

**JUDICIAL COUNCIL OF CALIFORNIA  
ADMINISTRATIVE OFFICE OF THE COURTS**

455 Golden Gate Avenue  
San Francisco, California 94102-3688

**Report**

TO: Members of the Judicial Council

FROM: Probate and Mental Health Advisory Committee  
Hon. Don Edward Green, Chair  
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DATE: September 15, 2005

SUBJECT: Probate Forms: *Notice of Petition to Administer Estate* and probate citations (revise forms DE-121, DE-122, and GC-320, and approve new form DE-121(MA)) (Action Required)

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Issue Statement

*Addition of notice to hearing-impaired persons*

Form DE-121 should but currently does not give notice to hearing-impaired persons of their right to apply to the court for an accommodation at the hearing disclosed in the form. The proposed revised form would include the appropriate notice.

The number of persons who must be served with a copy of this form often exceeds the number that can be listed in the space available on the second page of the form and there is no Judicial Council form attachment for this purpose. The proposed new *Attachment to Notice of Petition to Administer Estate* (form DE-121(MA)) would address this problem.

*Probate Citations (forms DE-122 and GC-320)*

Citations in probate proceedings are similar to summonses or orders to show cause in civil matters. They are used to acquire personal jurisdiction over a person and to compel his or her appearance in court to show why the court should not make an order.

The two form probate citations should but currently do not give notice to hearing-impaired persons served with the citations of their right to apply to the court for an accommodation. The revised forms would provide that notice. The current forms also do not cover all situations in which citations are commonly used in probate practice. Form DE-122 would be revised so that it could be used in all probate matters other than the commencement of a conservatorship, the sole purpose for which form GC-320 is designed.

### Recommendation

The Probate and Mental Health Advisory Committee recommends that the Judicial Council, effective January 1, 2006:

1. Approve form DE-121(MA) to meet the need for an optional attachment to show service of form DE-121; and
2. Revise forms DE-121, DE-122, and GC-320 to add a notice to hearing-impaired persons of their right to apply for an accommodation, provide a citation form that can be used in all proceedings under the Probate Code, and make other improvements in these forms.

Copies of the proposed revised and new forms are attached at pages 7–13. Copies of existing forms DE-121, DE-122, and GC-320 are attached at pages 14–19.

### Rationale for Recommendation

#### *Addition of notice to hearing-impaired persons*

Civil Code section 54.8(a) requires courts to provide an accommodation—an assistive listening system, computer-aided transcription captioning, or sign language interpreter services—for a hearing-impaired party, attorney, witness, or other participant in a court hearing if that person requests the accommodation at least five days before the hearing. Section 54.8(f) requires the Judicial Council to develop and approve official forms for notice to hearing-impaired persons of the availability of these systems.<sup>1</sup> The council has developed a notice to be placed on all Judicial Council forms that compel participation in court proceedings or attendance at court hearings or give notice of court proceedings or hearings in which the persons notified may elect to participate (e.g., form DE-121).<sup>2</sup>

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<sup>1</sup> See also, rule 989.3, Cal. Rules of Court, and *Request for Accommodations by Persons With Disabilities and Order* (form MC-410) both adopted effective January 1, 1996.

<sup>2</sup> The first Judicial Council forms revised to add the council-approved notice to hearing-impaired persons, civil harassment forms CH-120, CH-125, CH-150, and CH-151, became effective January 1, 2005. (Judicial Council minutes of meeting of October 15, 2004, agenda item A9.)

The first probate forms revised to add this notice are the notices of hearing commonly used in decedents' estates and other probate- and trust-related proceedings, including guardianships and conservatorships.<sup>3</sup> These forms were revised effective July 1, 2005.

The standard notice consists of text and the international symbol for the hearing impaired, surrounded by a text box.<sup>4</sup> The notice would be added to the second page of form DE-121 and to the first page of forms DE-122 and GC-320.<sup>5</sup>

*Attachment to Notice of Petition to Administer Estate—Proof of Service by Mail (form DE-121(MA))*

This proposed optional attachment to form DE-121 is designed to be used when there are more persons to be served with a copy of that form than can be listed on the Proof of Service by Mail on the second page of that form. The new form is in the same format as the proof of service on form DE-121 and the new proof-of-service attachments to the probate notices of hearing that were approved by the Judicial Council effective July 1, 2005.<sup>6</sup>

*Notice of Petition to Administer Estate (form DE-121)*

Form DE-121, (1) gives notice to persons interested in the estate of a decedent that an estate proceeding has been started by the filing of a *Petition for Probate*; (2) advises such persons of the relief requested in the petition and of their right to object; (3) advises creditors of the claim-filing requirement; and (4) gives notice of the date, time, and place of the hearing on the petition. The form would be revised by the addition of line borders around the spaces for the names and addresses of persons to whom the form is to be mailed. This change conforms to a new format for proof-of-service forms in civil actions generally, adopted effective January 1, 2005.<sup>7</sup> The new format is intended to make it easier for self-represented persons

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<sup>3</sup> *Notice of Hearing—Decedent's Estate or Trust* (form DE-120) and *Notice of Hearing—Guardianship or Conservatorship* (form GC-020).

