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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: April 23, 2010

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| Title | Agenda Item Type |
| Probate: Qualifications of Paralegals Performing Legal Services for Personal Representatives of Decedents' Estates, Conservators, and Guardians | Action Required |
| | Effective Date |
| | July 1, 2010 |
| Rules, Forms, Standards, or Statutes Affected | Date of Report |
| Cal. Rules of Court, rule 7.703 | March 5, 2010 |
| Recommended by | Contact |
| Probate and Mental Health Advisory Committee | Douglas C. Miller, 415-865-7535 douglas.miller@jud.ca.gov |
| Hon. Mitchell L. Beckloff, Chair | |

Executive Summary

The Probate and Mental Health Advisory Committee recommends amending the rule of court that implements a Probate Code section that authorizes payment from the estate of a decedent for extraordinary legal services performed by a paralegal employed by counsel for the decedent's personal representative. The amended rule would clarify that the paralegal must satisfy the qualifications and continuing education requirements of Business and Professions Code section 6450 et seq. for his or her services to be compensated from the decedent's estate. By an existing cross-reference in another rule of court, the amended rule also would apply to a paralegal performing legal services for a conservator or guardian that are to be compensated from the estate of the conservatee or ward.

Recommendation

The Probate and Mental Health Advisory Committee recommends that the Judicial Council, effective July 1, 2010, amend rule 7.703(e) of the California Rules of Court to:

1. Expressly refer to Business and Professions Code section 6450(a) for the definition of a paralegal subject to the rule; and
2. Provide that, when court approval of compensation for the paralegal's services from the estate of a decedent is requested, the statement of a paralegal's qualifications currently required by the rule must demonstrate that the paralegal:
 - a. Was acting under the direction and supervision of an attorney;
 - b. Is qualified under Business and Professions Code section 6450(c); and
 - c. Has complied with the continuing education requirements of Business and Professions Code section 6450(d) for the last two-year certification period ending before the year in which he or she performed any services for which compensation from the estate is requested.

The text of the proposed amended rule is attached at page 9.

Previous Council Action

Rules 7.703 and 7.754 of the California Rules of Court were adopted by the Judicial Council effective January 1, 2003. These rules concern, respectively, compensation payable from the estate for extraordinary legal services performed for personal representatives of decedents' estates and for all legal services performed for conservators and guardians. Rule 7.703(e), unchanged since its adoption, authorizes compensation from the estates of decedents for the services of paralegals acting under the direction and supervision of attorneys. Rule 7.754 applies the provisions of rule 7.703(e) to requests for compensation for legal services performed by paralegals for conservators and guardians that are to be paid from the estates of conservatees and wards.

Rationale for Recommendation

Use of paralegals by counsel for fiduciaries

Probate Code sections 2640(c) and 2642(a) govern the compensation of legal counsel for conservators or guardians to be paid from the estates of conservatees or wards. Probate Code section 10811(b) concerns compensation payable from a decedent's estate for extraordinary legal services performed by legal counsel for the estate's personal representative. These code sections have identical provisions that include the services of paralegals working under the supervision of counsel within the request for the counsel's compensation and require that the petitioner (either the fiduciary or the fiduciary's attorney) specify the time spent and services performed by the paralegal.

Rules 7.703(e) and 7.754 of the California Rules of Court, adopted effective January 1, 2003, implement the Probate Code provisions concerning compensation of counsel for fiduciaries who use paralegals. Rule 7.703(e)(1) requires that a request for extraordinary legal fees to counsel for the estate's personal representative that includes services performed by the attorney's paralegal describe the qualifications of the paralegal (including education, certification, continuing education, and experience). Rule 7.754 incorporates this requirement into requests for compensation of legal counsel for a conservator or guardian from the estate of the conservatee or ward.

