

**10.10.00 PROBATE PROCEDURES**

(Effective January 1, 1994)

**10.10.01 PROBATE CALENDAR**

A. PROBATE CALENDAR

The Probate Calendar shall be heard pursuant to the scheduling established by the Superior Court in the department assigned by the Presiding Judge.

B. TENTATIVE RULING SYSTEM – DEPARTMENT ONE

- (1) The Superior Court will operate a tentative ruling system for matters set on the regularly scheduled Probate Calendar. Most matters on this calendar will not be heard on the Probate Calendar date. Only those matters where the tentative rulings mandate appearances will there be oral argument. These will generally be limited to the matters specified in Local Rule 10.10.04. Oral argument in all other matters will not be permitted, unless hearing is requested at the time the matter is scheduled on the Probate Calendar.
- (2) Uncontested matters seeking approval of petitions, reports and accounts will have a ruling granting, denying or a qualified grant or denial. No appearances will be required on these matters and no hearing will be held, if a proposed order is submitted prior to hearing, unless the Court mandates the appearances are required in the ruling.
- (3) Nothing in this rule is to be construed as prohibiting counsel from attending the hearing of the Probate Calendar for any reason, even if their appearance is not required.
- (4) The Tentative Ruling and written rationale can be obtained via the Internet on the El Dorado County Superior Court web page at [www.eldoradocourt.org](http://www.eldoradocourt.org) on the court day preceding the date the matter is set on the Probate Calendar. The written rationale, if appropriate, can be viewed on the web page by clicking on the “Tentative Rulings” link and you will find the Tentative Rulings listed by Department and Calendar date. Simply click on the Tentative Rulings for the assigned Department and then click on the date you wish to view.
- (5) The Tentative Ruling and written rationale, if appropriate, will also be posted outside the assigned department for viewing on the court day preceding the date the matter is set on the Probate Calendar.
- (6) In matters where no oral argument hearing is set in the Tentative Ruling, the Tentative Ruling will become the Order of the Court at the time and date the matter is set on the Probate Calendar, unless oral argument has been requested during the scheduled time for the Probate Calendar and

that request was granted.

- (7) There will be no continuances of matters on the Probate Calendar, nor will a matter be dropped from the Probate Calendar at the request of a party, once a tentative ruling has been released.
- (8) No copies of tentative rulings will be provided to counsel, either in FAX form or in writing.
- (9) If the Court raises questions in the Tentative Ruling and counsel requires clarification of what is required to resolve those questions, then counsel may contact the Court's Judicial Staff Attorney.  
(Revised July 1, 2000)

#### **10.10.02 FILING OBJECTIONS-CONTINUANCES**

Objections to a matter on the probate calendar shall be asserted at the hearing or filed and served by mail on the attorney for the petitioner five days prior to the hearing. If the petitioning party has not been timely served with the objections and is not present at the hearing or requests a continuance, the matter will be continued for one week only. Written objections, if not already filed and served, shall then be filed and served two days prior to the continued hearing date.  
(Effective January 1, 1994)

#### **10.10.03 CONTINUANCES-TELEPHONE REQUESTS**

Unless formal objections have been filed, the petitioning party may request a continuance by telephone to the Court's Calendar Clerk-Placerville, (916) 621-6439; South Lake Tahoe, (916) 573-3079, prior to 3:00pm the day before the hearing. A confirming letter to the Court shall be in the file prior to the hearing.  
(Effective January 1, 1994)

#### **10.10.04 MATTERS REQUIRING APPEARANCES**

The following probate matters require appearance of counsel or parties at the hearing, unless notified by the Court.

- A. Application for appointment of guardian or conservator.
  - B. Termination of guardianship or conservatorship, other than by death of the minor or conservatee, or the minor attaining the age of majority.
  - C. Confirmation of sale of real or personal property.
  - D. Contested matters.
  - E. Other matters at the request of the Court.
- (Effective January 1, 1994)

#### **10.10.05 CONSOLIDATION WITH THE LOWEST NUMBER**

Whenever it appears that two or more Petitions with different numbers have been filed with reference to the same proceeding, the Court will, on its own motion, consolidate all of the matters with the file bearing the lowest number. The file bearing the lower or lowest number will be referred to as the controlling file.

All documents filed after consolidation shall bear the case number of the controlling file. Upon consolidation, the Clerk shall transfer all documents in consolidated files to the controlling file with the exception of a copy of the Order of Consolidation.  
(Effective January 1, 1994)

**10.10.06 PREPARATION OF ORDERS**

An Order or Judgment not presented for signature at the time of the hearing should be presented within five days thereafter and shall include in the first paragraph a recitation of the date of the hearing. Such Order or Judgment shall be dated as of the date heard with an additional blank for the date of the signature.  
(Effective January 1, 1994)

**10.10.07 FORM OF PAPERS PRESENTED FOR FILING**

A. Papers presented for filing with the Clerk of the Court shall conform to California Rules of Court, Rule 201, except that descriptions of assets may be single-spaced within each item.

B. Attorneys shall use applicable Judicial Council forms.

C. The provisions of Rule 4.00.01A shall apply to papers presented for filing in Probate matters.  
(Revised January 1, 1998)

**10.10.08 PROOF OF ROUTINE MATTERS**

The Probate Code requires a verified petition to be received as evidence in an uncontested proceeding. Evidence by written declaration is preferred to oral testimony on the regular calendar.  
(Effective January 1, 1994)

**10.10.09 PREPARING FOR HEARING**

A. All documents that are required to be filed prior to the hearing, e.g., proof of service, proof of publication, proof of subscribing witness, etc., shall bear the hearing date below the title of the document.

B. It is the responsibility of counsel to determine, prior to the hearing, that all necessary proofs of mailing notice, affidavits of publication, receipts, and other evidentiary

matters are on file and that the matter is ready to be heard.  
(Effective January 1, 1994)

**10.10.10 REFERENCES TO PROBATE CODE**

Unless otherwise indicated, all section references are to the Probate Code.  
(Effective January 1, 1994)

**10.10.11 WAIVER OF RULE**

For good cause shown, the Court in probate proceedings may waive the applications of any local rule in a particular case.  
(Effective January 1, 1994)

**10.11.00 NOTICES**  
(Effective January 1, 1994)

**10.11.01 PREPARATION OF NOTICES**

A. The attorney shall prepare all notices required by the Probate Code to be given by the Clerk.

B. All notices required to be published (except the notice required by section 8120) must be captioned with the words "Notice of Hearing" followed by the general nature of the petition.  
(Effective January 1, 1994)

**10.11.02 PROBATE HEARING ONCE NOTICED CANNOT BE ADVANCED**

When a hearing on a probate matter has been noticed, or when it has been noticed and continued to a definite date, the matter cannot be heard before the date set, regardless of the filing of a new petition, an amended petition, a new notice, or otherwise.  
(Effective January 1, 1994)

**10.11.03 REQUIREMENTS FOR GIVING NOTICE OF PROBATE OF WILL**

The Notice of Hearing of a petition for probate of will is sufficient notice respecting all instruments which are offered for probate in the Petition for which the Notice of Hearing is given. If any other instruments, e.g., alleged wills or codicils not mentioned in the Petition, are presented to the court by way of an amended petition, a second petition, or otherwise, a new notice thereon must be given setting a date of hearing not earlier than the date set in the original notice.  
(Effective January 1, 1994)

**10.11.04 SUBSTITUTED SERVICE**

A. Where personal service is required by the Probate Code or these rules, substituted service may only be used with the court's prior approval.