<sup>4</sup> The text reads: "Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available upon request if at least 5 days notice is provided. Contact the clerk's office for *Request for Accommodations by Persons With Disabilities and Order* (form MC-410). (Civil Code section 54.8.)"

<sup>5</sup> The first page of form DE-121 is crowded with essential information about the probate proceeding that must be copied from the form by the publisher under Probate Code section 8120 et seq. (Note the detailed instructions to the publisher in the note at the bottom of the first page of the form.)

<sup>6</sup> New forms DE-120(MA)/GC-020(MA) and DE-120(PA)/GC-020(PA).

<sup>7</sup> See civil proof of service forms POS-020(D) and (P), POS-030(D) and (P), and POS-040(D) and (P), approved effective January 1, 2005.

to complete the forms, particularly on computers, and for the court and other parties to read forms prepared by such persons.

*Probate citations (forms DE-122 and GC-320)*

A citation in a probate proceeding compels personal appearance at a hearing. It also directs the person cited to show why certain relief should not be granted. A citation must be served in the same way as a summons.<sup>8</sup>

There are two Judicial Council probate citation forms. Form DE-122 was designed for use in a decedent's estate proceeding to compel any person to appear and show cause at any hearing, but the form could be used in any proceeding under the Probate Code other than to compel a proposed conservatee to attend the hearing on a petition for the appointment of a conservator and show cause why a conservator should not be appointed (form GC-320 is the specialized form citation designed for that purpose).

In response to a comment by the Superior Court, Los Angeles County, Form DE-122 would be redesignated as form DE-122/GC-322 and modified to clarify that it may be used in all proceedings under the Probate Code except when form GC-320 must be used, at the commencement of a conservatorship. The admonition at the bottom of page 1 of form DE-122 that the form is not to be used for guardianships and conservatorships would be modified to state that the form may be used in all probate proceedings except to start a conservatorship, for which purpose use of form GC-320 is required.

The proofs of service on the second pages of forms DE-122 and GC-320 would be revised by the deletion of item 3d, "by causing copies to be mailed." Either citation may be served by mail only when mailed out of state or when served with a *Notice and Acknowledgment of Receipt* (form POS-015)—covered in item 3c on both forms.<sup>9</sup> Service of a citation by mail under Code of Civil Procedure section 1013 or Probate Code sections 1215 and 1230 is not authorized.

The titles of both forms would be changed by deleting *Proof of Service*,<sup>10</sup> and the full form family added below the title at the bottom of each page. Many forms contain proofs of service. Few of them identify the proof of service as part of the name of the form.

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<sup>8</sup> See Probate Code sections 1240–1242 and 1823–1824.

<sup>9</sup> See Probate Code sections 1242 (form DE-122) and 1824 (form GC-320).

<sup>10</sup> Substitution of a dash before "Probate" instead of parentheses around that word in the title of the form is intended to reduce confusion between the title and the form family, which is shown in parentheses below the title of the form at the bottom of the page.

### Alternative Actions Considered

The addition of notices to hearing-impaired persons of their right to apply for an accommodation is mandatory under the law and Judicial Council policy. The other more technical revisions are necessary. No alternatives were considered.

### Comments From Interested Parties

This proposal was circulated to a standard list of court executives, judicial officers, and organizations, and to an augmented list of probate practitioners, probate department staff, and probate-related legal organizations, including the State Bar Trusts and Estates Section and probate-interest sections of many local or regional bar associations. Attached at pages 20–22 is a chart showing the comments received from the public on this proposal and the advisory committee's responses.

Nine comments were received. Eight comments were entirely favorable. The Superior Court, Los Angeles County approved of proposed new form DE-121(MA) and the revised form GC-320 without changes. The court recommended changes to the other forms as follows:

#### *Form DE-121*

The court recommended that form DE-121 be revised to delete the signature line for the petitioner or petitioner's attorney. The governing statute, Probate Code section 8100, requires the name and address of the petitioner or petitioner's attorney but does not require a signature. The court advised that requiring the signature sometimes results in a delay in the appointment of a fiduciary and commencement of administration when the notice is prepared and served by employees of the newspaper that will publish the notice, a common event in decedent estate practice.

The advisory committee agrees with the court's comment; the signature line for the petitioner or the petitioner's attorney has been deleted from the form. The committee notes that the two general probate notices of hearing, forms DE-120 and GC-020, do not currently require or provide for the signature of the party or attorney giving the notice.

#### *Form DE-122*

The court recommended that form DE-122, the generic probate citation, be modified for use in all proceedings under the Probate Code. As noted above, the advisory committee accepted this recommendation and modified form DE-122 for use in all such proceedings, except when the *Citation for Conservatorship* (form GC-320) must be used.

### Implementation Requirements and Costs

No costs should be incurred because of this proposal, beyond the normal costs associated with the revision of existing Judicial Council forms, the approval of a new form, and their distribution. However, the revised forms' notice of rights to hearing-impaired persons may cause an increase in requests for accommodations.

