

SUPERIOR COURT OF CALIFORNIA
County of Marin



NOTICE

**Revision of the Uniform Local Rules of Court
for January 2025**

(California Rule of Court 10.613)

The Judges of the Marin County Superior Court have approved a draft set of proposed Local Court Rules. As authorized under CRC 10.613, they are posted on the internet at the following web page of the Court:

[Local Rules | Marin County Superior Court](#)

Should an individual or organization not have access to the internet, a printed copy of the local rules of court may be obtained at a cost of \$40.00 by writing the Court at:

Marin County Superior Court
Court Executive Officer
Attn: Local Rules of Court
P.O. Box 4988
San Rafael, CA 94913-4988
administration@marin.courts.ca.gov

Written comments or proposed changes should be submitted to the above no later than **Thursday, November 14, 2024 by 4:00 p.m.**

Should you need additional information regarding the proposed revisions, please call Court Administration at (415) 444-7020, or email administration@marin.courts.ca.gov.

September 30, 2024

MARIN COUNTY SUPERIOR COURT

**LOCAL RULE REVISION TABLE
FOR JANUARY 2025**

NEW / DELETED / REVISED / RENUMBERED / RENAMED

REV. RULE	PREV. RULE	NEW RULE	PREVIOUS / CURRENT RULE TITLE	NEW RULE TITLE
CIVIL RULES				
2.15			ISSUE CONFERENCE	
INFRACTION RULES				
4.7			ALTERNATE PROCEDURES FOR JUDICIAL REVIEW OF INFRACTION MATTERS	
4.8			ADJUDICATION OF MISCELLANEOUS INFRACTION MATTERS	
4.9			ENHANCED COURT COLLECTIONS PROGRAM	COURT COLLECTIONS
PROBATE RULES				
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6.53			TEMPORARY GUARDIANSHIPS AND CONSERVATORSHIPS	
6.54			GUARDIANSHIPS	
6.55			ORDERS FOR WITHDRAWALS OF FUNDS IN BLOCKED ACCOUNTS	
6.56			DISPOSITION OF MINOR'S FUNDS (PROBATE CODE § 3410)	
6.57			CONSERVATORSHIPS	
6.58			NOTICE IN CONSERVATORSHIP PROCEEDINGS	
6.60			ACCOUNTS AND REPORTS IN CONSERVATORSHIP PROCEEDINGS	

★ = DELETED

MARIN COUNTY SUPERIOR COURT

LOCAL RULE REVISION TABLE

FOR JANUARY 2025

NEW / DELETED / REVISED / RENUMBERED / RENAMED

6.61			SALE OF RESIDENCE BY CONSERVATOR	
6.62			TERMINATION OF CONSERVATORSHIP	
6.63			COURT APPOINTED ATTORNEYS OR (PROPOSED) CONSERVATEE	
6.65			NOTICE REQUIREMENTS CONCERNING TRUSTS	
6.66			PETITIONS FOR TRANSFER OF PROPERTY TO TRUST ("HEDGGSTAD 850 PETITIONS")	PETITIONS FOR TRANSFER OF PROPERTY TO TRUST ("850 PETITIONS")
FAMILY RULES				
7.17			PROCEDURES	
		7.35		APPOINTMENT OF ELISOR

Civil:

2.15 ISSUE CONFERENCE

A. Attendance. The Issue Conference shall ~~constitute the first day of trial and will~~ be held before the trial judge. Trial counsel for each party must attend such conference. The trial judge may also require all parties and claims representatives to attend.

B. Documents to be Filed for Issue Conference. Not later than ten (10) court days before an Issue Conference, each party shall file and serve the following:

1. Issue Conference Statement;
2. A proposed statement of the case to be read to the jury;
3. Proposed voir dire questions;
4. Proposed jury instructions;
5. Proposed verdict forms;
6. Motions *in Limine* (if any). All motions *in limine* must be in writing and consecutively numbered. Any opposition, response, or statement of non-opposition to motions in *limine* must be in writing and filed not later than five (5) court days before the Issue Conference. Each opposition, response, or statement of non-opposition must be numbered to correspond to the applicable motion in *limine*.

Infraction:

4.7 ALTERNATE PROCEDURES FOR JUDICIAL REVIEW OF INFRACTION MATTERS

A. Trial by Written Declaration. In the event a defendant fails to appear pursuant to written promise to appear, or at trial after plea of not guilty, the Court may conduct trial by written declaration pursuant to Vehicle Code section 40903.

B. Ex Parte Judicial Review After Adjudication. Defendants who have pled guilty or no contest or found guilty by the Court on certain infraction matters may, by written declaration or request, seek judicial review to obtain specific relief from the Court as follows:

1. Request that civil assessment be vacated.
2. Request case be recalled from court collections.
3. Request a fine be reduced to original bail amount.
4. Request to accept proof of completion of community service work or traffic violator school after civil assessment has been added and case has been transferred to court collections.

5. Request for extension of time to correct mechanical violations or obtain out-of-state registration or to provide proof of valid driver's license.

6. Request to reinstate community service work when community service work has been previously terminated.

7. Request sentence modification to:

a. Convert fines to community service work.

b. Allow traffic violator school when not initially ordered, upon payment of \$52 Traffic Violator School fee.

c. Extend time to pay or complete community service work or traffic violator school.

8. Defendants who are unable to pay their fine may request a fine reduction, payment plan, extension of time to pay, or community service in lieu of fine payment by submitting an Ability of Pay petition using the court's website: [Ability To Pay \(ca.gov\)](http://Ability To Pay (ca.gov)), or submitting the Can't Afford to Pay Fine: Traffic and Other Infractions ([Form TR-320](#))

C. ~~Monthly~~ Calendar for Personal Appearance. The Court has established a ~~monthly~~ calendar for personal appearance by defendants in the following infraction matters:

1. To adjudicate infraction charges for which the Court has determined that a defendant must appear in court.

2. To hear various motions, other than motions pursuant to Penal Code § 1538.5.

3. To review and adjudicate disposition of bail and/or bonds held by the Court, where a defendant posted bail on a promise to appear, but the District Attorney filed the case with only infraction charges in the Traffic Clerk's Office.

4. To arraign a defendant who requests to make such personal appearance before a judicial officer.

4.8 ADJUDICATION OF MISCELLANEOUS INFRACTION MATTERS

A. Clerks' Authority in Infraction Cases Not Transferred to Court Collections. For cases that have not been transferred to court collections, deputy clerks are granted the authority to take the following actions at the request of defendants charged with infraction violations:

1. Accept the posting and forfeiting of bail on infraction cases.

2. Upon approval of defendant's written request on Financial Qualification for Community Service Work (Form TR024), signed under penalty of perjury, approve requests to perform community service work in lieu of paying bail at the prevailing fine conversion rate for each hour worked at a non-profit organization, as defined by Internal Revenue Code § 501(c)(3), found on the Court's approved list of such agencies.

3. Allow defendants to convert community service work to bail one time only.

4. In limited circumstances and if defendant lives within California but outside of Marin County, ~~upon payment of a \$50 non-refundable fee,~~ authorize a defendant to perform community service work with a non-profit organization, as defined by Internal Revenue

Code § 501(c)(3), that is not on the Court's approved list of community service work providers but that is overseen by a community service work agency in the county in which the work is to be performed.

5. In limited circumstances for California residents only, following signature verification, confirmation of non-profit status ~~and upon payment of \$50 non-refundable court costs~~, accept proof of completion of community service work from an organization not on the Court's approved list and not overseen by a community service work agency in the county in which the work was performed.

6. Grant payment plan of up to 12 months, for all non-traffic infractions or traffic infractions where the defendant is not seeking an ability to pay review. The minimum monthly payment shall not be less than \$50 and no longer than 12 months. by dividing the outstanding balance by the number of months of the requested payment plan to determine monthly installments of equal amounts. The minimum monthly payment shall not be less than \$50. No payment plan may exceed 12 months from the date it is established.