Qualifications of paralegals

Business and Professions Code sections 6450–6456, enacted in 2000, establish qualifications and continuing education requirements for paralegals employed by or under contract with attorneys and working under their supervision. The minimum qualification of a paralegal is specified in section 6450(c) to be at least one of the following:

1. A certificate of completion of a paralegal program approved by the American Bar Association;
2. A certificate of completion of a paralegal program at, or a degree from, an accredited college or university meeting certain requirements;
3. A bachelor's or higher degree in any subject plus at least one year of law-related experience under the supervision of an attorney who has at least three years' practice experience and is an active member of the State Bar of California or a federal attorney practicing in this state, plus the written declaration from the supervising attorney stating that the paralegal is qualified to perform paralegal tasks; or
4. A high school or GED equivalent diploma plus at least three years of law-related experience under the supervision of an attorney who has at least three years' practice experience and is an active member of the State Bar of California or a federal attorney practicing in this state, plus the written declaration from the supervising attorney stating that the paralegal is qualified to perform paralegal tasks. The paralegal's work experience must be completed no later than December 31, 2003.

Business and Professions Code section 6450(d) requires every person working as a paralegal to certify with his or her supervising attorney that during every two-year period beginning January 1, 2007, he or she has completed four hours of continuing legal education in legal ethics and four hours in either general law or in an area of specialized law. The education must meet the standards of mandatory attorney continuing education. The paralegal must maintain a record of his or her continuing education certifications.

Request for action by advisory committee

The Probate and Mental Health Advisory Committee received a request from a member of the public to develop a Judicial Council form for petitioners to use to show a paralegal's qualifications and education under section 6450 in support of a request for an award of an attorney's compensation in a conservatorship that includes services performed by the paralegal. This request was necessarily based on the assumption that the attorney cannot be compensated for the services of a paralegal whose qualifications and continuing education are not disclosed (or, if disclosed, do not meet the requirements of sections 6450(c) or 6450(d)). Current rules 7.703 and 7.754 do not explicitly refer to section 6450 and do not specify the consequences of a paralegal's failure to satisfy that section.

The advisory committee was directed to three federal cases under the Americans with Disabilities Act (ADA) from the Eastern District of California. These cases involved requests under the ADA for plaintiffs' attorney fees that included claims for compensation for paralegal services. The courts referred to section 6450 and declined to include fee awards for services of paralegals who did not comply with the requirements of that section on the assumption that section 6450 required this result.¹

As noted above, Probate Code sections 2640(c), 2642(a), and 10811(b) require disclosure of the time spent by the paralegal and a description of the services that he or she performed. The paralegal's compliance with section 6450 is not addressed in these code sections, which were enacted before Business and Professions Code sections 6450–6456.² The Probate Code sections do not require disclosure of the paralegal's qualifications or continuing education, although the rules of court adopted to implement these code sections do require disclosure of this information.

Business and Professions Code sections 6450–6456 provide for severe sanctions for noncompliance,³ but they do not state that an attorney may not be compensated for the services

¹ See *Sherri White v. GMRI, Inc., dba Red Lobster*, No. CIV. S-04-0620-WBS-KJM (E.D. Cal. 2006), 2006 U.S. Dist. LEXIS 22200 (motion for reconsideration of request for compensation for paralegal services denied on procedural grounds; the request was originally denied because the paralegal's supervising attorney failed to provide a written declaration, required by section 6450(c)(4), that the high school graduate paralegal was qualified to perform paralegal tasks); *James Sanford v. GMRI, Inc., dba Red Lobster*, No. CIV. S-04-1535-DFL-CMK (E.D. Cal. 2005), 2005 U.S. Dist. LEXIS 27581 (defendant's objections to plaintiff's paralegal's fees partially overruled and partially sustained on application of the provisions of section 6450); and *Tony Martinez v. G. Maroni Co., dba Church's Chicken, etc., et al.*, No. CIV. S-06-1399-DFL-GGH (E.D. Cal. 2007) 2007 U.S. Dist. LEXIS 32366 (fees for paralegal services challenged on grounds that the paralegals did not meet the qualifications of section 6450 and that the services performed were secretarial and not supportable at a paralegal's higher hourly rate; the court concluded that the paralegals satisfied the qualifications of section 6450, but sustained the defendant's claim that the services performed were secretarial).