### Attachments

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i>    TELEPHONE NO.: _____ FAX NO. <i>(Optional):</i> _____ E-MAIL ADDRESS <i>(Optional):</i> _____ ATTORNEY FOR <i>(Name):</i> _____	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
ESTATE OF <i>(Name):</i> _____	DECEDENT
<b>NOTICE OF PETITION TO ADMINISTER ESTATE OF</b> <b><i>(Name):</i></b> _____	CASE NUMBER: _____

1. To all heirs, beneficiaries, creditors, contingent creditors, and persons who may otherwise be interested in the will or estate, or both, of *(specify all names by which the decedent was known):*
  
2. A **Petition for Probate** has been filed by *(name of petitioner):*  
 in the Superior Court of California, County of *(specify):*
3. The Petition for Probate requests that *(name):*  
 be appointed as personal representative to administer the estate of the decedent.
4.  The petition requests the decedent's will and codicils, if any, be admitted to probate. The will and any codicils are available for examination in the file kept by the court.
5.  The petition requests authority to administer the estate under the Independent Administration of Estates Act. (This authority will allow the personal representative to take many actions without obtaining court approval. Before taking certain very important actions, however, the personal representative will be required to give notice to interested persons unless they have waived notice or consented to the proposed action.) The independent administration authority will be granted unless an interested person files an objection to the petition and shows good cause why the court should not grant the authority.
6. **A hearing on the petition will be held in this court as follows:**

a. Date:	Time:	Dept.:	Room:
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- b. Address of court:  same as noted above  other *(specify):*
  
7. **If you object** to the granting of the petition, you should appear at the hearing and state your objections or file written objections with the court before the hearing. Your appearance may be in person or by your attorney.
8. **If you are a creditor or a contingent creditor of the decedent**, you must file your claim with the court and mail a copy to the personal representative appointed by the court within four months from the date of first issuance of letters as provided in Probate Code section 9100. The time for filing claims will not expire before four months from the hearing date noticed above.
9. **You may examine the file kept by the court.** If you are a person interested in the estate, you may file with the court a *Request for Special Notice* (form DE-154) of the filing of an inventory and appraisal of estate assets or of any petition or account as provided in Probate Code section 1250. A *Request for Special Notice* form is available from the court clerk.
10.  Petitioner  Attorney for petitioner *(name):*

*(Address):*

*(Telephone):*

**NOTE:** If this notice is published, print the caption, beginning with the words NOTICE OF PETITION TO ADMINISTER ESTATE, and do not print the information from the form above the caption. The caption and the decedent's name must be printed in at least 8-point type and the text in at least 7-point type. Print the case number as part of the caption. Print items preceded by a box only if the box is checked. Do not print the italicized instructions in parentheses, the paragraph numbers, the mailing information, or the material on page 2.

ESTATE OF <i>(Name)</i> :  _____	CASE NUMBER:  _____
DECEDENT	

**PROOF OF SERVICE BY MAIL**

1. I am over the age of 18 and not a party to this cause. I am a resident of or employed in the county where the mailing occurred.
  2. My residence or business address is *(specify)*:
  
  3. I served the foregoing *Notice of Petition to Administer Estate* on each person named below by enclosing a copy in an envelope addressed as shown below **AND**
    - a.  **depositing** the sealed envelope with the United States Postal Service on the date and at the place shown in item 4, with the postage fully prepaid.
    - b.  **placing** the envelope for collection and mailing on the date and at the place shown in item 4 following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.
  4. a. Date mailed: \_\_\_\_\_ b. Place mailed *(city, state)*: \_\_\_\_\_
  5.  I served, with the *Notice of Petition to Administer Estate*, a copy of the petition or other document referred to in the notice.
- I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

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

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(TYPE OR PRINT NAME OF PERSON COMPLETING THIS FORM)
(SIGNATURE OF PERSON COMPLETING THIS FORM)

**NAME AND ADDRESS OF EACH PERSON TO WHOM NOTICE WAS MAILED**

	<u>Name of person served</u>	<u>Address (number, street, city, state, and zip code)</u>
1.		
2.		
3.		
4.		
5.		
6.		

Continued on an attachment. *(You may use form DE-121(MA) to show additional persons served.)*

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available upon request if at least 5 days notice is provided. Contact the clerk's office for <i>Request for Accommodations by Persons With Disabilities and Order</i> (form MC-410). (Civil Code section 54.8.)	
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ATTORNEY OR PARTY WITHOUT ATTORNEY ( <i>Name, State Bar number, and address</i> ):  <hr/> <p style="text-align: center;">TELEPHONE NO.: _____ FAX NO. (<i>Optional</i>): _____</p> <p>E-MAIL ADDRESS (<i>Optional</i>): _____</p> <p>ATTORNEY FOR (<i>Name</i>): _____</p>	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
<input type="checkbox"/> ESTATE OR TRUST <input type="checkbox"/> CONSERVATORSHIP <input type="checkbox"/> GUARDIANSHIP <input type="checkbox"/> OTHER OF ( <i>Name</i> ):  <input type="checkbox"/> DECEDENT <input type="checkbox"/> CONSERVATEE <input type="checkbox"/> MINOR <input type="checkbox"/> OTHER	
<b>CITATION—PROBATE*</b>	CASE NUMBER: _____

1. **TO** (*name*):
2. **You are hereby cited and required to appear at a hearing in this court on**

a. Date: _____	Time: _____	Dept.: _____	Room: _____
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b. Address of court:     same as noted above     other (*specify*): \_\_\_\_\_

3. At this hearing you are required to give any legal reason why the relief requested in the verified petition attached to and served with this citation, and filed with this court, should not be granted.

