



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on: July 28, 2015

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Title

Probate: Court Fee Waivers in Decedents' Estates, Guardianships, and Conservatorships and for Wards and Conservatees Participating in Civil Actions

Agenda Item Type

Action Required

Effective Date

September 1, 2015

Rules, Forms, Standards, or Statutes Affected

Adopt Cal. Rules of Court, rule 7.5; amend rules 3.50–3.53 and 8.26; adopt forms FW-001-GC, FW-002-GC, FW-003-GC, FW-005-GC, FW-006-GC, FW-007-GC, FW-008-GC, FW-010-GC, FW-011-GC, FW-012-GC, and APP-016-GC/FW-016-GC; revise forms FW-001-INFO and APP-015/FW-015-INFO

Date of Report

July 16, 2015

Contact

Douglas C. Miller

818-558-4178

[douglas.c.miller@jud.ca.gov](mailto:douglas.c.miller@jud.ca.gov)

Recommended by

Probate and Mental Health Advisory

Committee

Hon. John H. Sugiyama, Chair

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### Executive Summary

In response to legislation effective January 1, 2015, the Probate and Mental Health Advisory Committee is proposing a new rule of court concerning court fee waivers in guardianships and conservatorship proceedings, and new versions of Judicial Council court fee waiver forms for use by probate guardians and conservators and by petitioners for their appointment. The proposed rule would also cover court fee waivers in decedents' estate proceedings, which are not

affected by the legislation but have never been addressed in the rules of court despite presenting unique circumstances that warrant specific attention in the rules.

## **Recommendation**

The Probate and Mental Health Advisory Committee recommends that, effective September 1, 2015, the Judicial Council:

1. Adopt rule 7.5 of the California Rules of Court to address court fee waivers in guardianships, conservatorships, or civil actions involving guardians or conservators as parties, and in decedents' estates;
2. Adopt *Request to Waive Court Fees (Ward or Conservatee)* (form FW-001-GC), *Request to Waive Additional Court Fees (Superior Court) (Ward or Conservatee)* (form FW-002-GC), *Order on Court Fee Waiver (Superior Court)(Ward or Conservatee)* (form FW-003-GC), *Notice: Waiver of Court Fees (Superior Court)(Ward or Conservatee)* (form FW-005-GC), *Request for Hearing About Court Fee Waiver Order (Superior Court)(Ward or Conservatee)* (form FW-006-GC), *Notice on Hearing About Court Fees (Ward or Conservatee)* (form FW-007-GC), *Order on Court Fee Waiver After Hearing (Superior Court)(Ward or Conservatee)* (form FW-008-GC), *Notice to Court of Improved Financial Situation or Settlement (Ward or Conservatee)* (form FW-010-GC), *Notice to Appear for Reconsideration of Fee Waiver (Ward or Conservatee)* (form FW-011-GC), *Order on Court Fee Waiver (Superior Court)(Ward or Conservatee)* (form FW-012-GC), and *Order on Court Fee Waiver (Court of Appeal or Supreme Court)(Ward or Conservatee)* (form APP-016-GC/FW-016-GC) to create a distinct set of forms for use by guardians and conservators to request and support court fee waivers, made necessary by 2014 legislation;
3. Amend rules 3.50–3.53, and 8.26 of the California Rules of Court to refer to the new rule of court and forms identified above; and
4. Revise *Information Sheet on Waiver of Court Fees and Costs* (form FW-001-INFO) and *Information Sheet on Waiver of Appellate Court Fees (Supreme Court, Court of Appeal, Appellate Division)* (form APP-015/FW-015-INFO) to refer to the new forms identified above.

The text of the new and amended rules of court and the new and revised forms are attached at pages 17–56.

## **Previous Council Action**

The Judicial Council adopted, effective on January 1, 1981, California Rules of Court, rule 985 to implement a directive in former Government Code section 68511.3(a) concerning court fee waivers in civil litigation. Effective on January 1, 2007, this rule was revised and renumbered as rules 3.50–3.63.

In 2008, the Judicial Council sponsored legislation to replace section 68511.3, effective July 1, 2009.<sup>1</sup> In addition to repealing that section, the legislation enacted Government Code sections 68630–68641. To implement this legislation, the council also completely revised, restated, or replaced the fee waiver rules of court, also effective on July 1, 2009. The council also adopted or revised thirteen Judicial Council court fee waiver forms, collected in a new Fee Waiver (FW) form group, including the application for an initial fee waiver, form FW-001.

The legislation, the new and revised rules of court, and the Judicial Council forms clarified the court fee waiver application procedure and the remedies available to courts to end waivers and recover previously-waived court costs upon improvements in the applicants' financial condition during the pendency of the litigation or on its successful conclusion. The legislation, the rules of court, and the forms did not explicitly address court fee waivers in decedent estate, conservatorship, or guardianship proceedings.

Most recently, at its meeting on February 28, 2015 (Agenda item A-2), the Judicial Council amended rules 3.52, 3.55, 3.56, and 8.818 and revised civil court fee waiver forms FW-001, FW-002, FW-003, FW-005, FW-008, FW-012, FW-001-INFO, and APP-015/FW-015-INFO to reflect the 2015 increase to the federal poverty guidelines and other legislative changes and to make other clarifying changes to the rules and forms. The effective date of the revision of form FW-001 was March 1, 2015; the changes in the rules of court and the rest of the forms were effective on July 1, 2015.

## **Rationale for Recommendation**

In 2014, legislation was enacted that changed the law concerning court fee waivers in cases involving guardians, conservators, and petitioners for their appointment.<sup>2</sup> The changes are as follows:

- For purposes of the fee waiver provisions, the (proposed) ward or conservatee is the “applicant,” and the guardian, conservator, or person seeking to establish the guardianship or conservatorship is the “petitioner.” The applicant is the person whose financial condition is to be evaluated to determine eligibility for the waiver. But the

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<sup>1</sup> Assem. Bill 2448; Stats 2008, ch. 462. Except as otherwise stated, all code references are to the Government Code.

<sup>2</sup> Assem. Bill 2747, Stats 2014, ch. 913, sections 23–25, 27.5, and 30.5.

petitioner is responsible for completing all forms and providing all information required under those provisions (Gov. Code, § 68631.5, added by § 24 of AB 2747).

- These definitions are not limited in their application to fee waivers in guardianship or conservatorship proceedings. They apply to other civil actions or proceedings in which guardians and conservators appear on behalf of their wards and conservatees as parties and request fee waivers in that litigation.
- An applicant, as defined above, who qualifies under any of the three ways listed in section 68632(a), (b), or (c)<sup>3</sup> is eligible for the waiver even though the petitioner actually makes, supports, and defends the application. In effect, a petitioner for appointment of a fiduciary in a guardianship or conservatorship or an appointed guardian or conservator who files pleadings in that proceeding or in a civil action on behalf of the ward or conservatee, will qualify for the waiver if the ward or conservatee qualifies for it, an effect explicitly recognized in Government Code section 68632(d), added by AB 2747, § 25.<sup>4</sup>
- Assessments for court investigations in guardianships and conservatorships under Probate Code sections 1513.1 and 1851.5 are made subject to the fee waiver provisions in the Government Code (Gov. Code, § 68631; and Prob. Code, §§ 1513.1 and 1851.5)<sup>5</sup>.
- Upon establishment of the guardianship or conservatorship, the court may collect all or part of any fees waived under sections 68631 and 68632 from the estate of the ward or conservatee if the court finds that the estate has the ability to pay all or a portion of the fees immediately, over a period of time, or under some other equitable agreement, without using moneys that normally would pay for the common necessities of life for the applicant and the applicant's family (Gov. Code, § 68631).

### **New Rule 7.5**

To implement the 2014 legislation, the committee proposes the adoption of new rule 7.5 to govern initial fee waivers (as defined in existing rule 3.50(b)) requested by petitioners for the appointment of fiduciaries in conservatorships and guardianships, by these fiduciaries for filings in these proceedings after their appointment, by conservators and guardians in other civil actions

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<sup>3</sup> A person who (a) receives listed public benefits, (b) has income equal to or less than 125 percent of the current version of federal poverty guidelines, or (c) is determined by the court to be unable to pay court fees without using funds that normally would be used for the common necessities of life for the person and his or her family.

<sup>4</sup> Section 68632(d) adds a fourth category of persons who qualify for fee waivers under section 68632: petitioners for appointment of a fiduciary in a guardianship or conservatorship or appointed fiduciaries of wards or conservatees who file pleadings in that capacity, when the financial condition of the ward or conservatee meets the standards for a fee waiver under subdivisions (a), (b), or (c).

<sup>5</sup> The Probate Code sections cited above that authorize courts to decline to order payment of all or any portion of an investigation assessment if payment would impose a hardship on the ward or conservatee or his or her estate remain in the law, giving courts opportunities to continue to eliminate or reduce guardianship or conservatorship investigation assessments independent of the Government Code fee waiver provisions.

or proceedings in which they are parties, and in decedent's estates.<sup>6</sup> The main elements of the proposed rule are summarized below.

***Conservatorships and guardianships.***

- A court fee waiver requested by a petitioner for the appointment of a conservator or guardian would be based on the financial condition of the proposed conservatee or ward, not that of the petitioner (rule 7.5(b)).
- The financial condition of the (proposed) ward or (proposed) conservatee would include the financial condition of any person with a duty to support him or her, including the parents of a ward and the spouse or registered domestic partner of a conservatee (rule 7.5(e)(1)).<sup>7</sup>
- But support from a ward's parents and a conservatee's divorced spouse or registered domestic partner would be a factor in his or her financial condition for fee waiver purposes only if the support was ordered by a court and only to the extent of the amount of support ordered, and would be subject to the court's duty to consider the likelihood of payment under section 68637(e) (rule 7.5(e)(1)(A)).
- The financial condition of a (proposed) conservatee would include his or her interest in community property that is outside the conservatorship estate and under the management or control of his or her spouse or registered domestic partner, and the right to receive support, income, or other distributions from a trust or under a contract. (See Prob. Code, § 3051(b)) (rule 7.5(e)(1)(B) and (C)).
- Upon establishment of a guardianship of conservatorship of the estate or the person and estate of the ward or conservatee, the court would be permitted to collect all or a portion of court fees previously waived from the estate if the court finds that the estate has the ability to pay the fees, or a portion of them, immediately, over a period of time, or under some other equitable agreement, without using money that would normally be used to pay for the common necessities of life for the ward or conservatee and his or her family. The court would be required to comply with the notice and hearing requirements of the second paragraph of Government Code section 68634(e)(5) (rule 7.5(h)(1)).

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<sup>6</sup> In 2011, a prior version of rule 7.5 addressing fee waivers in these proceedings was circulated for comment by the committee (proposal SPR11-57). However, that version of the rule was ultimately neither presented to nor adopted by the Judicial Council. The rule proposed here is significantly changed in its treatment of fee waivers in guardianship and conservatorship proceedings from the prior rule, reflecting the 2014 legislation.

<sup>7</sup> Parents have a duty to support their minor children whether or not they currently have custody or live in the child's household. If a guardian of the person is appointed, a parent who had custody when the case was filed will lose it but will still have a support obligation. Even if there is an estate and a guardian of the estate, the ward's living parents still have a support obligation; the guardian of the estate would be required to get court permission to support the ward from the estate, based on a showing that the parents cannot be found or cannot meet their obligation (See Fam. Code, §§ 3900-3901 [parental duty of support], Prob. Code, § 2422; California Guardianship Practice (Cont.Ed.Bar Annual, 2015), §§ 12.18, 12.33.)

- “Final disposition of the case,” for purposes of determining the expiration date of an initial fee waiver in a guardianship or conservatorship proceeding under section 68639, would be the later of termination of the proceeding by order of court or under operation of law in guardianships and conservatorships of the person, and discharge of guardians and conservators of the estate (rule 7.5(k)(1) and (2)).
- The provisions of section 68633(g) concerning agreements between applicants for initial court fee waivers and their counsel for counsel to advance court fees would apply to the proceedings governed by the proposed rule. Conservators, guardians, and petitioners for their appointment applying for initial fee waivers under the rule would be required to complete items 2a and 2b of proposed new forms FW-001-GC and FW-002-GC, which would be used to request these waivers (rule 7.5(j)).<sup>8</sup>

***Civil actions involving a guardian or conservator.*** In a civil action in which a guardian or conservator is a party appearing on behalf of the ward or conservatee, for purposes of sections 68631.5, 68636, and 68637, the guardian or conservator, not the ward or conservatee, would be the person with a duty to notify the court of a change of the ward’s or conservatee’s financial condition under section 68636(a) and would also be the person the court may require to appear at a court hearing under sections 68636(b) and (c) (rule 7.5(i)).

***Decedents’ estates.*** Decedents’ estates are neither covered by the new legislation nor addressed in the existing fee waiver rules. But the committee believes that a rule is needed to address fee waivers in these cases at this time, especially to identify and apply the differences in treatment of fee waivers in estates and in guardianships and conservatorships that now exists in the law. Proposed rule 7.5 therefore includes provisions addressing fee waivers in these proceedings. The estate provisions in the new rule are consistent with current law governing fee waivers in regular civil actions, which are not affected by the 2014 legislation.

- A court fee waiver requested by a petitioner for the appointment of a personal representative of a decedent’s estate would be based on the financial condition of the petitioner (rule 7.5(c)).
- If a petitioner who has obtained a fee waiver is appointed as personal representative, the appointment may be considered a change of financial condition for fee waiver purposes under section 68636 and the petitioner’s continued eligibility for the waiver would be based on his or her financial condition, combined with that of the estate (rule 7.5(d)(1)(A)).

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<sup>8</sup> Form FW-002-GC is a request for a waiver of “additional fees,” defined by rule 3.56 to include jury fees and expenses, court-appointed interpreter’s fees for witnesses, certain reporter’s fees, and witness fees of court-appointed experts. These fees are within the scope of initial court fee waivers under rule 3.50(b) and thus also within the scope of proposed rule 7.5.

- Upon collection of the estate after appointment and qualification, the personal representative must notify the court of a possible change in financial circumstances under section 68636(a) (rule 7.5(d)(1)(B)).
- The court may make a preliminary determination, based on the initial estimates of estate value and annual income from real and personal property in the *Petition for Probate*, that the petitioner’s appointment as personal representative is a change of financial condition that makes him or her no longer eligible for a fee waiver. If the court does so, it must give the notice and conduct the hearing required by section 68636(b) (rule 7.5(d)(1)(C)).
- If a petitioner who has obtained a fee waiver is not appointed as personal representative of the decedent’s estate—because the petition sought another’s appointment or was not the successful petition, his or her fee waiver would continue for any additional filings in the proceeding as an individual (e.g., as an heir or beneficiary). In that event, the appointed personal representative may apply for a fee waiver if he or she and the estate, taken together, qualify (rule 7.5(d)(2)).
- If collection of the estate of a decedent is a change of financial condition of a successful fee waiver applicant that results in withdrawal of a previously granted initial waiver, the estate would be required to pay the previously waived costs and fees as an allowable expense of administration (rule 7.5(g)).
- “Final disposition of the case” for purposes of determining the expiration date of an initial fee waiver in a decedent’s estate under section 68639 is the discharge of the personal representative (rule 7.5(k)(2)).

***Additional discretionary factors.*** The court would have discretion in decedents’ estates, conservatorships, and guardianships to consider additional estate management factors in making a determination of the estate’s financial condition for fee waiver purposes. These factors include the estate’s liquidity; whether estate property or income is necessary for the support of a person entitled to a family allowance in a decedent’s estate, the conservatee or a person entitled to support from the conservatee, or the ward; and whether property in a decedent’s estate is specifically devised (rule 7.5 (f)(1)).

If the court eliminates property from consideration in its discretion under this provision, it may determine that the estate could make payments over time or partial payments, or establish a lien against distribution of the property under an equitable arrangement within the meaning of sections 68632(c) and 68634(e)(5) (rule 7.5(f)(2)).

### **Rules 3.50–3.53 and 8.26**

The committee is also recommending amendments to existing rules 3.50–3.53 and 8.26, concerning, respectively, trial court and appellate court fee waivers. These proposed amendments would add references to new rule 7.5 and to the proposed new Judicial Council forms, described below, for fee waivers in guardianship and conservatorship proceedings.

## **The New and Revised Forms**

The committee is recommending the adoption of eleven new forms for fee waivers in guardianship and conservatorship proceedings and the revision of existing two information sheets regarding fee waivers.

*New forms for fee waiver applications, notices, and orders.* The committee is recommending adoption of new versions of all current mandatory forms used for initial fee waiver applications, notices, and orders. These new forms are modeled on and contain much of the same content as the current fee waiver forms,<sup>9</sup> but they have been modified to reflect the unique aspects of fee waivers in guardianship and conservatorship proceedings. The new versions of forms are identified by “(Ward or Conservatee)” in the title and the suffix “-GC” in the form designator, but otherwise have form designators and titles identical to those of the current forms. The introductory paragraph of the proposed new *Request to Waive Court Fees (Ward or Conservatee)* (form FW-001-GC) describes the intended application of that form and all of the other new forms:

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

New forms are recommended rather than revisions of the current fee waiver forms because the committee concluded that adding the necessary information to the current forms would make these forms too long and complex. To address waivers involving conservators or guardians, the name, address, and other personal information about the ward or conservatee—and his or her attorney, if any—in addition to the same information about the guardian or conservator or the petitioner for the fiduciary’s appointment, are necessary in all of the new forms. In addition, the forms must refer to the financial condition of the (proposed) ward or conservatee, not that of the petitioner or the appointed fiduciary who is asking for the waiver, although the latter is responsible for applying for the waiver, replying to requests from the court about it, and defending the waiver application in response to court action concerning it. Attempting to add requests for this information to the current forms—which request financial information of only the applicant, refer to the fees subject to the waiver as “your” (the applicant’s) fees, and impose all responsibilities on the applicant—would increase the number of checkbox selections that would be required, create forms that contain instructions and material applicable only to a relatively small percentage of fee waiver applicants (guardians and conservators and those seeking their appointment).

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<sup>9</sup> Forms FW-001, FW-002, FW-003, FW-005, FW-006, FW-007, FW-008, FW-010, FW-011, FW-012, and APP-016/FW-016.

***Form FW-001-GC, Request to Waive Court Fees (Ward or Conservatee)***

This form, the basic application for a fee waiver, is discussed in detail here because it is the form that implements the standards for fee waivers in the Government Code and proposed rule 7.5.