B. Substituted service by publication will not be authorized by the court until an affidavit or declaration of the failure of attempted service by other methods of substituted service has been filed.

(Effective January 1, 1994)

**10.11.05 ADDITIONAL NOTICE IN COURT'S DISCRETION**

Under the provisions of section 1202, the Court may require additional notice in any matter. Ordinarily, such notice will be required whenever it appears that the interest of any person may be adversely affected by the determination of the issue raised by the pleading.

(Effective January 1, 1994)

**10.11.06 POSTED NOTICE**

When Clerk's posted notice is required, a completed Judicial Council form of Notice of Hearing together with all necessary copies shall be filed concurrently with the petition.

(Effective January 1, 1994)

**10.12.00 APPOINTMENT OF EXECUTORS AND ADMINISTRATORS**

(Effective January 1, 1994)

**10.12.01 SPECIAL LETTERS, NOTICE, AND APPOINTMENT**

A. An ex parte petition for special letters of administration ordinarily will not be granted without notice to the surviving spouse, the person nominated as executor, any other person having priority, and any other person the court determines to be equitably entitled to notice.

B. When appointing a special administrator, preference will be given to the person entitled to letters testamentary or of administration. If it appears that a bona fide contest exists between these persons, the Court will consider the appointment of a neutral party as special administrator.

(Effective January 1, 1994)

**10.12.02 CORPORATE AND INDIVIDUAL CO-REPRESENTATIVES**

A corporate representative cannot assume responsibility for the acts of its individual co-representative who must provide bond as required by law. Any deposit made under the provisions of the Financial Code for the purpose of reducing bond must be made jointly by the corporate and individual co-representatives.

(Effective January 1, 1994)

**10.12.03 AMOUNT OF BOND**

A. Notwithstanding discretion under Probate Code section 8482, the court will ordinarily fix bond in an amount equal to the sum of the estimated value of the personal property and the probable annual gross income of the estate. The Court will also include the estimated net value of real property if full authorization for independent administration of the estate is granted.

B. If the bond is insufficient at any time, the party or his attorney shall immediately obtain and file an additional bond to make the amount of the bond sufficient. The amount of the bond is sufficient if it equals or exceeds the sum of the estimated value of personal property and the probable annual gross income of the estate not including property deposited in accounts from which withdrawals require court authorization. If full authorization under the independent administration of estate has been granted, a sufficient bond shall also include the estimated net value of real property.

(Effective January 1, 1994)

**10.12.04 INVENTORY SHALL STATE SUFFICIENCY OF THE BOND**

The attorney for a party filing an inventory and appraisal, or the party if not represented by an attorney, shall complete the Judicial Council Form concerning the sufficiency of the bond and shall assure compliance with the provisions of Rule 303 if the bond is insufficient.

(Effective January 1, 1994)

**10.12.05 WAIVER OF BOND**

A. When a verified Petition for letters testamentary or of administration alleges that all beneficiaries or heirs have waived bond and the Petition requests appointment without bond, such waivers shall be in writing and filed prior to the hearing on the Petition.

B. If the person seeking letters of special administration is a person nominated in the will as executor and the will waives bond as to that person, then no bond will ordinarily be required of that person acting as special administrator.

C. When a will waives bond as to named co-executors and not all of those named are appointed, the remaining co-executor(s) must post bond in absence of any express provision in the will to the contrary unless waived by the heirs and devisees.

(Effective January 1, 1994)

**10.12.06 DEPOSIT OF PERSONAL PROPERTY FOR REDUCTION OF BOND**

When an Order restricting withdrawals and reducing bond is obtained under Probate Code section 8483, a receipt of the depository acknowledging the restrictions on withdrawal must be filed within 10 days of the Order or if the property to be deposited is not then in the possession of the personal representative, within 10 days of receipt of the property by the personal representative. The Court shall continue the matter on calendar to confirm filing of the receipt of the depository.

(Effective January 1, 1994)

**10.12.07 DISTRIBUTION OF PROPERTY HELD BY DEPOSITORY**

Unless the Judgment distributing cash or other personal property held pursuant to section 8483 or section 9701 directs the depository to pay the funds or distribute the property so held to the distributees, additional bond to comply with section 8480 must be furnished.  
(Effective January 1, 1994)

**10.12.08 MULTIPLE REPRESENTATIVES**

When multiple representatives are appointed by an Order, which directs that "letters shall issue to them," the Clerk will not allow less than all to qualify.  
(Effective January 1, 1994)

**10.12.09 PROOF OF WILLS BY AFFIDAVIT OR DECLARATION**

A. The Court prefers that both formal witnessed wills and holographic wills be proven by affidavit or declaration rather than by testimony.

B. Proof as to the admissibility of each testamentary document must be submitted; except that in the event there is a codicil, which expressly republishes the will, proof of the execution of the codicil may be deemed sufficient.

C. The copy of the will attached to the proof of subscribing witness must be certified by the attorney of record or by endorsement of the Clerk of the Court.

D. Self-proving wills need no additional proof unless requested by the Court.  
(Effective January 1, 1994)

**10.12.10 COPY OF WILL TO BE ATTACHED TO PETITION FOR PROBATE**

A. A petition for probate of will or for letters of administration with the will annexed must have a photocopy of the will attached at the time of filing the petition.

B. If the will is handwritten, a typewritten copy of the will must also be attached to the Petition.  
(Effective January 1, 1994)

**10.12.11 PETITION FOR LETTERS WHERE BOND IS REQUIRED**

A petition for letters where bond is required must set forth sufficient information to form a basis for fixing bond. This includes information regarding encumbrances on real property where full powers under the Independent Administration of Estates Act are sought.  
(Effective January 1, 1994)

10.12.12 LISTING HEIRS, DEVISEES, EXECUTORS AND FIDUCIARIES IN  
PETITIONS

Petitions for letters testamentary or of administration shall include a list of the names of the following persons:

- A. All named executors, including alternate executors;
- B. All heirs and devisees, including:
  - (1) Deceased and contingent devisees except those contingent devisees whose interests have been clearly precluded by survivorship provisions in the will.
  - (2) Devisees shall be listed even if the interests of such persons appear to have been revoked by a subsequent will or codicil.
  - (3) Persons who are potentially intestate heirs under Probate Code sections 6147, 6402.5, and 6408. This includes persons whose interests are dependent on characterization of property as community or separate.
- C. Fiduciaries named in a will or codicil presented for probate, including all nominees as trustee, guardian, or alternates thereof.

(Effective January 1, 1994)

**10.12.13 AGE, ADDRESS AND RELATIONSHIP**

The Petition shall also include the following with respect to persons required to be named in Rule 10.12.12:

- A. The address, including the residence number, street, city, state, and zip code, or post office box number customarily used for residence mailing purposes;
- B. The relationship of the person to the decedent;
- C. The age of the person; except that a person over the age of 18 may simply be designated as an adult unless the person's age is relevant to the person's interest in the estate.