7. Grant acceptance of proof of correction, following payment of full bail on underlying correctable charge(s), and delete Vehicle Code § 40616 from defendant's case.

8. For defendants who previously signed up for traffic violator school ~~and upon payment of \$50 non-refundable court costs~~, accept late completion of traffic violator school within sixty (60) days of the date a conviction abstract was sent to the Department of Motor Vehicles.

9. For defendants who did not previously sign up for traffic violator school and upon payment of \$52 non-refundable traffic violator school fee ~~and \$50 non-refundable court costs~~, accept late completion of traffic violator school within sixty (60) days of the date a conviction abstract was sent to the Department of Motor Vehicles.

10. Before the due date on the courtesy notice and upon completion of written Request to Elevate Infraction Charge to Misdemeanor (Form TR027), re-file infraction charges as misdemeanors and set matters on calendar for arraignment [e.g. Business & Professions Code § 25662; Penal Code § 555; Vehicle Code §§ 12500(a), 23109(a), (b) and (c), 14601.1(a), pursuant to Penal Code § 17(d)].

11. Upon request of defendants or their counsel, calendar defendants' matters on the next court day for arraignment.

12. Provide a verified complaint if the notice to appear is not prepared on a form approved by the Judicial Council and is not verified under penalty of perjury by the citing officer.

4.9 ~~ENHANCED-COURT COLLECTIONS~~ PROGRAM

At the time the Court determines that a defendant is delinquent in making payments for fines, fees, penalty assessments and surcharges, the Court ~~will~~ may refer the delinquent case ~~for to a the Enhanced Court Collections Program (ECC)~~. Upon such referral, ~~ECC will~~ the collections agency will contact the defendant to determine how the unpaid court ordered debt will be paid. ~~ECC~~ The collections agency will utilize all available collection methods to resolve these unpaid debts, including monitored payment plans, skip tracing, referral to the Franchise Tax Board Court

Ordered Debt Program for possible wage garnishment and levy of personal property, and referral to other collection agencies.

[Rule 3.9 adopted effective 1/1/10; amended 1/1/12; renumbered as Rule 4.9 effective 1/1/22]

Family:

CHILD CUSTODY/VISITATION

7.17 PROCEDURES

A. Initial Child Custody Recommending Counseling. Marin County is a recommending County (Family Code § 3183). Any Request for Order will be referred, through the Clerk’s Office, to Family Court Services of the Marin County Superior Court for orientation and child custody recommending counseling (hereinafter “CCR counseling”). CCR counseling is an opportunity for parents to work with a child custody recommending counselor (hereinafter “CCR counselor”), either together or separately, in order to create a detailed agreement that suits their children’s specific needs. This agreement will be signed by a judicial officer and become the custody order. Absent an agreement between the parties, the CCR counselor will make a written recommendation for an order of custody and visitation. Such report will be available to each party prior to the hearing. As to the CCR counseling process, the parties are referred to the Child Custody Recommending Counseling Orientation Booklet available through Family Court Services or online at [Family Court Services | Superior Court of California | County of Marin](#) . Both Parents will receive a certified letter, with return receipt requested, advising them of the date, time and location of their appointment. If a parent prefers to receive the appointment letter via email or regular first class mail, they may fill out and deliver Local Form [FL079](#) to Family Court Services.

B. Existence of Criminal Protective Order. When issuing child custody or visitation orders, the family court will make reasonable efforts to determine whether there exists a criminal protective order and/or domestic violence restraining order that involves any party to the action.

C. Documents Provided to the CCR Counselor. Parties shall not submit original documents (e.g. school records, medical records, etc.) to the CCR Counselor. If parties wish to provide documents to the CCR Counselor to be considered in the CCR Counselor’s report and recommendations to the Court, the parties shall provide copies of these documents to the CCR Counselor. The CCR Counselor will not return any such documents to the parties following submittal of the report and recommendations or at any later time. Any documents provided to the CCR Counselor must also be provided to the opposing party at the time they are submitted to the CCR Counselor. Documents shall be submitted to familymediation@marin.courts.ca.gov and copied to the other party and/or their attorney of record.

D. Contact With Family Court Services. *Ex parte* communication in child custody proceedings is governed by Family Code § 216 and CRC 5.235. Parties who submit written communications to Family Court Services regarding issues raised in the Request for Order must provide a copy to the other party at the same time it is provided to Family Court Services.

E. Statement of Agreement/Disagreement with FCS Recommendations. Both parties may file and serve a Statement of Agreement/Disagreement with Family Court Services Recommendations (FL027), which is a Local Form available at Legal Self Help Center, or online

at [Local Forms | Superior Court of California | County of Marin](#), at any time before the custody/visitation hearing.

F. Settlement Conferences. Upon the request of either party, or on the Court’s own motion, the Court may set a contested custody/visitation matter for a settlement conference. Both parties are required to appear in person or by remote appearance as determined by the Judicial Officer at the settlement conference and to appear with counsel if ~~he/she is~~they are represented. The Court may, in its discretion, appoint a panel to assist the Court and the parties at the settlement conference. The panel may include attorneys, mediators, and/or mental health professionals. Experience requirements for panelists may be obtained from the Court’s Alternative Dispute Resolution Coordinator (415-444-7049) or from the Court’s website. Any such panelists will be appointed to serve as the Court’s own expert pursuant to Evidence Code § 730, and the Court may find good cause to permit the panelists to review Family Court Services’ recommendations and other confidential information in the file, pursuant to Family Code § 3025.5.

G. Required Local Forms. The moving party requesting a custody/visitation order or a modification to a custody/visitation order shall attach to any Request for Order, the “Family Court Services Child Custody Recommending Counseling Program” form, (Local Form FL005) which is available at Legal Self Help Center, or online at [Local Forms | Superior Court of California | County of Marin](#). The moving party’s proof of service shall indicate that this notice has been served. Petitioners and Respondents with minor children who are referred to Family Court Services for custody and visitation matters are required to shall submit a fully completed FCS Intake Sheet to the ~~Court~~ Court at the time of filing the Request for Order. The Family Court Services Intake Sheet (FL016) is a Local Form available in the Clerk’s Office, at Legal Self Help Center, or online at [Local Forms | Superior Court of California | County of Marin](#).

Rule 7.35 APPOINTMENT OF ELISOR

A. Request for Order. A court order for the appointment of an Elisor must be made by a request for order. The request for order must include at least one supporting declaration with a list of the exact documents the Elisor is being asked to sign. The request must be accompanied by a proposed order.

B. Mandatory Information in Supporting Declaration(s). The supporting declaration(s) must include all of the following:

1. The title, date, page(s) and line(s) of the court order upon which the request to appoint an Elisor is based.
2. A description of the good faith efforts to meet and confer to resolve the issue informally.
3. Specific facts establishing the necessity of the appointment of an Elisor, including the reason, by a person with personal knowledge, why each document requires the Elisor's signature.

C. Mandatory Language in Proposed Order. The proposed order must include all of the following:

1. Designate "The Clerk of the Court or Clerk's Designee" as the Elisor. The order cannot state a name or title of a specific court employee.

2. State the party's name for whom the Elisor is being appointed; the exact title or a sufficient description that accurately identifies each document to be signed; and the capacity in which the Elisor will be signing each document.

D. Mandatory Additional Requirements.

1. Copies of all documents to be signed must be attached to the proposed order.

2. The original documents presented to the Elisor for signing must be identical to the copies of the documents attached to the proposed order.

E. Order Granted.

1. If the court grants the order, the party must contact the ~~business~~-administrative office (Room 116) to schedule an appointment for the actual signing of the documents.