Items 8a, 8b, and 8c of this form ask for facts to establish the three grounds for obtaining a fee waiver under Government Code sections 68632(a), (b), and (c): (1) the receipt of certain public benefits; (2) the gross monthly household income is less than 125% of the federal poverty guideline; and (3) the inability to pay the household's basic needs and the court fees. The equivalents to these items in existing form FW-001 are items 5a, 5b, and 5c.

Item 5a of form FW-001 asks whether the regular fee waiver applicant receives one or more of the listed public benefits that would qualify him or her for the waiver. Item 8a of form FW-001-GC expands this inquiry to include, in addition to the ward or conservatee, receipt of public benefits by one or both of the ward's parents or the spouse or registered domestic partner of the conservatee; the same persons whose financial circumstances are a part of the financial condition of the ward or conservatee for fee waiver purposes under proposed rule 7.5(e)(1)(A).

Item 8b asks whether the ward's or conservatee's household has income (before deductions for taxes) less than the schedule of incomes included in the item, based on "family size" and "family income." This item is substantially identical to item 5b of form FW-001, which refers to "my" (the applicant's) household.<sup>10</sup> The seemingly interchangeable use of "family" and "household" in the federal guidelines and in item 5b, and the identical charts of "family income" used in the existing and new forms led the advisory committee to conclude that "household" in item 5b of form FW-001 and item 8b in form FW-001-GC properly refers to family members living at the same location, and "household income" is the income of all family members in the household.

Item 8c concerns the ground for a fee waiver under Government Code section 68632(c): the applicant cannot pay court fees without using money that would otherwise be used to pay for the "common necessities of life," a phrase to be interpreted consistent with the way it was used in Code of Civil Procedure section 706.51(c)(1) as that paragraph read before January 1, 2012.<sup>11</sup>

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<sup>10</sup> The schedules of family sizes and incomes included in item 8b of form FW-001-GC and item 5b of form FW-001 are modified copies of the schedule for the 48 contiguous states contained in the latest annual update of the poverty guidelines of the federal Department of Health and Human Services (80 Fed. Reg. 3236 (January 16, 2015)), required to be used by Government Code section 68632(b). The modifications are: (1) the forms refer to "family size" but the guidelines refer to "persons in family/household," an undefined term, accompanied by a statement that definitions of such terms used in the guidelines are left to the agencies using them. Space limitations in both forms would prevent the use of "persons in family/household" in item 8b unless at least one and possibly two extra lines for text were added to the caption boxes, a difficult task at best, given the already crowded nature of the forms; (2) the guidelines show annual incomes but the schedules in the forms are of monthly incomes; and (3) the monthly incomes in the forms are 125% of the monthly incomes that are aggregated in the annual incomes shown in the guidelines, reflecting the percentage of the incomes required by section 68632(b).

<sup>11</sup> See Appendix E to the California Rules of Court, which contains guidelines for determining eligibility for public payment of the cost of counsel appointed for (proposed) wards and conservatees in their guardianship or conservatorship proceedings. The guidelines include a reference to "common necessities of life" as formerly used in

Section 68632(c) refers to the common necessities of life “for the applicant and the applicant’s family.” Section 68631.5, as noted above, indicates that the (proposed) ward or conservatee is the “applicant” for purposes of section 68632(c). Item 8c of form FW-001-GC follows item 5c of form FW-001 in referring to the applicant’s household’s “basic needs” rather than the applicant’s family’s “common necessities of life.” The committee believes, in light of the interchangeability of “household” and “family” in the federal poverty guidelines mandated by section 68632(b) and in items 5b and 8b, that “household” as used in these forms means the applicant’s family members living with the applicant in form FW-001 or with the ward or conservatee in form FW-001-GC, and “basic needs” is the equivalent of “common necessities of life.”<sup>12</sup>

Items 8b and 8c contain new material that is not present in items 5b and 5c of form FW-001. The following instruction appears below item 8c, linked by an asterisk to the end of the text of item 8b above the family size and income chart. The instruction applies to both items:

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

A similar instruction has also been added at the bottom of page 4 of the form, advising the person completing it not to include the income, money and property, and deductions and expenses of a resident guardian or conservator in items 16, 17, and 18 unless he or she is a parent of the ward or the spouse or registered domestic partner of the conservatee.

Items 9–13 on proposed form FW-001-GC do not appear on the current general fee waiver application form. Items 9 and 10 would apply to guardians; items 11–13 would apply to conservators. These items seek information concerning the ward’s or conservatee’s estate, the ward’s parents, the conservatee’s spouse or registered domestic partner, and the conservatee’s connections with trusts. These items are based on the provisions of proposed rule 7.5 concerning these topics. (See rule 7.5(e)(1)(A)–(C).)

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section 706.51(c) and predecessors to that section. An Advisory Committee Comment to Appendix E contains a discussion of that phrase, placed there to preserve appellate courts’ interpretations of the phrase after its 2012 elimination from section 706.51(c). Two examples of this interpretation are *Ratzlaff v. Portillo* (1971) 14 Cal.App.3d 1013, 1015: “. . . [T]he phrase ‘necessaries of life’ is preceded by the word ‘common’ and this in turn connotes such things as are ordinarily required for the sustenance of all men”; and *Los Angeles Finance Co. v. Flores* (1952) 110 Cal. App.2d Supp 850, 856: “[C]ommon necessities of life’ . . . mean those things that are commonly required by persons for their sustenance regardless of their employment or status.”

<sup>12</sup> Commentator Bet Tzedek Legal Services urges substitution of “common necessities of life” for “basic needs” in item 8c. The committee responds to this comment by noting that “basic needs” is also used in existing form FW-001. The committee believes that the two forms should be consistent in their use of these terms, and that there is no real or intended difference between “basic needs” and “common necessities of life.” See comment chart at page 77.

***Information forms FW-001-INFO and APP-015/FW-015-INFO.*** The committee recommends that these existing information forms be revised to advise guardians, conservators, and petitioners for appointment of guardians and conservators that they must complete and file the new proposed FW-001-GC or FW-002-GC to request fee waivers in their cases.

## **Comments, Alternatives Considered, and Policy Implications**

### **Public comments**

This proposal was circulated for public comment in a shortened special cycle, designed to permit submission of the proposal to the Judicial Council in July rather than in October, and to permit an effective date of September 1, 2015 instead of January 1, 2016. This expedited schedule was proposed to ensure the earliest possible introduction of the new Judicial Council forms for use by (proposed) guardians and conservators following the change of law affecting them effective on January 1, 2015 and the adoption of amended rules of court and revised civil action fee waiver forms effective on March 1 or July 1, 2015.<sup>13</sup>

Twelve comments were received. All commentators approved the proposal or declined to indicate either approval or disapproval. However, seven of the eight approving comments also recommended modifications. The most extensive substantive comments were made by three public counsel organizations, Bet Tzedek Legal Services and Public Counsel, from Los Angeles; and the San Diego Volunteer Lawyer Program (commentators 1, 7, and 8). A number of changes were made in the rule of court and the basic fee waiver application, form FW-001-GC, in response to these comments. Other recommendations for changes were declined by the committee. The committee has responded in detail to all the comments in the attached comment chart. The main substantive comments and the committee's responses are summarized below.

### ***Rule 7.5(e)(1)(A) and Form FW-001-GC—Imputation of Parental/Spousal Financial Condition to Ward or Conservatee***

As circulated for public comment, proposed rule 7.5(e)(1)(A) defined the financial condition of the conservatee or ward as including the financial condition of any person against whom the conservatee or ward had a claim for support, including a spouse, registered domestic partner, or parent. Proposed form FW-001-GC, as circulated for public comment, reflected this definition by requesting information about those against whom the conservatee or ward might have such a claim, including the parents' residence address, employment, and whether there is a support order outstanding.

Several commentators objected to both this definition in the rule and the collection of this information on the form. These commentators contended that no portion of a parent's financial condition should be considered part of the financial condition of the ward.

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<sup>13</sup> See page 3 above.

The committee made several changes to the proposal in response to these comments. The most significant change was the modification of rule 7.5(e)(1)(A) and the application form to provide that support from a parent of a (proposed) ward or a divorced spouse or registered domestic partner of a (proposed) conservatee could be considered as part of the ward's or conservatee's financial condition for fee waiver purposes only to the extent of a court order for support. This change means that the support order establishes the maximum extent to which the financial condition of the parents or the divorced spouse or partner is to be attributed to the ward or conservatee for fee waiver purposes. It also brings Government Code section 68637(e) into play. That section, concerning child or spousal support orders in family law cases in which one party has received a fee waiver, requires the court to consider the likelihood of payment of the support ordered by the court when it determines whether the order represents a change of financial condition affecting the waiver previously granted. Rule 7.5(e)(1)(A) explicitly requires the court to consider likelihood of payment here, thereby making the treatment of support orders for fee waiver purposes under the rule the same as their treatment for those purposes in family law cases.

In addition, the committee:

- Modified item 8a on the form, which as circulated for public comment asked if family members living with the ward or conservatee or who support him or her receive the listed public benefits. The recommended form asks only if one or both of the ward's parents, or the conservatee's spouse or registered domestic partner, receive such benefits.
- Modified item 10 by deleting the request for the parents' employment information.

The committee believes these are appropriate changes, particularly in guardianships, where there would ordinarily be a loss of parental custody or confirmation of a prior informal loss of custody if a guardian of the ward's person is appointed. Support from either parent without support orders or informal support from other relatives in the ward's pre-guardianship household is likely to be negatively affected by appointment of the guardian, at least in the short term and especially if the appointment means that the ward's place of residence will change, and thus should not be relied upon for fee waiver purposes.

Two commentators—Bet Tzedek Legal Services and the Superior Court of Riverside County—also expressed concern that item 8b's reference to income from the ward's or conservatee's household might include income of an appointed resident guardian or conservator, who is not personally obligated to financially support the ward or conservatee (see Prob. Code, §§ 2420, 2422). The committee agreed that this reference was problematic if the guardian or conservator is not otherwise obligated to support the ward or conservatee. The effect when applied to item 8b would not be to require support from the guardian or conservator, but including his or her income might cause the fee waiver to be denied because the total household income is thereby increased over the ceiling figure for the family/household shown in the item. Similarly, including personal income of a resident guardian or conservator in household income might cause the ward or conservatee not to qualify under item 8c, lack of sufficient income to pay for both common

necessaries of life and court fees. To address these concerns, the committee modified the form to add the instructions below item 8c and on page 4 of the form, described above on page 10.

These instructions also reflect the committee's conclusion that if income from a resident guardian or conservator is not included under item 8b, he or she should also not be counted in family size under that item. Note that these instructions do not apply to a guardian or conservator who is a parent of the ward or the spouse or registered domestic partner of the conservatee, since such individuals are otherwise obligated to support the ward or conservatee.<sup>14</sup>

There are other detailed comments concerning rule 7.5 and the remaining items in form FW-001-GC, particularly from public-interest law firms. Virtually all of these comments are based on the principle that no one's finances other than the ward's or conservatee's are to be considered, regardless of what effect those finances might have on the actual financial condition of the ward or conservatee and without regard to the social and legal relationship of the other person to the ward or conservatee. The committee believes the legal basis of the commentators' position on this issue is neither sound nor required by the 2014 legislation and therefore has not modified the proposal in response to these comments.

***Form FW-001-GC, Item 3—Requirement for Separate Waiver Applications for Each Minor in Multi-Ward Cases.***

Two of the public counsel organizations also requested that item 3 of form FW-001-GC be modified to permit a single fee waiver application for more than one ward in a multi-ward case, based on the assumption that all such cases involve full or half-siblings and therefore, much of the information involving family relationships of the wards is the same. The instruction currently directs that separate applications must be made for each minor.

The committee recommends against this change. The fee waiver application is on behalf of each ward. There may be multi-ward cases in which some will qualify while others will not. Separate applications are necessary.

Moreover, common information for wards in multi-ward cases may be less common than the commentators suggest. Probate Code section 2106 authorizes multi-ward cases when the same guardian is proposed for appointment for two or more minors. The code section does not require the wards to be siblings or related in any other way, although some local rules specify at least a half-sibling relationship. The court has clear discretion under the statute to appoint a guardian for two or more unrelated minors notwithstanding a local rule. Judicial officers, including one from a county with a half-sibling local rule for multi-ward cases, report that in addition to half-

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<sup>14</sup> Subject to the limited exception provided in Probate Code section 2105(f) (custodial parent with a terminal illness eligible to be appointed as co-guardian of the person of his or her child), a parent cannot be appointed as the guardian of his or her child's person (Prob. Code, § 1514). However, a parent can be appointed as guardian of his or her child's estate.

siblings, many of these cases involve cousins, who have entirely different parents, although at least one common grandparent.

When there is repetitive information on two or more applications in the same case, the increased use and availability of electronic forms, including the fee waiver forms on the judicial branch's public Website available at no cost to the public, insertion of repetitive information on the forms is much easier than in the past.

***Other comments regarding rule 7.5 and form FW-001-GC.***

Rule 7.5(h) as circulated for comment was a single-paragraph provision authorizing the court, upon the establishment of a guardianship or conservatorship of the estate, to collect previously waived fees from the estate under certain conditions, a provision similar to rule 7.5(f)(2), concerning decedents' estates. Commentator Bet Tzedek Legal Services requested the addition of a provision expressly directing a guardian or conservator of the person in which an initial fee waiver has been granted to appear and participate at any court hearings required by Government Code section 68636 for a reconsideration of the waiver.<sup>15</sup>

In response to this request, the committee has rewritten subdivision (h) of the rule by placing the original text in a paragraph (1) and adding the following as paragraph (2):

*Conservatorships and guardianships of the person*

In a conservatorship or guardianship of the person, if the court seeks to reconsider or modify a court fee waiver previously granted based on collection, application, or consideration of support, assets, or income described in (e), it must proceed as provided in Government Code section 68636 and comply with the notice and hearing requirements of the second paragraph of Government Code section 68634(e)(5), including notice to the conservator or guardian, any support obligor, and any person in possession of the assets or income. The conservator or guardian must appear at the hearing on behalf of the conservatee or ward, and the court may also appoint counsel for the conservatee or ward under Probate Code section 1470.

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<sup>15</sup> This request was made in the hope of having the provision replace rule 7.5(e)(2), which clarifies that the appointed fiduciary is the person who must perform all the duties required of the "person who received the initial fee waiver" under Government Code section 68636(a) even if he or she was not the person who applied for the waiver. Although the committee has added the provision requested by Bet Tzedek, it has decided to retain rule 7.5(e)(2).

Item 13 of FW-001-GC requests information about trusts in which a conservatee has an interest. The Superior Courts of Monterey and Riverside Counties recommended that special needs trusts of which the conservatee is a beneficiary should be exempt from consideration as part of the conservatee's financial condition for fee waiver purposes. The Riverside court's comment was also directed to spendthrift trusts. The committee does not believe that such trusts would generally be barred by trust provisions or law from paying court costs in the conservatorship proceeding or in litigation in which the conservator is involved, and such payments would not jeopardize distributions for the benefit of the conservatee but a court could certainly so determine in a case-by-case basis upon review of specific trust provisions and legal analysis of the effect of those provisions.

### **Alternatives**

The 2014 legislation discussed above eliminated the alternative of doing nothing to change the current fee waiver forms to address conservatorships and guardianships, and civil actions involving conservators and guardians. As noted above, the committee considered the option of amending the existing fee waiver forms to include the elements required to comply with the legislation, but concluded that this would make the general fee waiver forms too long and complex.

### **Implementation Requirements, Costs, and Operational Impacts**

All superior courts and court staff that commented on this proposal estimated increased costs for training and implementation of this proposal. But the Superior Court of Los Angeles County expressed the view that the proposed rule and Judicial Council forms should lessen difficulties created by the 2014 fee waiver legislation by providing forms that have been customized to better address the special factors that come into play in protective probate proceedings (guardianships and conservatorships). Another court commentator advised that the new legislation would substantially decrease the investigation assessments collected by the courts in guardianships and conservatorships, but was careful to note that this effect is caused by the legislation, not this proposal. All court commentators approved of the proposed September 1, 2015 effective date of the rule of court and new Judicial Council forms, and none requested longer than a three-month period between the Judicial Council meeting considering the proposal and its effective date. One commentator actually expressed a preference for the September 2015 date over a January 1, 2016 effective date because the earlier date would be further from the annual federal poverty guidelines readjustment date in March, 2016 (Comment of Ana Hinajosa, Probate Division Supervisor, Superior Court of Kern County).

