code §12205 at such time as fiduciary and/or professional compensation is requested.

J. ACCOUNTING OF RESERVE. If an order for final distribution of an estate of a decedent includes a reserve of more than \$2,500, a noticed hearing on an accounting of the reserve will be required to be held before the Ex Parte Petition for Final Discharge (Judicial Council Form DE-295 or GC-395) is filed.

K. AGREEMENTS FOR DISTRIBUTION

1. If the distributees seek a distribution in a manner other than that provided by the Will or by the laws of intestate succession, a written agreement between the affected distributees must be filed in the probate proceeding or consent thereto endorsed on the petition. The order of distribution shall include reference to the assignment, agreement, or disclaimer, which is the basis for the distribution.
2. A minor distributee or other distributee lacking capacity must be represented by his or her legal representative; and prior court approval of the agreement, assignment, or disclaimer must be obtained if the distributee is subject to a guardianship or conservatorship.

L. NOTICE TO PRIOR REPRESENTATIVE OR ATTORNEY. If there has been a change of personal representative or fiduciary or a substitution of counsel, notice of hearing must be given to such prior representative, fiduciary or counsel of any probate petition in which fees or commissions are requested by the present personal representative, fiduciary or counsel unless:

1. A waiver of notice executed by the prior personal representative, fiduciary or counsel is on file;
2. An agreement on the allocation of fees and/or commissions is on file or included in the petition; or
3. The file and the petition demonstrate that the fees and/or commissions of the prior personal representative, fiduciary or counsel have been previously provided for and allowed by the court.

M. STATUTORY COMPENSATION AND COSTS IN DECEDENT'S ESTATE

1. Calculation Must Be Shown. All petitions requesting payment of statutory compensation -- even if accompanied by a waiver of accounting -- must show the calculation of the compensation requested in the form stated in California Rules of Court, rule 7.705(a).
2. Detailed Schedules on Waiver of Accounting. When an account has been waived, if the basis for the statutory commissions or fees is other than the inventory and appraisal total, detailed schedules for receipts and gains and losses must be included.

(California Rules of Court, rule 7.705(b).) Also, if there are losses, the fee base must deduct the losses.

3. Expenses of Tax Related Services, Accounting and Bookkeeping. The personal representative may employ tax counsel, tax auditors, accountants, or other tax experts for the preparation of tax returns and for other tax related services and pay from the funds of the estate for such services. The Court may deduct from the personal representative's statutory compensation any sums paid from estate funds for performance of the representative's ordinary duties such as ordinary accounting and bookkeeping services, including the preparation of schedules for court accountings.

4. Reimbursement of Costs.

a. Allowed Reimbursements. Allowable reimbursement costs include, but are not limited to:

(i). Court Clerk's fees;

(ii). Newspaper publication fees;

(iii). Surety bond premium;

(iv). Appraisal fees;

(v). eFiling Fees;

(vi). Court Call Fees.

b. Absorbed as Part of Statutory Compensation. The following costs are absorbed as part of the statutory compensation:

(i). Photocopies and postage, unless justified due to extraordinary nature of costs (i.e., voluminous pleadings and/or mailings);

(ii). Secretarial and word processing time;

(iii). Paralegal time for ordinary services;

(iv). Costs for research subscriptions (i.e., Lexis, Westlaw);

(v). Local travel, mileage, and parking.

c. Reimbursed Only in Court's Discretion. The following costs may be reimbursed in the court's discretion:

(i). Substitutes for U.S. Postal Service (Federal Express, UPS, etc.);

(ii). Attorney Services;

(iii). Long distance travel.

(iv). Photocopy of voluminous pleadings and/or mailings).

(Revised eff. January 1, 20~~22~~¹⁷)

RULE 18.00 COURT REPORTERS

D. Reporting services are not available to a party without a fee waiver under California Rules of Court, rule.3.55(7) for the following proceedings:

- ... All unlimited jurisdiction Civil trials and law and motion except for settlements placed on the record, and hearings involving Asset Forfeiture, Harassment, Elder/Dependent Adult Abuse, Workplace Violence or Private Postsecondary School Violence.
- ... All Family Law matters, except settlements placed on the record, Orders to Show Cause or Requests for Orders under one (1) hour, Restraining Orders, Ex Partes, and those hearings involving Domestic Violence, Contempt or the Department of Child Support Services.
- ... All matters set in Probate on Monday (all day), Tuesday (p.m.), Wednesday (p.m.), Thursday (p.m.) and Friday (p.m.). Reporters will be scheduled for matters in Probate on Tuesday (a.m.), Wednesday (a.m.), Thursday (a.m.), and Friday (a.m.) only. Notwithstanding the above, the court in its discretion may order any of the listed proceedings be reported by a court reporter from the Reporting Services section, if deemed appropriate. In the proceedings listed above where the court will continue to provide a court reporter it is the parties' responsibility to pay the reporter's fee for attendance at the proceedings if required by law. The expense may be recoverable as part of the costs, as provided by law.

E. For those matters in subsection D in which the court does not provide a court reporter, the parties have the right to arrange at their own expense for the presence of a certified shorthand reporter to serve as an official pro tempore reporter for

hearing or trial. See Government Code §68086; California Rules of Court, rule 2.956(b)&(c) Parties ~~may select from the Approved Official Reporter Pro Tempore List, which list is available on the court's website, or~~ arrange for their own reporter by filing with the court form (VN243) "Agreement and Order Re Appointment of Official Reporter Pro Tempore." Parties must make arrangements for reporters in advance of the hearing to ensure the proceedings will be reported. It is the parties' responsibility to pay the reporter's fee for attendance at the proceedings, but the expense may be recoverable as part of the costs, as provided by law.

F. If it appears that a reporter will not be available for a matter in which the court still provides a court reporter as described in subsection D, the Court Reporter's Office must notify the parties at least five (5) days prior to the proceeding, and the deposit of court reporter fees shall be refunded. The parties may make arrangements for the presence of a reporter to serve as an official pro tempore reporter pursuant to rule 2.956 of the California Rules of Court and subsection D above. It is the parties' responsibility to pay the reporter's fee for attendance at the proceedings, but the expense may be recoverable as part of the costs, as provided by law.

G. A party with a fee waiver may request an official court reporter under California Rules of Court, rule 2.956(b)(3) for any proceeding for which reporting services are not available to a party without a fee waiver under subsection D above. The request should be made by using Judicial Council form FW-020 Request for Court Reporter by a Party with Fee Waiver and should be filed at least ten (10) calendar days before the hearing or trial for which the reporter is requested. If the requesting party received less than ten (10) days' notice of the hearing or trial, the requesting party should file the request immediately upon receiving notice. If you do not file the request on time, the court may be unable to provide a court reporter on the date requested and may have to reschedule the hearing or trial. If you are eligible, the court will try to schedule a court reporter for the court proceedings but given the limited availability of official court reporters, the court cannot guarantee that one will be available at that time.

H. An official court reporter is not available but the following proceedings will be electronically recorded by the court to make the official verbatim record of proceedings as provided by Government Code §69957 and California Rules of Court, rules, 2.952 and 2.956(e), unless otherwise ordered by the court: Small Claims cases, Infraction Criminal Proceedings, Misdemeanor Criminal Proceedings,

limited jurisdiction Civil trials, limited jurisdiction Civil Appeals from Superior Court, Misdemeanor Appeals, and Small Claims trial de novos.

(Revised eff. ~~January~~ 1, 2022~~1~~)