

EMERGENCY LOCAL RULES: PROBATE
(Second Amended)

The Court adopts the following as Emergency Local Rules (“Rules”) intended to address the impact of the COVID-19 pandemic, under the authority granted the Court by the March 23, 2020, and March 30, 2020, Orders of the Chief Justice of the California Supreme Court, as Chair of the Judicial Council (“Orders”) and by the Emergency Rules in Response to the COVID-19 Pandemic issued by the Judicial Council on April 6, 2020 (“Judicial Council Emergency Rules”) and as amended thereafter. These Rules are effective May 18, 2020, subject to the limitations imposed by the Orders. These Rules supersede all prior versions and supplements, and they shall remain in effect until either rescinded by this Court or by withdrawal or change to the Orders or to the Judicial Council Emergency Rules.

1. **Application.** These rules shall apply only to Probate cases.

2. **Filing of Papers.** The following processes apply through May 26, 2020. On May 26, 2020, and thereafter, the Probate department will be accepting all filings. Use of the drop box is highly recommended. See the Informational Guidelines attached as Exhibit A for more information.
 - a. *Limited Acceptance of Filings.*
 - i. Effective Monday, April 6, 2020, the Court will permit limited motion filings and unlimited new case filings via a drop box, from 9:00 a.m. to 3:00 p.m. excluding weekends and Court holidays. The Probate drop box will be located at the Main Street entrance to the Wakefield Taylor Building in Martinez. The drop box will accept both *ex parte* matters and general probate filings.

 - ii. Checks for filing fees and certified copies of orders shall accompany the documents when filed, along with a self-addressed, stamped envelope.

 - iii. *Ex parte* filings shall include a cover sheet by counsel outlining the exigent and/or emergent nature of the filing and all parties entitled to notice.

- iv. All matters filed through this process must include a telephone number and email address for each party, if available.
- b. *Type of Filings Accepted.* Documents that may be filed are limited to the following:
 - i. Limited *ex parte* petitions that meet both emergent requirements **and** include written consents and waivers of notice by all parties for the following:
 - a. Appointment of counsel for Limited Conservatorship;
 - b. Appointment of Temporary Conservator or Temporary Guardian with written consent of all relatives within the 2nd degree (Temporary Conservatorship); Minor over age 12 and Parent's Consent (Temporary Guardianship) and subject to court discretion;
 - c. Extension of Temporary Conservatorship, Guardianship or Special Letters of Administration;
 - d. Order for MD/Psych to complete Capacity Declaration;
 - e. Request MND Medical Powers from counsel who have been previously appointed by the court;
 - f. Appointment of Special Administrator;
 - g. Appointment of expert pursuant to Evidence Code Section 730;
 - h. Allowance of a conservator to list and sell real property;
 - i. Increase or decrease of bonds;
 - j. Stipulations and Orders on Settlement;
 - k. Probate preliminary (not final) distributions;

1. Appointment of Guardian ad Litem.

- ii. General Petitions. General Petitions may be filed and will be set for hearing in 60 to 90 days, allowing for notice and publication. Notices are advised to include language that interested persons should check the online tentative ruling for the respective probate department to see examiner notes and if the hearing is continued.
- c. *Filings in Non-Urgent Probate Cases*. While a drop box for Probate cases is available, non-urgent matters will not be immediately processed. The Court deems this to substantially interfere with parties' ability to file papers, and so the period through May 27, 2020, is considered a Court holiday for purposes of such filings.

3. Hearings.

- a. *Trial and Hearing Dates Prior to May 26, 2020*. Unless otherwise ordered by the Court, all trial and hearing dates on any Probate case set to take place from March 16, 2020, through May 26, 2020, will be continued by the Court pursuant to section c. below. Although hearings and trials may continue to display as calendared in electronic online case access, no hearings or trials will be conducted during this period.
- b. *Trial Deadlines for Vacated Trials*. For those cases with trial dates vacated under Rule 3b, all deadlines that run from the initial trial date – including the discovery cutoff and expert disclosure deadline – shall run from the reset trial date.
- c. *Rescheduling of Hearings/Parties to Provide Notice*. Probate hearing dates that are vacated pursuant to these Rules and all hearing dates that have been previously vacated due to the Court closure that began on March 16, 2020, will be reset by the Court. Notice of the new hearing date will not be sent out by the Court.

Instead, all new hearing dates will be available through the Open Access web portal on the Court's website. Once these new dates are set, Petitioners are ordered to serve written or electronic notice to all other parties to an action of the new date for hearing and file proof of service thereto.

- d. *Filing Deadlines for Rescheduled Hearings.* For hearings reset by these Rules, the statutory deadlines for papers not yet filed shall be based on the new hearing date.
- e. *Tentative Rulings.* The Court's existing tentative ruling procedure will be suspended until further notice.
- f. All hearings conducted pursuant to these Emergency Rules shall be heard only by Zoom videoconference or CourtCall. After hearing from all parties, the Court will decide whether a hearing is necessary and, if so, set the matter for a hearing by Zoom videoconference or CourtCall on a specified date and time. In its discretion, the Court may set any matter for hearing with email or phone notice to petitioner who shall be responsible for notifying the remaining parties.
- g. For conduct of hearings after May 26, 2020, including use of remote technology, please see the Informational Guidelines attached as Exhibit A.

4. **Informational Guidelines.** As the Court reopens, the Probate department will be following the processes in the Informational Guidelines attached as Exhibit A.