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available upon request if at least 5 days notice is provided. Contact the clerk's office for <i>Request for Accommodations by Persons With Disabilities and Order</i> (form MC-410). (Civil Code section 54.8.)	
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Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

(SEAL)	<p><b>NOTICE TO THE PERSON SERVED:</b> You are served</p> <p>a. <input type="checkbox"/> as an individual.</p> <p>b. <input type="checkbox"/> as the person cited under the fictitious name of (<i>specify</i>): _____</p> <p>c. <input type="checkbox"/> On behalf of (<i>specify</i>): _____                  under  <input type="checkbox"/> Code Civ. Proc., § 416.10 (corporation)  <input type="checkbox"/> Code Civ. Proc., § 416.20 (defunct corporation)  <input type="checkbox"/> Code Civ. Proc., § 416.40 (association or partnership)  <input type="checkbox"/> Code Civ. Proc., § 416.60 (minor)  <input type="checkbox"/> Code Civ. Proc., § 416.90 (individual)  <input type="checkbox"/> other (<i>specify</i>): _____</p> <p>d. by personal delivery on (<i>date</i>): _____</p>
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\* For use in all proceedings under the Probate Code EXCEPT to start a conservatorship.  
 Use *Citation for Conservatorship* (form GC-320) for that purpose.

<input type="checkbox"/> ESTATE OR TRUST <input type="checkbox"/> CONSERVATORSHIP <input type="checkbox"/> GUARDIANSHIP <input type="checkbox"/> OTHER	CASE NUMBER: _____
OF (NAME): _____	

**PROOF OF SERVICE**

1. At the time of service I was at least 18 years of age and not a party to this action, and I served copies of the Citation—Probate and the following documents (specify):
  2. a. Party served (specify name of party as shown on the documents served):
  - b. Person served: (1)  party in item 2a (2)  other (specify name and title or relationship to the party named in item 2a):
  - c. Address (specify):
3. I served the party named in item 2
  - a.  by personally delivering the copies (1) on (date): \_\_\_\_\_ (2) at (time): \_\_\_\_\_
  - b.  by leaving the copies with or in the presence of (name and title or relationship to person indicated in item 2b):
    - (1)  (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person served. I informed him or her of the general nature of the papers.
    - (2)  (residence) a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the person served. I informed him or her of the general nature of the papers.
    - (3) on (date): \_\_\_\_\_ (4) at (time): \_\_\_\_\_
    - (5)  A declaration of diligence is attached. (Substituted service on natural person, minor, conservatee, or political candidate.)
  - c.  by mailing the copies to the person served, addressed as shown in item 2c, by first-class mail, postage prepaid,
    - (1) on (date): \_\_\_\_\_ (2) from (city): \_\_\_\_\_
    - (3)  with two copies of the Notice and Acknowledgment of Receipt—Civil and a postage-paid return envelope addressed to me. (Attach completed Notice and Acknowledgment of Receipt—Civil (form POS-015).)
    - (4)  to an address outside California with return receipt requested. (Attach completed return receipt.)
  - d.  other (specify other manner of service and authorizing code section):
4. The "Notice to the Person Served" (on the citation) was completed as follows:
  - a.  as an individual defendant.
  - b.  as the person sued under the fictitious name of (specify):
  - c.  On behalf of (specify):
 

under <input type="checkbox"/> Code Civ. Proc., § 416.10 (corporation)	<input type="checkbox"/> Code Civ. Proc., § 416.60 (minor)
<input type="checkbox"/> Code Civ. Proc., § 416.20 (defunct corporation)	<input type="checkbox"/> Code Civ. Proc., § 416.90 (individual)
<input type="checkbox"/> Code Civ. Proc., § 416.40 (association or partnership)	<input type="checkbox"/> other (specify):
5. a. Person serving (name, address, and telephone number):
  - d.  Exempt from registration under Business and Professions Code, § 22350(b).
  - e.  Registered California process server.
    - (1)  Employee or independent contractor
    - (2) Registration no. (specify):
    - (3) County (specify):
    - (4) Expiration (date):
- b.  Fee for service: \$
- c.  Not a registered California process server.