(Revised July 1, 1996)

**10.12.14 NOTICING PERSONS LISTED IN PETITIONS FOR ADMINISTRATION**

All persons listed in the Petition pursuant to Rule 312 shall be given notice of the Petition for letters of administration or letters testamentary.

(Effective January 1, 1994)

**10.12.15 INFORMATION REQUIRED OF PERSONAL REPRESENTATIVES UPON  
ACKNOWLEDGEMENT OF DUTIES**

The driver's license numbers of personal representatives (other than public officers or trust companies) shall be provided in the receipt of the acknowledgement of duties and liabilities required by section 8404. These numbers shall be kept confidential and shall not be made available for public inspection without a court order.  
(Effective January 1, 1994)

**10.13.00 MOTIONS, PETITIONS, AND ORDERS**  
(Effective January 1, 1994)

**10.13.01 CAPTIONS**

The caption in each Petition or Motion filed in a probate matter shall identify each matter requiring action by the Court.  
(Effective January 1, 1994)

**10.13.02 WAIVER OF SPECIAL NOTICE REQUIRED FOR EX PARTE ORDERS**

If a special notice has been requested, waiver thereof must accompany the application for an Ex parte Order as to a matter covered by section 1250 et seq.  
(Effective January 1, 1994)

**10.13.03 PETITION TO SUPPORT EX PARTE ORDER**

An Ex parte Order will not be granted unless accompanied by a petition, affidavit, or declaration (where applicable) in support thereof.  
(Effective January 1, 1994)

**10.13.04 ORDERS TO BE COMPLETE IN THEMSELVES**

All orders and judgments in probate matters must be complete in themselves. All matters actually passed on by the Court, including the relief granted, the names of persons and descriptions of property (including assessor's parcel number and specific legal description), amounts of money affected, the terms of trusts, and the provisions of leases or other agreements must be set forth with the same particularity that is required in judgments in civil matters.  
(Effective January 1, 1994)

**10.13.05 NUNC PRO TUNC ORDERS CORRECTING CLERICAL ERRORS**

A. If, through inadvertence, the Minute Order or the signed decree fails to state the order actually made by the Court, the Court will, on motion, make a nunc pro tunc order correcting the mistake. Such a motion must normally be supported by an affidavit or declaration.

B. If the nunc pro tunc order does not take the form of a completely amended order reflecting its nunc pro tunc character, it should be substantially in the following form:

"On motion to correct a clerical error, the (identify the order to be corrected, giving the title and date thereof) is corrected by striking the following: (here set out the matter to be eliminated) and by inserting in lieu thereof the following: (here set out the correct matter)."

C. To prevent errors, not less than a complete clause or sentence should be stricken, even if it is intended only to correct one word or a figure.  
(Effective January 1, 1994)

**10.13.06 ORDERS FOR FAMILY ALLOWANCE**

A. If made before the filing of the inventory, a Petition for family allowance for persons described in section 6540(a) may be presented ex parte to the Court. Ordinarily, the Order will be made for a period commencing with the date of death and continuing until the inventory is filed, but not to exceed six months. When the petitioner is not the personal representative, consent to the allowance or a waiver of notice by the personal representative must accompany any ex parte petition.

B. If the application is made more than six months after date of death or is a petition for a second or additional allowance, it should be noticed and placed on the calendar. Such subsequent order will be limited to a definite period, usually not to exceed 12 months.

C. The person seeking an allowance shall set forth such person's income from sources outside the estate, as well as an itemization of the applicant's separate property and monthly expenses, and shall make an appropriate showing of the assets and liabilities of the estate.  
(Effective January 1, 1994)

**10.13.07 WITHDRAWAL OF ATTORNEY OF RECORD**

A. If an attorney wishes to withdraw as attorney of record in a probate proceeding, the attorney must have a citation issued and personally served directing the representative to appear before the Court to show cause why the petition or motion should not be granted.

B. All Motions or Petitions to withdraw as counsel must contain an affidavit or declaration stating the client's last known address. Whenever the affidavit or declaration shows that counsel is unable to locate the client, after making diligent effort, the client must be served in compliance with Code of Civil Procedure section 1011, subdivision 2. Simply mailing the notice to the client's address in the file will not be sufficient.

C. Motions for withdrawal of the attorney require service of the Notice of Hearing and Petition by mail as follows:

- (1) In decedent's estate proceedings, 15 days by mail to all heirs and devisees and to all persons having requested special notice;
- (2) In conservatorship or guardianship proceedings, 15 days by mail to all persons who are required to be noticed in the petition for appointment and to all persons having requested special notice.

**10.13.08 ESCHEAT PETITIONS**

A. A genealogy chart must be attached to the Petition showing the relationship of the claimant to the decedent and all heirs of the decedent, including deceased heirs who have or would have had standing to inherit equal to or greater than that of the claimant.

B. A copy of the decree of distribution must be attached to the Petition.

C. All documentary evidence in support of the Petition must be on file at the time the matter is calendared for hearing.

D. In the absence of satisfactory proof that the petitioner(s) has (have) sole entitlement to the escheated property, payment of all of the property shall not be ordered until after expiration of the time to file claims.  
(Effective January 1, 1994)

**10.13.09 LODGING OF ORIGINAL WILL & PROOF IN SUMMARY PROCEEDINGS**

A. In any proceedings pursuant to Probate Code sections 13150, 13200, and 13650, wherein the successor in interest is determined by a will, the Court will require proof that the original will is on file with the Clerk of the Court (Probate Code, § 8200).

B. Proof of the will in the above proceedings must be submitted in conformance with the requirements of Probate Code section 8220 et seq.  
(Effective January 1, 1994)

**10.14.00 CREDITORS' CLAIMS**

(Effective January 1, 1994)

**10.14.01 CLAIMS OF EXECUTORS AND ADMINISTRATORS FOR PERSONAL SERVICES**

Where the claim is for \$1,000, or more, the claim of a personal representative, based on personal services rendered to the decedent, will not be approved by the Court until a hearing has been held. At least 15 days' notice thereof shall be given to all affected beneficiaries and heirs. (Effective January 1, 1994)

**10.14.02 APPROVAL OF FUNERAL CLAIMS**

A. Funeral expenses (including the cost of interment, interment plot, endowment care, and a suitable monument) proportionate to value of decedent's assets, and in keeping with the standard of living adopted by the decedent prior to his or her death, or as provided in the will, will be approved by the Court. The burden of proof as to the reasonableness of the claim for funeral expenses is on the personal representative.

B. When interest has been paid in connection with the delayed payment of a claim for funeral expenses, a specific reason for the delay must be made in the report accompanying the account in which credit for such payment has been taken. (Effective January 1, 1994)

**10.14.03 REPORT ON CLAIMS**

In a report accompanying an account, or in a report where an accounting is waived, it is not sufficient to allege merely that all claims have been paid. All information required by Probate Code section 10900 with respect to liabilities of the estate must be set forth in full. The following information shall be included:

A. A list of the claims filed or presented showing as applicable: (1) the name of each claimant; (2) the amount claimed; (3) the date that notice of administration was mailed to the claimant; and (4) the dates that the claim was presented, filed, allowed or rejected, and paid.

B. The status or disposition of any lawsuits on rejected claims.

C. Whether notice was mailed to known creditors within four months of the issuance of letters (§ 9050), and the disposition of any known debts as to which the notice was not mailed.