2. If the Elisor is signing documents requiring notarization, the party must arrange for a notary public to be present when the Elisor signs the documents.

Probate:

6.2 CALENDAR AND PROCEDURAL MATTERS

A. General Guidelines.

1. *General Probate Matters.* One department of the Superior Court shall be designated by the Presiding Judge of the Superior Court to hear general probate matters. Except as otherwise indicated in these rules, all probate petitions concerning the following are to be calendared for hearing on the Regular Probate Calendar:

a. Decedent's Estates

b. Trusts

c. Conservatorships of the person and of the estate (except for matters involving the Lanterman-Petris-Short Act which shall be calendared on the LPS Calendar).

d. Guardianships

e. Special Needs Trusts

f. Fact of Birth/Death/Marriage

2. *Probate Research Attorney.*

a. The Probate Research Attorney reviews filings in probate proceedings to ensure that filed matters are properly ready for consideration by the Court in accordance with the requirements of the Probate Code, the rules in Title 7 of the California Rules of Court, and the Court's Local Rules.

b. The Probate Research Attorney will not review any document unless and until it has been filed.

c. The Probate Research Attorney will not give legal advice or provide advisory opinions.

B. Filing, Hearing, and Continuance Procedures.

—————1. *Petitions.* All petitions and supporting documents must be filed with the Probate Clerk.

2. *Hearing Date.*

a. The next available hearing date will be assigned by the Probate Clerk at the time of filing.

b. If there is urgency to the petition, counsel may file an ex parte motion to advance the hearing date.

3. *Opposition Papers and Supplemental Documents.*

a. Unless ordered otherwise, all opposition papers and supplemental documents must be filed at least five (5) court days before the hearing.

b. Pursuant to Probate Code § 1043, if an interested party appears in court to contest a petition without submitting written opposition, the Court may (in the interests of justice and efficiency) either hear the objections/opposition at the time of the hearing or continue the matter to allow the interested party to file written objections.

4. *Exhibits.* All referenced exhibits must be properly tabbed for easy reference by the Court.

5. *Untimely Filings.* If a party presents a document/documents to the clerk for filing that is untimely, the Probate Clerk will accept the documents. At the Court's discretion, a late filing may result in:

a. The Court's refusal to consider the late filed documents.

b. A continuance of the hearing.

c. Sanctions.

6. *Procedure for Obtaining a Continuance in Uncontested Matters.*

a. Any request for a continuance before the time of the hearing must be made:

~~_____i. By noticed motion with notice to all interested parties entitled to notice of the underlying petition;~~

~~ii. At least three (3) court days prior to hearing; and~~

~~iii. With the permission of petitioner, if self-represented, or by petitioner's counsel.~~

~~b. A continuance may be requested through eFiling.~~

~~eb. The court will continue the following matters only upon a properly noticed appearance:~~

~~i. Sale of Real Property~~

~~ii. Order to Show Cause~~

~~iii. Ex Parte Petition~~

7. Procedure for Obtaining a Continuance in Contested Matters.

~~a. For contested matters, counsel seekingAny request for a continuance should submit through eFiling, before the time of the hearing must be made:~~

~~i. At least three (3) court days prior to hearing;~~

~~ii. By a stipulation stipulated motion and proposed order signed by all parties who have appeared in the matter ~~and a proposed order.~~~~

~~iii. Petitioner and all parties who have made an appearance in the case must stipulate to the continuance.~~

~~iv. All parties entitled to notice of the underlying petition must receive notice.~~

~~b.b. Once a matter has been scheduled for an evidentiary hearing/trial, it cannot be continued by stipulation. These requests must be made receive Court approval either by filing a noticed motion to continue the hearing date or by filing an ex parte petition with notice to all interested parties entitled to notice of the underlying petition.~~

C. Submission of Proposed Orders.

1. Proposed orders shall be submitted at the time of filing the petition.

2. If submitted via mail, drop box, or in person: a self-addressed, pre-paid envelope is submitted with the proposed order, the Probate Clerk will return a file endorsed copy by mail if a self-addressed, pre-paid envelope is submitted with the proposed order.

3. If submitted via mail, drop box, or in person, and a conformed copy is desired, additional copies must be submitted.
4. ~~Parties requesting~~If submitted via mail, drop box, or in person, and it is requested that the Clerk's Office mail ~~them back~~ conformed copies of their filings, ~~must provide~~ a self-addressed stamped envelope of proper size and with sufficient postage must be provided.
5. If no envelope is provided, the conformed copy will be placed in the Will Call cabinet in the Clerk's Office in Room 113 for a maximum of sixty (60) days.
6. If the postage or the envelope provided is insufficient to mail the entire conformed copy, only the face copy of the pleading will be mailed and the conformed copy will be placed in the Will Call cabinet for a maximum of sixty (60) days.

D. Hearings and Tentative Rulings.

~~1. Tentative Rulings. At 2:00 p.m., on the court day preceding each weekly Probate Calendar, the Court will issue a tentative ruling for each matter noticed on such calendar. The tentative ruling may be obtained online on the Court's website at Tentative Rulings | Marin County Superior Court (ca.gov) or by calling (415) 444-7260 from 2:00 to 4:00 p.m. on the court day preceding the scheduled hearing.~~

~~a. Probate matters that are designated as confidential by California law will not be posted online. Tentative rulings in those matters may be obtained by telephone from the judicial secretary at (415) 444-7260. Confidential matters include applications for Special Immigrant Juvenile Status.~~

~~—— b. Parties who do not object to the tentative ruling need not appear at the hearing unless the ruling requires appearances, or another party has requested a hearing pursuant to the procedure in subdivision (c) below.~~

~~—— c. Intent to Appear.~~

~~i. Any interested party who wishes to contest the tentative ruling must contact the the judicial secretary at (415) 444-7260 and provide their contact information, the case name, and the case number.~~

~~ii. The party requesting the appearance must notify the attorneys for all represented parties, as well as all unrepresented parties, of their intent to appear.~~

~~iii. Notifications to the Court and all attorneys and unrepresented parties must be completed no later than 4:00 p.m. on the court day immediately preceding the day of the hearing.~~

~~iv. If the tentative ruling indicates that additional documents are necessary to justify approval of the petition, the matter will be continued, placed off calendar, or denied without prejudice. These tentative rulings cannot be contested unless the party contacts the judicial~~

~~secretary with verification that the additional documents were submitted to the Court at least five (5) court days prior to the scheduled hearing date.~~

C. Tentative Rulings.

1. *Obtaining Tentative Rulings.* Parties may obtain tentative rulings online at [Tentative Rulings | Superior Court of California | County of Marin](#) or by calling (415) 444-7260 from 2:00 to 4:00 p.m. on the court day preceding the scheduled hearing. Probate cases that are designated as confidential by California law will not be posted online. Tentative rulings in those matters may be obtained by telephone from the judicial secretary at (415) 444-7260. Confidential cases include applications for Special Immigrant Juvenile Status.

2. *Oral Argument.* If a party wants to present oral argument, the party *must contact the Court at (415) 444-7046 and all parties entitled to notice of the underlying petition or motion by 4:00 p.m. the court day preceding the scheduled hearing.* Notice may be by telephone or in person to all other parties that argument is being requested (i.e. it is not necessary to speak with counsel or parties directly.) Unless the Court and all parties have been notified of a request to present oral argument, no oral argument will be permitted except by order of the Court. If oral argument is not requested, the tentative ruling shall become the order of the Court.

3. *Length of Hearings.* Non-evidentiary hearings on the Probate Calendar are limited to a maximum of 20 minutes.