6.  I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

7.  I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: \_\_\_\_\_ \_\_\_\_\_  
 (SIGNATURE OF PERSON SERVING)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):     TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b>  STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (Name): _____  <div style="text-align: right;">PROPOSED CONSERVATEE</div>	
<b>CITATION FOR CONSERVATORSHIP</b> <input type="checkbox"/> Limited Conservatorship	CASE NUMBER: _____

THE PEOPLE OF THE STATE OF CALIFORNIA,

To (name):

1. You are hereby cited and required to appear at a hearing in this court on

a. Date:	Time:	<input type="checkbox"/> Dept.:	<input type="checkbox"/> Room:
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b. Address of court:  same as noted above  other (specify):

and to give any legal reason why, according to the verified petition filed with this court, you should not be found to be  
 unable to provide for your personal needs  unable to manage your financial resources and by reason thereof,  
 why the following person should not be appointed  conservator  limited conservator of your  person  
 estate (name):

2. A conservatorship of the person may be created for a person who is unable properly to provide for his or her personal needs for physical health, food, clothing, or shelter. A conservatorship of the property (estate) may be created for a person who is unable to resist fraud or undue influence, or who is substantially unable to manage his or her own financial resources. "Substantial inability" may not be proved solely by isolated incidents of negligence or improvidence.
3. At the hearing a conservator may be appointed for your  person  estate. The appointment may affect or transfer to the conservator your right to contract, to manage and control your property, to give informed consent for medical treatment, to fix your place of residence, and to marry. You also may be disqualified from voting if you are found to be incapable of completing an affidavit of voter registration. The judge or the court investigator will explain to you the nature, purpose, and effect of the proceedings and answer questions concerning the explanation.
4. You have the right to appear at the hearing and oppose the petition. You have the right to hire an attorney of your choice to represent you. The court will appoint an attorney to represent you if you are unable to retain one. You must pay the cost of that attorney if you are able. You have the right to a jury trial if you wish.
5. (For limited conservatorship only) In addition to the rights stated in item 4 above, you have the right to oppose the petition in part by objecting to any or all of the requested duties or powers of the limited conservator.

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

(SEAL)

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available upon request if at least 5 days notice is provided. Contact the clerk's office for *Request for Accommodations by Persons With Disabilities and Order* (form MC-410). (Civil Code section 54.8.)

CONSERVATORSHIP OF (Name):  _____	CASE NUMBER:  
PROPOSED CONSERVATEE	

### PROOF OF SERVICE

1. At the time of service I was at least 18 years of age and not a party to this proceeding. **I served copies** of the *Citation for Conservatorship* and the *Petition for Appointment of Probate Conservator* (form GC-310) as follows:
2. a. Person cited (name):
  - b. Person served: (1)  person in item 2a
  - (2)  other (specify name and title or relationship to the person named in item 2a):
- c. Address (specify):
3. I served the person named in item 2
  - a.  **by personally delivering** the copies (1) on (date): (2) at (time):
  - b.  **by mailing** the copies to the person served, addressed as shown in item 2c, by first-class mail, postage prepaid,
    - (1) on (date): (2) from (city):
    - (3)  with two copies of the *Notice and Acknowledgment of Receipt—Civil* and a postage-paid return envelope addressed to me. (Attach completed *Notice and Acknowledgment of Receipt—Civil* (form POS-015).)
    - (4)  to an address outside California with return receipt requested. (Attach completed return receipt.)
  - c.  **other** (specify other manner of service, and the authorizing code section and order of the court):
4. a. Person serving (name, address, and telephone number):
- b.  Fee for service: \$
- c.  Not a registered California process server.
- d.  Exempt from registration under Business and Professions Code section 22350(b).
- e.  Registered California process server.
  - (1)  Employee or independent contractor.
  - (2) Registration no. (specify):
  - (3) County (specify):
  - (4) Expiration (date):
5.  I **declare** under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
6.  I **am a California sheriff or marshal** and I certify that the foregoing is true and correct.

Date:



(SIGNATURE OF PERSON SERVING)

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, state bar number, and address):</i>  TELEPHONE AND FAX NOS.:	<b>FOR COURT USE ONLY</b>
ATTORNEY FOR <i>(Name):</i> <b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
ESTATE OF <i>(Name):</i>   <div style="text-align: right;">DECEDENT</div>	
<b>NOTICE OF PETITION TO ADMINISTER ESTATE</b> <b>OF <i>(Name):</i></b>	CASE NUMBER:

1. To all heirs, beneficiaries, creditors, contingent creditors, and persons who may otherwise be interested in the will or estate, or both, of *(specify all names by which decedent was known):*
  
2. A *PETITION FOR PROBATE* has been filed by *(name of petitioner):* in the Superior Court of California, County of *(specify):*
3. THE *PETITION FOR PROBATE* requests that *(name):* be appointed as personal representative to administer the estate of the decedent.
4.  THE *PETITION* requests the decedent's will and codicils, if any, be admitted to probate. The will and any codicils are available for examination in the file kept by the court.
5.  THE *PETITION* requests authority to administer the estate under the Independent Administration of Estates Act. (This authority will allow the personal representative to take many actions without obtaining court approval. Before taking certain very important actions, however, the personal representative will be required to give notice to interested persons unless they have waived notice or consented to the proposed action.) The independent administration authority will be granted unless an interested person files an objection to the petition and shows good cause why the court should not grant the authority.
6. A HEARING on the petition will be held on
 

a. Date:	Time:	Dept.:	Room:
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 b. Address of court:  same as noted above  other *(specify):*
7. IF YOU OBJECT to the granting of the petition, you should appear at the hearing and state your objections or file written objections with the court before the hearing. Your appearance may be in person or by your attorney.
8. IF YOU ARE A CREDITOR or a contingent creditor of the deceased, you must file your claim with the court and mail a copy to the personal representative appointed by the court within four months from the date of first issuance of letters as provided in Probate Code section 9100. The time for filing claims will not expire before four months from the hearing date noticed above.
9. YOU MAY EXAMINE the file kept by the court. If you are a person interested in the estate, you may file with the court a *Request for Special Notice* (form DE-154) of the filing of an inventory and appraisal of estate assets or of any petition or account as provided in Probate Code section 1250. A *Request for Special Notice* form is available from the court clerk.
10.  Petitioner  Attorney for petitioner *(name):*  
*(Address):*