² The provisions concerning paralegals in Probate Code sections 2640 and 2642 were enacted in 1990, effective July 1, 1991. (Stats. 1990, ch. 79 (Assem. Bill 759), § 14). Probate Code section 10811, including its provisions concerning paralegals in section 10811(b), was enacted in 1991 and also became effective on July 1, 1991 (Stats. 1991, ch. 82 (Assem. Bill 896), § 30).

³ Section 6451 states that it is unlawful for a paralegal to perform services for a consumer except under the direction and supervision of the attorney or other entity employing or contracting with the paralegal, and section 6452(a) provides that it is unlawful for a person to identify himself or herself as a paralegal on advertisements, letterheads,

of a paralegal who is not shown in the attorney's fee request to have satisfied the qualification requirements or completed the required continuing education.

There is evidence, however, that the Legislature contemplated that a paralegal involved in a fee request under Probate Code sections 2640, 2642, or 10811 must meet the requirements of the Business and Professions Code. A Senate floor analysis of the legislation that added the Business and Professions Code provisions states:

Existing law permits an attorney to include compensation paid for services performed by a "paralegal" when petitioning the court for fees for various services under the Probate Code. There is no definition of "paralegal" in existing law, rule of court, or rules of the State Bar of California.⁴

This statement supports an inference that the Business and Professions Code sections were intended to establish the minimum qualifications of paralegals whose services may be considered in requests for fees "for various services under the Probate Code." Business and Professions Code section 6450(a) defines a paralegal in part as a person "who is qualified by education, training, or work experience" A logical conclusion is that a person without the education, training, or work experience required by section 6450 is not a paralegal within the meaning of the law, including the provisions of the Probate Code that authorize payment for a paralegal's services.

Based on this analysis, the advisory committee concluded that the Business and Professions Code provisions define paralegals whose services may be compensated from a decedent's, conservatee's, or ward's estate under the relevant Probate Code provisions and rules 7.703 and 7.754. Thus, a guardian or conservator applying for an award of his or her attorney fees from the ward's or conservatee's estate, a personal representative applying for an award of the estate attorney's extraordinary fees from the decedent's estate, or the fiduciary's attorney seeking such fees directly must show that the paralegal satisfies the initial qualifications required under Business and Professions Code section 6450(c). The showing must also demonstrate that the paralegal has satisfied the continuing education requirements of section 6450(d).

Amendment of rule 7.703(e)

The advisory committee proposes an amendment of rule 7.703(e) that would clarify that the currently required showing of the paralegal's qualifications, certification, continuing education,

and the like unless he or she satisfies the requirements of section 6450 and performs all services under the direction of an attorney who is responsible for the services performed by the paralegal. Violations of these provisions are infractions or misdemeanors under section 6455(b). Section 6452(b) provides that the attorney using a paralegal is liable for the harm caused by the paralegal's negligence, misconduct, or violation of sections 6450–6456. Section 6455 provides that a consumer injured by a violation of these sections may file a complaint and seek relief in the superior court for injunctive relief, restitution, and damages, including attorney fees in that action if the consumer prevails.

⁴ Sen. Rules Com., Off. of Sen. Floor Analyses, 3d reading analysis of Assem. Bill 1761 (1999–2000 Reg. Sess.) as amended in the Senate Aug. 18, 2000, par. 1.

and experience must include a demonstration that the paralegal is qualified under Business and Professions Code section 6450(c) and that he or she has completed mandatory continuing legal education required under section 6450(d) “for the last two-year certification period ending before the year during which any part of the paralegal’s services were performed.”

Rule 7.754

Rule 7.754 expressly applies the provisions of rule 7.703(e) concerning paralegals to requests for fees for a fiduciary’s attorney in a guardianship or conservatorship. Changes in rule 7.703(e) would become applicable to legal fees for paralegal services in these proceedings without changing the text of rule 7.754.