## Attachments and Links

1. Cal. Rules of Court, rules 3.50–3.53, 7.5, and 8.26, at pages 17–25
2. Judicial Council forms, FW-001-GC, FW-002-GC, FW-003-GC, FW-005-GC, FW-006-GC, FW-007-GC, FW-008-GC, FW-010-GC, FW-011-GC, FW-012-GC, APP-016-GC/FW-016-GC, FW-001-INFO, and APP-015/FW-015-INFO, at pages 26–56
3. Chart of comments, at pages 57–103
4. Attachment A:  
AB 2747 (Stats. 2014, ch. 913),  
[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201320140AB2747&search\\_keywords=](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB2747&search_keywords=)

Rules 3.50, 3.51, 3.52, 3.53, and 8.26 of the California Rules of Court would be amended and rule 7.5 adopted, effective September 1, 2015, to read:

1 Title 3  
2 Civil Rules

3  
4 Division 2  
5 Waiver of Fees and Costs  
6

7 **3.50. Application of rules**

8  
9 (a)–(b) \* \* \*

10  
11 **(c) Probate fee waivers**

12  
13 Initial fee waivers in decedents’ estate, probate conservatorship, and probate  
14 guardianship proceedings or involving guardians or conservators as parties  
15 on behalf of their wards or conservatees are governed by rule 7.5.  
16

17 **3.51. Method of application**

18  
19 **(a) \* \* \***

20  
21 **(b) Applications involving (proposed) wards and conservatees**

22  
23 An application for initial fee waiver under rules 3.55 and 7.5 by a probate  
24 guardian or probate conservator or a petitioner for the appointment of a  
25 probate guardian or probate conservator for the benefit of a (proposed) ward  
26 or conservatee, in the guardianship or conservatorship proceeding or in a  
27 civil action or proceeding in which the guardian or conservator is a party on  
28 behalf of the ward or conservatee, must be made on *Request to Waive Court*  
29 *Fees (Ward or Conservatee)* (form FW-001-GC). An application for initial  
30 fee waiver under rule 3.56 by a guardian or conservator or a petitioner for the  
31 appointment of a guardian or conservator for the benefit of a (proposed)  
32 ward or conservatee must be made on *Request to Waive Additional Court*  
33 *Fees (Superior Court)(Ward or Conservatee)* (form FW-002-GC).  
34

35 **3.52. Procedure for determining application**

36  
37 The procedure for determining an application is as follows:

38  
39 (1) \* \* \*

- 1 (2) An order determining an application for an initial fee waiver must be made  
2 on *Order on Court Fee Waiver (Superior Court)* (form FW-003) or, if the  
3 application is made for the benefit of a (proposed) ward or conservatee, on  
4 *Order on Court Fee Waiver (Superior Court)(Ward or Conservatee)* (form  
5 FW-003-GC), except as provided in (6) below.
- 6
- 7 (3) An order determining an application for an initial fee waiver after a hearing  
8 in the trial court must be made on *Order on Court Fee Waiver After Hearing*  
9 *(Superior Court)* (form FW-008) or, if the application is made for the benefit  
10 of a (proposed) ward or conservatee, on *Order on Court Fee Waiver After*  
11 *Hearing (Superior Court) (Ward or Conservatee)* (form FW-008-GC).
- 12
- 13 (4) Any order granting a fee waiver must be accompanied by a blank *Notice of*  
14 *Improved Financial Situation or Settlement* (form FW-010) or, if the  
15 application is made for the benefit of a (proposed) ward or conservatee, a  
16 *Notice to Court of Improved Financial Situation or Settlement (Ward or*  
17 *Conservatee)*(form FW-010(GC).
- 18
- 19 (5) Any order denying an application without a hearing on the ground that the  
20 information on the application conclusively establishes that the applicant is  
21 not eligible for a waiver must be accompanied by a blank *Request for*  
22 *Hearing About Fee Waiver Order (Superior Court)* (form FW-006) or, if the  
23 application is made for the benefit of a (proposed) ward or conservatee, a  
24 *Request for Hearing About Court Fee Waiver Order (Superior Court)(Ward*  
25 *or Conservatee)* (form FW-006-GC).
- 26

27 (6) \* \* \*

28

### 29 **3.53. Application granted unless acted on by the court**

30

31 The application for initial fee waiver is deemed granted unless the court gives  
32 notice of action on the application within five court days after it is filed. If the  
33 application is deemed granted under this provision, the clerk must prepare and  
34 serve a *Notice: Waiver of Court Fees (Superior Court)* (form FW-005) or, if the  
35 application is made for the benefit of a (proposed) ward or conservatee, a *Notice:*  
36 *Waiver of Court Fees (Superior Court) (Ward or Conservatee)* (form FW-005-  
37 GC), five court days after the application is filed.

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Title 7  
Probate Rules

Chapter 1  
General Provisions

**7.5. Waivers of court fees in decedents' estates, conservatorships, and guardianships**

**(a) Scope of rule**

This rule governs initial fee waivers, as defined in rule 3.50(b), that are requested by petitioners for the appointment of fiduciaries, or by fiduciaries after their appointment, in decedents' estates, conservatorships, and guardianships under the Probate Code. The rule also governs initial fee waivers in other civil actions or proceedings in which conservators or guardians are parties representing the interests of their conservatees or wards.

**(b) Court fee waiver requested by a petitioner for the appointment of a conservator or guardian of the person, estate, or person and estate of a conservatee or ward**

A petitioner for the appointment of a conservator or guardian of the person, estate, or person and estate of a conservatee or ward must base an application for an initial fee waiver on the personal financial condition of the proposed conservatee or ward.

**(c) Court fee waiver requested by a petitioner for the appointment of a personal representative of a decedent's estate**

A petitioner for the appointment of a personal representative of a decedent's estate must base an application for an initial fee waiver on the petitioner's personal financial condition.

**(d) Effect of appointment of a personal representative of a decedent's estate on a court fee waiver**

The appointment of a personal representative of a decedent's estate may be a change of financial condition for fee waiver purposes under Government Code section 68636 in accordance with the following:

- 1           (1) If the successful petitioner is an appointed personal representative:  
2  
3           (A) The petitioner’s continued eligibility for an initial fee waiver must  
4           be based on the combined financial condition of the petitioner and  
5           the decedent’s estate.  
6  
7           (B) Upon marshaling or collecting assets of the decedent’s estate  
8           following the petitioner’s appointment and qualification as  
9           personal representative, the petitioner must notify the court of a  
10           change in financial condition under Government Code section  
11           68636(a) that may affect his or her ability to pay all or a portion  
12           of the waived court fees and costs.  
13  
14           (C) The court may make a preliminary determination under  
15           Government Code section 68636(b) that the petitioner’s  
16           appointment as fiduciary is a change of financial condition that  
17           makes the petitioner no longer eligible for an initial fee waiver  
18           based, in whole or in part, on the estimates of estate value and  
19           income contained in the petitioner’s *Petition for Probate*. In that  
20           event, the court must give notice and conduct the hearing required  
21           by section 68636(b).  
22  
23           (2) If the successful petitioner is not an appointed personal representative:  
24  
25           (A) An initial fee waiver for that petitioner continues in effect  
26           according to its terms for subsequent fees incurred by that  
27           petitioner in the proceeding solely in his or her individual  
28           capacity.  
29  
30           (B) The appointed personal representative may apply for an initial fee  
31           waiver. The application must be based on the combined financial  
32           condition of the personal representative and the decedent’s estate.  
33

34 **(e) Financial condition of the conservatee or ward**  
35

- 36           (1) The financial condition of the conservatee or ward for purposes of this  
37           rule includes:  
38  
39           (A) The financial condition—to the extent of the information known  
40           or reasonably available to the conservator or guardian, or the  
41           petitioner for the conservator’s or guardian’s appointment, upon  
42           reasonable inquiry—of any person who has a duty to support the  
43           conservatee or ward, including a spouse, registered domestic

1 partner, or parent. A divorced spouse's or divorced registered  
2 domestic partner's duty to support a conservatee and a parent's  
3 duty to support a ward under this subparagraph is limited to the  
4 amount of support ordered by a court. Consideration of a support  
5 order as an element of the conservatee's or ward's financial  
6 condition under this rule is subject to the provisions of  
7 Government Code sections 68637(d) and (e), concerning the  
8 likelihood that the obligated person will pay all or any portion of  
9 the support ordered by the court;

10  
11 (B) A conservatee's interest in community property that is outside the  
12 conservatorship estate and under the management or control of  
13 the conservatee's spouse or registered domestic partner; and

14  
15 (C) The right to receive support, income, or other distributions from a  
16 trust or under a contract.

17  
18 (2) Following the appointment of a conservator or guardian and the grant of  
19 an initial fee waiver based on the financial condition of the conservatee  
20 or ward, the conservator or guardian is the "person who received the  
21 initial fee waiver" for purposes of Government Code section 68636(a),  
22 whether or not he or she was the successful applicant for the initial  
23 waiver. The conservator or guardian must report to the court any  
24 changes in the financial condition of the conservatee or ward that affects  
25 his or her ability to pay all or a portion of the court fees and costs that  
26 were initially waived, including any changes in the financial condition  
27 of the persons or property mentioned in subparagraphs (1)(A) and  
28 (1)(B) of this subdivision of which the conservator or guardian becomes  
29 aware after reasonable investigation.

30  
31 **(f) Additional discretionary factors in the financial condition or**  
32 **circumstances of a decedent's, conservatee's, or ward's estate**

33  
34 (1) The financial condition of the decedent's, conservatee's, or ward's  
35 estate for purposes of this rule may, in the court's discretion, include  
36 consideration of:

37  
38 (A) The estate's liquidity;

39  
40 (B) Whether estate property or income is necessary for the support of  
41 a person entitled to a family allowance from the estate of a  
42 decedent, the conservatee or a person entitled to support from the  
43 conservatee, or the ward; or

1           (C) Whether property in a decedent’s estate is specifically devised.

2  
3           (2) If property of the estate is eliminated from consideration for initial  
4 court fee waiver purposes because of one or more of the factors listed  
5 in (1), the court may determine that the estate can pay a portion of court  
6 fees, can pay court fees over time, or can pay court fees at a later time,  
7 under an equitable arrangement within the meaning of Government  
8 Code sections 68632(c) and 68634(e)(5). An equitable arrangement  
9 under this paragraph may include establishment of a lien for initially  
10 waived court fees against property distributable from a decedent’s  
11 estate or payable to the conservatee or ward or other successor in  
12 interest at the termination of a conservatorship or guardianship.

13  
14           **(g) Payment of previously waived court fees by a decedent’s estate**

15  
16           If the financial condition of a decedent’s estate is a change of financial  
17 condition of a fee waiver applicant under this rule that results in withdrawal  
18 of a previously granted initial waiver of fees in favor of a petitioner for the  
19 appointment of a personal representative, the estate must pay to the court, as  
20 an allowable expense of administration, the fees and costs previously  
21 waived.

22  
23           **(h) Termination or modification of previously granted initial fee waivers**

24  
25           (1) Conservatorships and guardianships of the estate or person and estate  
26 Upon establishment of a conservatorship or guardianship of the estate  
27 or person and estate, the court may collect all or a portion of court fees  
28 previously waived from the estate of the conservatee or ward if the  
29 court finds that the estate has the ability to pay the fees, or a portion  
30 thereof, immediately, over a period of time, or under some other  
31 equitable agreement, without using moneys that normally would pay  
32 for the common necessities of life for the conservatee or ward and his  
33 or her family. The court must comply with the notice and hearing  
34 requirements of the second paragraph of Government Code section  
35 68634(e)(5) to make the findings authorized in this paragraph.

36  
37           (2) Conservatorships and guardianships of the person  
38 In a conservatorship or guardianship of the person, if the court seeks to  
39 reconsider or modify a court fee waiver previously granted based on  
40 collection, application, or consideration of support, assets, or income  
41 described in (e), it must proceed as provided in Government Code  
42 section 68636 and comply with the notice and hearing requirements of  
43 the second paragraph of Government Code section 68634(e)(5).

1 including notice to the conservator or guardian, any support obligor,  
2 and any person in possession of the assets or income. The conservator  
3 or guardian must appear at the hearing on behalf of the conservatee or  
4 ward, and the court may also appoint counsel for the conservatee or  
5 ward under Probate Code section 1470.

6  
7 **(i) Civil actions in which a conservator or guardian is a party representing**  
8 **the interests of a conservatee or ward**

9  
10 In a civil action in which a conservator or guardian is a party representing the  
11 interests of a conservatee or ward against another party or parties, for  
12 purposes of Government Code sections 68631.5, 68636, and 68637:

13  
14 (1) The conservator or guardian is the person with a duty to notify the  
15 court of a change of financial condition under section 68636(a) and the  
16 person the court may require to appear at a court hearing under sections  
17 68636(b) and (c);

18  
19 (2) The conservatee or ward and the persons identified in subparagraphs  
20 (1)(A) and (B) of subdivision (e) of this rule is the person or persons  
21 whose change of financial condition or circumstances of which the  
22 court is to be notified under section 68636(a); and

23  
24 (3) The conservatee or ward is the person or party whose initial fees and  
25 costs were initially waived under sections 68636(c) and 68637.

26  
27 **(i) Advances of court fees and costs by legal counsel**

28  
29 (1) Government Code section 68633(g)—concerning agreements between  
30 applicants for initial court fee waivers and their legal counsel for  
31 counsel to advance court fees and costs and court hearings to determine  
32 the effect of the presence or absence of such agreements on the  
33 applications—applies to proceedings described in this rule.

34  
35 (2) Conservators, guardians, and petitioners for their appointment applying  
36 for initial fee waivers under this rule represented by legal counsel, and  
37 their counsel, must complete the *Request to Waive Court Fees (Ward*  
38 *or Conservatee)* (form FW-001-GC), including items 2a and 2b, and, if  
39 a request to waive additional court fees is made, the *Request to Waive*  
40 *Additional Court Fees (Superior Court) (Ward or Conservatee)* (form  
41 FW-002-GC), including items 2a and 2b. The reference to “legal-aid  
42 type services” in these forms refers to legal services provided to an



1 *Division*) (form APP-015/FW-015-INFO) without charge to any person who  
2 requests any fee waiver application or states that he or she is unable to pay any  
3 court fee or cost.

4  
5 (b) \* \* \*

6  
7 (c) **Procedure for determining application**

8  
9 The application must be considered and determined as required by Government  
10 Code section 68634.5. An order from the Supreme Court or Court of Appeal  
11 determining the application for initial fee waiver or setting a hearing on the  
12 application in the Supreme Court or Court of Appeal may be made on *Order on*  
13 *Court Fee Waiver (Court of Appeal or Supreme Court)* (form APP-016/FW-016)  
14 or, if the application is made for the benefit of a (proposed) ward or conservatee,  
15 on *Order on Court Fee Waiver (Court of Appeal or Supreme Court) (Ward or*  
16 *Conservatee)* (form APP-016-GC/FW-016-GC).

17  
18 (d)–(g) \* \* \*

*Clerk stamps date here when form is filed.*

**DRAFT**

**NOT APPROVED BY  
THE JUDICIAL COUNCIL**

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

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

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

*Fill in court name and street address:*

**Superior Court of California, County of**

*Fill in case number and name:*

**Case Number:**

**Case Name:**

**1 Your Information** (*guardian or conservator, or person asking the court to appoint a guardian or conservator*):  
Name: \_\_\_\_\_ Phone number: \_\_\_\_\_

Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_ Zip: \_\_\_\_\_

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

Firm or Affiliation: \_\_\_\_\_ State Bar No.: \_\_\_\_\_  
Address: \_\_\_\_\_ Telephone: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_ Zip: \_\_\_\_\_ E-mail: \_\_\_\_\_

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

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

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

Name: \_\_\_\_\_ Age and date of birth (*ward only*): \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_ Zip: \_\_\_\_\_  
Phone number: \_\_\_\_\_

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

Firm or Affiliation: \_\_\_\_\_ State Bar No.: \_\_\_\_\_  
Address: \_\_\_\_\_ Telephone: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_ Zip: \_\_\_\_\_ E-mail: \_\_\_\_\_

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

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



Name of (Proposed) Ward or Conservatee: \_\_\_\_\_

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

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

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

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

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

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

b.  The gross monthly income of the ward's or conservatee's household (before deductions for taxes) is less than the amount listed below. (If you check 8b, you **must** fill out items 14, 15, and 16, on page 4 of this form.)\*

Family Size	Family Income	Family Size	Family Income	Family Size	Family Income
1	\$1,226.05	3	\$2,092.71	5	\$2,959.38
2	\$1,659.38	4	\$2,526.05	6	\$3,392.71

*If more than 6 people at home, add \$433.34 for each extra person.*

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

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

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

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

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

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

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



Name of (Proposed) Ward or Conservatee: \_\_\_\_\_

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

**Conservators or petitioners for their appointment must complete items 11–13.**

**11 Conservatee’s Estate:**  Person only, no estate.

Inventory or petition estimated value: \_\_\_\_\_

Est. collection date: \_\_\_\_\_

**12 Conservatee’s Spouse’s or Registered Domestic Partner’s Information:**

Name of conservatee’s spouse or registered domestic partner: \_\_\_\_\_  Spouse  Partner

Date of marriage or partnership: \_\_\_\_\_  Deceased (*date of death*): \_\_\_\_\_

Street or mailing address: \_\_\_\_\_ Phone number: \_\_\_\_\_

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

Name of employer (*if none, so state*): \_\_\_\_\_

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

The conservatee’s spouse or partner  is  is not managing or, following appointment of a conservator is planning to manage, some or all of the couple’s community property outside the conservatorship estate.

If you selected “is” above: The income, money, and property shown on page 4  includes  does not include the income and property managed, or expected to be managed, by the spouse/partner outside the estate.

Divorced (*date of final judgment or decree*): \_\_\_\_\_

Court: \_\_\_\_\_

Case Number: \_\_\_\_\_ Support order for conservatee?  No  Yes

Date of support order (*if multiple, date of latest*): \_\_\_\_\_ Monthly amount: \_\_\_\_\_

**13 The Conservatee and Trusts:**

The conservatee:

a.  Is  Is not a trustor or settlor of a trust.

b.  Is  Is not a beneficiary of a trust.

If you selected “Is” to complete any of the above statements, identify and provide, in an attachment to this *Request*, the current address and telephone number of the current trustee(s) of each trust, describe the general terms of and value of each trust and the nature and value of the conservatee’s interest in each trust, and the amount(s) and frequency of any distributions to or for the benefit of the conservatee prior to your appointment as conservator of which you are aware. (*You may use Judicial Council form MC-025 for this purpose.*)

**All applicants who checked item 8b or item 8c on page 2 must continue to and follow the instructions for completion of items 14–16 or items 14-18 at the top of page 4, before signing below.**

**The information I have provided on this form and all attachments about the (proposed) ward or conservatee is true and correct to the best of my information and belief. The information I have provided on this form and all attachments concerning myself is true and correct. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.**

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

\_\_\_\_\_  
*Print your name here*



\_\_\_\_\_  
*Sign here*



Name of (Proposed) Ward or Conservatee:

Case Number:

If you checked 8a on page 2, do not fill out below. If you checked 8b, you must answer questions 14-16. If you checked 8c, you must answer questions 14-18. If you need more space, attach form MC-025 or attach a sheet of paper, and write "Financial Information" and the ward's or conservatee's name and case number at the top.

14 Check here if the ward's or conservatee's income changes a lot from month to month. If it does, complete the form based on his or her average income for the past 12 months.

15 Ward's or Conservatee's Gross Monthly Income

a. List the source and amount of any income the ward or conservatee gets each month, including: wages or other income from work before deductions, spousal/child support, retirement, social security, disability, unemployment, military basic allowance for quarters (BAQ), veterans payments, dividends, interest, trust income, annuities, net business or rental income, reimbursement for job-related expenses, gambling or lottery winnings, etc.

- (1) \$
(2) \$
(3) \$
(4) \$
(5) \$

b. Total monthly income: \$

16 Ward's or Conservatee's Household's Income

a. List the income of all other persons living in the ward's or conservatee's home who depend in whole or in part on him or her for support, or on whom he or she depends in whole or in part for support.

Table with columns: Name, Age, Relationship, Gross Monthly Income. Rows 1-10.

b. Total monthly income of persons above: \$

Total monthly income and household income (15b plus 16b): \$

17 Ward's or Conservatee's Household's Money and Property

a. Cash \$

b. All financial accounts (list bank name and amount):

- (1) \$
(2) \$
(3) \$

c. Cars, boats, and other vehicles

Table with columns: Make / Year, Fair Market Value, How Much You Still Owe. Rows 1-3.

d. Real estate

Table with columns: Address, Fair Market Value, How Much You Still Owe. Rows 1-2.

e. Other personal property (jewelry, furniture, furs, stocks, bonds, etc.):

Table with columns: Describe, Fair Market Value, How Much You Still Owe. Rows 1-2.

