

# San Francisco Paralegal Association

September 13, 2016

## 1. E-filing Updates

- a. Delays – remember to factor in filing delays
  - i. Submission to File&Serve Xpress is not filing.
  - ii. If an examiner says a document must be filed by noon, uploading by noon will not meet the deadline.
  - iii. As of last Friday morning, 62 matters waiting to be filed.
- b. Confidential Documents
  - i. Bank statements are now filed at the window in Room 202.
  - ii. Other confidential documents (birth certificates, death certificates, fee waivers) are filed at the window in Room 103.
  - iii. EXCEPTION→when the window is closed (12-1:30 p.m.), all confidential documents are filed in Room 103.
  - iv. No discussions as yet re expanding to conservatorships and guardianships at this time.
- c. Courtesy Copies – window open 8:30 am – 12 pm, 1:30 pm – 4 pm
  - i. Copies
    - 1. Endorsed Filed
    - 2. Hearing dates mandatory
    - 3. Case number mandatory
  - ii. If your filing contains sensitive information – please drop off during open window hours.
    - 1. Cap Decl in the open box last Monday morning
  - iii. Exception to courtesy copy rule→judicial council forms, pleadings two pages or less, regular font size
    - 1. Exception to exception→ex parte petitions. Courtesy copies still required
  - iv. Proposed Orders
    - 1. Drop off in Room 202
    - 2. Must have case number and hearing date
    - 3. Do not lodge orders with File&Serve Xpress!
- d. Related Trust and Conservatorship – for fall 2016
  - i. File the conservatorship accounting first, then request that date for the trust accounting.
    - 1. Due to the CI staffing issue, conservatorship accountings are being set farther out than trust accountings.
- e. Emergency Situations - Ex parte petition to appoint Temporary Trustee, Ex parte petition for Special Letters

- i. The court allows contemporaneous filing of a petition and related ex parte when opening a new case at the counter.
- ii. NOTE→the rule does NOT apply if you come in later that day with the ex parte petition.
- iii. Please have the filing clerk call me if they will not accept the related ex parte petition or if they tell you the Petition for Probate and Petition for Special Letters have to be filed under different case numbers.

1. X.13661

## 2. Staffing Changes and Issues

- a. New clerk supervisor
  - i. Gina Gonzalez - 415-551-3924
- b. New staff attorney
  - i. Elif Sonmez
- c. New court investigators
  - i. Naomi Brandes
  - ii. Jessica Moorner
- d. New probate clerks – Michael was promoted to courtroom clerk
  - i. 2 veterans – Carlos and Robert
  - ii. 2 new hires
  - iii. Likely be 2 months before all are up to speed
- e. What do all those changes mean for you?
  - i. Patience
  - ii. Be careful about how you caption your petitions

## 3. Ex Parte Petitions for Special Letters

- a. General powers v. special powers
  - i. Cost – see list of fees
  - ii. Notice – see relevant Probate Code sections

## 4. Recent Policy Decisions

- a. Notice to the Franchise Tax Board under Probate Code §9202(c)
  - i. Zero balance letters
  - ii. Mailed notice required
- b. Orders on Report of Sale
  - i. No change to length of escrow
  - ii. The Court will only sign an order that is consistent with the identification of the winning bidder as confirmed in open court.
    - 1. No later change to LLC or inclusion of additional names
  - iii. Be careful when you prepare the orders-
    - 1. If mistakes are made (terms of sale inconsistent, missing, names incorrect, etc.), the courtroom clerk will have to call you to get a revised order, and the order will be delayed.
    - 2. Please do not attach the entire sales contract to either the petition or the order.
      - a. Publication is not of the Report of Sale