*(Telephone):*

\_\_\_\_\_  
 (SIGNATURE OF  PETITIONER  ATTORNEY FOR PETITIONER)

**NOTE:** If this notice is published, print the caption, beginning with the words NOTICE OF PETITION, and do not print the information from the form above the caption. The caption and decedent's name must be printed in at least 8-point type and the text in at least 7-point type. Print the case number as part of the caption. Print items preceded by a box only if the box is checked. Do not print the *italicized* instructions in parentheses, the paragraph numbers, the mailing information, or the material on the reverse.

(Continued on reverse)

ESTATE OF <i>(Name)</i> :  _____	CASE NUMBER:  _____
DECEDENT	

**PROOF OF SERVICE BY MAIL**

1. I am over the age of 18 and not a party to this cause. I am a resident of or employed in the county where the mailing occurred.
2. My residence or business address is *(specify)*:
  
3. I served the foregoing *Notice of Petition to Administer Estate* on each person named below by enclosing a copy in an envelope addressed as shown below AND
  - a.  **depositing** the sealed envelope with the United States Postal Service with the postage fully prepaid.
  - b.  **placing** the envelope for collection and mailing on the date and at the place shown in item 4 following our ordinary business practices. I am readily familiar with this business' practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
  
4. a. Date of deposit: \_\_\_\_\_ b. Place of deposit *(city and state)*: \_\_\_\_\_
  
5.  I served with the *Notice of Petition to Administer Estate* a copy of the petition and other documents referred to in the notice.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

..... (TYPE OR PRINT NAME) ▶ \_\_\_\_\_ (SIGNATURE OF DECLARANT)

**NAME AND ADDRESS OF EACH PERSON TO WHOM NOTICE WAS MAILED**

List of names and addresses continued in attachment.

ATTORNEY OR PARTY WITHOUT ATTORNEY ( <i>Name, state bar number, and address</i> ):  TELEPHONE AND FAX NOS.:	<b>FOR COURT USE ONLY</b>
ATTORNEY FOR ( <i>Name</i> ): <b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
ESTATE OF ( <i>Name</i> ):  <div style="text-align: right;">DECEDENT</div>	
<b>CITATION (PROBATE) * AND PROOF OF SERVICE</b>	

1. **TO** (*name*):
2. You are hereby cited and required to appear at a hearing in this court on
 

a. Date:	Time:	Dept.:	Room:
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b. Address of court:  same as noted above     other (*specify*):
3. At this hearing you are required to give any legal reason why, according to the verified petition attached to this citation and filed with this court (*specify*):

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

(SEAL)	<p><b>NOTICE TO THE PERSON SERVED:</b> You are served</p> <p>a. <input type="checkbox"/> as an individual.</p> <p>b. <input type="checkbox"/> as the person cited under the fictitious name of (<i>specify</i>):</p> <p>c. <input type="checkbox"/> On behalf of (<i>specify</i>):</p> <p style="margin-left: 40px;">under <input type="checkbox"/> Code Civ. Proc., § 416.10 (corporation)    <input type="checkbox"/> Code Civ. Proc., § 416.60 (minor)</p> <p style="margin-left: 40px;"><input type="checkbox"/> Code Civ. Proc., § 416.20 (defunct corporation)    <input type="checkbox"/> Code Civ. Proc., § 416.90 (individual)</p> <p style="margin-left: 40px;"><input type="checkbox"/> Code Civ. Proc., § 416.40 (association or partnership)    <input type="checkbox"/> other (<i>specify</i>):</p> <p>d. by personal delivery on (<i>date</i>):</p> <p style="text-align: center;">(Proof of Service on reverse)</p>
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**\* Do NOT use for guardianships or conservatorships.**

ESTATE OF (Name):

CASE NUMBER:

DECEDENT

**PROOF OF SERVICE**

1. At the time of service I was at least 18 years of age and not a party to this action, and I served copies of the (specify documents):

2. a. Party served (specify name of party as shown on the documents served):

b. Person served:  party in item 2a  other (specify name and title or relationship to the party named in item 2a):

c. Address (specify):

3. I served the party named in item 2

a.  by personally delivering the copies (1) on (date): (2) at (time):

b.  by leaving the copies with or in the presence of (name and title or relationship to person indicated in item 2b):

(1)  (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person served. I informed him or her of the general nature of the papers.

(2)  (home) a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the person served. I informed him or her of the general nature of the papers.