2. *Requests to Take Matters Off Calendar and Resetting Matters.*

~~— a. — A written request to take a matter off calendar must be submitted to probate@marin.courts.ca.gov at least three (3) court days prior to the hearing.~~

~~— b. — A request to take an ex parte petition off calendar may be submitted to probate@marin.courts.ca.gov up to the day of the hearing.~~

~~— c. — For all matters, counsel or the self-represented litigant seeking to have the matter taken off calendar must inform all parties entitled to notice that the matter has been taken off calendar to avoid unnecessary appearances, inconvenience, and expense.~~

~~— d. — Once taken off calendar, a petition may be reset for hearing only upon the written, signed, and verified request of the petitioner, filed with the Court no later than three (3) months from the hearing date previously taken off calendar. In the absence of such a timely request, the matter will be deemed dismissed without prejudice.~~

~~— e. — If the petition was ordered off calendar by the Court, due to defects or nonappearance, it may not be reset for hearing unless all defects have been cured. The material necessary to correct the defects must accompany the request for resetting the petition. Such requests must be made no later than three (3) months from the hearing date~~

~~previously taken off calendar. In the absence of such a timely request, the matter will be deemed dismissed without prejudice.~~

ED. Contested Matters.

1. *Written Objections.* Before the Court will conduct a formal hearing in any contested proceeding, written objections specifying the grounds for such objection or opposition must be filed. If oral objections are made at a hearing, the Court may continue the matter in order to have the objections submitted in writing. (Probate Code § 1043)

2. *Meet and Confer Requirement.* Prior to the setting of a contested evidentiary hearing, a party or their respective attorneys shall make a reasonable and good faith attempt to informally resolve the controversy at a face-to-face conference, if possible, otherwise by telephone conference. If resolution is not possible, and an evidentiary hearing is scheduled, then each party shall file a Statement of Issues as provided below.

3. *Statement of Issues or Settlement.* At least five (5) court days before the scheduled hearing, each party shall file and serve a Statement of Issues or a notice of settlement. Each Statement of Issues must:

- a. indicate that the party or ~~his or her~~their respective attorney has met face-to-face or, if that is not possible, have participated in a telephone conference to discuss the issues in dispute;
- b. identify the substantial issues in the controversy, with references to any supporting evidence and/or legal authority;
- c. include each party's opinion of any barriers to settlement; and
- d. provide an estimate of the time requirement for the hearing or resolution.

4. *Trial Scheduling.* If the hearing on a contested matter is estimated to exceed twenty (20) minutes or a trial is demanded, the matter may be specially set for an extended hearing by the assigned probate Judge.

[Rule 5.2 adopted effective 7/1/19; amended and renumbered as Rule 6.2 effective 1/1/22]; amended 7/1/24

6.3 EX PARTE MATTERS

A. Presentation of Emergency Probate Applications. If a party has reason to believe that emergency orders are needed to prevent irreparable harm to person or property, an ex parte application may be filed.

B. Ex Parte Hearings.

1. Ex parte applications will be heard at the conclusion of the Probate Judge's ~~regularly~~regularly scheduled 9:00 a.m. calendar.
2. In the event of an extreme emergency, a request for a specially-set ex parte

hearing may be emailed to probate@marin.courts.ca.gov. Such request must provide sufficient facts to justify an earlier hearing date and will be submitted to the Probate Judge for consideration and will not be granted without judicial approval.

C. Timing.

1. eEx parte applications and supporting documents must be filed no later than 10:00 a.m. two (2) court days before the application is to be heard.

2. Any written opposition must be filed by 3:30 p.m. one (1) court day before the application is to be heard.

D. Contents of Application.

1. All applications must comply with applicable CRC rules (e.g., CRC 3.1200 et seq.)

2. An application for an ex parte order must be verified and must contain sufficient evidentiary facts to justify issuing the order. Conclusions or statements of ultimate facts are not sufficient, and a foundation should be shown for the petitioner's personal knowledge.

3. The application must clearly state that it is an "ex parte" application.

4. The application must be accompanied by:

1. Set forth the facts upon which the petitioner is basing the need for an emergency ex parte order. Declaration regarding notice:

i. Identify the persons entitled to notice under the applicable sections of the Probate Code, and either set forth an explanation of notice provided or the facts upon which the petitioner requests an order dispensing with notice.

ii. Contain a statement re requests for special notices. The statement shall either recite that no request for special notice is in effect or shall list the parties requesting special notice and attach the specific waivers of notice by such parties or proof of service on such parties.

2.b. Declaration regarding emergency.

a.c. Order: Unless using a Judicial Council form that contains its own order, all moving papers must be accompanied by a separate proposed order, complete in and of itself.

E. Notice.

1. Subject to the following exceptions, notice shall be provided in accordance with the California Rules of Court (CRC) applicable to civil ex parte matters.

2. Notice to the Probate Court Investigator shall be given in all conservatorship and guardianship matters.

3. Due to the pro forma nature of the following matters, no notice or appearance is required for the following:

- a. Ex Parte Order to Increase Bond (CRC 7.204 and 7.207)
- b. Ex Parte Petition to Decrease Bond if:
 - i. There are no requests for special notice; or
 - ii. All parties who requested special notice have waived notice.
- c. Order Appointing Court Investigator (Government Code § 330)
- d. Ex Parte Order Regarding Completion of Capacity Declaration (Government Code § 335)
- e. Order Appointing Probate Referee (Local Form PR010).
- f. Order Appointing Regional Center and Public Defender (Local Form PR039).
- g. Petition for Final Discharge
- h. Exceptions stated in CRC 3.1207

*[Rule 5.3 adopted effective 7/1/19; amended and renumbered as Rule 6.3 effective 1/1/22];
amended 7/1/24*

6.5 SETTLEMENT CONFERENCES

A. Mandatory Settlement Conference. A mandatory settlement conference pursuant to CRC 3.1380 shall be held in all cases where a trial or evidentiary hearing has been demanded. The date for the settlement conference shall be assigned at a status conference.

B. Settlement Conference Statement. ~~Counsel shall lodge an original plus two (2) copies of a settlement conference statement in the Calendar Department (Room 113) ten (10) court days before the settlement conference so that the statements can be distributed to the settlement panelists. The court will impose sanctions of \$99 per day for statements lodged less than ten (10) court days before the settlement conference. The date and time of the settlement conference and trial/evidentiary hearing shall be typed on the face sheet of the statement. The settlement conference statement shall include the following, where applicable: At least ten (10) court days before the settlement conference, parties shall lodge an original and two copies of a settlement conference statement with the Court. If excused by the Court from E-filing, a party shall provide two envelopes of sufficient size, and with sufficient postage, to accommodate mailing the statements to the settlement panelists. The Court may impose sanctions of \$99 per calendar day for statements lodged late. The parties shall note the date and time of the settlement conference~~

and trial on the face sheet of the statement. The settlement conference statement shall comply with all requirements of CRC 3.1380(c) and shall also include the following, where applicable:

1. A brief statement of the case;
2. A statement of facts including: (a) factual and legal contentions in dispute; and (b) citations of authorities which support legal propositions;
3. The date when the last face-to-face settlement discussion was held.

C. Required Attendance. Attendance at settlement conferences by all counsel (with settlement authority and complete familiarity with the case) is required. Counsel must be accompanied by ~~his/her~~ their client. *Exceptions to this rule require advance written approval by the Court.*

D. Continuances. Matters scheduled for a settlement conference cannot be continued by stipulation. All continuance requests (whether stipulated to or not) must be filed at least ten (10) court days prior to the scheduled hearing date. Once filed, a date to hear the continuance request will be set by the Probate Judge. All parties must appear.

E. Sanctions. Failure of an attorney and/or party to prepare for, appear, or participate in a settlement conference, unless good cause is shown for any such failure, is an unlawful interference with the proceedings of the Court, and the Court may impose sanctions, including, but not limited to monetary sanctions.

