

Superior Court of California
County of Santa Clara



CONTACT

JOSEPH D. MACALUSO
Public Information Officer
jmacaluso@scscourt.org
(408) 882-2715 desk
(408) 691-0046 cell

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Santa Clara County Court Strengthens Rules for Private Professional Fiduciary Fees

Changes to rate guidelines and invoicing included in Court's latest action.

SAN JOSE, Calif. (September 20, 2012): today, the judges of the Superior Court of California, County of Santa Clara (Court) unanimously passed changes to the Court's Local Rule that governs private professional fiduciary (PPF) fee approval.

"We promised Santa Clara County residents quick action and the Court is making good on that pledge," said Assistant Presiding Judge Brian Walsh, who is leading the Court's effort. "These changes integrate the best ideas from the diverse group of stakeholders the Court assembled to help evaluate possible improvements in our local policies."

The updated rule now defines a range of fee rates that will be customarily accepted by the Court. Additionally, these changes include guidance as to how such rates can be charged, with the Court now breaking down rates based on the type of activity, such as financial management versus day-to-day errands.

The California Rules of Court strictly prohibits Local Rules from defining absolute maximum and minimum rates. However, petitioners who file for fee approval above these customarily accepted rates will need to provide clear and reasonable justification for an increased amount. The proposed rule change recognizes that there might be limited circumstances where an increased fee amount is warranted, but the size and nature of the conservatee's estate is always one of the requirement areas that must be addressed in considering any such rate adjustment request.

Another substantial change in the Local Rule is increased transparency, with mandatory monthly invoicing for all interested parties, as well as the creation of a new process to voice objections or concerns as to proposed compensation at the outset of the PPF becoming a conservator.

"Given the short amount of time and the urgency to institute new rules, I believe the changes adopted today are a good foundation toward protecting conservatees. As a member of the court's task force, I hope to continue discussing how to improve the system, including the need for potential state legislation on issues such as fees on fees," said Assemblymember Jim Beall.

Changes to the Local Rule will go into effect on January 1, 2013, and are aimed specifically at addressing PPF fees. The Court is continuing to evaluate other areas related to this issue that the Court either could not address in the shortened timeframe to meet the January 1 rule change requirements or might be outside the Court's purview. A meeting with another advisory group to discuss other issues is slated for late October.

"Our work is not yet done. We are continuing to explore other ways to strengthen safeguards for conservatees," said Assistant Presiding Judge Walsh. "At this point, nothing is off the table; however, some issues might need to be addressed on a legislative level and that's why the Court is also working with our locally elected leaders."

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