Comments, Alternatives Considered, and Policy Implications

This proposal was circulated for public comment in winter 2010. Ten comments, from courts, court executives or administrators, paralegals and paralegal associations, and bar associations, were received. Nine comments were favorable, one opposed. One favorable commentator recommended changes in the text of the amended rule, discussed in more detail below. A chart summarizing the comments received and the committee’s responses is attached at pages 10–15.

The advisory committee requested comments on the committee’s initial decision not to propose a new Judicial Council form in response to the original request received by the committee. Three comments were received in response to this request. Two commentators agreed with the committee’s initial decision. The Superior Court of Los Angeles County said that a form would be beneficial as an aid to standardized review of fee applications by bench officers and court staff. The committee notes that requests for fees for legal services from the estates of decedents, conservatees, and wards are made in declarations prepared by the affected attorneys. These declarations could easily be modified to address the qualifications possessed and continuing education completed by paralegals who perform compensable services. In the committee’s view, the expense of creating and distributing a form for this purpose is not justified in the current budget climate of the entire judicial branch of government.

The Orange County Bar Association approved of the proposal but recommended language that would clarify when a supplemental declaration from a paralegal’s supervising attorney under Business and Professions Code section 6450(c)(3) and (4) would be required.⁵ The committee responded to this proposal by modifying the amended rule to delete all specific references to the details of the showing required by section 6450(c). The committee concluded that this change in the rule would make supplemental declarations unnecessary so long as the attorney’s declaration describing the paralegal’s services states that the paralegal possesses a declaration from a supervising attorney qualified under paragraphs (3) and (4) of section 6450(c).

⁵ The “supplemental declaration” refers to the statement from a qualified supervising attorney, required when the paralegal does not have a paralegal certificate, that the paralegal is competent to perform paralegal tasks. (See section, entitled, “Qualifications of Paralegals” on page 3, *supra*.) The declaration would be supplemental to the declaration in support of the legal fees when the qualified supervising attorney is not the attorney requesting the compensation.

All comments received from individual paralegals and paralegal organizations supported the proposal.

The Ventura County Bar Association's Estate Planning and Trust Section objected to the proposal on the ground that it singles out probate practitioners for enforcement of the paralegal qualification and continuing education requirements. Although the committee is sympathetic to this concern, it concluded that current law requires this action in probate proceedings.

Alternatives considered and policy implications

The advisory committee considered two alternatives. Initially, the committee considered whether a paralegal must be qualified under Business and Professions Code section 6450 for his or her employing law firm to be paid for legal services rendered by the paralegal for a fiduciary under the Probate Code sections authorizing paralegals to perform such services. Section 6450 does not state that an attorney or law firm employing a nonqualified paralegal may not be paid for the paralegal's services. Moreover, the committee initially thought that courts could determine whether services performed by paralegals were competently and efficiently performed regardless of their qualifications or history of continuing education. Under this thinking, no changes would be needed to rule 7.703(e). However, the committee ultimately rejected this approach because it concluded that the Business and Professions Code provisions demonstrate that the Legislature intended the paralegal qualification and continuing education requirements of section 6450 et seq. to apply to paralegal services performed for fiduciaries under the Probate Code.

The second alternative considered is noted on the previous page of this report. The amended rule proposed for comment would have required every fee request to include a declaration from a paralegal's supervising attorney when that is required under section 6450(c)(3) and (4). This would be a second declaration in addition to the attorney's declaration supporting the fee request if the paralegal's qualified supervising attorney is not the attorney describing the paralegal's services.

In response to the comment of the Orange County Bar Association, the committee reconsidered this requirement. The committee notes that the statute requires the paralegal to *possess* the necessary qualifications, including the supervisor's declaration when required in an appropriate case, but does not necessarily require a new declaration to be provided in support of every fee request for the paralegal's work. As long as the attorney making the fee declaration can state that the paralegal (or the firm) possesses a qualified supervising attorney's declaration that the paralegal is qualified to perform paralegal tasks, the requirements of the statute are satisfied. The rule as finally revised by the committee requires a showing that a paralegal is qualified under section 6450(c) without specifying the details of that showing.