D. If creditors were paid without timely filed claims (§9150), allegations whether written demand was made within four months of the issuance of letters, the payment was made within 30 days after that period, the estate is solvent, and the debt was justly due and paid in good faith for the true amount.

E. Whether notice was required and given to the Director of Health Services (§ 9202). (Effective January 1, 1994)

**10.14.04 PROOF OF SERVICE ON REJECTED CLAIMS**

Proof of service of the rejection of any claim under Probate Code section 9250 must also be filed with a copy of the notice of rejection.

(Effective January 1, 1994)

**10.15.00 SALES**

(Effective January 1, 1994)

**10.15.01 REAPPRAISAL OF REAL PROPERTY FOR SALE**

In a decedent's estate, if the date of death is more than one year prior to the date of the hearing for confirmation of sale, a reappraisal for sale by the probate referee is required with a valuation date within one year of the hearing in compliance with Probate Code section 10309.

(Effective January 1, 1994)

**10.15.02 BOND ON SALE OF REAL PROPERTY**

A petition for confirmation of sale of real property should set forth the amount of bond, if any, in force at the time of the sale and the amount of any additional bond required by reason of the receipt of the proceeds of the sale. If no additional bond is required, or if bond is waived, such fact should be alleged.

(Effective January 1, 1994)

**10.15.03 BROKER'S COMMISSION ON SALE OF REAL PROPERTY**

Upon the confirmation of the sale of real property, a broker's commission in excess of the amounts set forth in the following schedule will not be allowed:

|                     |     |
|---------------------|-----|
| Improved property   | 6%  |
| Unimproved property | 10% |

(Effective January 1, 1994)

**10.15.04 LISTING AGREEMENT**

Statutory provisions concerning listing agreements for the sale of real property are set forth at Probate Code section 10150 et seq. A petition for authorization to enter into a listing agreement submitted for court approval must be accompanied by a copy of the proposed agreement. Personal representatives with authority under the Independent Administration of Estates Act need not submit proposed listing agreements to the Court for approval.

(Effective January 1, 1994)

**10.15.05 NOTICE AND HEARING ON CONFIRMATION OF SALE OF REAL  
PROPERTY**

A. The notice of sale of real property should normally call for "cash or such credit terms and conditions as the personal representative and the court may approve."

B. All terms and conditions of the sale must be set forth in the return of sale.

C. Notice of the hearing and the petition for confirmation of sale shall be served by mail on the proposed purchaser(s) at least 15 days prior to the hearing.

D. In conservatorship and guardianship estates, notice of hearing and the petition for confirmation shall be served by mail on the conservatee or ward, if 14 years of age or older, at least 15 days prior to the hearing unless notice is dispensed with by the court.

E. Counsel must appear at all confirmation hearings.

F. A 10% deposit in the form of cash or certified check must be submitted at the hearing in order for a person to bid on real property.  
(Revised July 1, 2005)

**10.15.06 SALE OF SPECIFICALLY DEvised PROPERTY**

On a sale of specifically devised real or personal property, 15 days' notice of the time and place of hearing of the petition for confirmation must be given to the devisee, or his or her consent to such sale must be filed.  
(Effective January 1, 1994)

**10.15.07 SALES OF SECURITIES PURSUANT TO SECTION 10200**

If securities are "closely held" or are not traded on an established stock or bond exchange, the Petition should state the basis (by appraisal or otherwise, in the discretion of the Court) for fixing the minimum sales price.  
(Effective January 1, 1994)

**10.16.00 - 10.16.09 RESERVED FOR FUTURE USE**

**10.17.00 ACCOUNTS, FEES AND DISTRIBUTION**

(Effective January 1, 1994)

**10.17.01 FORM OF ACCOUNT**

A. Every account (including decedents' estates, guardianships, conservatorships, and trusts) shall contain the following data: receipts, gains on sales, disbursements, losses on sales, other credits, and a detailed list of property on hand. The schedules of receipts and disbursements shall show for each item: (1) the date of each transaction; (2) the identity of the payer or payee; (3) the nature or purpose of each transaction; and (4) the amount received or disbursed.

B. The schedule of receipts for the account must clearly identify each reported item of income.

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C. The schedule of gains and losses must reflect all sales, even if the items are sold at no gain or loss.

D. The period of the account shall be expressly stated in the account.

E. Inter-account transfers or capital changes should not be reflected as receipts or disbursements.

Each account shall also contain a recapitulation or summary in substantially the following form:

SUMMARY OF ACCOUNT

Petitioner is chargeable and is entitled to credit as set forth in this summary of account:

CHARGES

|                                                                                                              |                 |
|--------------------------------------------------------------------------------------------------------------|-----------------|
| Amount of inventory and appraisalment<br>(or if subsequent account, amount<br>chargeable from prior account) | \$ _____        |
| Receipts During Accounting Period (Schedule A)                                                               | \$ _____        |
| Gains on Sales (Schedule B)                                                                                  | \$ _____        |
| Other Charges (Schedule C)                                                                                   | \$ _____        |
| <b>TOTAL CHARGES</b>                                                                                         | <b>\$ _____</b> |

CREDITS

|                                                        |                 |
|--------------------------------------------------------|-----------------|
| Disbursements During Accounting Period<br>(Schedule D) | \$ _____        |
| Losses on Sales (Schedule E)                           | \$ _____        |
| Other Credits (Schedule F)                             | \$ _____        |
| Property on Hand (Schedule G)                          | \$ _____        |
| <b>TOTAL CREDITS</b>                                   | <b>\$ _____</b> |

(Effective January 1, 1994)

**10.17.02 INVESTMENT PERFORMANCE INFORMATION**

A. This rule shall apply only to conservatorship, guardianship, and trust estates which have an estimated fair market value of \$100,000, or more, exclusive of any residence in which a conservatee, ward, or beneficiary resided for at least one-half of the term of the accounting.

B. The schedule of the property on hand at the end of the accounting period must reflect both the carried value and the estimated market value of all assets (a good faith estimate of value will suffice; formal appraisals are not required).

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C. The report shall include the rate of return on each investment in excess of \$10,000.  
(Effective January 1, 1994)

10.17.03 WAIVER OF ACCOUNT (DECEDENTS' ESTATES)

A. The detailed accounting may be waived when all residuary beneficiaries and other distributees whose interests may be affected by the account have waived the accounting. Such waiver shall be in writing and filed with the Court either as part of the Petition or separately.

B. Even though an account has been waived, the report must set forth any gain or loss on sale of property.  
(Effective January 1, 1994)

**10.17.04 COMPENSATION MUST BE STATED**

A. In a petition for distribution, whether or not accompanied by an accounting, there shall be a calculation of the statutory compensation of the personal representative and the attorney.