(Emergency Local Rules – Probate, eff. 4/6/20; renamed and amended eff. 4/30/2020; amended eff. May 18, 2020.)

Exhibit A: Probate Court Reopening Informational Guidelines

1. *Ex Parte* Matters

- a. *File by drop box only.* Submit all *ex parte* matters via the drop box located outside the first floor near the double doors of the Wakefield Taylor Courthouse on Main Street, Monday through Friday, 8:00 a.m. to 10:00 a.m. The Probate File Examiner's office will not be open to accept *ex parte* submissions until further notice.
- b. The Probate Pick-up Filing Cabinet for signed matters is now located inside Room 103 of the Wakefield Taylor Courthouse, Clerk's Office, immediately to the right of the entrance door. *You will need to wait in line to pick up paperwork, and social distancing guidelines may result in extended waits; please be patient.*
- c. The posting clipboard noticing estate property sales will continue to be located to the outside left of Room 103 of the Wakefield Taylor Courthouse, Clerk's Office. *You will need to wait in line to review the notices and clipboard, and social distancing guidelines may result in extended waits; please be patient.*
- d. All non-urgent *ex parte* matters shall be accompanied by a self-addressed, stamped envelope on behalf of the submitting party and a check to cover the filing fee or fee waiver.
- e. All urgent *ex parte* matters shall be accompanied by a cover sheet marked "Urgent" and on a different shade of paper with contact information for the filing party, including active phone number and email address.

2. Operational Specifics for Daily Calendars

- a. *The Probate Examiner's Office is closed until further notice.* The drop off box outside the Examiner's office at room 210 will not be accessible until further notice.

- b. *Use of Remote Technology.* Counsel and *pro per* litigants are encouraged to appear via Zoom or CourtCall on conservatorship/guardianship matters. All probate/estate/trust matters will primarily be conducted via Zoom or CourtCall unless the court requires witness testimony or parties are required to appear by law.
- c. On pre-granted matters, petitioners shall provide a self-addressed, stamped envelope to the court in advance so that filed documents may be returned by U.S. Mail.
- d. Pursuant to Local Rule 7.55, responses to tentative rulings/examiners' notes must be filed with endorsed copies and delivered no later than 2 Court days before the hearing. If this is not done, the matter will be given a new court date no less than eight weeks out. The date will be posted on Open Access.
- e. Pursuant to Emergency Probate Local Rules, all trial dates between March 16, 2020 and May 26, 2020 have been vacated. Each of those cases has been given a new trial setting date.
- f. Court trials will be scheduled on a case-by-case basis for the duration of the year. Litigants and parties will likely conduct such hearings via Zoom whenever practicable and pursuant to the rules of Evidence.
- g. Filings will continue to be accepted via U.S. mail and through the drop box outside of the Wakefield Taylor courthouse. Litigants are strongly encouraged to use one of these filing methods.
- h. A clerk will be able to process all orders for Department 15 and Department 30 in Room 210 (Probate Examiner's Room, 2nd Floor, Wakefield Taylor Courthouse), related to a same-day court appearance from 9:00 a.m. to 10:30 a.m., Monday through Friday.

The method for processing these orders will be as follows: After the order is granted and signed in Court, the self-represented petitioner or counsel will walk the order to Room 210 and wait on

the bench outside. The Court will notify the clerk that the self-represented petitioner or counsel is en route. The clerk will take the order from the self-represented petitioner or counsel at Room 210 and process it inside Room 210. The clerk will then return the order to the self-represented petitioner or counsel, who will then exit the courthouse with the order.

- i. The court will hear court-required sales of property petitions either at the end of the morning calendar or upon pre-approved specially set hearings acquired through the *ex parte* process.
- j. LPS status hearings will continue to be heard every Tuesday afternoon at 1:30 p.m. strictly via Zoom. Trials (both jury and court) have been set for future dates. The court is working with counsel on developing a plan for conducting LPS court trials via Zoom teleconferencing.
- k. When petitioning for a name change, please submit the following:
 - 1) Copy of photo identification or driver's license; 2) Proof of residency (i.e. copy of utility bill or other piece of mail which reflects petitioner's name and current address; 3) Self-addressed, stamped envelope; and, 4) Filing fee or waiver. Petitions will be processed and copies will be returned in the envelopes provided.

3. Updates to Conservatorship Investigations

- a. Only temporary conservatorships will be granted at this time with a hearing date set approximately nine months out to review the temporary conservatorship.
- b. Investigators will move forward with conservatorship review investigations and initial investigations. Investigators will include in the body of their reports a statement such as: "Because of the current COVID-19 public health crisis, an in-person interview of the prospective conservatee/conservatee was not possible at this time." The date of the video/phone interview of the conservatee will be noted. The conservatee will be identified via date of birth, recognition by the investigator, or other reliable process. A brief

summary of the interview circumstances will be included (i.e. if the conservatee appeared to be in a private room during the interview or why the conservatee could not be in a room by his/herself; if the conservatee did not have the ability to hold/operate the video conference device; could not attend and concentrate on the device).

- c. The court may state during hearings/reviews that it may reconsider its decision/ruling at a later date based upon updated or additional information such as a summary of a face-to-face interview of the conservatee conducted by a probate investigator. This will both inform and reassure conservatees, conservators, temporary conservators, attorneys, family members and court investigators that the court may review and reconsider past conservatorship rulings once face-to-face interviews are again possible. Courtroom clerks will note this general statement in the minute order.

(Exh. A eff. 5/18/20; amended eff. 5/20/20)