Implementation Requirements, Costs, and Operational Impacts

Amended rule 7.703(e) and, by reference, rule 7.754, will require attorneys to demonstrate that paralegals performing services for which compensation is requested from the estates of decedents, conservatees, and wards are qualified and have satisfied continuing education

requirements of the Business and Professions Code affecting paralegals working under the supervision of attorneys. To the extent these showings have not been made in the past, the supporting declarations of counsel will be more complex and costly to prepare. Additional scrutiny of these declarations by judicial officers and court staff, and training concerning the paralegal requirements, will be required. These additional costs should not be significant and should decrease over time as practitioners and courts become more familiar with the paralegal requirements.

Relevant Strategic Plan Goals and Operational Plan Objectives

The proposed amendment of rule 7.703(e) supports Goal III of the Judicial Council's Strategic Plan, Modernization of Management and Administration, by promoting compliance with all court orders and federal and state laws and ensuring that rules of court promote the fair, timely, effective, and efficient processing of matters before the court. The amendment supports the related operational plan objective III.B.5.a because it will improve practices and procedures in probate departments called upon to review attorney fee requests in decedent estates, conservatorships, and guardianships.

Attachments

1. Cal. Rules of Court, rule 7.703, at page 9
2. Chart of comments, at pages 10–15

Rule 7.703 of the California Rules of Court is amended, effective July 1, 2010, to read as follows:

1 **Rule 7.703. Extraordinary compensation**

2
3 (a)–(d) * * *

4
5 (e) **Use of paralegals in the performance of extraordinary services**

6
7 Extraordinary legal services may include the services of a paralegal as
8 defined in Business and Professions Code section 6450(a) ~~acting under the~~
9 ~~direction and supervision of an attorney.~~ only if the A request for
10 extraordinary legal fees for a the paralegal's services ~~must~~:

11
12 (1) Describes the qualifications of the paralegal (including education,
13 certification, continuing education, and experience). The description
14 must state that the paralegal:

15
16 (A) Acted under the direction and supervision of an attorney;

17
18 (B) Satisfies one or more of the minimum qualifications specified in
19 Business and Professions Code section 6450(c); and

20
21 (C) Has completed mandatory continuing education required by
22 Business and Professions Code section 6450(d) for the last two-
23 year certification period ending before the year during which any
24 part of the paralegal's services were performed.

25
26 (2) States the hours spent by the paralegal and the hourly rate requested for
27 the paralegal's services;

28
29 (3) Describes the services performed by the paralegal;

30
31 (4) States why it was appropriate to use the paralegal's services in the
32 particular case; and

33
34 (5) Demonstrates that the total amount requested for the extraordinary
35 services of the attorney and the paralegal does not exceed the amount
36 appropriate if the attorney had performed the services without the
37 paralegal's assistance.
38

W10-07**Qualifications and Continuing Education of Paralegals Eligible for Compensation From the Estates of Decedents, Conservatees, and Wards (amend Cal. Rules of Court, rule 7.703).**

All comments are verbatim unless indicated by an asterisk (*).

| | Commentator | Position | Comment | Committee Response |
|----|--|-----------------|---|---------------------------|
| 1. | California Alliance of Paralegal Associations (CAPA) by Melisa D. Frick, President San Leandro | A | The California Alliance of Paralegal Associations (CAPA) is an alliance of 12 paralegal associations throughout the state, and consists of approximately 2000 members. CAPA was the original sponsor of Assem. Bill 1761, which was codified as Business and Professions Code section 6450 et seq. CAPA supports the amendment to rule 7.703 as written. | No response necessary. |
| 2. | Central Coast Paralegal Association by Stacey Hunt, CLA, CAS, President San Luis Obispo | A | Despite the fact that Business and Professions Code section 6450 has been the law in California since 2001, many attorneys still hire unqualified people, give them the title “paralegal,” and bill their time out to clients. Rules such as what is proposed for rule 7.703 will help to enforce the existing law and will encourage attorneys to hire the best qualified people, who will in turn provide better services to the firm’s clients. We are delighted with this rule and hope that it will be broadened to all areas of the law. | No response necessary. |
| 3. | Margaret Middleton Probate Examiner Superior Court of Stanislaus County Modesto | A | No specific comment. | No response necessary. |