[Rule 5.4 adopted effective 7/1/19; renumbered as Rule 6.4 effective 1/1/22; Rule 6.4 amended and renumbered as Rule 6.5 effective 7/1/24]

6.9 SPECIAL LETTERS OF ADMINISTRATION

~~The verified petition for a special administrator must be personally presented to the Judge. Such petitions ordinarily will not be granted without 24 hours' notice to the surviving spouse, the nominated executor, and any other person who, in the opinion of the Judge, appears to be entitled to notice. Petitions for Letters of Special Administration will be calendared by the probate clerk three (3) weeks out.~~

The petition should include the *specific* reason indicating the necessity of the appointment. ~~Except in a will contest, Letters of Special Administration will issue for only a specified period of time.~~ Although preference is given to the person entitled to Letters Testamentary or of Administration, if it appears that a bona fide contest exists, the Court will consider appointing a neutral person or corporate fiduciary.

A special administrator cannot be granted powers under the Independent Administration of Estates Act (IAEA) unless proper publication and notice has been completed.

[Rule 5.8 adopted effective 1/1/14; renumbered as Rule 6.8 effective 1/1/22; Rule 6.8 renumbered as Rule 6.9 effective 7/1/24]

6.10 PETITION FOR PROBATE OF WILL AND LETTERS OF ADMINISTRATION

A. Holographic Will and Foreign Language Will. When a holographic instrument is offered for probate, all copies presented must be accompanied by a typewritten copy. Where an instrument written in a foreign language is offered, it must be accompanied by a copy translated into English ~~by an official translator approved by the Court.~~ All translations must be accompanied by a declaration setting forth the translator's qualifications and/or credentials.

6.17 REDUCING BOND THROUGH USE OF DEPOSITORY FOR BLOCKED ACCOUNT

A. Before Issuance of Letters. The receipt and agreement of depository required by the Probate Code must be filed prior to the issuance of Letters.

B. After Appointment. Bonds may be reduced at any time after appointment by a petition and order reducing bond, together with a receipt of a depository showing assets in the amount of the requested reduction have been so deposited. Such a petition must set forth the assets remaining in the estate, after excluding those held by the depository, and it must appear that the reduced bond adequately covers the amount to be protected.

C. Direct Transmittal to Depository. If the assets to be deposited are in the possession of a bank, savings and loan association or trust company other than the named depository, the order should direct the entity in possession to deliver such assets directly to the named depository and further direct the depository, on receiving such assets, to issue its receipt and agreement to the fiduciary. (Financial Code § 765)

D. Withdrawals or Releases from Depository. ~~An order authorizing release from a blocked account may be obtained ex parte.~~ The petition should set forth the approximate bond, and the purpose for which the withdrawal is being made. The order may provide for funds to be paid directly to a taxing authority or beneficiary or other person entitled thereto.

E. Letters. Any Letters issued where accounts have been blocked should include the statement: "Account located at (institution name) has been blocked and receipts for the blocked account have been filed with the Court."

[Rule 5.16 adopted effective 5/1/98; renumbered as Rule 6.16 effective 1/1/22; Rule 6.16 renumbered as Rule 6.17 effective 7/1/24]

6.18 BOND MODIFICATION

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

B. Bond Increase. When the bond of a fiduciary must be increased, the Court favors filing of an additional bond rather than a substitute bond. Where assets will be coming into or passing through the hands of the fiduciary so as to require an increase of bond, the fiduciary must set forth the information necessary to enable the Court to determine the amount of the increase.

C. Bond Decrease. When the fiduciary's bond should be decreased, the Court favors using an order reducing the liability on the existing bond rather than a substitute bond. Where a decrease in bond is sought because distribution has been made, copies of receipts evidencing the distribution ~~should~~shall be presented with the petition.

[Rule 5.17 adopted effective 5/1/98; renumbered as Rule 6.17 effective 1/1/22; renumbered as Rule 6.18 effective 7/1/24]

6.27 SALES OF PERSONAL PROPERTY

A. Tangible Personal Property.

1. *Necessity for Appraisal.* ~~In all cases other than those administered with full IAEA, ¶~~The sale of tangible personal property will ~~ordinarily~~ not be approved unless the property has been inventoried and appraised. ~~For this purpose, a partial inventory and appraisal may be filed or a letter appraisal may be obtained from the appointed Probate Referee.~~

2. *Commissions.* Commissions on sales of tangible personal property will be allowed only to individuals holding a license authorizing them to deal in the type of property involved. A commission will be allowed on the original bid only when the commission is requested in the return of sale. When there is an overbid in Court, a commission may be allowed to the successful broker, and, if the original bid was subject to a commission, apportionment between the brokers will be made according to the same rules as prescribed for real estate sales. The amount of the commission is within the Court's discretion and will ordinarily conform to the amounts found below.

B. Securities. The petition for authority to sell securities must set forth a minimum sales price as to all securities except those listed on an established exchange. The minimum price must be a recent market quotation from the New York Stock Exchange, American Exchange or an ~~over the counter~~over-the-counter market. If there is no recent market quotation available or the securities are "closely held," the petition must set forth the basis for fixing the minimum sales price.

C. Condominiums, Community or Cooperative Apartments. A condominium or cooperative apartment is an interest in real property and must be sold as ~~such, unless~~such unless it is held as a limited partnership. (Civil Code § 783) The sale of a cooperative apartment will not be confirmed subject to the original (returned) purchaser later obtaining the acceptance of a Board of Directors or other governing body. If there is an overbid, the Court, at the request of the personal representative, will then continue the matter for the purpose of obtaining acceptance. If the

personal representative does not wish to continue the matter for this purpose, the Court will not accept the overbid.

[Rule 5.27 adopted effective 5/1/98; amended 7/1/08; renumbered as Rule 6.27 effective 1/1/22]

6.29 RETURN OF PRIVATE SALE FOR COURT CONFIRMATION

A. Appraisal and Reappraisal. In order for a private sale to be confirmed, there must be on file an appraisal by the Probate Referee of the property and, if required, a reappraisal by the Probate Referee if the decedent's date of death or guardian's or conservator's appointment occurred more than one year before the date of the confirmation hearing. The appraisal and reappraisal ~~should~~ shall be on file prior to the hearing date on the return of sale ~~but counsel may bring the reappraisal to the court hearing.~~

6.36 PRELIMINARY DISTRIBUTION

~~**A. Preliminary Distribution Under Probate Code § 11620.**~~ In addition to any other requirements, a petition for preliminary distribution must state the approximate value of the property remaining in the estate after the proposed distribution, an estimate of the total amount of unpaid taxes, unpaid claims and other liabilities, a statement of why final distribution cannot be made and when it will be made. An inventory and appraisal which includes the property to be distributed ~~should~~ must be on file.

~~**B. Ex Parte Petition for Preliminary Distribution.**~~ ~~Absent an emergency, preliminary distributions should be set for noticed hearing. The Probate Code provides for an ex parte petition for preliminary distribution. The urgency justifying such ex parte application must be set forth.~~

[Rule 5.36 adopted effective 5/1/98; renumbered as Rule 6.36 effective 1/1/22]

6.47 FAMILY ALLOWANCE

A. Necessary Allegations of Petition. All petitions for family allowance must show that the allowance is necessary and reasonable, including:

1. The nature and separate and community character of the probate estate and whether or not it is solvent;
2. Whether others are entitled to family allowance;
3. The approximate needs of the applicant, with reference to ~~his or her~~ their standard of living; and
4. The applicant's income from other sources.
5. The petitioner shall file an income and expense declaration prior to the hearing. (Judicial Council Form FL-150)

B. Duration of Family Allowance. All orders will limit family allowance to a definite period of time. If the order is on an ex parte petition, family allowance will normally not be granted for a period exceeding six months.