18 Ward's or Conservatee's Household's Monthly Deductions and Expenses

a. List any payroll deductions and the monthly amount below:

- (1) \$
(2) \$
(3) \$
(4) \$

b. Rent or house payment and maintenance \$

c. Food and household supplies \$

d. Utilities and telephone \$

e. Clothing \$

f. Laundry and cleaning \$

g. Medical and dental expenses \$

h. Insurance (life, health, accident, etc.) \$

i. School, child care \$

j. Child, spousal support (another marriage) \$

k. Transportation, gas, auto repair and insurance \$

l. Installment payments (list each below):

- Paid to:
(1) \$
(2) \$
(3) \$

m. Wages/earnings withheld by court order \$

n. Any other monthly expenses (list each below): \$

- Paid to: How Much?
(1) \$
(2) \$
(3) \$

Total monthly expenses (add 18a-18n above): \$

To list any other facts you want the court to know, such as the (proposed) ward's or conservatee's unusual medical expenses, etc, attach form MC-025 or attach a sheet of paper and write "Financial Information" and the (proposed) ward's or conservatee's name and case number at the top. Check here if you attach another page. Important! If the ward's or conservatee's financial situation or ability to pay court fees improves, you must notify the court within five days on form FW-010-GC.

Do not include income of guardian or conservator living in the household in item 16, his or her money and property in item 17, or his or her deductions and expenses in item 18 unless he or she is a parent of the ward or the spouse or registered domestic partner of the conservatee.

**Request to Waive Additional Court Fees (Superior Court) (Ward or Conservatee)**

**CONFIDENTIAL**

*Clerk stamps date here when form is filed.*

**DRAFT**

**Not approved by the Judicial Council**

This form must be used by a guardian or conservator, or a petitioner for the appointment of a guardian or conservator, in the guardianship or conservatorship proceeding or in any other civil action in which the guardian or conservator represents the interest of the ward or conservatee as a plaintiff or defendant, to ask the court to waive *additional* court fees that are not covered in a current order. If you have not already received an order that waived or reduced your court fees, you must complete and file a *Request to Waive Court Fees (Ward or Conservatee)*, form FW-001-GC, along with this form.

*Fill in court name and street address:*

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

*Fill in case number and name:*

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

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

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

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

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

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

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

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

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

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

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

a. The lawyer has agreed to advance all or a portion of your fees or costs (*check one*):  Yes  No  
(*If yes, your lawyer must sign here.*) Lawyer's signature: \_\_\_\_\_

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

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

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

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

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

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

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

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

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

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

**5** Date ward's or conservatee's *last* court fee waiver order, if any, was granted: \_\_\_\_\_

**6** Has the ward's or conservatee's financial situation improved since your last *Request to Waive Court Fees*?

No  Yes

(*If yes, you must fill out a new Request to Waive Court Fees, form FW-001-GC, and attach it to this form.*)



Name of (Proposed) Ward or Conservatee:

Case Number:

7 What other fees do you want the court fee waiver order to cover? (Check all that apply):

- a.  Jury fees and expenses
- b.  Court-appointed interpreter fees for a witness
- c.  Fees for a peace officer to testify in court
- d.  Fees for court-appointed experts
- e.  Other (specify):

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8 Why does the ward or conservatee need these other services? (Explain):

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**Notice:** The court may order you to answer questions about the finances of the ward or conservatee and later order you, as guardian or conservator of his or her estate, to pay back waived fees. The court may also direct you to make efforts to collect money to pay back waived fees from persons who owe a duty to support the ward or conservatee. If the fees are not paid back, the court may also charge collection fees.

If there is a change in the financial circumstances of the ward or conservatee during this case that increases his or her ability to pay fees and costs, you must notify the trial court within five days. (Use form FW-010-GC for this purpose.)

If this case is a civil action against another person on behalf of the ward or conservatee and you win it, the trial court may order the other side to pay the fees. If you settle the case against another person for **\$10,000** or more payable to the ward's or conservatee's estate, the trial court will have a lien on the settlement in the amount of the waived fees. The trial court may not dismiss the case until the lien is paid.

The court may also have a lien against the ward's or conservatee's estate that must be paid before the estate is distributed, the guardianship or conservatorship proceeding is concluded, and you are discharged as guardian or conservator.

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

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

\_\_\_\_\_  
 Print your name here



\_\_\_\_\_  
 Sign here

*Clerk stamps date here when form is filed.*

**DRAFT**

**NOT APPROVED  
BY  
THE JUDICIAL COUNCIL**

**1 (Proposed) guardian or conservator who asked the court to waive court fees for (proposed) ward or conservatee:**

Name: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_

**2 Lawyer, if person in 1 has one:**

Name: \_\_\_\_\_ State Bar No: \_\_\_\_\_  
Firm or Affiliation: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
E-mail: \_\_\_\_\_ Telephone: \_\_\_\_\_

**3 (Proposed) ward or conservatee:**

Name: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_

**4 Lawyer for (proposed) ward or conservatee, if any:**

Name: \_\_\_\_\_ State Bar No: \_\_\_\_\_  
Firm or Affiliation: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
E-mail: \_\_\_\_\_ Telephone: \_\_\_\_\_

**5 A request to waive court fees was filed on (date): \_\_\_\_\_**

The court made a previous fee waiver order in this case on (date): \_\_\_\_\_

*Fill in court name and street address:*

**Superior Court of California, County of**

*Fill in case number and name:*

**Case Number:**

**Case Name:**

**Read this form carefully. All checked boxes  are court orders.**

**Notice:** The court may order you to answer questions about the ward's or conservatee's finances after granting a waiver and may later order payment of the waived fees from his or her estate. If this happens and the fees are not paid, the court can also charge collection fees. The court may also direct you to make efforts to collect money to pay back waived fees from persons who owe a duty to support the ward or conservatee. If there is a change in the ward's or conservatee's financial circumstances during this case that increases his or her ability to pay fees and costs, you must notify the trial court within five days. (Use form FW-010-GC.)

If this case is an action against another party and you win the case on behalf of the ward or conservatee, the trial court may order the other side to pay some or all of the waived fees. If you settle the matter for **\$10,000** or more, the trial court will have a lien on the settlement in the amount of the waived fees. The trial court may not dismiss the case until the lien is paid.

The court may also have a lien against the ward's or conservatee's estate that must be paid before the estate is distributed, the guardianship or conservatorship proceeding is concluded, and you are discharged as guardian or conservator.

**6 After reviewing your:  Request to Waive Court Fees  Request to Waive Additional Court Fees  
the court makes the following orders:**

a.  The court **grants** your request concerning the ward's or conservatee's court fees and costs, as follows:

(1)  **Fee Waiver.** The court grants your request and waives the fees and costs listed below.  
(*Cal. Rules of Court, rules 3.55 and 8.818.*) You do not have to pay the court fees for the following:

- Filing papers in Superior Court
  - Giving notice and certificates
  - Making copies and certifying copies
  - Sending papers to another court department
  - Sheriff's fee to give notice
  - Court-appointed interpreter in small claims court
  - Court fee for phone hearing
- (*List continued on next page.*)



- 6 a. (1)
  - Reporter’s fee for attendance at hearing or trial, if reporter provided by the court
  - Assessment for court investigations under Probate Code section 1513, 1826, or 1851
  - Preparing, certifying, copying, and sending the clerk’s transcript on appeal
  - Holding in trust the deposit for a reporter’s transcript on appeal under rule 8.130 or 8.834
  - Making a transcript or copy of an official electronic recording under rule 8.835

(2)  **Additional Fee Waiver.** The court grants your request and waives the additional superior court fees and costs that are checked below. (*Cal. Rules of Court, rule 3.56.*) You do not have to pay for the checked items.

- |   |   |
|---|---|
| <input type="checkbox"/> Jury fees and expenses           | <input type="checkbox"/> Fees for a peace officer to testify in court   |
| <input type="checkbox"/> Fees for court-appointed experts | <input type="checkbox"/> Court-appointed interpreter fees for a witness |
| <input type="checkbox"/> Other( <i>specify</i> ):         |   |

b.  The court **denies** your fee waiver request, as follows:

**Warning!** If you miss the deadline below, the court cannot process your request for hearing or the court papers you filed with your original request. If the papers were a notice of appeal, the appeal may be dismissed.

- (1)  The court **denies** your request because it is incomplete. You have **10 days** after the clerk gives notice of this order (see date of service on next page) to:
- Pay the ward’s or conservatee’s fees and costs, or
  - File a new revised request that includes the items listed below (*specify incomplete items*):

\_\_\_\_\_

\_\_\_\_\_

- (2)  The court **denies** your request because the information you provided on the request shows that the ward or conservatee is not eligible for the fee waiver you requested (*specify reasons*):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

The court has enclosed a blank *Request for Hearing About Court Fee Waiver Order (Ward or Conservatee)(Superior Court)*, form FW-006-GC. You have **10 days** after the clerk gives notice of this order (see date of service on next page) to:

- Pay the fees and costs in full or the amount listed in c below, or
- Ask for a hearing in order to show the court more information. (*Use form FW-006-GC to request hearing.*)

c.  The court needs more information to decide whether to grant your request. You must go to court on the date below. The hearing will be about (*specify questions regarding eligibility*):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Bring the following proof to support your request if reasonably available:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



Name of (Proposed) Ward or Conservatee:

Case Number:

**Warning!** If item c is checked, and you do not go to court on your hearing date, the judge will deny your request to waive court fees, and you will have 10 days to pay the ward's or conservatee's fees. If you miss that deadline, the court cannot process the court papers you filed with your request. If the papers were a notice of appeal, the appeal may be dismissed.

**NOTE TO GUARDIAN or CONSERVATOR:** If there are unpaid court fees after a denial of a request for a fee waiver, your case—including the guardianship or conservatorship proceeding if the waiver is requested in that matter—might not go forward. After a denial, you may choose to advance the court costs yourself to ensure that the case proceeds. If you or another person is appointed as guardian or conservator, you would have an opportunity to be reimbursed for such advances from the assets of the guardianship or conservatorship estate, if any, as allowable expenses of administration. You might also have the right to reimbursement for advanced court costs from persons with an obligation to support the ward or conservatee from assets not part of his or her estate, such as a parent of the ward, the spouse or registered domestic partner of the conservatee who is managing the couple's community property outside the conservatorship estate, or the trustee of a trust of which the conservatee is a beneficiary.

	Date: _____	Time: _____	_____
	Dept.: _____	Room: _____	_____
	_____	_____	_____
	_____	_____	_____

Name and address of court if different from above:

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



Signature of (check one):  Judicial Officer  Clerk, Deputy



**Request for Accommodations.** Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least 5 days before your hearing. Contact the clerk's office for *Request for Accommodation*, Form MC-410. (Civil Code, § 54.8.)

### Clerk's Certificate of Service

I certify that I am not involved in this case and (check one):  A certificate of mailing is attached.

I handed a copy of this order to the party and attorney, if any, listed in ①, ②, and ④ at the court, on the date below.

This order was mailed first class, postage paid, to the party and attorney, if any, at the addresses listed in ①, ②, and ④, from (city): \_\_\_\_\_, California on the date below.

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

Clerk, by \_\_\_\_\_, Deputy

**This is a Court Order.**

*Clerk stamps date here when form is filed.*

**DRAFT**  
  
**Not Approved  
by the  
Judicial Council**

**1 (Proposed) guardian or conservator who asked the court to waive court fees for (proposed) ward or conservatee:**

Name: \_\_\_\_\_  
Mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_

**2 Lawyer, if person in 1 has one:**

Name: \_\_\_\_\_ State Bar No: \_\_\_\_\_  
Firm or Affiliation: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
E-mail: \_\_\_\_\_ Telephone: \_\_\_\_\_

*Fill in court name and street address:*

**Superior Court of California, County of**

**3 (Proposed) ward or conservatee:**

Name: \_\_\_\_\_  
Mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_

*Court fills in case number when form is filed.*

**4 Lawyer for (proposed) ward or conservatee, if any:**

Name: \_\_\_\_\_ State Bar No: \_\_\_\_\_  
Firm or Affiliation: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
E-mail: \_\_\_\_\_ Telephone: \_\_\_\_\_

**Case Number:**  
  
**Case Name:**

**5 Your Request to Waive Court Fees was filed on (date):** \_\_\_\_\_

**6 Your request is granted by operation of law because no court action was taken within five days after it was filed. A fee waiver is granted for the following court fees and costs (Cal. Rules of Court, rule 3.55):**

- Filing papers
- Giving notice and certificates
- Sending papers to another court department
- Court fee for phone hearing
- Making copies and certifying copies
- Sheriff's fee to give notice
- Court-appointed interpreter in small claims court
- Reporter's fee for attendance at hearing or trial, if reporter provided by the court
- Assessment for court investigations under Probate Code section 1513, 1826, or 1851
- Preparing, certifying, copying, and sending the clerk's transcript on appeal
- Holding in trust the deposit for a reporter's transcript on appeal under rules 8.130 or 8.834
- Making a transcript or copy of an official electronic recording under rule 8.835

**Read Notice to (Proposed) Guardian or Conservator on page 2.**

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



Name of (Proposed) Ward or Conservatee:

Case Number:

**Notice to (Proposed) Guardian or Conservator:** The court may order you to answer questions about the (proposed) ward's or conservatee's finances and order payment of the waived fees from his or her estate. If this happens and the fees are not paid, the court can also charge collection fees. The court may also order you make efforts to collect money for the waived fees from those owing a duty of support of the ward or conservatee.

If there is a change in the ward's or conservatee's financial circumstances during this case that increases his or her ability to pay fees and costs, you must notify the trial court within five days. (Use form FW-010-GC.)

If this case is a civil case against another party and you win the case on behalf of the ward or conservatee, the trial court may order the other side to pay the fees. If you settle the civil case for **\$10,000** or more, the trial court will have a lien on the settlement in the amount of the waived fees. The trial court may not dismiss the case until the lien is paid.

The court may also have a lien against the ward's or conservatee's estate that must be paid before the estate is distributed, the guardianship or conservatorship proceeding is concluded, and you are discharged as guardian or conservator.

### Clerk's Certificate of Service

I certify that I am not involved in this case and (*check one*):  A certificate of mailing is attached.

I handed a copy of this notice to the party and attorney(s), if any, listed in ①, ②, and ④, at the court, on the date below.

This notice was mailed first class, postage paid, to the party and attorney(s), if any, at the addresses listed in ①, ②, and ④, from (*city*): \_\_\_\_\_, California on the date below.

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

Clerk, by \_\_\_\_\_, Deputy

*Clerk stamps date here when form is filed.*

**DRAFT**

**Not Approved  
by the  
Judicial Council**

*Fill in court name and street address:*

**Superior Court of California, County of**

*Court fills in case number when form is filed.*

**Case Number:**

**Case Name:**

**1 (Proposed) guardian or conservator who asked the court to waive court fees for (proposed) ward or conservatee:**

Name: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_

**2 Lawyer, if person in 1 has one:**

Name: \_\_\_\_\_ State Bar No: \_\_\_\_\_  
Firm or Affiliation: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
E-mail: \_\_\_\_\_ Telephone: \_\_\_\_\_

**3 (Proposed) ward or conservatee:**

Name: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_

**4 Lawyer for (proposed) ward or conservatee, if any:**

Name: \_\_\_\_\_ State Bar No: \_\_\_\_\_  
Firm or Affiliation: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
E-mail: \_\_\_\_\_ Telephone: \_\_\_\_\_

**5 Date of order denying your request to waive court fees for the (proposed) ward or conservatee (month/day/year):** \_\_\_\_\_

*(Check here if you have a copy of the order denying your request, and attach it to this form.)*

**6** I ask the court for a hearing on my fee waiver request so that I can bring more information about the (proposed) ward's or conservatee's financial situation.



**Request for Accommodations.** Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before your hearing. Contact the clerk's office for *Request for Accommodation*, form MC-410.





**Draft**  
  
**Not Approved by the  
Judicial Council**

**1 (Proposed) guardian or conservator who asked the court to waive court fees for (proposed) ward or conservatee:**  
Name: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_

**2 Lawyer, if person in 1 has one:**  
Name: \_\_\_\_\_ State Bar No: \_\_\_\_\_  
Firm or Affiliation: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
E-mail: \_\_\_\_\_ Telephone: \_\_\_\_\_

**3 (Proposed) ward or conservatee:**  
Name: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_

**4 Lawyer for (proposed) ward or conservatee, if any:**  
Name: \_\_\_\_\_ State Bar No: \_\_\_\_\_  
Firm or Affiliation: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
E-mail: \_\_\_\_\_ Telephone: \_\_\_\_\_

**5** The court received your request for a hearing about the ward's or conservatee's court fees on (date): \_\_\_\_\_.

**Read this form carefully. All checked boxes  are court orders.**

**6**  The court grants your request for a hearing on the eligibility of the ward or conservatee for a fee waiver. **Go to your court hearing** on the date below. You may bring information about the ward or conservatee's financial situation to the hearing.

*Fill in court name and street address:*

**Superior Court of California, County of**

*Court fills in case number when form is filed.*

**Case Number:**  
  
**Case Name:**

Name and address of court if different from above:



→ Date: \_\_\_\_\_ Time: \_\_\_\_\_  
Dept.: \_\_\_\_\_ Room: \_\_\_\_\_



**Request for Accommodations:** Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before your hearing. Contact the clerk's office for *Request for Accommodation*, Form MC-410. (Civil Code, § 54.8(f))





*Clerk stamps date here when form is filed.*

**Draft**

**Not Approved by  
the Judicial Council**

**1 (Proposed) guardian or conservator who asked the court to waive court fees for (proposed) ward or conservatee:**

Name: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_ Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_

**2 Lawyer, if person in 1 has one:**

Name: \_\_\_\_\_ State Bar No: \_\_\_\_\_  
Firm or Affiliation: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_ Zip: \_\_\_\_\_  
E-mail: \_\_\_\_\_ Telephone: \_\_\_\_\_

**3 (Proposed) ward or conservatee:**

Name: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_ Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_

**4 Lawyer for (proposed) ward or conservatee, if any:**

Name: \_\_\_\_\_ State Bar No: \_\_\_\_\_  
Firm or Affiliation: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_ Zip: \_\_\_\_\_  
E-mail: \_\_\_\_\_ Telephone: \_\_\_\_\_

**5 A request to waive court fees was filed on (date):** \_\_\_\_\_

**6 There was a hearing on (date):** \_\_\_\_\_  
at (time): \_\_\_\_\_ in (Department): \_\_\_\_\_

The following people were at the hearing (check all that apply):

- Person in 1       Lawyer in 2       Person in 3       Lawyer in 4  
 Others (names): \_\_\_\_\_

*Fill in court name and street address:*

**Superior Court of California, County of**

*Fill in case number and name:*

**Case Number:**

**Case Name:**

**Read this form carefully. All checked boxes  are court orders.**

**Notice:** The court may order you to answer questions about the ward's or conservatee's finances after granting a waiver and may order payment of the waived fees from his or her estate. If this happens and the fees are not paid, the court can also charge collection fees. The court may also direct you to make efforts to collect money to pay back waived fees from persons who owe a duty to support the ward or conservatee. If there is a change in the ward's or conservatee's financial circumstances during this case that increases his or her ability to pay fees and costs, you must notify the trial court within five days. (Use form FW-010-GC.)