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|----|---|----------|---|--|
| 4. | Orange County Bar Association by Lei Lei Wang Ekvall, President Newport Beach | AM | <p>The advisory committee acknowledges that circumstances occur where the attorney requesting extraordinary fees or supporting the fee request of a fiduciary client may not be the paralegal’s supervising attorney, and suggest that this could be remedied by adding to the request a supplemental declaration by the supervising attorney. It is for this reason that the advisory committee has declined to create a form to this effect, and the Orange County Bar Association agrees with the committee’s position that compliance with the Business and Professions Code section 6450 could be shown by way of an attorney-drafted declaration and that a form would be unnecessary.</p> <p>The advisory committee then seems to say, however, that these supplemental declarations would be necessary only when the particular paralegal’s qualifications were based on either paragraphs (3) or (4) of Business and Professions Code sections 6450 (c). It is believed that a supplemental declaration is necessary anytime the supervising attorney and the attorney requesting extraordinary fees are not one and the same as, by definition, under Business and Professions Code section 6450 subdivision (a), all “paralegals” whether qualifying as such under sections 6450 subdivision (c) (1), (2), (3), or (4), work under the direction and supervision of an attorney.</p> | <p>In response to this comment, the advisory committee has deleted the reference to supplemental declarations in the text of rule 7.703(e)(1)(B). That subparagraph now reads, in its entirety, as follows:</p> <p>The description must show <u>state</u> that the paralegal:</p> <p>(A) * * *</p> <p>(B) Satisfies one or more of the minimum qualifications specified in Business and Professions Code section 6450(c); . . .</p> |

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| | | | <p>The proposed rule amendment itself seems to support this view, requiring that the request for extraordinary fees describe the qualifications of the paralegal and show that the paralegal acted under the direction and supervision of the attorney. [Proposed] California Rules of Court, rule 7.703(e)(1)(A). As written, “the attorney” is, presumably, the one making the declaration in support of the fee request, yet this required statement is treated as distinct from that of the supervising attorney relative to paralegal qualifications set for in sections 6450(c)(3) or (4). [Proposed] California Rules of Court, rule 7.703(e)(1)(B).</p> <p>To avoid confusion in this regard, it is believed that the proposed amendment should include a sentence indicating when a supplemental declaration may be necessary. Accordingly, it is suggested that the proposed amendment be modified to read as follows:</p> <p>(e) * * *</p> <p>(1) Describe the qualifications of the paralegal (including education, certification, continuing education, and experience.) If the attorney making the request for extraordinary fees is not the paralegal’s supervising attorney, the description must be provided by way of declaration of the supervising attorney</p> | <p>The committee took this action after concluding that the rule should not specify in detail what must be shown in a declaration to establish that a paralegal is qualified under the Business and Professions Code provisions governing paralegals.</p> <p>Concerning the supplemental declarations described in Business and Professions Code section 6450(c)(3) and (4) specifically, the committee concluded that the rule should not require a written declaration from a supervising attorney with every request for compensation, whether or not that attorney is the attorney requesting compensation. The statute requires that the paralegal without a paralegal certificate but with a college degree (paragraph 3) or a high school diploma (paragraph 4) “must possess” the qualifications listed in those paragraphs. These include work experience (for the college graduate, one year completed at any time; and for the high school graduate, three years, completed before January 1, 2004); and a declaration from a supervising attorney with at least three years’ practice experience that the paralegal is qualified to perform paralegal tasks.</p> <p>The declarations required by these paragraphs are in the paralegal’s possession or are contained in his or her employer’s personnel file. The</p> |