~~C. Before Inventory Filed. Before an inventory is filed an order for a family allowance may be made or modified ex parte or on noticed hearing.~~

~~D. After Inventory Filed. After an inventory has been filed an order for a family allowance may be made or modified only on noticed hearing.~~

[Rule 5.47 adopted effective 5/1/98; amended 7/1/08; renumbered as Rule 6.47 effective 1/1/22]

6.48 STATUS REPORTS

The statutory requirements for filing of ~~status reports annually in lieu of accountings reports~~ of status of administration of the estate are taken seriously by the Court. Attorneys failing to comply with the statutory requirements may expect to have their statutory compensation reduced. All ~~status reports reports of status of administration of the estate~~ must shall explain why the case has not been closed and state when the attorney expects to file a petition for final distribution. The Order must require the filing of an additional ~~status report report of status of administration of estate~~ on or before the date fixed for the Petition for Final Distribution if the petition is not to be filed by that date.

[Rule 5.48 adopted effective 5/1/98; amended 7/1/15; renumbered as Rule 6.48 effective 1/1/22]

6.53 TEMPORARY GUARDIANSHIPS AND CONSERVATORSHIPS

A. Good Cause Required. A temporary guardianship or conservatorship will not be granted without a showing of good cause. The petition should set forth facts showing the emergency or urgent nature of the request.

B. Hearings on Temporary Guardianship and Conservatorship Cases. All temporary guardianship and conservatorship cases will be calendared by the probate clerk three (3) weeks out. ~~If the case is urgent (i.e. irreparable harm to person or property), a party may appear in court on an ex parte application to request an order shortening time for the temporary hearing.~~

C. Bond. A full bond will normally be imposed upon a non-corporate temporary guardian or conservator of the estate; if a lesser amount is requested, good cause must be shown in the petition. ~~The Court may in certain cases require a bond of a temporary conservator or guardian of the person.~~

6.54 GUARDIANSHIPS

A. Notice of Petition for Appointment of Guardian. Notice of petition must comply with Probate Code §§ 1510-1511. Note that these sections require *personal service* on specified persons. In situations where an order dispensing with notice is sought on the ground that a relative within the second degree cannot be found with reasonable diligence and no other notice is required, the Court requires a declaration stating specifically what efforts were made to locate the relative.

B. Proposed Ward's Appearance at Hearing for Appointment of Guardian. The requirement of an appearance is within the discretion of the Court and will be decided on an individual case basis. Where the proposed ward is the natural child of the proposed guardian of the estate, an appearance by the proposed ward is not required.

C. Investigative Reports. Unless waived by the Court, an investigative report must be given to the Court prior to appointment of a guardian of the person and/or estate.

1. *Non-Relative Petitioner.* In all cases where a non-relative petitions to be appointed guardian, the Department of Social Services will perform an investigation and make a report to the Court prior to the hearing date.

2. *Relative Petitioner.* When the proposed guardian is a relative, the court investigator will interview all parties ~~at the time of~~prior to the hearing and report to the Court.

D. Required Documents. The following documents must be filed with the petition:

1. *Guardian Information Form.* The Court requires that a Guardianship Information Form (local form PR007) in support of the petition for guardianship of the person be filed with the petition by the proposed guardian. The Guardianship Information Form will become part of the confidential court file. ~~A copy should be provided to the Court Investigator within five (5) days after filing the Petition for Appointment of Guardian.~~The declaration shall include the following:

a. The need for guardianship including the specific reasons why the parents are unable to care for the proposed ward, and whether they consent to the guardianship.

b. A statement concerning the development of the minor, indicating with whom the minor has resided since birth, and any special emotional, psychological, educational, or physical needs of the minor and the guardian's ability to provide for such needs.

c. Any arrest record of the guardian and each person who will reside in the guardian's home, including the nature of the offense, the date, place, and disposition.

d. Any pending or prior proceedings in Juvenile Court involving the minor or any other persons who will be residing in the guardian's home including the date, place, and disposition.

e. Any prior contact by the minor, the guardian, and any persons who will reside in the guardian's home with Child and Family Services of the Department of Social Services.

f. A statement regarding the necessity for a visitation order. Any information regarding visitation orders which are currently in effect and any information concerning visitation issues between any of the parties. If visitation is an issue, a statement as to how often the parents visit.

2. *Declaration Under UCCJEA.* A declaration under the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) shall be filed with the petition and at any time there is a change of address of the ward.

3. *Confidential Guardian Screening* (Judicial Council Form GC-212).

4. *Duties of Guardian and Viewing of Film.* Before Letters of Guardianship are issued, each proposed guardian of the person or estate must sign and file the Duties of Guardian form (Judicial Council Form GC-248). The proposed guardian must also view the guardianship film, available on the Court's website at www.marin.courts.ca.gov or shown in Room 116 and file the Declaration of Proposed Guardian's Viewing of Film (Local Form FL033/PR033).

E. Inventory and Appraisal. At the hearing to appoint a guardian of the estate, a compliance hearing will be set in approximately 120 days to ensure the Inventory and Appraisal (I&A) has been filed as required by law. If the I&A has been filed, bond is sufficient, receipts for blocked accounts have been filed, and the notice required by law has been provided, the hearing will be dropped. If the requirements of this rule and the law have not been met, an appearance by the attorney and the fiduciary will be required.

F. Accounts and Reports. The report accompanying each accounting should contain a statement of the age, health, and whereabouts of the ward. In addition, the report should contain an allegation concerning the amount of bond currently in effect and should address the question of the adequacy thereof.

1. *Conflicts of Interest.* The report accompanying an account shall include a disclosure of any actual or potential conflicts of interest as required by law. If no disclosures are required, the guardian shall include an allegation that no disclosures are required pursuant to Probate Code §§ 2111.5, 2351(d), 2401(c), and 2403(c)(2).

2. *Waivers of Accounts.* Waivers of interim accounts will not be accepted. Waivers of final accounts on termination are not favored and the Court may require the ward to be present at the hearing.

G. Guardianship Status Report. A confidential guardianship status report is due annually on the Judicial Council form.

H. Discharges. Discharge of the guardian will not be made in the order settling final account. A separate declaration for final discharge must be submitted, together with the receipt executed by the former ward and a copy of the order settling the final account and ordering delivery of the assets to the former ward. The declaration must state the date on which the ward reached majority.

~~**I. Copies.** All filings regarding guardianships must be accompanied by a copy designated for the Court Investigator.~~

J. Current Address. All attorneys and guardians are required to keep the Court informed of their current addresses and phone numbers as well as the current address and phone number of the ward.

K. Use of Minor's Assets for Support. In guardianship cases, if a minor has a living parent who receives or is entitled to support for the minor from another source, prior Court approval must be obtained before using guardianship assets for the minor's support, maintenance, or education. The petition must set forth the parents' financial inability or other circumstances which would justify use of the guardianship assets. Such petition may be included in a petition for the appointment of a guardian. An order granting the petition should normally be for a limited period of time, usually not to exceed 6 months, or for a specific and limited purpose.

~~1. *Funds in Blocked Accounts.* A request for withdrawal of amounts necessary for the minor's support may normally be made ex parte if accompanied by a sufficient showing of the need. However, where the minor has a living parent, the petition must contain the allegations referred to above; in such cases the Court may require the obtaining of an order prescribing notice and a calendared hearing.~~

[Rule 5.55 adopted effective 5/1/98; amended 7/1/15; renumbered as Rule 6.55 effective 1/1/22; Rule 6.55 renumbered as 6.54 effective 7/1/24]

6.55 ORDERS FOR WITHDRAWALS OF FUNDS IN BLOCKED ACCOUNTS

~~Withdrawals from blocked accounts may be requested by ex parte petition.~~ Where withdrawal is sought because the minor has reached majority and the order establishing the blocked account is not self-executing, a certified copy of the minor's birth certificate or other convincing evidence of the minor's age must be presented with the petition for withdrawal. The order must provide for the payment of the funds only to the former minor. Where withdrawal is sought prior to majority, the purpose of the withdrawal must be fully disclosed. Withdrawals are disfavored except in cases of medical emergencies or unusual needs which a parent is unable to meet.