## 5. §850 Petitions

- a. They are not all Heggstad petitions!
    - i. Only cite Heggstad if the facts fit.
  - b. QUIZ
  - c. Language in Proposed Orders
    - i. Omnibus clauses are not approved.
    - ii. This court does not find that trusts are valid unless that issue is specifically argued in the petition.
    - iii. What are you asking the Court to confirm?
6. Fee Waivers
- a. Clarification that fee waivers are based on financial condition of proposed ward or Conservatee, not proposed Guardian or Conservator
  - b. New Judicial Council forms
    - i. Note limitation on who uses FW-001 GC
    - ii. Don't forget #8.a. – who receives the benefits
7. Continuance Requests
- a. Made through the reviewing examiner, so the file has to be assigned to an Examiner before a continuance can be granted
    - i. Files are assigned one week before the hearing date (on Monday for next Monday, etc.)
    - ii. Email [probcontinue204@sftc.org](mailto:probcontinue204@sftc.org) to make the request if it's the first time the petition will be heard.
    - iii. If you already have an examiner, you may request a continuance at any time.
  - b. Continuance requests for matters specially set on the law and motion calendar must be requested from the courtroom clerk at 415-551-3702.
  - c. Continuance requests in conservatorship matters set on Thursday morning and guardianship matters set on Tuesday afternoon (appointments, etc.) should be made through the assigned investigator.
8. Court Call tips
- a. Requests must be made no earlier than 7 days before the hearing.
  - b. On rare occasions, the courtroom clerks might be able to approve Court Call the morning of the hearing, but usually they are so busy that they have no time to answer the phone prior to the morning calendar.
9. End of Year Issues
- a. Lots of examiner absences in October (vacations and trainings) so the time between filing and hearing will lengthen.
  - b. Remember to file any end of year petitions well ahead of time.
  - c. Currently we are setting just about 4 weeks out, but by November 1, I expect the filing delay to be 6 weeks.
  - d. Remember, if you ask for a special setting, you are asking to jump the line and the result may be that someone who filed their petition on a timely basis will have to wait for review.

The Court thanks you for your excellent work!



		Code Section(s)	Total Fee Due
116	Costs for stepparent adoption, including investigation (amount set by court, up to \$700) (FC 9001, 9002)	FC 9002	Amount set by court
117	Child custody evaluation (amount set by court)	FC 3112	Amount set by court
118	Court-appointed counsel for child (amount set by court) (FC 3150 et seq.)	FC 3153	Amount set by court
119	Premarital counseling for minors	FC 304	Amount set by court
120	Cost for investigation re: petition to declare child free from parental custody and control	FC 7851.5	Amount set by court

PROBATE FEES			
121	First-filed petition for letters of administration or letters testamentary, first-filed petition for special letters of administration with powers of general representative under Prob.C 8545	GC 70650(a), 70602.5, 70602.6	\$ 450*
122	First objection to probate of will or codicil (Prob.C 8250); first petition for revocation of probate of will or codicil (Prob.C 8270) (if filed together with petition for appointment of personal representative under GC 70650(c), only the fee under GC 70650(c) is charged)	GC 70650(b), 70602.5, 70602.6	\$ 450*
123	Later-filed petition for letters of administration, letters testamentary, or special letters of administration with powers of general representative by a person other than the original petitioner	GC 70650(c), 70602.5, 70602.6	\$ 450*
124	First or subsequent petition for special letters of administration without powers of general personal representative	GC 70657.5(a)(3)	\$ 200
125	Opposition to a petition for appointment of a personal representative in a decedent's estate, other than a competing petition for appointment or a will contest, and objection or other opposition to first account of testamentary trustee subject to court supervision	GC 70651, 70602.5, 70602.6	\$ 450*
126	Petition (or opposition to petition) concerning the internal affairs of a trust under Prob.C 17200 et seq., or first account of trustee of testamentary trust subject to continuing court jurisdiction under Prob.C 17300 et seq.	GC 70652, 70602.5, 70602.6	\$ 450*
127	Petition (or opposition to petition) concerning the internal affairs of a trust created by court order under Prob.C 2580, 3100, or 3600 (trusts not subject to the \$355 fee under GC 70652)	GC 70657.5(a)(1), 70652(d)	\$ 200
128	Petition for appointment of conservator, guardian of the estate or guardian of the person and estate or opposition to these petitions other than competing petition for appointment	GC 70653(a), (b), 70602.5, 70602.6	\$ 450*