B. Use of a schedule in substantially the following form is recommended:

AMOUNT OF ESTATE ACCOUNTED FOR AND COMPUTATION OF  
STATUTORY FEES AND COMMISSIONS

| Amount of Estate Accounted For                 |                 |
|------------------------------------------------|-----------------|
| Inventory and appraisalment                    | \$ _____        |
| Receipts during accounting period (Schedule A) | \$ _____        |
| Gains on sales (Schedule B)                    | \$ _____        |
| <b>TOTAL</b>                                   | <b>\$ _____</b> |
| Less Losses on sales (Schedule D)              | \$ _____        |
| <b>TOTAL ESTATE ACCOUNTED FOR</b>              | <b>\$ _____</b> |

Computation of Statutory Fees and Commissions

|                                        |             |
|----------------------------------------|-------------|
| Four percent (4%) on first \$15,000.00 | \$ 600.00   |
| Three percent (3%) on next \$85,000.00 | \$ 2,550.00 |
| Two percent (2%) on next \$900,000.00  | \$18,000.00 |
| One percent (1%) on excess             | \$ _____    |

**TOTAL**    \$\_\_\_\_\_

C.     When an account has been waived, computation of commissions and fees shall be based on the inventory values plus gains and less losses. Receipts will not be considered in the computation of commissions and fees unless a schedule of receipts is submitted in the report.  
(Effective January 1, 1994)

**10.17.05     ALLOWANCE ON ACCOUNT OF COMPENSATION**

An allowance on account of compensation shall be in accordance with the work actually completed. Until the final account is settled, the total amount of statutory compensation cannot be fixed, and any allowance made prior to that time must be low enough to avoid the possibility of overpayment.

Except for good cause shown, the last 25 percent of the statutory compensation will not be allowed prior to the approval of the final account and the judgment of distribution. Notice of hearing of petition for allowance on account of compensation must be given as required by section 10830.

(Effective January 1, 1994)

**10.17.06     COMPENSATION FOR EXTRAORDINARY SERVICES**

A.     In an application for compensation for extraordinary services, the title of the Petition and the Notice of Hearing shall include a reference to the request. A description of the nature of the services, time expended thereon, and amount of compensation requested for each service shall be included. In some instances, the court may require additional detailed documentation showing for each date the service performed and the time expended.

B.     Notice of the petition for compensation for extra services must be given as required by sections 10830 and 10831.

C.     Services rendered with respect to termination of joint tenancies are not the subject of extraordinary compensation, except when the decedent was the surviving joint tenant.

(Effective January 1, 1994)

**10.17.07     FEES OR COMMISSIONS TAKEN IN ADVANCE**

A.     Commissions and fees in decedent's estates, guardianships, and conservatorships shall not be paid from the estate prior to court authorization.

B.     In trusts subject to continuing court jurisdiction, trustees' fees shall not be paid prior to court authorization unless payment without prior court order is expressly authorized in the trust instrument. The Court may prospectively authorize a trustee to take fees quarterly but not in a total amount exceeding three quarters of the expected annual fees. Under no circumstances shall trustees' fees be paid prior to performance of the services to which they relate.

(Effective January 1, 1994)

**10.17.08 COSTS**

The cost of long distance telephone calls and unusual amounts of photocopies and postage, if properly itemized, shall be allowed as costs of administration.  
(Effective January 1, 1994)

**10.17.09 DESCRIPTION OF PROPERTY DISTRIBUTED**

A. The Petition for distribution, as well as the Judgment of distribution, shall list and describe all property, including the assessor's parcel number and specific legal description of real property to be distributed. In case of intestacy: (1) where the decedent leaves a surviving spouse, the petition shall allege whether the property is community or separate; and (2) where distribution is to be made pursuant to section 6402.5, the source of the property shall be alleged.

B. A supplemental account must be presented if assets in excess of \$1,000 or more are withheld from initial final distribution, unless the account has been waived.  
(Effective January 1, 1994)

**10.17.10 PETITION TO INCLUDE PROPOSED DISTRIBUTION**

Details of the proposed distribution shall be set forth either in the body of the petition or by attachment. Terms of the will as to disposition of property and what is to be distributed under the laws of intestate succession shall be set forth.  
(Effective January 1, 1994)

**10.17.11 AGREEMENTS FOR DISTRIBUTION**

A. 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 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.

B. A minor distributee or other distributee under disability 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.  
(Effective January 1, 1994)

**10.17.12 DISTRIBUTION TO MINORS**

A. The Court will permit distribution of personal property to parents of a minor, if the minor is entitled to receive the property under the provisions of section 3401. The decree should indicate that the distribution is made pursuant to section 3401. An affidavit or declaration complying with the terms of section 3401, or an appropriate order under section 3401, must be on file prior to signing the decree.

B. In all other cases, the property must be distributed to the minor with a direction in the decree that the property be distributed, pursuant to section 3410 et seq., to the legal guardian

of the minor or a duly appointed custodian under the California Uniform Transfers to Minors Act. The guardian, custodian, or depository shall sign the distributee's receipt.  
(Effective January 1, 1994)

**10.17.13 DOCUMENTS TO BE ON FILE BEFORE HEARING FOR DISTRIBUTION**

Where a guardian of a minor must be appointed, or affidavits or declarations are required under section 3401 or Probate Code section 13101, or proceedings are had under section 3410 et seq., the guardian must be appointed or such affidavits or declarations, or a certified copy of the order made under section 3410 et seq., and rule 1008 shall be filed prior to the hearing on the petition for distribution. When distribution is to be made to a testamentary trustee, the consent of the trustee to act must be filed prior to the hearing on the petition for distribution.  
(Effective January 1, 1994)

**10.17.14 PETITION FOR FINAL DISTRIBUTION**

A. Petitions for final distribution must include a report of the following:

- (1) The character of all assets as separate or community where there is a surviving spouse;
- (2) All capital transactions and other actions taken under the Independent Administration of Estates Act, including the amounts of any gains or losses;
- (3) Disclosure of liabilities and other matters necessary to show the condition of the estate (§ 10900);
- (4) Allegations in compliance with Rule 503 (Report on Claims); Rule 706 (Compensation Must be Stated); Rule 711 (Description of Property Distributed); and Rule 712 (Petition to Include Proposed Distribution);
- (5) That no federal or California estate taxes are payable or that they have been paid;
- (6) That income taxes and all other taxes (e.g., supplemental real property or personal property taxes, if any) have been paid or otherwise provided for;
- (7) Whether surplus cash was kept in interest-bearing accounts (§ 2624).

B. If estate taxes are payable or paid: (1) the Petition shall set forth whether said taxes were prorated pursuant to Probate Code section 970/20100 et seq. or the provisions of the will; and (2) the Petition must reflect whether or not there are non-probate assets includable in the gross estate for estate tax purposes.  
(Effective January 1, 1994)

**10.17.15 SPOUSAL PROPERTY ELECTION**

Formal probate of community, quasi-community, or separate property passing or confirmed to a surviving spouse in a decedent's estate pursuant to section 13502 must be supported by a written election expressly indicating a consideration of the alternative procedures available pursuant to section 13650. Written elections pursuant to Probate Code section 13502 shall contain an express acknowledgement that the inclusion of property passing to or belonging to the surviving spouse in the probate estate could result in additional appraisal fees, commissions, and attorney fees.

(Effective January 1, 1994)

**10.18.00 JOINT TENANCIES AND LIFE ESTATES**

(Effective January 1, 1994)

**10.18.01 PROCEEDINGS MUST BE IN NAME OF DECEDENT**

A petition to establish the fact of death must be filed in the name of the deceased person whose interest has been terminated.