[Rule 5.56 adopted effective 5/1/98; amended 1/1/10; renumbered as Rule 6.56 effective 1/1/22; Rule 6.56 amended and renumbered as 6.55 effective 7/1/24]

6.56 DISPOSITION OF MINOR'S FUNDS (PROBATE CODE § 3410)

A. Contents of Petition. A petition under these sections must set forth jurisdictional facts, state the amount to be paid and by whom, the amount of fees and reimbursement of costs requested, the relief requested, and a statement of the reasons that the requested relief will best serve the interests of the minor.

~~**B. Notice.** The petition may be presented ex parte if the only relief sought other than reimbursement for filing fee and award of reasonable attorneys' fees is to deposit funds in a blocked~~

~~account and the amount involved does not exceed \$20,000. Otherwise, the petition must be noticed.~~

C. Order. Where the minor's funds are to be deposited in a blocked account, the order must provide that the person holding funds shall disburse the ordered amount of fees and costs, if any, directly to the person(s) entitled thereto and disburse the balance to the selected depository, whose name and address must be specified. The order must also provide that the receipt by the depository of the funds and a copy of the order must be filed forthwith upon the deposit of the funds.

The receipt must acknowledge that the funds may be withdrawn only on Court order.

6.57 CONSERVATORSHIPS

A. Special Requirements. In all conservatorship proceedings:

1. *Judicial Council Forms.* ~~Adopted Judicial Council~~ forms designated as mandatory —must be used and approved Judicial Council forms may be used.

2. *Change of Address.* Whenever the address of the conservatee is changed, the conservator must file a Pre-Move Notice of Change of Residence (Judicial Council Form GC-079) or a Post-Move Notice of Change of Residence (Judicial Council Form GC-080) within the timeframe required by law. Any changes to the address or phone number of the conservator or attorney must be promptly filed with the Court. Copies of all changes of address or telephone number must be provided to the Court Investigator.

B. Appointment of Conservator.

1. *Order Appointing Court Investigator.* An order appointing Court investigator must be signed and filed with the petition for appointment of conservator.

2. *Confidential Supplemental Information.* All petitions for conservatorship must be accompanied by the Judicial Council form Confidential Supplemental Information.

3. *Confidential Conservator Screening* (Judicial Council Form GC-314).

4. *Handbook For Conservators* ~~and Viewing Of Film.~~ Before Letters of Conservatorship are issued, each conservator of the person or estate must: ~~(a)~~ obtain a copy of the "Handbook for Conservators" (available for download here: [Handbook for Conservators \(ca.gov\)](#)) and file the Duties of Conservator indicating receipt of the Handbook for Conservators, ~~and (b) view the conservatorship film, available on the Court's website or shown in Room 116 and file the Court's form PR034 entitled "Acknowledgment of Proposed Conservator's Viewing of Film."~~

6.58 NOTICE IN CONSERVATORSHIP PROCEEDINGS

Unless dispensed for good cause, notice of the hearing and a copy of the petition must be served on the conservatee as well as any attorney for the conservatee in all conservatorship proceedings. Notice of hearing shall be given in accordance with the Probate Code.

~~A. **On Petition for Appointment of Conservator.** There is no statutory basis for shortening the time of notice or for dispensing with notice on a petition for the appointment of a conservator.~~

6.60 ACCOUNTS AND REPORTS IN CONSERVATORSHIP PROCEEDINGS

In addition to the requirements set forth in the Probate Code, counsel are reminded and further advised of the following:

A. Inventory and Appraisal. The Inventory and Appraisal (I&A) is due ninety (90) days from appointment.

B. Account and Report. The report accompanying an account shall include a disclosure of any actual or potential conflicts of interest as required by law. If no disclosures are required, the conservator shall include an allegation that no disclosures are required pursuant to Probate Code §§ 2111.5, 2351(d), 2359(c)(2), and 2403(c)(2). The account shall be filed within ~~sixty (60) days~~ (10) weeks of the conclusion of the accounting period.

6.61 SALE OF RESIDENCE BY CONSERVATOR

If the conservator petitions to sell the conservatee's residence, the petition must allege that the conservatee is unable to return to the residence or, if able, that the conservatee agrees to the sale, or that the sale is necessary to generate cash to support the conservatee. The petition shall include the information that the sale has been discussed with the conservatee pursuant to the Probate Code. The report shall include the responses of the conservatee. ~~Where the sale of the conservatee's residence is sought, a copy of the petition must be provided to the Court Investigator at the time of filing the petition.~~

[Rule 5.62 adopted effective 5/1/98; renumbered as Rule 6.62 effective 1/1/22; Rule 6.62 renumbered as 6.61 effective 7/1/24]

6.62 TERMINATION OF CONSERVATORSHIP

A. Resignation of Conservator. Conservators who wish to resign must formally propose a competent successor and file a final accounting, subject to Court approval.

B. Petitions for Appointment of Successor Conservator. Petitions for appointment of successor conservators must be accompanied by a ~~Notification to Court of Address of Conservatee and Conservator and a~~ completed Confidential Supplemental Information Form.

C. Distribution of Assets. The order distributing assets must contain the name of the successor conservator, or, in the event the conservatee is deceased, the name of the personal representative and a list of the assets.

[Rule 5.63 adopted effective 5/1/98; renumbered as Rule 6.63 effective 1/1/22; Rule 6.63 renumbered as 6.62 effective 7/1/24]

6.63 COURT APPOINTED ATTORNEYS FOR (PROPOSED) CONSERVATEE

~~If~~ When necessary, the Court will appoint an attorney to represent a (proposed) conservatee. Attorneys who wish to be considered for appointment may write a letter to the Probate Judge outlining experience and interests that are related to Probate Conservatorship law. Compensation for court appointed attorneys is set by the Probate Court. Compensation will be paid from the estate of the conservatee. If there is no estate or the estate qualifies as a small estate under Probate Code § 2628 then compensation will be paid by the Court.

Upon appointment, attorneys will be furnished with a Court Order. Court appointed attorneys are expected to do the following:

1. *Court Investigator.* Remain in close communication with the Court Investigator.

2. *Personal Visit.* Personally visit the person they have been appointed to represent and to interview other individuals as the case may merit.

3. *Representation As To Conservatorship Only.* Represent the (proposed) conservatee only on the issue of conservatorship. Other legal work, such as wills, real estate transactions, estate transactions, estate planning, tenant disputes, must be approved separately by the Court.

4. *Keep Court Informed.* Inform the Court of the wishes, desires, concerns, and objections, of the (proposed) conservatee.

5. *Disclose Potential Conflicts of Interest.* If the court appointed attorney requests an independent professional fiduciary be appointed, court appointed counsel must disclose if he or she currently represents that professional fiduciary in any other proceeding. This disclosure must be in the form of a declaration filed with the Court. A copy of the declaration must be mailed to persons entitled to notice of the proceedings.

6. *Discharge.* Court appointed attorneys are expected to request discharge from the case at a time deemed appropriate by them and the Probate Court. At that time, the court appointed attorney will petition for discharge and for compensation. A declaration as to the nature and hours of work performed must be included with any petition for compensation. ~~A Court appearance may not be necessary if all parties agree that discharge is appropriate. The matter may be handled ex parte with notice to the conservator and, if conservatee is not deceased, to the conservatee.~~

[Rule 5.64 adopted effective 5/1/98; amended 1/1/14; renumbered as Rule 6.64 effective 1/1/22; Rule 6.64 amended and renumbered 6.63 effective 7/1/24]

6.65 NOTICE REQUIREMENTS CONCERNING TRUSTS

A. Notice Generally. Trust matters brought under sections of the Probate Code applicable to trust (Probate Code §§ 15000-19403) require thirty (30) days' notice.