ARTICLE 8  
SPECIAL ADMINISTRATORS  
PROBATE CODE SECTIONS

8545. (a) Notwithstanding Section 8544, the court may grant a special administrator the same powers, duties, and obligations as a general personal representative where to do so appears proper. Notwithstanding Section 8541, if letters have not previously been issued to a general personal representative, the grant shall be on the same notice required under Section 8003 for appointment of a personal representative, unless the appointment is made at a hearing on a petition for appointment of a general personal representative and the notice of that petition required under Section 8003 has been given. (b) Subject to Section 8543, the court may require as a condition of the grant that the special administrator give any additional bond that the court deems proper. From the time of approving and filing any required additional bond, the special administrator shall have the powers, duties, and obligations of a general personal representative. (c) If a grant is made under this section, the letters shall recite that the special administrator has the powers, duties, and obligations of a general personal representative.

8541. (a) Appointment of a special administrator may be made at any time without notice or on such notice to interested persons as the court deems reasonable. (b) In making the appointment, the court shall ordinarily give preference to the person entitled to appointment as personal representative. The court may appoint the public administrator. (c) In the case of an appointment to perform a particular act, request for approval of the act may be included in the petition for appointment, and approval may be made on the same notice and at the same time as the appointment. (d) The court may act, if necessary, to remedy any errors made in the appointment.

8003. (a) The hearing on the petition shall be set for a day not less than 15 nor more than 30 days after the petition is filed. At the request of the petitioner made at the time the petition is filed, the hearing on the petition shall be set for a day not less than 30 nor more than 45 days after the petition is filed. The court may not shorten the time for giving the notice of hearing under this section. (b) The petitioner shall serve and publish notice of the hearing in the manner prescribed in Chapter 2 (commencing with Section 8100). - See more at: <http://codes.findlaw.com/ca/probate-code/prob-sect-8003.html#sthash.1UioeFZG.dpuf>



Clerk stamps date here when form is filed.

If you are getting public benefits, are a low-income person, or do not have enough income to pay for your household's basic needs and your court fees, you may use this form to ask the court to waive your court fees. The court may order you to answer questions about your finances. If the court waives the fees, you may still have to pay later if:

- You cannot give the court proof of your eligibility,
- Your financial situation improves during this case, or
- You settle your civil case for **\$10,000** or more. The trial court that waives your fees will have a lien on any such settlement in the amount of the waived fees and costs. The court may also charge you any collection costs.

**1 Your Information** (person asking the court to waive the fees):

Name: \_\_\_\_\_  
 Street or mailing address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_ Zip: \_\_\_\_\_  
 Phone number: \_\_\_\_\_

**2 Your Job**, if you have one (job title): \_\_\_\_\_

Name of employer: \_\_\_\_\_  
 Employer's address: \_\_\_\_\_

**3 Your Lawyer**, if you have one (name, firm or affiliation, address, phone number, and State Bar number): \_\_\_\_\_

Fill in court name and street address:

Superior Court of California, County of \_\_\_\_\_

Fill in case number and name:

Case Number: \_\_\_\_\_

Case Name: \_\_\_\_\_

a. The lawyer has agreed to advance all or a portion of your fees or costs (check one): Yes ☐ No ☐

b. (If yes, your lawyer must sign here) Lawyer's signature: \_\_\_\_\_

*If your lawyer is not providing legal-aid type services based on your low income, you may have to go to a hearing to explain why you are asking the court to waive the fees.*

**4 What court's fees or costs are you asking to be waived?**

- ☐ Superior Court (See *Information Sheet on Waiver of Superior Court Fees and Costs* (form FW-001-INFO).)  
☐ Supreme Court, Court of Appeal, or Appellate Division of Superior Court (See *Information Sheet on Waiver of Appellate Court Fees* (form APP-015/FW-015-INFO).)