(Effective January 1, 1994)

**10.18.02 SEPARATE PETITION PREFERRED**

Section 202 authorizes a petition to establish fact of death to be included in a verified petition for probate of will or for letters of administration. However, attorneys are encouraged to file a separate petition under the same number in order to avoid administrative difficulties. No such separate petition may be filed after the filing of a petition for final distribution; and, if a petition to establish fact of death is then filed, it should be in a new proceeding under a new number.

(Effective January 1, 1994)

**10.19.00 GUARDIANSHIPS AND CONSERVATORSHIPS--GENERAL PROVISIONS**

**10.19.01 APPOINTMENT OF TEMPORARY GUARDIAN OR CONSERVATOR**

A. On or after filing a petition for appointment of a guardian or conservator, any person entitled to be a guardian or conservator may be appointed as temporary guardian or conservator of the person or estate or both. An endorsed copy of the Petition for appointment of a general guardian or conservator shall be submitted with the application for a temporary guardian or conservator.

B. An endorsed copy of the Petition for Temporary Guardian or Conservator shall be served upon the court investigator along with a citation appointing the court investigator to conduct an investigation regarding guardianship (local form available) or conservatorship (Judicial Council Form GC-330).

C. Requests to dispense with notice of a temporary guardianship or conservatorship petition under section 2250 shall be supported by a written declaration setting forth with specificity all facts showing good cause therefor. If a noticed hearing is required the Court will set the matter for hearing.

D. The Judicial Council form Notice of Hearing and a copy of the Petition shall be personally served at least five days before the date of hearing on the conservatee or on the minor, if the minor is 14 or older. If the Petition is by a person other than a parent, and if a parent or parents of the minor is or are living, notice of hearing and a copy of the petition should be served personally on such parent or parents at least five days before the date of hearing. The Court may require notice to other persons or may waive notice for good cause.

(Effective January 1, 1994)

#### **10.19.02 GUARDIAN'S AND CONSERVATOR'S BONDS**

A. Except when the provisions of section 2323 apply, the policies of the Court with reference to bonds in decedents' estates set forth in rules 10.12.03 and 10.12.06 shall be followed in guardianship and conservatorship proceedings. Under section 2323, the Court may dispense with the requirement of a bond.

B. If assets are ordered blocked, a written receipt shall be obtained from the depository acknowledging that principal and earnings shall not be withdrawn without prior court order. The receipt will be filed within 10 days of deposit. The Court shall set a hearing to determine that the deposit has been made and the receipt filed.

(Effective January 1, 1994)

#### **10.19.03 ALLOWANCE OF FEES IN GUARDIANSHIPS OR CONSERVATORSHIPS**

A. The guardian or conservator or the attorney for the guardian or conservator may petition the court to determine fees in the manner authorized by section 2640 et seq. The Petition shall specify the services rendered and the fees requested. The title of the Petition embodying such application and the notice of hearing shall include a reference to the request.

B. The Petition shall include a description of the services, time expended, and requested compensation for each service. The Court may require additional detailed documentation showing for each date the services performed and the time expended.

(Effective January 1, 1994)

#### **10.19.04 INVESTMENT BY GUARDIAN OR CONSERVATOR**

A. The standard set out in section 16040 (providing for investments by trustees) will be the standard applied by the Court in authorizing proposed investments by guardians or conservators. The Court does not act as an investment counselor but suggests that investments should be prudent and in keeping with the size and character of the ward's or conservatee's estate.

Investments in existence at the time of the creation of the guardianship or conservatorship usually may be maintained.

B. The Court will not ordinarily authorize the investment of the ward's or conservatee's funds in unsecured loans, secured loans to a near relative, bonds, or obligations of foreign governments or corporations, or debenture bonds except those which are part of a large issue, well-seasoned, and readily marketable.

C. Investments in real estate, either by purchase or encumbrance, will not be authorized unless supported by an appraisal by the probate referee regularly appointed in the guardianship or conservatorship estate. It is preferred that the guardian or conservator be authorized to purchase real estate for cash only.

D. Purchase of life insurance on the minor ward's life will not ordinarily be authorized.

(Effective January 1, 1994)

#### **10.19.05 INVESTMENT PERFORMANCE REPORT**

Each accounting of a guardian or a conservator shall be accompanied by a report containing the guardian's or conservator's investment objectives and results with reference to the needs of the ward or conservatee and shall explain why the estate suffered any loss or held unproductive property. (See rule 10.17.02)

(Effective January 1, 1994)

#### **10.19.06 WAIVER OF ACCOUNT**

A. If Section 2628 (public benefit payments) is applicable, the guardian or conservator may petition the Court for an order dispensing with accounts. Ex parte petitions pursuant to section 2628 will not be granted.

B. A final report setting forth the assets on hand shall be filed upon termination of a guardianship or conservatorship even when accounts have been waived.

(Effective January 1, 1994)

#### **10.19.07 ADDITIONAL POWERS**

On the petition of the guardian or conservator at the time of appointment or later, the Court may grant additional powers to the guardian or conservator as authorized by sections 2590 and 2591. Such powers are not automatically granted; and, when requested, sufficient reasons must be shown for their necessity. The Court will grant only those additional powers necessary or proper under the specific circumstances of each case. Any powers so granted must be set forth at length in the order and in the Letters of Guardianship or Conservatorship.

(Effective January 1, 1994)

#### **10.19.08 ACCOUNTS**

A. The first account shall be filed on or before the anniversary date of the order appointing the guardian or conservator; and subsequent accounts shall be filed at least biennially thereafter. The first account shall be for a minimum period of nine months from date of appointment.

B. Where there are multiple wards joined in a single guardianship proceeding, an account shall reflect a separate accounting for each of the respective wards.

C. Along with each account, the current address of the conservatee and conservator, or guardian and ward shall be filed with the Court.

(Effective January 1, 1994)

#### **10.19.09 IDENTIFYING NUMBERS**

Driver's license number of the conservator, conservatee, guardian, or ward shall be presented to the Probate Investigator's Office on request. Social Security number may be requested provided the individual is informed that disclosure is voluntary. These numbers are to be used by the Investigator's Office for the performance of investigatory duties only and will not be disclosed to third persons without prior court authorization.

(Effective January 1, 1994)

#### **10.19.10 CONSERVATORSHIP HANDBOOK AND VIDEO PRESENTATION OF CONSERVATOR'S DUTIES**

Prior to the hearing on a conservatorship petition, the proposed conservator shall verify in writing that he or she has viewed the 1991 videotaped presentation prepared by the Sacramento County Superior Court on the duties and responsibilities of conservators. This video presentation is available in the court's library facility for viewing during the regular court business hours. The requirement of this rule may be dispensed with if the attorney for the proposed conservator so requests and certifies in writing that the duties and responsibilities of the conservator have been fully explained to the proposed conservator. The conservator shall also purchase the Conservator Handbook available from the Court Clerk's Office and certify in writing that he or she has read the book.

(Effective January 1, 1994)

#### **10.20.00 GUARDIANSHIPS OF MINORS**

(Effective January 1, 1994)

#### **10.20.01 APPOINTMENT OF GUARDIAN OF MINOR**

A. The attorney for the petitioner shall be responsible for the mailing of all required notices. If there are no relatives within the second degree, the Petition shall so allege. A copy of the Petition shall accompany each notice of hearing.