(3) on (date): (4) at (time):

(5)  A declaration of diligence is attached. (Substituted service on natural person, minor, conservatee, or candidate.)

c.  by mailing the copies to the person served, addressed as shown in item 2c, by first-class mail, postage prepaid,

(1) on (date): (2) from (city):

(3)  with two copies of the Notice and Acknowledgment of Receipt and a postage-paid return envelope addressed to me. (Attach completed form.)

(4)  to an address outside California with return receipt requested. (Attach completed form.)

d.  by causing copies to be mailed. A declaration of mailing is attached.

e.  other (specify other manner of service and authorizing code section):

4. The "Notice to the Person Served" (on the Citation) was completed as follows:

a.  as an individual defendant.

b.  as the person sued under the fictitious name of (specify):

c.  on behalf of (specify):

under  Code Civ. Proc., § 416.10 (corporation)

Code Civ. Proc., § 416.20 (defunct corporation)

Code Civ. Proc., § 416.40 (association

or partnership)

Code Civ. Proc., § 416.60 (minor)

Code Civ. Proc., § 416.90 (individual)

other (specify):

5. a. Person serving (name, address, and telephone number):

b. Fee for service: \$

c.  Not a registered California process server.

d.  Exempt from registration under Business & Professions Code, § 22350(b).

e.  Registered California process server.

(1)  Employee or independent contractor

(2) Registration No. (specify):

(3) County (specify):

(4) Expiration (date):

6.  I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

7.  I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date:



(SIGNATURE)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address):	TELEPHONE AND FAX NOS.:	<i>FOR COURT USE ONLY</i>
ATTORNEY FOR (Name):		
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b>		
STREET ADDRESS:		
MAILING ADDRESS:		
CITY AND ZIP CODE:		
BRANCH NAME:		
CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (Name):		
PROPOSED CONSERVATEE		
<b>CITATION FOR CONSERVATORSHIP</b> <input type="checkbox"/> Limited Conservatorship		CASE NUMBER:

THE PEOPLE OF THE STATE OF CALIFORNIA,

To (name):

1. You are hereby cited and required to appear at a hearing in this court

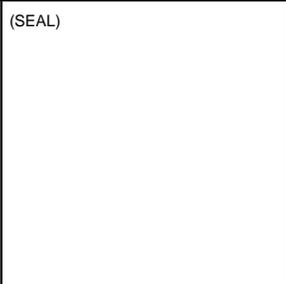
a. Date:	Time:	<input type="checkbox"/> Dept.:	<input type="checkbox"/> Room:
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b. Address of court  same as noted above  is:

and to give any legal reason why, according to the verified petition filed with this court, you should not be found to be  unable to provide for your personal needs  unable to manage your financial resources and by reason thereof, why the following person should not be appointed  conservator  limited conservator of your  person  estate (name):

- 2. A conservatorship of the person may be created for a person who is unable properly to provide for his or her personal needs for physical health, food, clothing or shelter. A conservatorship of the property (estate) may be created for a person who is unable to resist fraud or undue influence, or who is substantially unable to manage his or her own financial resources. "Substantial inability" may not be proved solely by isolated incidents of negligence or improvidence.
- 3. At the hearing a conservator may be appointed for your  person  estate. The appointment may affect or transfer to the conservator your right to contract, to manage and control your property, to give informed consent for medical treatment, to fix your place of residence, and to marry. You may also be disqualified from voting if you are found to be incapable of completing an affidavit of voter registration. The judge or the court investigator will explain to you the nature, purpose, and effect of the proceedings and answer questions concerning the explanation.
- 4. You have the right to appear at the hearing and oppose the petition. You have the right to hire an attorney of your choice to represent you. The court will appoint an attorney to represent you if you are unable to retain one. You must pay the cost of that attorney if you are able. You have the right to a jury trial if you wish.
- 5. (For limited conservatorship only) You have the right to oppose the petition in part by objecting to any or all of the requested duties or powers of the limited conservator.

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy



(Proof of service on reverse)

CONSERVATORSHIP OF <i>(Name)</i> :  _____	CASE NUMBER:  _____
PROPOSED CONSERVATEE	

**PROOF OF SERVICE  
(Citation for Conservatorship)**

1. At the time of service I was at least 18 years of age and not a party to this proceeding, and I **served copies** of the citation and petition as follows:
2. a. Person cited *(name)*:  
 b. Person served:  person in item 2a  other *(specify name and title or relationship to the person named in item 2a)*:  
  