**5 Why are you asking the court to waive your court fees?**

- a. ☐ I receive (check all that apply; see form FW-001-INFO for definitions): ☐ Food Stamps ☐ Supp. Sec. Inc.  
☐ SSP ☐ Medi-Cal ☐ County Relief/Gen. Assist. ☐ IHSS ☐ CalWORKS or Tribal TANF ☐ CAPI  
 b. ☐ My gross monthly household income (before deductions for taxes) is not more than the amount listed below.  
 (If you check 5b, you must fill out 7, 8, and 9 on page 2 of this form.)

Family Size	Family Income	Family Size	Family Income	Family Size	Family Income	If more than 6 people at home, add \$433.34 for each extra person.
1	\$1,237.50	3	\$2,100.00	5	\$2,962.50	
2	\$1,668.75	4	\$2,531.25	6	\$3,393.75	

c. ☐ I do not have enough income to pay for my household's basic needs and the court fees. I ask the court to:  
 (check one and you **must** fill out page 2):

- ☐ waive all court fees and costs ☐ waive some of the court fees  
☐ let me make payments over time

**6** ☐ Check here if you asked the court to waive your court fees for this case in the last six months.  
 (If your previous request is reasonably available, please attach it to this form and check here:) ☐

**I declare under penalty of perjury under the laws of the State of California that the information I have provided on this form and all attachments is true and correct.**

Date: \_\_\_\_\_

Print your name here

Sign here



Clerk stamps date here when form is filed.

This form must be used by a guardian or conservator, or by a petitioner for the appointment of a guardian or conservator, to request a waiver of court fees in the guardianship or conservatorship court proceeding or in any other civil action in which the guardian or conservator represents the interests of the ward or conservatee as a plaintiff or defendant.

If the ward or conservatee (including a proposed ward or conservatee if a petition for appointment of a guardian or conservator has been filed but has not yet been decided by the court) directly receives public benefits or is supported by public benefits received by another for his or her support, is a low-income person, or does not have enough income to pay for his or her household's basic needs and the court fees, you may use this form to ask the court to waive the court fees. The court may order you to answer questions about the finances of the ward or conservatee. If the court waives the fees, the ward or conservatee, his or her estate, or someone with a duty to support the ward or conservatee, may still have to pay later if:

- You cannot give the court proof of the ward's or conservatee's eligibility,
- The ward's or conservatee's financial situation improves during this case, or
- You settle the civil case on behalf of the ward or conservatee for \$10,000 or more. The trial court that waives fees will have a lien on any such settlement in the amount of the waived fees and costs. The court may also charge the ward or conservatee, or his or her estate, any collection costs.

Fill in court name and street address:

Superior Court of California, County of

Fill in case number and name:

Case Number:

Case Name:

**1 Your Information** (guardian or conservator, or person asking the court to appoint a guardian or conservator):

Name: \_\_\_\_\_ Phone number: \_\_\_\_\_

Street or mailing address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_ Zip: \_\_\_\_\_

**2 Your Lawyer** (if you have one): Name: \_\_\_\_\_

Firm or Affiliation: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Address: \_\_\_\_\_ Telephone: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_ Zip: \_\_\_\_\_ E-mail: \_\_\_\_\_

a. The lawyer has agreed to advance all or a portion of court fees or costs (check one): Yes ☐ No ☐

b. (If yes, your lawyer must sign here.) Lawyer's signature: \_\_\_\_\_  
 If your lawyer is not providing legal-aid type services based on your or the ward's or conservatee's low income, you may have to go to a hearing to explain why you are asking the court to waive the fees.