B. At the time of filing the petition for appointment, the attorney for the petitioner shall file a notification to the court of address on conservatorship or guardianship.

C. All petitions for appointment shall be set for hearing no sooner than 30 days after filing.

D. There shall be no ex parte appointment of a permanent guardian.

E. Petitions for guardianships shall contain an allegation as to whether or not the minor(s) has been or is a party to a civil action in which monetary damages are claimed. If the minor(s) is such a party, the file number of the action must be indicated, as well as the name of the county in which the case is pending.

(Effective January 1, 1994)

**10.20.02 HEARING ON PETITION FOR APPOINTMENT OF GUARDIAN OF NON-RELATIVE MINOR**

A petition for appointment of guardian of a minor shall be set for hearing, and notice of hearing thereon shall be given as provided in section 1511, subject to the exceptions stated therein.

(Effective January 1, 1994)

**10.20.03 EFFECT OF OTHER PROCEEDINGS**

A guardianship of the person will not be granted by the Probate Court under any of the following circumstances: (a) Family Law Court has jurisdiction over custody of the proposed ward; (b) adoption proceedings are pending; or (c) the minor is subject to the jurisdiction of the Juvenile Court.

(Effective January 1, 1994)

**10.20.04 DUTIES OF GUARDIAN - SUPPORT BY PARENTS**

Guardianship funds shall not be used for a minor's support, except upon a showing of the parents' financial inability or other circumstances which would justify the same. If there is a claim that the parents lack financial ability to provide support, the parents shall file Family Law Income and Expense and Property Declarations in accordance with California Rules of Court 1285.50 and 1285.55.

(Effective January 1, 1994)

**10.20.05 FINAL ACCOUNT AND REPORT**

A. Waiver of guardian's final account will be permitted for good cause. The final account shall be set for hearing no sooner than 20 days after filing.

B. Waiver of a guardian's account by a ward who has attained the age of majority will not be accepted unless the ward personally appears and confirms the waiver or a written waiver by the ward is filed which includes a complete list of the assets to be distributed to the ward.

C. The final report and/or account shall include a description of the remaining assets on hand to be distributed to the ward.  
(Effective January 1, 1994)

**10.20.06 TERMINATION AND DISCHARGE**

A. Upon approval of the final account, the Court will order all assets belonging to the estate to be delivered to the former ward or to the depository under section 3412, if applicable.

B. One year after majority, upon a proper showing, the final discharge will be granted in the same manner as the discharge of the fiduciary of a decedent's estate. Upon the ward's attaining the age of majority, a guardianship of the person terminates pursuant to section 1600 without court order.  
(Effective January 1, 1994)

**10.20.07 PROCEEDINGS UNDER SECTION 3410 ET SEQ**

A. Petitions filed under section 3410 et seq. must be filed in a separate proceeding under the name of the minor, and must set forth jurisdictional facts and state the amount to be paid, by whom, and what reimbursement for costs and fees is requested, and request the deposit of the balance of the proceeds in a specific bank or savings and loan association in the manner provided by law.

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

C. The Order shall provide for the persons holding funds to make one check payable to the persons entitled to costs and fees, and shall provide for the issuance of a second check for the amount to be deposited, payable to the proposed trustee and the specific bank or savings and loan association.  
(Effective January 1, 1994)

**10.20.08 COSTS OF INVESTIGATIONS**

Court investigations will be conducted upon filing of the guardianship petition and at the time of each accounting. Charges will be assessed for each investigation and review pursuant to section 1513.1.

(Effective January 1, 1994)

**10.21.00 CONSERVATORSHIPS**

(Effective January 1, 1994)

**10.21.01 APPOINTMENT OF CONSERVATOR**

A. The attorney for the petitioner shall be responsible for the mailing of all required notices. If there are no relatives within the second degree, the Petition shall so allege. Notice of Hearing of a petition for the appointment of a conservator shall be given pursuant to section 1822. A copy of the Petition shall accompany each Notice of Hearing. There shall be a separate proceeding for each person for whom the appointment of a conservator is sought.

B. At the time of filing the Petition for Appointment, the attorney for the petitioner shall set forth the address of the conservator and proposed conservatee. All petitions for appointment shall be set for hearing no sooner than 30 days after filing.

C. Proposed conservators, except public officers and corporate fiduciaries, shall appear personally for the hearing on the Petition for Appointment as conservator.

D. Upon approval of a petition for appointment of a conservator, the Court will order the conservator to file a "general plan" detailing how the personal and financial needs of the conservatee will be met. A copy of the plan shall be provided to the Court Investigator, and notice of the filing of the general plan shall be given to those persons who have been given notice of the Petition.

The general plan may be reviewed by those persons who have been given notice of the Petition and who request to review the general plan. A hearing date will usually then be set at least 120 days from the date of appointment for a hearing on the general plan.

(Effective January 1, 1994)

**10.21.02 PLACING PETITION ON CALENDAR**

When a petition is filed, the Hearing shall be set within 30 days and a citation shall issue accordingly. If service of the citation is incomplete on the return date, it cannot be perfected by continuance and completion of service, except by issuance of an amended citation. In such circumstances, the original citation shall be filed showing no service.

(Effective January 1, 1994)

**10.21.03 TERMINATION OF CONSERVATORSHIP**

A. A conservatorship may be terminated pursuant to section 1860 et seq. Except in cases where the conservatee is deceased, a petition for termination shall be set for hearing no sooner than 30 days after filing; the Petition shall set forth the current address of conservatee. The Court Investigator shall be noticed of the petition for termination of conservatorship.

B. A petition for termination of conservatorship of a living person will not be granted unless the conservatee personally appears in court or is excused after the filing of a physician's affidavit or declaration setting forth the reasons why the conservatorship is no longer required.  
(Effective January 1, 1994)

**10.21.04 FINAL ACCOUNT OR REPORT**

A. When a final account or report is filed, notice of hearing shall be given pursuant to section 2621. If the conservatee is deceased, Notice of Hearing shall be given to the representative of his estate and the Court Investigator. If the conservator is also the personal representative of the deceased conservatee's estate or there is no personal representative, notice shall be given to the deceased conservatee's heirs and devisees. The names, relationships, and addresses of the heirs and devisees shall be set forth in the report.

B. A final account shall be required on termination of the conservatorship of an estate except under the following circumstances: (1) the former conservatee who has been restored to full capacity waives the accounting; (2) if the conservatee is deceased, when an account is waived by those persons entitled to receive distribution of the estate as provided in Probate Code section 10954; except that if conservator is also the personal representative of the conservatee's estate, waivers shall be required by all heirs or devisees; or (3) when the court has ordered that accounts are not required pursuant to Probate Code section 2628 and the conditions of that section are otherwise met.