If this case is an action against another party and you win the case on behalf of the ward or conservatee, the trial court may order the other side to pay some or all of the waived fees. If you settle the matter for **\$10,000** or more, the trial court will have a lien on the settlement in the amount of the waived fees. The trial court may not dismiss the case until the lien is paid.

The court may also have a lien against the ward's or conservatee's estate that must be paid before the estate is distributed, the guardianship or conservatorship proceeding is concluded, and you are discharged as guardian or conservator.



7 After reviewing your (check one):  Request to Waive Court Fees  Request to Waive Additional Court Fees the court makes the following order:

- a.  The court grants your request and waives the ward's or conservatee's court fees and costs as follows:
(1)  Fee Waiver. The court grants your request and waives the court fees and costs listed below (Cal. Rules of Court, rules 3.55 and 8.818.) You do not have to pay the court fees for the following:
• Filing papers in superior court
• Making copies and certifying copies
• Sheriff's fee to give notice
• Giving notice and certificates
• Sending papers to another court department
• Court-appointed interpreter in small claims court
• Reporter's fee for attendance at hearing or trial, if reporter provided by the court
• Assessment for court investigations under Probate Code section 1513, 1826, or 1851
• Preparing and certifying the clerk's transcript on appeal
• Holding in trust the deposit for a reporter's transcript on appeal under rule 8.130 or 8.834
• Making a transcript or copy of an official electronic recorder under rule 8.835
(2)  Additional Fee Waiver. The court grants your request and waives the additional superior court fees and costs that are checked below. (Cal. Rules of Court, rule 3.56.) You do not have to pay for the checked items.
 Jury fees and expenses
 Fees for a peace officer to testify in court
 Fees for court-appointed experts
 Court-appointed interpreter fees for a witness
 Other (specify):

- b.  The court denies your request and will not waive or reduce the ward's or conservatee's fees and costs.
(1) The reason for this denial is as follows:
(a)  Your request is incomplete, and you did not provide the information that the court requested (specify items missing):
(b)  You did not go to court on the hearing date to provide the information the court needed to make a decision.
(c)  The information you provide shows ineligibility for the fee waiver you requested because (check all that apply):
i.  The ward's or conservatee's income is too high.
ii.  Other (explain):
(d)  There is not enough evidence to support a fee waiver.
(e)  Other (state reasons):
(2)  You may pay the initial filing fee over time. You must make monthly payments of at least \$ beginning (date): and then payable on the 1st of each month after that, until the fees checked below are paid in full.
 Filing fees.
 Other (describe):
You must pay all other court fees and costs as they are due.



Name of (Proposed) Ward or Conservatee:

Case Number:

- 7 c.  The court **partially grants** your request so you can pay, from the estate of the ward or conservatee or from funds from persons or entities with a duty to support the ward or conservatee, court fees without using money needed to pay for the ward's or conservatee's household's basic needs. You are ordered to pay a portion of the ward's or conservatee's fees, **as checked in items c. (1) and (2) below.**

The court only partially grants the request because (*state reasons for denial*):

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- (1)  You must pay \_\_\_\_\_ % of the ward's or conservatee's court fees.
- (2)  The court waives some fees. The fees checked below are waived. You must pay all other court fees.
- Filing papers at superior court
  - Sheriff's fee to give notice
  - Court-appointed interpreter
  - Reporter's fee for attendance at trial or hearing if reporter provided by the court.
  - Jury fees and expenses
  - Court-appointed experts' fees
  - Making certified copies
  - Giving notice and certificates
  - Sending papers to another court department
  - Court-appointed interpreter fees for a witness
  - Fees for a peace officer to testify in court
  - Court fees for telephone hearings
  - Other (*specify*): \_\_\_\_\_

- (3)  Other (*specify*):
- 
- 
- 

**Warning! If item 7b or 7c above is checked:** You have **10 days** after the clerk gives notice of this order (see date below) to pay your fees as ordered, unless there is a later date for beginning payments in item 7b(2). If you do not pay, your court papers will not be processed. If the papers are a notice of appeal, your appeal may be dismissed.

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

▶

\_\_\_\_\_  
*Signature of Judicial Officer*

### Clerk's Certificate of Service

- I certify that I am not involved in this case and (*check one*):  A certificate of mailing is attached.
- I handed a copy of this order to the party and attorney(s), if any, listed in (1), (2), and (4), at the court, on the date below.
- This order was mailed first class, postage paid, to the party and attorney(s), if any, at the addresses listed in (1), (2), and (4), from (*city*): \_\_\_\_\_, California on the date below.

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

*Clerk stamps date here when form is filed.*

**Draft**

**Not Approved by the Judicial Council**

*Fill in court name and street address:*

**Superior Court of California, County of**

*Court fills in case number when form is filed.*

**Case Number:**

**Case Name:**

- 1 **(Proposed) guardian or conservator who asked the court to waive court fees for (proposed) ward or conservatee:**  
 Name: \_\_\_\_\_  
 Street or mailing address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Telephone: \_\_\_\_\_
- 2 **Lawyer, if person in 1 has one:**  
 Name: \_\_\_\_\_ State Bar No: \_\_\_\_\_  
 Firm or Affiliation: \_\_\_\_\_  
 Street or mailing address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 E-mail: \_\_\_\_\_ Telephone: \_\_\_\_\_
- 3 **(Proposed) ward or conservatee:**  
 Name: \_\_\_\_\_  
 Street or mailing address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Telephone: \_\_\_\_\_
- 4 **Lawyer for (proposed) ward or conservatee, if any:**  
 Name: \_\_\_\_\_ State Bar No: \_\_\_\_\_  
 Firm or Affiliation: \_\_\_\_\_  
 Street or mailing address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 E-mail: \_\_\_\_\_ Telephone: \_\_\_\_\_
- 5 Date of the **last** court fee waiver order in this case (*date*): \_\_\_\_\_

**Notice:** The court may order you to answer questions about the ward’s or conservatee’s finances after granting a waiver and may later order payment of the waived fees from his or her estate. If this happens and the fees are not paid, the court can also charge collection fees. The court may also direct you to make efforts to collect money to pay back waived fees from persons who owe a duty to support the ward or conservatee. If there are additional changes in the ward’s or conservatee’s financial circumstances during this case that increases his or her ability to pay fees and costs, you must notify the trial court within five days. (Use another copy of this form.)

If this case is an action against another party and you win the case on behalf of the ward or conservatee, the trial court may order the other side to pay some or all of the waived fees. If you settle the matter for **\$10,000** or more, the trial court will have a lien on the settlement in the amount of the waived fees. The trial court may not dismiss the case until the lien is paid.

The court may also have a lien against the ward’s or conservatee’s estate that must be paid before the estate is distributed, the guardianship or conservatorship proceeding is concluded, and you are discharged as guardian or conservator.

- 6  The ward’s or conservatee’s financial situation has changed since the date of the last court fee waiver order in a way that improves my ability as guardian or conservator to pay court fees and costs. I ask the court to do one of the following:
  - a.  **End** the ward’s or conservatee’s fee waiver because his or her financial situation has improved and I am able to pay court fees and costs that are due after (*date*): \_\_\_\_\_
  - b.  **Review** the ward’s or conservatee’s updated financial information in the attached *Request to Waive Court Fees*. I believe the ward or conservatee is still eligible for a fee waiver. (*Complete form FW-001-GC and attach to this form.*)



Name of (Proposed) Ward or Conservatee:

Case Number:

- 7  The ward's or conservatee's case has settled for (*check one*)  less than \$10,000  
 \$10,000 or more (*if so, complete a, b, and c below.*)
- a. The conservator (*check one*):  has  has not received the proceeds of the settlement.
- b. The name and address of the party who has agreed to pay the settlement:
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- c. That party's attorney, if any (*name, firm or affiliation, address, e-mail, phone number, and State Bar number*):
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

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

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

\_\_\_\_\_  
*Print your name here*



\_\_\_\_\_  
*Sign here*

**Notice to Appear for Reconsideration of Fee Waiver (Ward or Conservatee)**

**Warning:** If you do not go to the hearing on the date and time below, the court may cancel the (proposed) ward's or conservatee's fee waiver.

*Clerk stamps date here when form is filed.*

**Draft**

**Not Approved by the Judicial Council**

**1 (Proposed) guardian or conservator who asked the court to waive court fees for (proposed) ward or conservatee:**

Name: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_

**2 Lawyer, if person in 1 has one:**

Name: \_\_\_\_\_ State Bar No: \_\_\_\_\_  
Firm or Affiliation: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
E-mail: \_\_\_\_\_ Telephone: \_\_\_\_\_

*Fill in court name and street address:*

**Superior Court of California, County of**

**3 (Proposed) ward or conservatee:**

Name: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_

*Court fills in case number when form is filed.*

**Case Number:**

**Case Name:**

**4 Lawyer for (proposed) ward or conservatee, if any:**

Name: \_\_\_\_\_ State Bar No: \_\_\_\_\_  
Firm or Affiliation: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
E-mail: \_\_\_\_\_ Telephone: \_\_\_\_\_

**5 The court has information that (check all that apply):**

a.  The ward's or conservatee's financial situation may have changed, or he or she may no longer be eligible for a fee waiver because (*explain*):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

b.  You may be increasing the costs of the ward's or conservatee's case unnecessarily. The fee waiver for the court services you are using may be limited because (*explain*):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

c.  The ward's or conservatee's case (or his or her guardianship or conservatorship proceeding) is coming to an end, and the court requires some information about his or her eligibility to have court fees waived.



Name of (Proposed) Ward or Conservatee: \_\_\_\_\_

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

**6 You must go to court on the date below:**

<b>Hearing Date</b>	→ Date: _____	Time: _____	Name and address of court if different from that shown on page 1: _____ _____ _____ _____
	Dept.: _____	Rm.: _____	

Bring the following information if reasonably available: \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

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

Signature of (check one):  Judicial Officer  Clerk, Deputy



**Request for Accommodations.** Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before your hearing. Contact the clerk's office for *Request for Accommodation*, form MC-410. (Civil Code, § 54.8.)

**Clerk's Certificate of Service**

I certify that I am not involved in this case and (check one):  A certificate of mailing is attached.

I handed a copy of this notice to the party and attorney(s), if any, listed in ①, ②, and ④, at the court, on the date below.

This notice was mailed first class, postage paid, to the party and attorney(s), if any, at the addresses listed in ①, ②, and ④, from (city): \_\_\_\_\_, California on the date below.

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

Clerk, by \_\_\_\_\_, Deputy

**Order on Court Fee Waiver After  
Reconsideration Hearing  
(Superior Court)(Ward or Conservatee)**

*Clerk stamps date here when form is filed.*

**Draft**

**Not Approved by  
the Judicial Council**

**1 (Proposed) guardian or conservator who asked the court to waive court fees for (proposed) ward or conservatee:**

Name: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_

**2 Lawyer, if person in 1 has one:**

Name: \_\_\_\_\_ State Bar No: \_\_\_\_\_  
Firm or Affiliation: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
E-mail: \_\_\_\_\_ Telephone: \_\_\_\_\_

*Fill in court name and street address:*

**Superior Court of California, County of**

**3 (Proposed) ward or conservatee:**

Name: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_

*Court fills in case number when form is filed.*

**Case Number:**

**Case Name:**

**4 Lawyer for (proposed) ward or conservatee, if any:**

Name: \_\_\_\_\_ State Bar No: \_\_\_\_\_  
Firm or Affiliation: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
E-mail: \_\_\_\_\_ Telephone: \_\_\_\_\_

**5** The court made a previous fee waiver order in this case on *(date)*: \_\_\_\_\_

**6** The court sent you a notice to go to court about the fee waiver on *(date)*: \_\_\_\_\_

**Read this form carefully. All checked  boxes are court orders.**

**7** There was a hearing on *(date)*: \_\_\_\_\_  
at *(time)*: \_\_\_\_\_ in *(Department)*: \_\_\_\_\_

The following people were at the hearing *(check all that apply)*:

Person in 1       Lawyer in 2       Person in 3       Lawyer in 4

Others *(names)*: \_\_\_\_\_  
\_\_\_\_\_

**8** After considering the information provided at the hearing, **the court makes the following order:**

a.  **No Change to Fee Waiver.** The *Order on Court Fee Waiver* issued by this court on *(date)*: \_\_\_\_\_  
remains in effect. No change is made at this time.

b.  **Fee Waiver Is Ended as of** *(date)*: \_\_\_\_\_. The court finds that beginning on that day the ward  
or conservatee was no longer eligible for a fee waiver because:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



- 8 b. (1)  You must pay all court fees in this case from the ward’s or conservatee’s estate, from the date of this order.
- (2)  You must also pay the court \$ \_\_\_\_\_ from the estate of the ward or conservatee, for fees that were initially waived after the ward or conservatee was no longer eligible.
- (a)  You must pay that amount within 10 days of this order.
- (b)  You may pay that amount in monthly payments of \$ \_\_\_\_\_ beginning (date): \_\_\_\_\_ and payable on the 1st of each month after that until paid in full.
- c.  **Fee Waiver Is Retroactively Withdrawn.** The court finds that the ward or conservatee was never entitled to a fee waiver in this case because: \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

- (1) You must pay all court fees in this case from the ward’s or conservatee’s estate, from the date of this order.
- (2)  You must also pay the court \$ \_\_\_\_\_ from the ward’s or conservatee’s estate, for fees that the court initially waived.
- (a)  You must pay that amount within 10 days of this order.
- (b)  You may pay that amount in monthly payments of \$ \_\_\_\_\_ beginning (date): \_\_\_\_\_ and payable on the 1st of each month after that until paid in full.

- d.  **Fee Waiver Is Modified.** The court finds that you obtained the initial fee waiver in bad faith, for an improper purpose, or to needlessly increase the costs of litigation. The court places the following limitations on the fee waiver that was granted to you:

- (1)  You must pay all court fees in this case from the ward’s or conservatee’s estate, from the date of this order.
- (2)  The court waives some fees. The fees checked below are waived. You must pay all other court fees.
- Filing papers at superior court
  - Sheriff’s fee to give notice
  - Court-appointed interpreter
  - Making certified copies
  - Giving notice and certificates
  - Sending papers to another court department
  - Court-appointed interpreter fees for a witness
  - Jury fees and expenses
  - Court-appointed expert’s fees
  - Fees for a peace officer to testify in court
  - Court fees for telephone hearings
  - Reporter’s fee for attendance at hearing or trial, if reporter provided by court
  - Other (specify): \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_





**APP-016-GC/FW-016-GC** **Order on Court Fee Waiver**  
**(Court of Appeal or Supreme Court)**  
**(Ward or Conservatee)**

Clerk stamps date here when form is filed.

Draft  
  
Not Approved by  
the Judicial  
Council

**1 (Proposed) guardian or conservator who asked the court to waive court fees for (proposed) ward or conservatee:**  
Name: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_

**2 Lawyer, if person in 1 has one:**  
Name: \_\_\_\_\_ State Bar No: \_\_\_\_\_  
Firm or Affiliation: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_  
E-mail: \_\_\_\_\_ Telephone: \_\_\_\_\_

Fill in court name and street address:

\_\_\_\_\_

**3 (Proposed) ward or conservatee:**  
Name: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_

**Court of Appeal or Supreme Court  
Case Number:**  
\_\_\_\_\_

**4 Ward's or Conservatee's Lawyer, if any:** Name: \_\_\_\_\_  
Firm or Affiliation: \_\_\_\_\_ State Bar No.: \_\_\_\_\_  
Address: \_\_\_\_\_ Telephone: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ E-mail: \_\_\_\_\_

**5** On (date): \_\_\_\_\_, you filed a *Request to Waive Court Fees* (form FW-001-GC).

- 6** The court reviewed your request and makes the following order:
- a.  The court **grants** your request and waives the (proposed) ward's or conservatee's court fees and costs listed below. You do not have to pay fees for the following:
    - Filing notice of appeal, petition for writ, or petition for review
    - Other (*specify*): \_\_\_\_\_
  
  - b.  The court **denies** your request for the following reasons:
    - (1)  Your request is incomplete. You have **10 days** from the date this notice was sent to:
      - Pay the (proposed) ward's or conservatee's fees and costs, or
      - File a new revised request that includes the items listed below (*specify incomplete items*): \_\_\_\_\_

**Warning!** If you miss the deadline for paying the (proposed) ward's or conservatee's fees and costs or providing the additional items required by the court and you are the appellant, your appeal may be dismissed.



- 6 b. (2)  The information you provided on the request shows that the (proposed) ward or conservatee is not eligible for the fee waiver you requested for the following reasons (*specify*):

You have **10 days** from the date this notice was sent to:

- Pay the (proposed) ward's or conservatee's fees and costs, or
- File more information that shows that he or she is eligible for a fee waiver.

- (3)  The court finds there is substantial question regarding the (proposed) ward's or conservatee's eligibility (*describe issue(s) regarding eligibility*):

You have **10 days** from the date this notice was sent to:

- Pay the (proposed) ward's or conservatee's fees and costs, or
- File the following additional documents to support your request:

- c.  The court needs more information. **You must go to court** on the date below.

**Hearing Date** → Date: \_\_\_\_\_ Time: \_\_\_\_\_ Dept.: \_\_\_\_\_  
 Name and address of court if different from page 1: \_\_\_\_\_

- Bring the following proof to support your request, if it is reasonably available:

**Warning!** If item 6 c. is checked and you do not go to court on the hearing date, the court will deny your request to waive court fees for the (proposed) ward or conservatee and you will have **10 days** to pay those fees. If you are the appellant and you do not pay the filing fees, your appeal may be dismissed.