**3 Ward's or Conservatee's Information** (file a separate Request for each ward in a multi-ward case):

Name: \_\_\_\_\_ Age and date of birth (ward only): \_\_\_\_\_

Street or mailing address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_ Zip: \_\_\_\_\_

Phone number: \_\_\_\_\_

**4 Ward's or Conservatee's Lawyer**, if any: Name: \_\_\_\_\_

Firm or Affiliation: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Address: \_\_\_\_\_ Telephone: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_ Zip: \_\_\_\_\_ E-mail: \_\_\_\_\_

**5 Ward or Conservatee's Job** (job title; if not employed, so state): \_\_\_\_\_

Name of employer: \_\_\_\_\_

Employer's address: \_\_\_\_\_ State: \_\_\_\_ Zip: \_\_\_\_\_



Name of (Proposed) Ward or Conservatee:

Case Number:

**6 What court's fees or costs are you asking to be waived?**

- ☐ Superior Court (See *Information Sheet on Waiver of Superior Court Fees and Costs* (form FW-001-INFO).)  
☐ Supreme Court, Court of Appeal, or Appellate Division of Superior Court (See *Information Sheet on Waiver of Appellate Court Fees* (form APP-015/FW-015-INFO).)

- 7** ☐ Check here if you asked the court to waive court fees for this case in the last six months.  
(If your previous request is reasonably available, please attach it to this form and check here): ☐

**8 Why are you asking the court to waive the ward's or conservatee's court fees?**

- a. ☐ The ward or one or both of the ward's parents, or the conservatee or the conservatee's spouse or registered domestic partner, receive (check all that apply):  
☐ Supplemental Security Income (SSI) ☐ State Supplemental Payment (SSP) ☐ SNAP (Food Stamps)  
☐ IHSS (In-Home Supportive Services) ☐ CalWORKS or Tribal TANF ☐ Medi-Cal  
☐ County Relief/General Assistance ☐ CAPI (Cash Assistance Program for Aged, Blind, and Disabled)  
(Names and relationships to ward or conservatee of persons who receive the public benefits listed above):

- b. ☐ The gross monthly income of the ward's or conservatee's household (before deductions for taxes) is not more than the amount listed below. (If you check 8b, you **must** fill out items 14, 15, and 16 on page 4 of this form.)\*

Family Size	Family Income	Family Size	Family Income	Family Size	Family Income	If more than 6 people at home, add \$433.34 for each extra person.
1	\$1,237.50	3	\$2,100.00	5	\$2,962.50	
2	\$1,668.75	4	\$2,531.25	6	\$3,393.75	

- c. ☐ The ward's or conservatee's household does not have enough income to pay for its basic needs and the court fees. I ask the court to (check one, and you **must** fill out items 14, 15, 16, 17, and 18 on page 4):\*
- (i) ☐ Waive all court fees and costs. (ii) ☐ Waive some court fees and costs.  
(iii) ☐ Let the (proposed) guardian or conservator, on behalf of the (proposed) ward or conservatee, make payments over time.

\*(Do not include income of guardian or conservator living in the household in 8b. or 8c. or count him or her in family size in 8b. unless he or she is a parent of the ward or the spouse or registered domestic partner of the conservatee.)

**Guardians or petitioners for their appointment must complete items 9 and 10.**

**9 Ward's Estate:** ☐ Person only, no estate. ☐ Inventory or petition estimated value:

Source (e.g., gift, inheritance, settlement, judgment, insurance): Est. collection date:

**10 Ward's Parents' Information:**

- a. Name of ward's father: \_\_\_\_\_ ☐ Deceased (date of death): \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone number: \_\_\_\_\_
- b. Name of ward's mother: \_\_\_\_\_ ☐ Deceased (date of death): \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone number: \_\_\_\_\_
- c. Ward's parents are (check all that apply): ☐ married ☐ living together ☐ separated ☐ divorced  
Support order for ward? ☐ No ☐ Yes Payable to (name): \_\_\_\_\_  
Payor (name): \_\_\_\_\_  
Court: \_\_\_\_\_ Case Number: \_\_\_\_\_  
Date of order (if multiple, date of latest): \_\_\_\_\_ Monthly amount: \_\_\_\_\_