 c. Address *(specify)*:
3. I served the person named in item 2
  - a.  **by personally delivering** the copies (1) on *(date)*: (2) at *(time)*:
  - b.  **by leaving** the copies with or in the presence of *(name and title or relationship to person indicated in item 2b)*:
    - (1)  **(business)** a person at least 18 years of age apparently in charge at the office or usual place of business of the person served. I informed him or her of the general nature of the papers.
    - (2)  **(home)** a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the person served. I informed him or her of the general nature of the papers.
    - (3) on *(date)*: (4) at *(time)*:
    - (5)  A **declaration of diligence** is attached. *(Substituted service on natural person, minor, conservatee, or candidate.)*
  - c.  **by mailing** the copies to the person served, addressed as shown in item 2c, by first-class mail, postage prepaid,
    - (1) on *(date)*: (2) from *(city)*:
    - (3)  with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. *(Attach completed form.)*
    - (4)  to an address outside California with return receipt requested. *(Attach completed form.)*
  - d.  **by causing copies to be mailed.** A declaration of mailing is attached.
  - e.  **other** *(specify other manner of service and authorizing code section)*:
4. a. **Person serving** *(name, address, and telephone number)*: b. **Fee** for service: \$
  - c.  Not a registered California process server.
  - d.  Exempt from registration under Business & Professions Code section 22350(b).
  - e.  Registered California process server.
    - (1)  Employee or independent contractor
    - (2) Registration No. *(specify)*:
    - (3) County *(specify)*:
    - (4) Expiration *(date)*:
5.  I **declare** under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
6.  I **am a California sheriff or marshal** and I certify that the foregoing is true and correct.

Date: \_\_\_\_\_ ▶  
\_\_\_\_\_  
(SIGNATURE)

**SPR05-43**

**Probate: Notice of Petition to Administer Estate and Probate Citations  
(amend forms DE-121, DE-122, and GC-320; approve form DE-121(MA))**

	<b>Commentator</b>	<b>Position</b>	<b>Comment on behalf of group?</b>	<b>Comment</b>	<b>Response of the Probate and Mental Health Advisory Committee</b>
1.	Hon. Aviva K. Bobb Supervising Judge, Probate Ms. Sandra Riley, Supervising Probate Attorney Superior Court of California, County of Los Angeles	AM	Y	<p>1. <i>Notice of Petition To Administer Estate</i> (form DE -121).</p> <p>Although not a change proposed in the Invitation to Comment, the form should be modified to delete the requirement of the petitioner’s or attorney’s signature at the bottom of the first page of the form. Probate Code sections 8100 and 8121 do not require signatures, only the name and address of petition or petitioner’s attorney.</p> <p>Many practitioners use newspapers or other services to mail notice to heirs and devisees. Because the form “Notice of Administration To Administer Estate” requires the petitioner’s or attorney’s signature, mailings are delayed, often resulting in a continuance. Rule 7.101 makes mandatory the use of Judicial Council forms. Eliminating the need for signatures will result in more efficient mailing of notices.</p> <p>2. <i>Attachment to Notice of Petition to Administer Estate—Proof of Service By Mail</i> (form DE-121(MA)).</p> <p>Agree with proposed changes.</p>	<p>The advisory committee agrees with this comment and has deleted the signature line for the petition or the petitioner’s attorney at the bottom of the first page of the form.</p> <p>No response necessary.</p>

**SPR05-43**

**Probate: Notice of Petition to Administer Estate and Probate Citations  
(amend forms DE-121, DE-122, and GC-320; approve form DE-121(MA))**

	Commentator	Position	Comment on behalf of group?	Comment	Response of the Probate and Mental Health Advisory Committee
				<p>3. <i>Citation—Probate</i> (form DE-122)</p> <p>We suggest that this form be modified so that it could be used in all probate proceeding types – for example, a citation required under to Probate Code section 3130.</p> <p>4. <i>Citation for Conservatorship</i> (form GC-320)</p> <p>Agree with proposed changes.</p>	<p>The advisory committee agrees with this recommendation. It has revised the form so it could be used in all probate proceedings except when form GC-320 must be used at the commencement of a conservatorship.</p> <p>No response necessary.</p>
	Mr. W.F. Docker Member, Executive Committee, Trust and Estates Section, The State Bar of California San Francisco, California	A	Y	Agree with proposed changes.	No response necessary.
	Ms. Linda A. Gorham Court Manager Superior Court of California, County of San Francisco	A	N	Agree with proposed changes.	No response necessary.
	Ms. Keri Griffith Court Program Manager Superior Court of California, County of Ventura	A	N	Agree with proposed changes.	No response necessary.
	Mr. Samuel Ingham Attorney at Law	A	N	Agree with proposed changes.	No response necessary.

**SPR05-43**

**Probate: Notice of Petition to Administer Estate and Probate Citations  
(amend forms DE-121, DE-122, and GC-320; approve form DE-121(MA))**

	<b>Commentator</b>	<b>Position</b>	<b>Comment on behalf of group?</b>	<b>Comment</b>	<b>Response of the Probate and Mental Health Advisory Committee</b>
	Certified Specialist, Estate Planning, Trust and Probate Law Beverly Hills, California				
	Mr. John Kresse Executive Director California Center for Law and the Deaf San Francisco, California	A	Y	Agree with proposed changes.	No response necessary.
	Mr. Stephen V. Love Court Executive Officer Superior Court of California, County of San Diego	A	N	Agree with proposed changes.	No response necessary.
	Ms. Emily Stuhlbarg Private Professional Conservator Emily Stuhlbarg & Associates, Inc. Torrance, California	A	N	Agree with proposed changes.	No response necessary.
	Mr. Dean Zipser President Orange County Bar Association Irvine, California	A	Y	Agree with proposed changes.	No response necessary.