C. The report shall include a statement of the specific assets on hand.  
(Effective January 1, 1994)

**10.21.05 SALE OF CONSERVATEE'S RESIDENCE**

Sale of a conservatee's residence requires prior authorization in compliance with section 2540(b). Petitions for authorization of sale of the conservatee's residence and/or authorization to execute a listing agreement for sale of the conservatee's residence will be considered only upon a calendared motion with notice given pursuant to section 1460 (general mailed notice) and section 2702 (special notice).  
(Effective January 1, 1994)

**10.21.06 CONFIDENTIAL REPORTS, SUPPLEMENTS, OR PLANS**

Any confidential report, supplement or plan filed in conservatorship proceedings pursuant to section 2620.1 (accounts) or 1821 (establishment) shall be filed as a separate document, shall contain the word "CONFIDENTIAL" in the caption, and shall be verified by the party presenting it.  
(Effective January 1, 1994)

**10.22.00 CLAIMS OF WARDS OR CONSERVATEES**

(Effective January 1, 1994)

**10.22.01 SETTLEMENT OF WARDS' AND CONSERVATEES' CLAIMS**

Compromise of the claim of a ward or conservatee shall be made in the manner provided by section 2500 et seq., and in accordance with Local Civil Rules regarding compromise of minor's claims.

(Effective January 1, 1994)

**10.23.00 TRUSTS SUBJECT TO CONTINUING COURT JURISDICTION**

(Effective January 1, 1994)

**10.23.01 IN GENERAL**

A. Accounts filed by trustees shall be in the form and otherwise conform to the requirements in these rules for accounts by personal representatives in decedents' estates.

B. The trustee's first account must clearly reconcile the amount chargeable under the judgment of distribution of the estate from which the property was received.

(Effective January 1, 1994)

**10.23.02 PERIOD OF ACCOUNT**

The first account of a trustee subject to continuing court jurisdiction shall be rendered one year after the judgment of distribution of the estate from which the trust property was received. Thereafter, accounts shall be rendered at intervals prescribed by the court as the nature of the trust property and the interests of the beneficiaries require.

(Effective January 1, 1994)

**10.23.03 PRINCIPAL AND INCOME**

Receipts and disbursements must be allocated between principal receipts and disbursements and income receipts and disbursements.

(Effective January 1, 1994)

**10.23.04 FEES**

Fees are governed by the provisions of rule 10.19.03.

(Effective January 1, 1994)

**10.23.05 REPORT OF TRUSTEE**

A report shall accompany each account of a trustee. The report shall contain concise reference to the purposes of the trust and how they have been satisfied by the trustee during the period of the account. The report shall identify the beneficiaries (both present and future) and give a brief summary of distributions made to or for their benefit, as reflected in the account. Investment objectives, and results with reference to the purpose of the trust, are to set forth with a brief summary of the account measured in terms of the specific trust objectives and

requirements.

The report shall not merely recite what has been done but shall relate the activities reflected in the account to the purposes and persons for which the trust was created. (See rule 10.17.02)  
(Effective January 1, 1994)

10.24.00 COURT APPOINTED COUNSEL IN GUARDIANSHIPS AND  
CONSERVATORSHIPS

**A. Purpose: The purpose of this rule is to ensure that counsel appointed for minors in guardianship proceedings or for appointment to represent conservatees or proposed conservatees in probate proceedings meet the professional qualifications imposed by California Rules of Court, Rule 7.11.01.**

B. General Criteria: To be eligible for appointment as counsel under Probate Code §1470 or §1471 for a minor in a guardianship proceeding or to represent conservatees of proposed conservatees, an attorney must be an active member of the State Bar of California for at least three (3) years immediately before the date of appointment and have no discipline imposed within a 12-month period prior to appointment. In addition, he or she must have professional liability insurance in the amount of \$100,000.00 per occurrence and \$300,000.00 per year.

Appointed counsel must meet the minimum appointment qualifications prescribed by California Rules of Court, Rule 7.11.01 and annually complete three hours of MCLE credit for State Bar-certified specialists in estate planning, trust and probate law.

C. Certificate of Qualifications: Prior to initial appointment counsel must certify to the Court, in writing, that he or she has met the qualifications for appointment.

Thereafter, before the end of March of each following year, counsel must file a certificate indicating that he or she has met the continuing education requirement for the preceding calendar year, counsel's professional liability insurance coverage in the amount of at least \$100,000.00 per claim and \$300,000.00 per year, and any history of State Bar discipline. Any change in State Bar discipline history or professional liability insurance coverage should be explained.

Counsel is required to immediately advise the Court of the imposition of any State Bar discipline.

D. Form of Certificate:

**SUPERIOR COURT OF CALIFORNIA  
IN AND FOR THE COUNTY OF EL DORADO  
PROBATE DEPARTMENT  
CERTIFICATE OF ATTORNEY QUALIFICATION**

I, \_\_\_\_\_  
(Name – Office Address – Telephone Number)

am an attorney licensed to practice law in the State of California. My State Bar Number is \_\_\_\_\_. I hereby certify that I meet the minimum standards for practice for representation of a minor in a guardianship proceeding or representation of a conservatee or proposed conservatee set forth in California Rules of Court, Rule 7.11.01 and Local Rule 10.24.00 and that I have completed the minimum requirements for training, education and/or experience as set forth below.

This is a [  ] New Certification [  ] Recertification

**Training and Education:** (Attach copies of MCLE certificates or other documentation of attendance)

**Course Title      Date completed      Hours      Provider**

**Summary of Relevant Experience:**

**Date** \_\_\_\_\_ **Signature** \_\_\_\_\_

E. Required Qualifications for Private Counsel

(1) Appointments to Represent Minors in Guardianship Proceedings

In addition to satisfying the general criteria and the annual continuing education requirement, counsel must either:

- (a) Within the previous five years, have represented three wards or proposed wards in probate guardianships, three children in juvenile court dependency proceedings, or three children in custody proceedings under the Family Code; or
- (b) Have been certified by the Court as eligible for appointment under California Rules of Court, Rule 5.242 and Local Rule 8.23.00 to represent minors in family law child custody and visitation proceedings or has been certified as eligible for appointment under California Rules of Court, Rule 5.660 and local Rule 11.00.12 to

represent parties in juvenile dependency proceedings.

(2) Appointments to Represent Conservatees or Proposed Conservatees

For an appointment to represent a conservatee or a proposed conservatee, counsel must have represented at least three conservatees or proposed conservatees in either probate or LPS conservatorships or complete three of the following five:

- (a) Represented petitioners for the appointment of a conservator at commencement of three probate conservatorship proceedings, from initial contact with the petitioner through the hearing and issuance of Letters of Conservatorship;
- (b) Represented a petitioner, a conservatee or a proposed conservatee, or an interested third party in two contested probate or LPS conservatorship matters.

A contested matter that qualifies under this item and also qualifies under (i) may be applied toward satisfaction or both items;

- (c) Represented a party for whom the Court could appoint legal counsel in a total of three matters described in Probate code sections 1470, 1471, 1954, 2356.5, 2357, 2620.2, 3140 or 3205;
- (a) Represented fiduciaries in three separate cases for settlement of a court-filed account and report, through filing, hearing, and settlement, in any combination of probate conservatorships or guardianships, decedent's estates, or trust proceedings under division 9 of the Probate Code; or
- (b) Prepared five wills or trusts, five durable powers of attorney for health care, and five durable powers of attorney for asset management.

F. Required Qualifications for Deputy Public Defenders: To be eligible for appointment, a deputy public defender must either satisfy the same requirements as private counsel for appointment to represent a minor in a guardianship proceeding or a conservatee or proposed conservatee in probate proceeding or have a minimum of three years' experience representing minors in juvenile dependency or delinquency proceedings or patients in post-certification judicial proceedings or conservatorships under the LPS Act.

(Effective July 1, 2009)