B. Notice to Trust Beneficiaries. If a personal representative presents an account or petition that affects the interest of a beneficiary of a trust and the representative is either named to act or is acting as the sole trustee, then the Court will require notice to beneficiaries as required by Probate Code § 1208. In appropriate circumstances the Court may require the appointment of and notice to the guardian ad litem for potential beneficiaries if their interest may diverge significantly from those of the beneficiaries in being. This notice requirement applies to both testamentary trusts and pourover wills to an inter vivos trust. The Court requires that a copy of the trust document be lodged with the Court to verify the persons requiring notice or a declaration by the attorney be filed stating the trust beneficiaries entitled to notice.

On termination of a conservatorship if the conservator and the personal representative or trustee are the same person, notice ~~should~~shall be given to the trust beneficiaries.

[Rule 5.66 adopted effective 5/1/98; renumbered as Rule 6.66 effective 1/1/22; Rule 6.66 renumbered as 6.65 effective 7/1/24]

6.66 PETITIONS FOR TRANSFER OF PROPERTY TO TRUST (“~~HEGGSTAD-850~~850 PETITIONS”)

~~**A. Jurisdiction.** Petitions should include an allegation of jurisdiction under Probate Code §§ 17000 et seq. If the trust is administered by a representative of the trustee, then sufficient proof must be provided such as notice by trustee of place of administration under Probate Code § 16061.7.~~

BA. Notice Requirements. Petitions ~~should~~shall include an allegation of those entitled to notice.

~~**CB. Proof of Ownership.** If the assets to be transferred to the trust are not specifically identified in the estate planning documents, then the petition ~~should~~shall provide substantiation that the property was owned by the decedent. For transfer of real property, the deed showing ownership by the decedent must be provided. For accounts or investments, a statement by the financial institution identifying the account number and decedent’s name ~~should~~shall be provided.~~

[Rule 5.67 adopted effective 7/1/10; renumbered as Rule 6.67 effective 1/1/22; Rule 6.67 renumbered as 6.66 effective 7/1/24]

Family

CHILD CUSTODY/VISITATION

7.17 PROCEDURES

A. Initial Child Custody Recommending Counseling. Marin County is a recommending County (Family Code § 3183). Any Request for Order will be referred, through the Clerk’s Office, to Family Court Services of the Marin County Superior Court for orientation and child custody recommending counseling (hereinafter “CCR counseling”). CCR counseling is an opportunity for

parents to work with a child custody recommending counselor (hereinafter “CCR counselor”), either together or separately, in order to create a detailed agreement that suits their children’s specific needs. This agreement will be signed by a judicial officer and become the custody order. Absent an agreement between the parties, the CCR counselor will make a written recommendation for an order of custody and visitation. Such report will be available to each party prior to the hearing. As to the CCR counseling process, the parties are referred to the Child Custody Recommending Counseling Orientation Booklet available through Family Court Services or online at [Family Court Services | Superior Court of California | County of Marin](#) . Both Parents will receive a certified letter, with return receipt requested, advising them of the date, time and location of their appointment. If a parent prefers to receive the appointment letter via email or regular first class mail, they may fill out and deliver Local Form [FL079](#) to Family Court Services.

B. Existence of Criminal Protective Order. When issuing child custody or visitation orders, the family court will make reasonable efforts to determine whether there exists a criminal protective order and/or domestic violence restraining order that involves any party to the action.

C. Documents Provided to the CCR Counselor. Parties shall not submit original documents (e.g. school records, medical records, etc.) to the CCR Counselor. If parties wish to provide documents to the CCR Counselor to be considered in the CCR Counselor’s report and recommendations to the Court, the parties shall provide copies of these documents to the CCR Counselor. The CCR Counselor will not return any such documents to the parties following submittal of the report and recommendations or at any later time. Any documents provided to the CCR Counselor must also be provided to the opposing party at the time they are submitted to the CCR Counselor. Documents shall be submitted to familymediation@marin.courts.ca.gov and copied to the other party and/or their attorney of record.

D. Contact With Family Court Services. *Ex parte* communication in child custody proceedings is governed by Family Code § 216 and CRC 5.235. Parties who submit written communications to Family Court Services regarding issues raised in the Request for Order must provide a copy to the other party at the same time it is provided to Family Court Services.

E. Statement of Agreement/Disagreement with FCS Recommendations. Both parties may file and serve a Statement of Agreement/Disagreement with Family Court Services Recommendations (FL027), which is a Local Form available at Legal Self Help Center, or online at [Local Forms | Superior Court of California | County of Marin](#), at any time before the custody/visitation hearing.

F. Settlement Conferences. Upon the request of either party, or on the Court’s own motion, the Court may set a contested custody/visitation matter for a settlement conference. Both parties are required to appear in person or by remote appearance as determined by the Judicial Officer at the settlement conference and to appear with counsel if ~~he/she is~~they are represented. The Court may, in its discretion, appoint a panel to assist the Court and the parties at the settlement conference. The panel may include attorneys, mediators, and/or mental health professionals. Experience requirements for panelists may be obtained from the Court’s Alternative Dispute

Resolution Coordinator (415-444-7049) or from the Court's website. Any such panelists will be appointed to serve as the Court's own expert pursuant to Evidence Code § 730, and the Court may find good cause to permit the panelists to review Family Court Services' recommendations and other confidential information in the file, pursuant to Family Code § 3025.5.

G. Required Local Forms. The moving party requesting a custody/visitation order or a modification to a custody/visitation order shall attach to any Request for Order, the "Family Court Services Child Custody Recommending Counseling Program" form, (Local Form FL005) which is available at Legal Self Help Center, or online at [Local Forms | Superior Court of California | County of Marin](#). The moving party's proof of service shall indicate that this notice has been served. Petitioners and Respondents with minor children who are referred to Family Court Services for custody and visitation matters are required to ~~shall~~ submit a fully completed FCS Intake Sheet to the ~~Court~~ Court at the time of filing the Request for Order. The Family Court Services Intake Sheet (FL016) is a Local Form available in the Clerk's Office, at Legal Self Help Center, or online at [Local Forms | Superior Court of California | County of Marin](#).

Rule 7.35 Appointment of Elisor.

A. Request for Order. A court order for the appointment of an Elisor must be made by a request for order. The request for order must include at least one supporting declaration with a list of the exact documents the Elisor is being asked to sign. The request must be accompanied by a proposed order.

B. Mandatory Information in Supporting Declaration(s). The supporting declaration(s) must include all of the following:

1. The title, date, page(s) and line(s) of the court order upon which the request to appoint an Elisor is based.
2. A description of the good faith efforts to meet and confer to resolve the issue informally.
3. Specific facts establishing the necessity of the appointment of an Elisor, including the reason, by a person with personal knowledge, why each document requires the Elisor's signature.

C. Mandatory Language in Proposed Order. The proposed order must include all of the following:

1. Designate "The Clerk of the Court or Clerk's Designee" as the Elisor. The order cannot state a name or title of a specific court employee.
2. State the party's name for whom the Elisor is being appointed; the exact title or a sufficient description that accurately identifies each document to be signed; and the capacity in which the Elisor will be signing each document.

D. Mandatory Additional Requirements.

1. Copies of all documents to be signed must be attached to the proposed order.
2. The original documents presented to the Elisor for signing must be identical to the copies of the documents attached to the proposed order.

E. Order Granted.

1. If the court grants the order, the party must contact the ~~business~~-administrative office (Room 116) to schedule an appointment for the actual signing of the documents.
2. If the Elisor is signing documents requiring notarization, the party must arrange for a notary public to be present when the Elisor signs the documents.