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|----|--|-----------------|---|---|
| | | | and made a supplement of the request. The description must show that the paralegal . . . “ | <p>declarants may be supervising attorneys from a prior employment; the declarations may have been brought by the paralegal to his or her current employment.</p> <p>If the attorney requesting compensation from the estate can state that the paralegal who performed services for which compensation is sought is qualified under one or more paragraphs of section 6450(c)—including, when necessary, that the paralegal possesses a declaration from a qualified supervising attorney stating that the paralegal is qualified to perform paralegal tasks—the rule and the statute are satisfied. A court may inquire further if it is concerned that the paralegal’s qualifications may be insufficient for the tasks assigned to him or her, the work he or she performed, or the proposed hourly rate of compensation, especially if the court is also concerned that the work was poorly or inefficiently done.</p> |
| 5. | Redwood Empire Association of Paralegals by Trudy McQuiddy, President Santa Rosa | A | Redwood Empire Association of Paralegals is a member of the California Alliance of Paralegal Associations (CAPA), which was a sponsor of AB1761, which was codified as B&P Code Section 6450, et seq. We believe that the amendment to CRC 7.703 is in the best interest of consumers in the State of California. We support the amendment to CRC 7.703 as written. | No response is necessary. |

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|----|--|-----------------|--|---|
| 6. | Superior Court of Kern County by Marisol C. Alcantar, Court Supervisor | A | No specific comment. | No response is necessary. |
| 7. | Superior Court of Los Angeles County | AM | A Judicial Council form would be beneficial. Reporting standardized information should facilitate the Bench Officer/examiner's review. A form will increase the likelihood that complete (or correct) information concerning paralegal qualifications is set forth reducing requests for continuances in order to comply with proposed 7.703(e). | The advisory committee has concluded that it will not propose a form at this time. While a Judicial Council form might well facilitate a court's review of a fee request subject to rule 7.703, the cost of creating, adopting, or approving a new form and making it available to practitioners and the courts would, particularly in the judicial branch's current financial situation, outweigh this benefit. The committee believes that attorneys preparing declarations in support of fee requests for the services of paralegals working under their supervision will be able to comply with the requirements of Business and Professions Code section 6450 without a form, and court staff will be able to determine whether they have done so. |
| 8. | Superior Court of San Diego County by Michael M. Roddy, Court Executive Officer San Diego | A | No additional comments. | No response is necessary. |
| 9. | Julie Thornton Senior Paralegal Costa Mesa | A | I agree with the advisory committee that a new form should not be necessary. A declaration by the paralegal confirming compliance with B&P 6450 or the supervising attorney (provided the attorney can attest to the paralegal's | No response is necessary. |

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|-----|--|-----------------|---|--|
| | | | compliance) should be sufficient. | |
| 10. | Ventura County Bar Association, Estate Planning & Probate Section, by Cheri Kurman, Chair, Executive Committee 840 County Square Drive, 3rd Floor Ventura | N | While we appreciate the need to set standards for compensation for services in matters subject to the Court’s approval, we wish to express our concern about the ”minimum qualifications” being established in Probate matters to be eligible for the Court’s consideration of compensation for time spent by a paralegal or legal assistant. The proposed rule unfairly singles out the members of the Probate Bar to prohibit compensation for Probate paralegal services unless the paralegal meets the education requirements of Business and Professions Code Section 6450(d). In addition, the proposed rule prohibits compensation for the services of a Probate paralegal who fails to meet the minimum education requirements even when the work is performed under the direction and supervision of the attorney, which creates a distinct disadvantage for small firms and solo practitioners. For these reasons, we cannot support the proposed rule. | The advisory committee is sympathetic to the concerns of small firms and solo practitioners expressed by this commentator, but has concluded that the Legislature has determined that paralegals whose services may be paid from the estates of decedents (for extraordinary legal services), and conservatees and wards (for all legal services) must be qualified under the provisions of Business and Professions Code section 6450 et seq. |