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

Signature of (check one):  Judicial Officer  Clerk, Deputy

## INFORMATION SHEET ON WAIVER OF SUPERIOR COURT FEES AND COSTS

If you have been sued or if you wish to sue someone, if you are filing or have received a family law petition, or if you are asking the court to appoint a guardian for a minor or a conservator for an adult or are an appointed guardian or conservator, and if you (or your ward or conservatee) cannot afford to pay court fees and costs, you may not have to pay them in order to go to court. If you (or your ward or conservatee) are getting public benefits, are a low-income person, or do not have enough income to pay for your (or his or her) household's basic needs *and* your court fees, you may ask the court to waive all or part of those fees.

- To make a request to the court to waive your fees in superior court, complete the *Request to Waive Court Fees* (form FW-001) or, if you are petitioning for the appointment of a guardian or conservator or are an appointed guardian or conservator, complete the *Request to Waive Court Fees (Ward or Conservatee)* (form FW-001-GC). If you qualify, the court will waive all or part of its fees for the following:
  - Filing papers in superior court (other than for an appeal in a case with a value of over \$25,000)
  - Making and certifying copies
  - Sheriff's fee to give notice
  - Court fee for telephone hearing
  - Reporter's fee for attendance at hearing or trial, if a reporter is provided by the court.
  - Assessment for court investigations under Probate Code section 1513, 1826, or 1851.
  - Preparing, certifying, copying, and sending the clerk's transcript on appeal.
  - Holding in trust the deposit for a reporter's transcript on appeal under rule 8.833 or 8.834.
  - Making a transcript or copy of an official electronic recording under rule 8.835
  - Giving notice and certificates
  - Sending papers to another court department
  - Having a court-appointed interpreter in small claims court
- You may ask the court to waive other court fees during your case in superior court as well. To do that, complete a *Request to Waive Additional Court Fees (Superior Court)* (form FW-002) or *Request to Waive Additional Court Fees (Superior Court) (Ward or Conservatee)* (form FW-002-GC). The court will consider waiving fees for items such as the following, or other court services you need for your case:
  - Jury fees and expenses
  - Fees for court-appointed experts
  - Other necessary court fees
  - Fees for a peace officer to testify in court
  - Court-appointed interpreter fees for a witness
- If you want the Appellate Division of Superior Court or the Court of Appeal to review an order or judgment against you and you want the court fees waived, ask for and follow the instructions on *Information Sheet on Waiver of Appellate Court Fees, Supreme Court, Court of Appeal, Appellate Division* (form APP-015/FW-015-INFO).

### IMPORTANT INFORMATION!

- You are signing your request under penalty of perjury. Answer truthfully, accurately, and completely.**
- The court may ask you for information and evidence.** You may be ordered to go to court to answer questions about your ability, or the ability of your ward or conservatee, to pay court fees and costs and to provide proof of eligibility. Any initial fee waiver you or your ward or conservatee are granted may be ended if you do not go to court when asked. You or your ward's or conservatee's estate may be ordered to repay amounts that were waived if the court finds you were not eligible for the fee waiver.
- Public benefits programs listed on the application form.** In item 5 on the *Request to Waive Court Fees* (item 8 of the *Request to Waive Court Fees (Ward or Conservatee)*), there is a list of programs from which you (or your ward or conservatee) may be receiving benefits, listed by the abbreviations they are commonly known by. The full names of those programs can be found in Government Code section 68632(a), and are also listed here:
  - Medi-Cal
  - Food Stamps—California Food Assistance Program, CalFresh Program, or SNAP
  - Supp. Sec. Inc.—Supplemental Security Income (not Social Security)
  - SSP—State Supplemental Payment
  - County Relief/General Assistance—County Relief, General Relief (GR) or General Assistance (GA)
  - IHSS—In-Home Supportive Services
  - CalWORKS—California Work Opportunity and Responsibility to Kids Act
  - Tribal TANF—Tribal Temporary Assistance for Needy Families
  - CAPIC—Cash Assistance Program for Aged, Blind, or Disabled Legal Immigrants

- **If you receive a fee waiver, you must tell the court if there is a change in your finances, or the finances of your ward or conservatee.** You must tell the court within five days if those finances improve or if you, or your ward or conservatee, become able to pay court fees or costs during this case. (File *Notice to Court of Improved Financial Situation or Settlement* (form FW-010) or *Notice to Court of Improved Financial Situation or Settlement (Ward or Conservatee)* (form FW-010-GC) with the court.) You may be ordered to repay any amounts that were waived after your eligibility, or the eligibility of your ward or conservatee, came to an end.
- **If you receive a judgment or support order in a family law matter:** You may be ordered to pay all or part of your waived fees and costs if the court finds your circumstances have changed so that you can afford to pay. You will have the opportunity to ask the court for a hearing if the court makes such a decision.
- **If you win your case in the trial court:** In most circumstances the other side will be ordered to pay your waived fees and costs to the court. The court will not enter a satisfaction of judgment until the court is paid. (This does not apply in unlawful detainer cases. Special rules apply in family law cases and in guardianships and conservatorships. (Government Code, section 68637(d), (e), and Cal. Rules of Court, rule 7.5.)
- **If you settle your civil case for \$10,000 or more:** Any trial court waived fees and costs must first be paid to the court out of the settlement. **The court will have a lien on the settlement in the amount of the waived fees and costs.** The court may refuse to dismiss the case until the lien is satisfied. A request to dismiss the case (use form CIV-110) must have a declaration under penalty of perjury that the waived fees and costs have been paid. Special rules apply to family law cases.
- **The court can collect fees and costs due to the court.** If waived fees and costs are ordered paid to the trial court, or if you fail to make the payments over time, the court can start collection proceedings and add a \$25 fee plus any additional costs of collection to the other fees and costs owed to the court.
- **The fee waiver ends.** The fee waiver expires 60 days after the judgment, dismissal, or other final disposition of the case or earlier if a court finds that you or your ward or conservatee are not eligible for a fee waiver. If the case is a guardianship or conservatorship proceeding, see California Rules of Court, rule 7.5(k) for information on the final disposition of that matter.
- **If you are in jail or state prison:** Prisoners may be required to pay the full cost of the filing fee in the trial court but may be allowed to do so over time. See Government Code section 68635.

## INFORMATION SHEET ON WAIVER OF APPELLATE COURT FEES (SUPREME COURT, COURT OF APPEAL, APPELLATE DIVISION)

If you file an appeal, a petition for a writ, or a petition for review in a civil case, such as a family law case or a case in which you sued someone or someone sued you, you must generally pay a filing fee to the court. If you are a party other than the party who filed the appeal or the petition, you must also generally pay a fee when you file your first document in a case in the Court of Appeal or Supreme Court. You and the other parties in the case may also have to pay other court fees in these proceedings, such as fees to prepare or get a copy of a clerk's transcript in an appeal. However, if you cannot afford to pay these court fees and costs, you may ask the court to issue an order saying you do not have to pay these fees (this is called "waiving" these fees).

1. Who can get their court fees waived? The court will waive your court fees and costs if:

- **You are getting public assistance**, such as Medi-Cal, Food Stamps, Supplemental Security Income (not Social Security), State Supplemental Payment, County Relief/General Assistance, In-Home Supportive Services, CalWORKS, Tribal Temporary Assistance for Needy Families, or Cash Assistance Program for Aged, Blind, and Disabled.
- **You have a low income level**. Under the law you are considered a low-income person if the gross monthly income (before deductions for taxes) of your household is less than the amount listed below:

Family Size	Family Income	Family Size	Family Income	Family Size	Family Income
1	\$1,226.05	3	\$2,092.71	5	\$2,959.38
2	\$1,659.38	4	\$2,526.05	6	\$3,392.71

*If more than 6 people at home, add \$433.34 for each extra person.*

- **You do not have enough income to pay for your household's basic needs *and* your court fees .**

2. What fees and costs will the court waive? If you qualify for a fee waiver, the Supreme Court, Court of Appeal, or Appellate Division will waive the filing fee for the notice of appeal, a petition for a writ, a petition for review, or the first document filed by a party other than the party who filed the appeal or petition, and any court fee for participating in oral argument by telephone. The trial court will also waive costs related to the clerk's transcript on appeal, the fee for the court to hold in trust the deposit for a reporter's transcript on appeal under rule 8.130(b) or rule 8.834(b) of the California Rules of Court, and the fees for making a transcript or copy of an official electronic recording under rule 8.835. If you are the appellant (the person who is appealing the trial court decision), the fees waived include the deposit required under Government Code section 68926.1 and the costs for preparing and certifying the clerk's transcript and sending the original to the reviewing court and one copy to you. If you are the respondent (a party other than the appellant in a case that is being appealed), the fees waived include the costs for sending you a copy of the clerk's transcript. You can also ask the trial court to waive other necessary court fees and costs.

The court **cannot** waive the fees for preparing a reporter's transcript in a civil case. A special fund, called the Transcript Reimbursement Fund, may help pay for the transcript. (See <http://www.courtreportersboard.ca.gov/consumers/index.shtml#trf> and Business and Professions Code sections 8030.2 and following for more information about this fund.) If you are unable to pay the cost of a reporter's transcript, a record of the oral proceedings can be prepared in other ways, by preparing an agreed statement or, in some circumstances, a statement on appeal or settled statement.

3. How do I ask the court to waive my fees?

- **Appeal in Limited Civil Case (civil case in which the amount of money claimed is \$25,000 or less)**. In a limited civil case, if the trial court already issued an order waiving your court fees *and that fee waiver has not ended* (fee waivers automatically end 60 days after the judgment), the fees and costs identified in item 2 above are already waived; just give the court a copy of your current fee waiver. If you do not already have an order waiving your fees or you had a fee waiver but it has ended, you must complete and file a *Request to Waive Court Fees* (form FW-001). If you are the appellant (the party who is appealing), you should check both boxes in item 4 on FW-001 and file the completed form with your notice of appeal. If you are the respondent (a party other than the appellant in a case that is being appealed), the completed form should be filed in the court when the fees you are requesting to be waived, such as the fee for the clerk's transcript or telephonic oral argument, are due.

- **Writ Proceeding in Limited Civil Case (civil case in which the amount of money claimed is \$25,000 or less).** If you want the Superior Court to waive the fees in a writ proceeding in a limited civil case, you must complete a *Request to Waive Court Fees* (form FW-001). In item 4 on FW-001, check the second box. The completed form should be filed with your petition for a writ.
- **If You Are a Guardian or Conservator.** If you are a guardian or conservator or a petitioner for the appointment of a guardian or conservator, special rules apply to your request for a fee waiver on an appeal from an order in the guardianship or conservatorship proceeding or in a civil action in which you are a party acting on behalf of your ward or conservatee. Complete and submit a *Request to Waive Court Fees (Ward or Conservatee)* (form FW-001-GC) to request a fee waiver. See California Rules of Court, rule 7.5.
- **Appeal in Other Civil Cases.** If you want the court to waive fees and costs in an appeal in a civil case other than a limited civil case, such as a family law case or an unlimited civil case (a civil case in which the amount of money claimed is more than \$25,000), you must complete a *Request to Waive Court Fees* (form FW-001). In item 4 on FW-001, check the second box to ask the Court of Appeal to waive the fee for filing the notice of appeal or, if you are a respondent (a party other than the one who filed the appeal), the fee for the first document you file in the Court of Appeal. Check both boxes if you also want the trial court to waive your costs for the clerk's transcript (if the trial court already issued an order waiving your fees *and that fee waiver has not ended*, you do not need to check the first box; the fees and costs identified in item 2 above are already waived, just give the court a copy of your current fee waiver). If you are the appellant, the completed form should be submitted with your notice of appeal (if you check both boxes in item 4, the court may ask for two signed copies of this form). If you are the respondent, the completed form should be submitted at the time the fee you are asking the court to waive is due. For example, file the form in the trial court with your request for a copy of the clerk's transcript if you are asking the court to waive the transcript fee or file the form in the Court of Appeal with the first document you file in that court if you are asking the court to waive the fee for filing that document. To request waiver of a court fee for telephonic oral argument, you should file the completed form in the Court of Appeal when the fee for telephonic oral argument is due.
- **Writ Proceeding in Other Civil Cases.** If you want the Supreme Court or Court of Appeal to waive the fees and costs in a writ proceeding in a civil case other than a limited civil case, such as a family law case or an unlimited civil case (a civil case in which the amount of money claimed is more than \$25,000), you must complete a *Request to Waive Court Fees* (form FW-001). If you are the petitioner (the party filing the petition), the completed form should be submitted with your petition for a writ in the Supreme Court or Court of Appeal clerk's office. If you are a party other than the petitioner, the completed form should be filed with first document you file in the Supreme Court or Court of Appeal.
- **Petition for Review.** If you want to request that the Supreme Court waive the fees in a petition for review proceeding, you must complete a *Request to Waive Court Fees* (form FW-001) or a *Request to Waive Court Fees (Ward or Conservatee)* (form FW-001-GC). If you are the petitioner, you should submit the completed form with your petition for review. If you are a party other than the petitioner, the completed form should be filed with first document you file in the Supreme Court.

#### IMPORTANT INFORMATION!

- **Fill out your request completely and truthfully.** When you sign your request for a fee waiver, you are declaring under penalty of perjury that the information you have provided is true and correct.
- **The court may ask you for information and evidence.** You may be ordered to go to court to answer questions about your ability to pay court fees and costs and to provide proof of eligibility. Any initial fee waiver you are granted may be ended if you do not go to court when asked. You may be ordered to repay amounts that were waived if the court finds you were not eligible for the fee waiver.
- **If you receive a fee waiver, you must tell the court if there is a change in your finances.** You must tell the court immediately if your finances improve or if you become able to pay court fees or costs during this case (file form FW-010 with the court). You may be ordered to repay any amounts that were waived after your eligibility ended. If the trial court waived your fees and costs and you settle your case for \$10,000 or more, the trial court will have a lien on the settlement in the amount of the waived fees.
- **The fee waiver ends.** The fee waiver expires 60 days after the judgment, dismissal, or other final disposition of the case or when the court finds that you are not eligible for a fee waiver.

**SP15-02**

**Court fee waivers in decedents’ estates, guardianships, and conservatorships, and for wards and conservatees participating in civil actions**  
 (Adopt Cal. Rules of Court, rule 7.5; amend rules 3.50–3.53 and 8.26; adopt forms FW-001-GC, FW-002-GC, FW-003-GC, FW-005-GC, FW-006-GC, FW-007-GC, FW-008-GC, FW-010-GC, FW-011-GC, FW-012-GC, and APP-016-GC/FW-016-GC; revise forms FW-001-INFO and APP-015/FW-015-INFO)

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

<b>List of All Commentators, Overall Positions on the Proposal, and General Comments</b>				
	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
1.	<p>Bet Tzedek Legal Services            Erikson Albrecht            Kinship Attorney            Elissa Barrett            Vice President &amp; General Counsel</p> <p>On behalf of Bet Tzedek’s Family            Caregiver, Elder Caregiver, and            Kinship Care Project Teams            Directing Attorney, Janet Morris            Erikson Albrecht, Yolande Erickson,            Katherine Chew,            Bertha Sanchez-Hayden,            Nicholas Levenhagen, Akiko Nishino,            Joseph Pileri, Dominique Sanz-David</p> <p>Bet Tzedek Legal Services            Katherine Chew            Self-Help Conservatorship Clinic            Coordinator            Los Angeles</p>	AM	<p>Bet Tzedek must oppose the proposed rules and forms as written; however, we are confident that, with some revisions, the proposed rules and forms can better reflect the law.</p> <p><b>See comments on specific provisions below.</b></p> <p>Conclusion</p> <p>Bet Tzedek supported the passage of AB 2747 and similarly supports the adoption of Rules of Court and new forms to implement those amendments to the Government Code. The modifications discussed in the comments above, however, are necessary if the Proposed Rule and proposed forms are to achieve their purposes and comply with existing state law. If these suggested modifications are made, Bet Tzedek wholeheartedly supports the adoption of separate fee waiver forms for conservatorship and guardianship cases. The existing forms do not address the unique fee waiver rules in conservatorship and guardianship cases. The Proposed Forms would clarify for both litigants and the court that the law requires only the financial condition of the proposed conservatee or ward for consideration of a fee waiver. Therefore, Bet Tzedek opposes the adoption of the Proposed Rule and forms, as written.</p>	

**SP15-02**

**Court fee waivers in decedents’ estates, guardianships, and conservatorships, and for wards and conservatees participating in civil actions** (Adopt Cal. Rules of Court, rule 7.5; amend rules 3.50–3.53 and 8.26; adopt forms FW-001-GC, FW-002-GC, FW-003-GC, FW-005-GC, FW-006-GC, FW-007-GC, FW-008-GC, FW-010-GC, FW-011-GC, FW-012-GC, and APP-016-GC/FW-016-GC; revise forms FW-001-INFO and APP-015/FW-015-INFO)

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<b>List of All Commentators, Overall Positions on the Proposal, and General Comments</b>				
	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
2.	Helen Cavanaugh Director Public Law Center Superior Court of Nevada County Nevada City	NI	<p>Thank you for the opportunity to comment on the fee waiver for guardianships.</p> <p><b>See comments on specific provisions below.</b></p> <p>If [waivers of court] fees are based on the proposed guardian’s income, I believe we will see these minors left in a legal limbo and not secured in a stable home, where they can receive regular care and the ability to stay in school.</p> <p>I strongly support clear direction that [court fee waivers] in a guardianship case be based on the proposed ward’s income.</p> <p>Again, thank you for the opportunity to comment.</p>	The new law and the new rule of court proposed here are intended to avoid the harm related by the commentator.
3.	Christine N. Donovan, JD, CFLS Senior Staff Research Attorney Family Law and Probate Divisions Superior Court of California, County of Solano	NI	<b>See comments on specific provisions below.</b>	
4.	Ana Hinojosa Court Supervisor- Probate Division Superior Court, County of Kern	NI	<b>See comments on specific provisions below.</b>	

**SP15-02**

**Court fee waivers in decedents’ estates, guardianships, and conservatorships, and for wards and conservatees participating in civil actions**  
 (Adopt Cal. Rules of Court, rule 7.5; amend rules 3.50–3.53 and 8.26; adopt forms FW-001-GC, FW-002-GC, FW-003-GC, FW-005-GC, FW-006-GC, FW-007-GC, FW-008-GC, FW-010-GC, FW-011-GC, FW-012-GC, and APP-016-GC/FW-016-GC; revise forms FW-001-INFO and APP-015/FW-015-INFO)

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

<b>List of All Commentators, Overall Positions on the Proposal, and General Comments</b>				
	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
5.	Chris Jama Graton, California	AM	I have been dealing with probate courts in San Francisco, Sonoma, and San Joaquin Counties and believe that since most probate courts allow conservators, fiduciaries, etc., to charge large amounts of fees to their client's trusts, special needs trusts, etc., that only the ward/conservatee should be granted a fee waiver, or in the alternative, reduce every conservator, fiduciary, including fiduciary attorney fees, by 50% so to protect the integrity of those whom are unable to protect themselves from their conservators, fiduciaries, and their attorneys.	This proposal implements new state law that determines court fee waivers in conservatorships based upon the financial condition of the (proposed) conservatee, not on the financial condition of the fiduciary or the petitioner for the fiduciary’s appointment.  The fee waivers involved in this proposal are filing fees and other court costs, not fees of conservators and their counsel, which must be determined as provided by different statutes and procedures than the ones under review here.
6.	Legal Aid Society of San Diego, Inc. Courtney Bolin Nash Staff Attorney	AM	The Legal Aid Society of San Diego, Inc. is a non-profit legal aid organization dedicated to providing equal access to justice. We serve mainly low-income San Diegans, but also educate the community on legal topics and assist with facilitator-like legal service clinics.  We operate a Conservatorship Clinic and our clinic participants will be greatly impacted by the proposed changes in SP15-02. The purpose of these comments is not to influence the rulemaking process, but only to point out practical challenges and ambiguities in using the proposed forms. These comments are also	

**SP15-02**

**Court fee waivers in decedents’ estates, guardianships, and conservatorships, and for wards and conservatees participating in civil actions** (Adopt Cal. Rules of Court, rule 7.5; amend rules 3.50–3.53 and 8.26; adopt forms FW-001-GC, FW-002-GC, FW-003-GC, FW-005-GC, FW-006-GC, FW-007-GC, FW-008-GC, FW-010-GC, FW-011-GC, FW-012-GC, and APP-016-GC/FW-016-GC; revise forms FW-001-INFO and APP-015/FW-015-INFO)

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<b>List of All Commentators, Overall Positions on the Proposal, and General Comments</b>				
	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			limited to conservatorship matters only. Thank you for the opportunity to comment. <b>See comments on specific provisions below.</b>	
7.	Public Counsel Ylianna Perez-Guerrero, Supervising Staff Attorney, Guardianship Clinic Los Angeles	AM	<b>See comments on specific provisions below.</b>	
8.	San Diego Volunteer Lawyer Program Leslie Mackay, Staff Attorney San Diego	AM	San Diego Volunteer Lawyer Program, Inc., (SDVLP) writes in support of the proposed rules and forms regarding SP15-02, if modified.  SDVLP is a private, non-profit law firm that provides free legal services to low-income residents of San Diego County, including to those individuals requesting and/or objecting to probate guardianship of the minor. SDVLP prepares fee waiver applications on all these cases. It is not unusual for one guardianship case to include 5, 6, or even 7 children. Please note SDVLP’s comments only apply as to guardianship of the minor matters. Our comments do not address the proposed changes as to proposed conservatees or for guardianship of the estate matters. Thank you for the opportunity to comment and for your consideration of these requests. <b>See comments on specific provisions below.</b>	
9.	Superior Court, County of Los	AM	After review of the Invitation to Comment	

**SP15-02**

**Court fee waivers in decedents’ estates, guardianships, and conservatorships, and for wards and conservatees participating in civil actions** (Adopt Cal. Rules of Court, rule 7.5; amend rules 3.50–3.53 and 8.26; adopt forms FW-001-GC, FW-002-GC, FW-003-GC, FW-005-GC, FW-006-GC, FW-007-GC, FW-008-GC, FW-010-GC, FW-011-GC, FW-012-GC, and APP-016-GC/FW-016-GC; revise forms FW-001-INFO and APP-015/FW-015-INFO)

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

<b>List of All Commentators, Overall Positions on the Proposal, and General Comments</b>				
	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
	Angeles		regarding the proposed addition of Rule 7.5 to the California Rules of Court and the new Judicial Council forms regarding fee waiver applications in probate proceedings, the Los Angeles Superior Court is pleased to provide the Council with the following response.  <b>See comments on specific provisions below.</b>	
10.	Superior Court, County of Monterey Monica J. Mitchell, Research Attorney	A	The proposed changes are much appreciated. There has been confusion regarding how to implement the changes to law regarding the fee waivers in these cases. Separate forms are more helpful, because the modifications require significant content changes only appropriate for one segment of court cases.  <b>See comments on specific provisions below.</b>	
11.	Superior Court, County of Riverside, Marita C. Ford Senior Management Analyst	NI	<b>See comments on specific provisions below.</b>	
12.	Superior Court of San Diego Michael Roddy, Executive Officer	AM	<b>See comments on specific provisions below.</b>	

**SP15-02**

**Court fee waivers in decedents’ estates, guardianships, and conservatorships, and for wards and conservatees participating in civil actions** (Adopt Cal. Rules of Court, rule 7.5; amend rules 3.50–3.53 and 8.26; adopt forms FW-001-GC, FW-002-GC, FW-003-GC, FW-005-GC, FW-006-GC, FW-007-GC, FW-008-GC, FW-010-GC, FW-011-GC, FW-012-GC, and APP-016-GC/FW-016-GC; revise forms FW-001-INFO and APP-015/FW-015-INFO)

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<b>Rule 7.5(e)(1)(A) and Form FW-001-GC, Item 8 - Imputation of Parental/Spousal Financial Condition to (Proposed) Ward or Conservatee</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
1. Bet Tzedek Legal Services	<p>• Item 8, subsections (a) and (b) Proposed Form FW-001-GC does not conform to Government Code Sections 68631, 68632, and 68631.5. Pursuant to Section 68631.5, a fee waiver shall be based on the financial condition of the proposed conservatee or ward (the applicant).</p> <p>However, subsections (a) and (b) of Item 8 of the Proposed Form improperly request financial information about the applicant’s family or household. Nothing in 68632(a) or (b), upon which Item 8 (a) and (b) are based, authorizes courts to inquire into the income of the ward’s or conservatee’s family members.</p> <p>Proposed Rule 7.5(e)(1) Bet Tzedek proposes deleting Proposed Rule 7.5(e)(1). By way of Proposed Rule 7.5 (e)(1), the Judicial Council seeks to specifically include financial information, assets, interests, and claims within the term “financial condition” as used throughout the Government Code sections regarding the waiver and recovery of court fees and costs. Bet Tzedek is concerned that such inclusion is generally unnecessary and, as to some, unauthorized under law.</p>	<p>Based on this and other comments, the committee has modified proposed rule 7.5(e)(1)(A) and revised form FW-001-GC from the versions circulated for comment to limit the circumstances when the financial condition of the ward’s parents is to be considered for fee waiver purposes to when there is support ordered by a court, and has added a similar limitation to consideration of the financial condition of a divorced spouse or registered domestic partner of a conservatee. Support orders are also subject to the court’s duty to make a determination of the likelihood of their payment, as is the case with support orders in family law litigation under the fee waiver law (Gov. Code, § 68637(e)). The obligor’s general financial condition would not be attributable to the ward’s or conservatee’s financial condition for fee waiver purposes and is not a direct subject of inquiry in form FW-001-GC.</p> <p>The committee has also modified item 8a of form FW-001-GC from the version circulated for comment to clarify that the recipients of listed public benefits that qualify the ward or conservatee for a fee waiver may be the ward or conservatee, one or both of the ward’s parents, and the spouse or registered domestic partner of the conservatee. This is appropriate because the persons other than the ward or conservatee are the same persons whose financial circumstances are part of their financial condition for fee waiver purposes.</p>

**SP15-02**

**Court fee waivers in decedents’ estates, guardianships, and conservatorships, and for wards and conservatees participating in civil actions** (Adopt Cal. Rules of Court, rule 7.5; amend rules 3.50–3.53 and 8.26; adopt forms FW-001-GC, FW-002-GC, FW-003-GC, FW-005-GC, FW-006-GC, FW-007-GC, FW-008-GC, FW-010-GC, FW-011-GC, FW-012-GC, and APP-016-GC/FW-016-GC; revise forms FW-001-INFO and APP-015/FW-015-INFO)

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

<b>Rule 7.5(e)(1)(A) and Form FW-001-GC, Item 8 - Imputation of Parental/Spousal Financial Condition to (Proposed) Ward or Conservatee</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>There is no statutory support for the consideration of the finances of an individual against whom the applicant has a claim for support or even an order for support in the application of Government Code 68632.</p>	<p>The committee respectfully disagrees with the suggestion that proposed rule 7.7(e)(1) and Form FW-001-GC do not conform to Government Code Sections 68631, 68632, and 68631.5. The ultimate question is: What is the (proposed) ward’s or conservatee’s financial condition for fee waiver purposes? The amended Government Code provisions do not define the term.</p> <p>Unlike the regular civil fee waiver applicant, who is presumed to be a competent adult supporting him- or herself and possibly others as well and has voluntarily commenced the litigation or voluntarily decided to resist it as an individual, this rule and these forms deal with minors and (proposed) conservatees who are either legally incompetent or soon will be if a fiduciary is appointed. A candidate for conservatorship is also likely to be mentally incapacitated to some degree. Moreover, in the vast majority of cases, the proceedings are commenced by others.</p> <p>Wards, particularly young wards not close to eighteen years of age, are necessarily financially dependent upon their parents or others caring for them, and most conservatees are dependent on their spouses or domestic partners, particularly after establishment of the conservatorship.</p> <p>The committee has considered these factors and concluded that a ward’s financial condition for fee waiver purposes necessarily includes the financial condition of his parents,</p>

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<b>Rule 7.5(e)(1)(A) and Form FW-001-GC, Item 8 - Imputation of Parental/Spousal Financial Condition to (Proposed) Ward or Conservatee</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>Where an obligor is making payments to a proposed ward or proposed conservatee pursuant to an order, those payments would be included as income for purpose of Item 8(b) or entered as income under Items 15 or Item 16 when the Request to Waive Court Fees is based upon Item 8(c), pursuant to Government Code 68632(c).</p>	<p>whose duty of support is not terminated by the appointment of a guardian of the ward’s person or estate. Even if there is an estate and a guardian of the estate, the ward’s living parents still have a support obligation and the guardian of the estate would be required to get prior court permission to support the ward from the estate upon a showing that support from the parents is unavailable or insufficient (See Fam. Code, §§ 3900–3901 [parental duty of support], Prob. Code, § 2422; California Guardianship Practice (Cont. Ed.Bar Annual, 2015), §§ 12.18, 12.33.)</p> <p>Similarly, a conservatee’s financial condition includes support from his or her divorced spouse or registered domestic partner, and, in the case of a conservatee whose marriage or partnership is intact, from community property managed by a well spouse or partner outside the conservatorship estate See Probate Code section 3051 (well spouse’s/partner’s management of community property outside conservatorship estate of impaired spouse/partner), and §§ 3080–3092 (enforcement of support obligation in conservatorship proceeding).</p> <p>Child support payments would be reflected in items 8b and 8c only if the support obligee were in the ward’s household. In that case, the payments should be reflected in item 16, not item 15, as they don’t go to the ward. But even if so reflected, these facts are not grounds to bar further inquiries about them in item 10 of form FW-001-GC.</p>

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<b>Rule 7.5(e)(1)(A) and Form FW-001-GC, Item 8 - Imputation of Parental/Spousal Financial Condition to (Proposed) Ward or Conservatee</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>The assertion, in Proposed Rule 7.5 (e)(1)(A), that Government Code Sections 68637(d) and (e) enable the court to include the financial condition of the obligor of a family law judgment and/or order when considering the financial condition of a ward or conservatee is not supported by law. Not only does Government Code Section 68637(b)(3)(B) indicate that the recovery of fees subject to subdivisions (d) and (e) are for Family law matters, the legislative history of Government Code Section 68637 is unambiguous in detailing this specific means for recovering previously waived fees:</p> <p>“This bill requires the court, in a family law matter where an order to pay support is entered, to consider at the time of judgment whether a party whose fees were not waived has the ability to pay the fees of the party whose fees were waived. This bill requires the court, in a family law matter, to consider whether the financial circumstances of a party who obtained a fee waiver have changed such that it is appropriate to require that party to pay all or part of the waived fees. If a support order is the primary basis for the court’s finding of changed circumstances, the court shall order the support obligor to pay the previously waived fees.” (2007 Legis. Bill Hist. CA A.B. 2448, italics added)</p>	<p>Section 68637(e) explicitly authorizes courts in family law cases to consider support orders as improvements in the financial condition of the support obligees for fee waiver purposes. The support order provisions of Government Code section 68637(d) and (e) apply to the same persons to whom the support order provisions of amended rule 7.5(e)(1)(A) would apply: the child or former spouse/partner of the support obligor. The amended rule would treat support orders the same way they are treated in the Government Code sections for fee waivers purposes. The procedures described in sections 68637(d) and (e), which address support orders entered as part of the judgment in the same litigation in which the fee waiver is sought or was obtained, may differ from the procedures that will be involved in fee waiver practice in guardianships and conservatorships, but these procedural differences are immaterial.</p>
<p>8. San Diego Volunteer Lawyer Program Leslie Mackay, Staff Attorney San Diego</p>	<p>SDVLP requests the following modifications:</p> <p>1) Remove Proposed Rule 7.5(e)(1)(A) or amend so it does not apply to a proposed ward.</p>	<p>Please see the response to the comments of Bet Tzedek Legal Services above. As noted in that response, based on this and other comments, the committee has revised proposed rule 7.5(e)(1)(A) to provide that a ward’s parent’s financial condition will be considered only to the</p>

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<b>Rule 7.5(e)(1)(A) and Form FW-001-GC, Item 8 - Imputation of Parental/Spousal Financial Condition to (Proposed) Ward or Conservatee</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>Proposed Rule 7.5(b) indicates an application for an initial fee waiver in a proposed guardianship of a person must be based on the personal “financial condition” of the proposed ward. Proposed Rule 7.5(e)(1)(A), defines “financial condition” to include the financial condition of any person against whom the proposed ward has a claim for support including the parents of the proposed ward. It is unclear when a minor would have a claim of support against a parent. And it is unclear whether Proposed Rule 7.5(e)(1) intends to impute a parent’s income to the proposed ward. FW-001-GC number 10 requests information about the ward’s parents including employment information and whether the ward’s parents have a child support order which benefits the proposed ward, and it appears these requests support the notion that the Proposed Rule 7.5(e)(1)(A) intends to impute income and child support received by parents to the proposed ward.</p> <p>The financial condition of the proposed ward’s parent should not be taken into account when determining the proposed ward’s financial condition for the purpose of requesting a fee waiver, and FW-001-GC number 10 should be deleted. The financial condition of the proposed ward’s parent should only be taken into account if the parent resides with the ward and would therefore be included as monthly income in the ward’s household and reflected on FW-001-GC number 16.</p> <p>A child support order as between the ward’s parents should not be taken into account when determining the proposed ward’s financial condition for the purpose of requesting a fee waiver. The section referring to child support order in FW-</p>	<p>extent of court ordered support or, for financial-circumstances-improvement purposes, is later obtained. The term “claim” in rule 7.5(e)(1)(A) has been replaced with a reference to a duty of support from a parent to the ward. The request for information about the parents’ employment has been deleted from item 10.</p> <p>The committee disagrees with the comment that a child support order as between the ward’s parents should not be taken into account when determining the proposed ward’s financial condition. If there is an order for a parent to support the ward and the guardianship of the person is established, the guardian should be able to move in the family court for a modification to have the support paid to the guardian who will have custody of the ward. The facts that there is a support order, its amount, and the identity of its payee are therefore relevant. If there is a history of nonpayment, the application may so state so that the court could elect to give effect to the order only upon commencement of payments to the guardian, as an</p>

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<b>Rule 7.5(e)(1)(A) and Form FW-001-GC, Item 8 - Imputation of Parental/Spousal Financial Condition to (Proposed) Ward or Conservatee</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>001-GC number 10 should be deleted. Whether a parent of a proposed ward receives child support is only relevant if the parent receiving child support resides with the proposed ward and that information would be reflected on FW-001-GC number 16. Likewise, if a guardian is receiving child support for the proposed ward, this information would be relevant to household income information and would also be reflected on FW-001-GC number 16.</p> <p>In a typical guardianship case, the minor does not reside with a parent and the parents provide no financial support regardless of the parents’ income. A parent’s income should not be imputed to a proposed ward when the proposed ward has no way of legally requesting support from their mother or father.</p> <p>Proposed rule 7.5(e)(1)(A) further imposes a duty on the proposed guardian to make a reasonable inquiry into a claim of support of the proposed ward against the parents. It is unclear when this situation would arise in a guardianship of a person context. If there was such a situation, it would be burdensome for the proposed guardian to make a reasonable inquiry. If the intent of this rule is to require proposed guardians to look into the existence of a child support case, many child support cases are closed to the public.</p> <p>A direct inquiry to a parent could lead to an unsafe situation for the proposed ward. Proposed guardians asking a parent</p>	<p>improvement of financial circumstances under Gov. Code section 68636. In any case where there is no financial support of the ward at the beginning of the case, wholly apart from fee waiver practice, the guardian would need to explore the possibility of support for the ward from his or her parents.</p> <p>This is one reason why item 10 of form FW-001-GC asks about support orders. Moreover, many proposed guardians are related to one of the parents. They may already know a considerable amount about the details of the family law proceeding that led to a support order.</p> <p>The possibilities in a given case of an unsafe situation or a forced removal of the ward from the guardian’s home are</p>

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<b>Rule 7.5(e)(1)(A) and Form FW-001-GC, Item 8 - Imputation of Parental/Spousal Financial Condition to (Proposed) Ward or Conservatee</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>about child support orders could naturally lead the parent to believe the proposed guardian is seeking child support from the parent. This would likely lead to a parent removing the proposed ward from the safe home where the ward was living. Under the prior fee waiver rules, the parents’ ability to pay all or a portion of the fees was never part of the analysis for the fee waiver. These proposed rules go beyond the scope of the January 1, 2015 legislation, and the intent of the legislation, and impose a burdensome, unnecessary, and potentially harmful effect on families requesting fee waivers for guardianship cases. The proposed rule limits the proposed ward and the proposed guardian’s access to initiating a guardianship proceeding and limits their access to justice.</p>	<p>factors to be considered under the concept of “<i>reasonable inquiry</i>.” The parents must receive personal service of a copy of the guardianship petition and a notice of its hearing (Prob. Code, § 1511(b)(3)). The petition must list their addresses (Prob. Code, § 1510(c)(1)). Notification of the filing of a guardianship is much more likely to create the unsafe situation than inquiries about support orders.</p> <p>The support obligor is almost never the custodial parent. His or her concern about an inquiry about a support order is much less acute than the concern by the custodial parent that custody might be lost. Assuming that any payment is possible, the obligor may be more willing to make the payments to a guardian on behalf of his or her child than to the other parent.</p>

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<b>Rule 7.5 – Other Comments</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Bet Tzedek Legal Services	<p>Proposed Rule 7.5 (e)(1)(B) inclusion of “interest in the community property that is outside of the conservatorship of the estate” in the conservatee’s financial condition is unnecessary because, where relevant for the assessment of a request for initial fee waiver, disclosure of such information is required by current law. Specifically, where an applicant is basing their request for waiver of fees upon Item 8(b) of the Proposed Form, pursuant to Government Code Section 68632(b), and the community property is producing income for conservatee and/or the conservatee’s spouse, information would be included in Item 15 of the Proposed Form. Where an applicant is basing their request for waiver of fees upon Item 8(c) of the Proposed Form, pursuant to Government Code Section 68632(c), the applicant is required to provide information regarding such interest pursuant to Government Code Section 68633(c)(2). Specifically, information should be disclosed in Item 15 of the Proposed Form if the property is producing income for the conservatee and/or the conservatee’s spouse, or, in the alternative, where such community property is not producing income but is a liability and/or expense, the information would be included in Items (17) and (18) of the Proposed Form .</p> <p>Finally, Proposed Rule 7.5 (e)(1)(C) is unnecessary because an applicant’s right “to receive support, income or other distributions from a trust or under a contract” is neither income nor an indication of likely, impending income. Consideration of such information is not authorized by law and is not relevant to an assessment of whether the proposed ward or conservatee is an applicant described in subsections</p>	<p>The committee disagrees with this analysis. This provision of the proposed rule acts in part as clarification to (proposed) conservators and their counsel that community property and its income outside the conservatorship estate are to be included in their fee waiver calculations. The committee considers this an appropriate function of a court rule. This clarification is carried over to item 12 of form FW-001-GC. If there is community property managed outside the conservatorship estate, the applicant is asked to state whether or not the income and property managed outside the estate is included in the income and property included on page 4 of the form (items 15 or 16, and 17). The clarification is important in the context of conservatorship practice. Conservators are responsible for the estate and tend to think largely in terms of the estate, insofar as their fiduciary duties are concerned. But a conservatee’s eligibility for a court fee waiver is not limited to consideration of the amount of assets and income that are part of the estate.</p> <p>The committee believes that a conservatee’s right to receive support, income, or distributions from a trust or under a contract, such as an annuity, are relevant to his or her eligibility for a fee waiver. No sources of income are automatically excluded from consideration of financial condition other than public benefits. Not all such rights will affect a fee waiver, usually dependent on their</p>

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<b>Rule 7.5 – Other Comments</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>(a), (b), or (c) of Government Code Sections 68632.</p> <p>Proposed Rule 7.5(e)(2)            Bet Tzedek proposes modifying Proposed Rule 7.5(e)(2). First, this proposed rule does not find legal authority in Government Code section 68636(a), as claimed in the rule. The proposed rule defines the “person who received the initial fee waiver” as the conservator or guardian. This definition is not found in the Government Code section. If the ward or conservatee is deemed to be the “applicant” for the fee waiver, then logically the ward or conservatee would be the “person who received the initial fee waiver.” After appointment, the conservator or guardian is well suited to inform the court of changes in the financial condition of the conservatee or ward and participate in the court hearings regarding reconsideration of the waiver of fees and costs but this does not justify creating the legal fiction that newly appointed conservator or guardian “received the initial fee waiver.” Second, Government Code Section 68636 and Proposed Rule 7.5(e)(2) pertain, not to the initial assessment of whether an applicant may proceed with the judicial proceedings without paying court fees and costs, but rather to the court’s ability to reconsider the initial fee waiver, order the fee waiver</p>	<p>frequency and regularity, amounts, or whether the conservatee has a vested right not subject to discretion of the trustee or other contracting party. But the court has a right to inquire into these circumstances for fee waiver purposes if they appear, either on initial application or as part of a review to determine whether financial circumstances have sufficiently improved to justify termination or modification of the waiver.</p> <p>The purpose of proposed rule 7.5(e)(2) is simple and is not inconsistent with the statute even if the confusing statutory terminology is not applied in the rule. Its only purpose is to clarify that when the appointed guardian or conservator is not “the person who obtained the initial fee waiver,” such as when the fee waiver applicant was not the successful petitioner for appointment of a fiduciary or successfully petitioned for appointment of a person other than him- or herself as fiduciary, the appointee has the duty under Government Code section 68636(a) to notify the court of any change in the ward’s or conservatee’s financial circumstances that affects his or her ability to pay all or part of the court fees initial waived.</p> <p>The 2014 statute (Gov. Code, § 68631.5, added by section 24 of Stats 2014, ch.913 (AB 2747)) refers globally to the ward or conservatee as the “applicant” and the guardian or conservator or “persons seeking to establish the conservatorship or guardianship” as the “petitioner” and requires the “petitioner” to complete all forms and provide all information required under the fee waiver statute but</p>

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<b>Rule 7.5 – Other Comments</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>withdrawn for future fees and costs, or deny the fee waiver retroactively. As such Bet Tzedek recommends removing 7.5(e)(2) from the Proposed Rules and modifying Proposed Rule 7.5(h) as follows:</p> <p>7.5 (h) Previously waived court fees in conservatorships or guardianships. Under circumstances set forth in Government Code, the court may reconsider the initial fee waiver, order the fee waiver withdrawn for future fees and costs, or deny the fee waiver retroactively</p> <p>(1) – insert language of current Proposed Rule 7.5(h) (2) Upon the establishment of a conservatorship or guardianship of the person only, where an initial fee waiver had been granted, the conservator or guardian shall appear at, and participate in any court hearings, authorized by Government Code section 68636, regarding the reconsideration of the initial fee waiver and provide evidence on behalf of the conservatee or ward.</p>	<p>the rest of the statutory provisions on fee waivers are not otherwise amended to use this terminology. In the limited context of section 68636(a), the rule rather than the reference in section 68631.5 is clearer. In this situation, the conservator or guardian may have never been either a petitioner or a fee waiver applicant as those terms are understood outside the context of section 68631.5. This provision conforms to the overall statutory purpose of absolving the conservatee or ward of any responsibility for informing the court and placing that burden on the conservator or guardian even though he or she is not, in the language of section 68636(a), the “person who received the initial fee waiver.”</p> <p>The committee appreciates Bet Tzedik Legal Services’ support of its proposed rule 7.5(h). The committee will revise subdivision (h) in response to this comment to read as follows:</p> <p><b>“(h) Termination or modification of previously granted initial fee waivers</b></p> <p>(1) <i>Conservatorships and guardianships of the estate or person and estate</i> Upon establishment of a conservatorship or guardianship of the estate or person and estate, the court may collect all or a portion of court fees previously waived from the estate of the conservatee or ward if the court finds that the estate has the ability to pay the fees, or a portion thereof, immediately, over a period of time, or</p>

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**Court fee waivers in decedents’ estates, guardianships, and conservatorships, and for wards and conservatees participating in civil actions**  
 (Adopt Cal. Rules of Court, rule 7.5; amend rules 3.50–3.53 and 8.26; adopt forms FW-001-GC, FW-002-GC, FW-003-GC, FW-005-GC, FW-006-GC, FW-007-GC, FW-008-GC, FW-010-GC, FW-011-GC, FW-012-GC, and APP-016-GC/FW-016-GC; revise forms FW-001-INFO and APP-015/FW-015-INFO)

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<b>Rule 7.5 – Other Comments</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
		<p>under some other equitable agreement, without using moneys that normally would pay for the common necessities of life for the conservatee or ward and his or her family. The court must comply with the notice and hearing requirements of the second paragraph of Government Code section 68634(e)(5) to make the findings authorized in this paragraph.</p> <p>(2) <i>Conservatorships and guardianships of the person</i>                      In a conservatorship or guardianship of the person, if the court seeks to reconsider or modify a court fee waiver previously granted based on collection, application, or consideration of support, assets, or income described in (e), it must proceed as provided in Government Code section 68636 and comply with the notice and hearing requirements of the second paragraph of Government Code section 68634(e)(5), including notice to the conservator or guardian, any support obligor, and any person in possession of the assets or income. The conservator or guardian must appear at the hearing on behalf of the conservatee or ward, and the court may also appoint counsel for the conservatee or ward under Probate Code section 1470.”</p>
Superior Court, County of Los Angeles	The text of the proposed Rule 7.5(e)(2) distinguishes in a conservatorship or guardianship proceeding between the initial “applicant” for the fee waiver and the “person who received the initial fee waiver.” The applicant is the person who completed and filed the application for a fee waiver; the “person who received the initial fee waiver” is deemed to be	The only purpose of this provision is to indicate that if a petitioner for appointment of a fiduciary applied for the waiver and is not the appointed fiduciary, the fiduciary who is appointed succeeds to the original petitioner’s responsibilities concerning the waiver although he or she is not the “person who received the initial fee waiver”

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**Court fee waivers in decedents’ estates, guardianships, and conservatorships, and for wards and conservatees participating in civil actions** (Adopt Cal. Rules of Court, rule 7.5; amend rules 3.50–3.53 and 8.26; adopt forms FW-001-GC, FW-002-GC, FW-003-GC, FW-005-GC, FW-006-GC, FW-007-GC, FW-008-GC, FW-010-GC, FW-011-GC, FW-012-GC, and APP-016-GC/FW-016-GC; revise forms FW-001-INFO and APP-015/FW-015-INFO)

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<b>Rule 7.5 – Other Comments</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>the individual (or entity) who is actually appointed as conservator or guardian. Sometimes the applicant and “person” will be the same, other times they will not. The determination of whether or not the fee waiver is granted by the Court is based upon the financial situation of the proposed conservatee or ward. There are situations in conservatorships and guardianships when the conservatee or ward (either acting alone, through private counsel or court-appointed counsel) may file a petition with the court. Should not the fee waiver previously granted to the applicant, and deemed applicable to the Conservator/Guardian, also be applicable to the conservatee or ward? Should the rule be expanded to make clear that the fee waiver order is also applicable to petitions filed by the protected person (ward or conservatee) himself or herself?</p> <p>In a slightly different scenario, when the office of guardian or conservator becomes vacant as a result of the resignation, removal or death of the fiduciary, will the party who files a petition to be appointed as successor fiduciary be required to file a new fee waiver application? Or could the initial order waiving fees and costs be applicable to any party who subsequently files a petition for appointment as conservator or guardian in the same case? If not, the Court staff will be required to expend additional time processing subsequent fee waiver applications when the issue of eligibility has been previously adjudicated.</p>	<p>under Government Code section 68636.</p> <p>In this situation, the successor guardian or conservator steps into the shoes of the predecessor, with the same responsibilities the latter had concerning the waiver. The waiver itself is the ward’s or conservatee’s, and therefore is still in effect.</p>

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**Court fee waivers in decedents’ estates, guardianships, and conservatorships, and for wards and conservatees participating in civil actions**  
 (Adopt Cal. Rules of Court, rule 7.5; amend rules 3.50–3.53 and 8.26; adopt forms FW-001-GC, FW-002-GC, FW-003-GC, FW-005-GC, FW-006-GC, FW-007-GC, FW-008-GC, FW-010-GC, FW-011-GC, FW-012-GC, and APP-016-GC/FW-016-GC; revise forms FW-001-INFO and APP-015/FW-015-INFO)

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<b>Rule 7.5 – Other Comments</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Superior Court, County of Monterey Monica J. Mitchell, Research Attorney	<p>(1) Court-Appointed Attorney. Rule 7.5(a) defines the scope of the rule as governing initial fee waivers requested by petitioners for the appointment of fiduciaries or by fiduciaries after their appointment. If the term “fiduciaries” includes court-appointed counsel, then a statement to that effect in Rule 7.5 would clarify the change in Government Code Section 68632(d).</p> <p>A court-appointed attorney may be filing a petition relating to the ward or Conservatee, such as a Petition for Substituted Judgment. Alternatively, the Petition might be seeking the recovery of attorney fees from the ward or conservatee’s estate. If the fee waiver eligibility is based upon the financial condition of the ward or Conservatee, then it makes sense that an attorney appointed to represent that person would also be able to submit a fee waiver application using that same financial condition. If there are some assets in the estate, then the fee waiver application may not be granted.</p> <p>(2) Court Investigator Fees. Rule 7.5 (and the forms) could also be expanded to reference the change to Government Code section 68631: “...An initial fee waiver excuses the applicant from paying fees for the first pleading or other paper, and other court fees and costs, including assessments for court investigations under Section 1513, 1826, or 1851 of the Probate Code, as specified in rules adopted by the Judicial Council, unless the court orders the applicant to make partial payments under subdivision (c) of Section 68632, subdivision (d) of Section 68636, or subdivision (e) of Section 68637. ... (Gov’t Code, § 68631)</p>	<p>(1) “Fiduciaries” in the context of this rule means and refers to guardians, conservators, and personal representatives of decedents’ estates, not court-appointed attorneys.</p> <p>(2) The committee does not believe the recommended change is necessary. Rules of court do not generally quote or even paraphrase large portions of applicable legislation. Paragraph 1 of the trial court fee waiver information form (form FW-001-INFO), as revised effective July 1, 2015, lists the court investigator assessments among the fees waivable on an initial court fee waiver.</p>

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**Court fee waivers in decedents’ estates, guardianships, and conservatorships, and for wards and conservatees participating in civil actions**  
 (Adopt Cal. Rules of Court, rule 7.5; amend rules 3.50–3.53 and 8.26; adopt forms FW-001-GC, FW-002-GC, FW-003-GC, FW-005-GC, FW-006-GC, FW-007-GC, FW-008-GC, FW-010-GC, FW-011-GC, FW-012-GC, and APP-016-GC/FW-016-GC; revise forms FW-001-INFO and APP-015/FW-015-INFO)

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<b>Rule 7.5 – Other Comments</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>It would be helpful if the rule and the forms referenced these Court Investigation fees, so there is no question about which is the proper fee waiver form to fill out. In many counties, a person seeking a waiver of fees usually fills out both the initial fee waiver application plus the request to waive additional fees.</p> <p><b>2. Comments on Changes to Rules</b></p> <p>Who is Responsible?</p> <p>One key issue touching all three case types is identification of who is actually responsible for paying the court fees.</p> <p>In an estate case, the proposed rule doesn’t make it clear who is responsible for paying the fee once there are assets. In subsection (d), it states that the appointment of a personal representative for a decedent’s estate may be a change of financial condition for fee waiver purposes, as continued eligibility for an initial fee waiver is based upon the combined financial condition of the petitioner and the decedent’s estate. Who is responsible for the fee? The petitioner personally or the estate? Legally, it is the estate which bears the costs and fees associated with administration of the estate. (See Prob. Code, § 11420)</p> <p>Subsection (c) might include a reference that the court fees are a debt of the estate, even though the fee waiver eligibility is initially determined upon the financial condition of the person</p>	<p>If the petitioner paid the fees after failing to get a waiver in a decedent’s estate, the estate would be able to reimburse him or her as an authorized expense of</p>

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**Court fee waivers in decedents’ estates, guardianships, and conservatorships, and for wards and conservatees participating in civil actions**  
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<b>Rule 7.5 – Other Comments</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>seeking appointment. Subsection (f)(2) references the possibility of a lien for initially waived court fees against property distributable from a decedent’s estate. Is that because the court fees obligation follows the personal representative rather than the estate?</p> <p>Confusion over who is responsible for paying the fees also shows up in the forms.</p>	<p>administration, a very common event in non-waiver estate matters. If the petitioner received the waiver and collection of the estate was determined to be an improvement in financial circumstances that voids the waiver, the estate must reimburse the court for the previously waived fees. See rule 7.5(g).</p>

<b>Form FW-001-GC, Item 3 – Requirement for Separate Waiver Applications for Each Minor in Multi-Ward Cases</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
<p>Public Counsel            Ylianna Perez-Guerrero,            Supervising Staff Attorney,            Guardianship Clinic            Los Angeles</p>	<p>Why ask for a separate request from each ward in a multi-ward case? Wards on a multi-ward case are siblings and almost always live together so household income is the same. This will be time consuming and repetitive.</p>	<p>There is no requirement in Probate Code section 2106 that multiple wards in a single guardianship case must be siblings, although allowance of multiple wards in the same case is in the discretion of the court and some local rules require the wards to be siblings or half-siblings.</p> <p>Many are in fact half-siblings or cousins, which means that their parental information on the forms differ and their living arrangements are more likely to also differ (e.g., living with their respective mothers after their common father’s death or disappearance). Even full siblings may have different current living arrangements.</p> <p>Each ward is a separate candidate for a fee waiver, so separate forms must be filed for each even though much</p>

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<b>Form FW-001-GC, Item 3 – Requirement for Separate Waiver Applications for Each Minor in Multi-Ward Cases</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
San Diego Volunteer Lawyer Program Leslie Mackay, Staff Attorney San Diego	That one FW-001-GC may be used per guardianship case, not one per proposed ward. Use one FW-001-GC per guardianship case, not one per proposed ward.	of the information in the two forms may be the same.  The committee does not support this comment and continues to recommend a requirement that a separate application for a fee waiver must be made for each ward in a multi-ward case. Many such cases involve half-siblings with one different parent, or cousins with entirely different parents and other collateral relatives, and different households. Probate Code section 2106’s authority for multiple-ward cases is not limited to siblings or even half-siblings; although there are some local rules that do so limit these cases. The court clearly has discretion to appoint a guardian for two or more entirely unrelated wards in the same case. Electronic-preparation of forms should reduce the time and effort to provide duplicate entries of the same information in separate applications. Access to such preparation is given to all persons by the judicial branch public Website.  Moreover, not all wards in the same case may qualify for a fee waiver, in which case some equitable contribution to court costs may be required or only a partial waiver may be given. (The committee acknowledges that these phenomena are likely to be rare.)

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

<b>Form FW-001-GC, Item 8 – Public Benefits and Income Information</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Bet Tzedek Legal Services	<p>Moreover, subsection (b) of Item 8 is based on gross monthly income, but should be based on net monthly income. Payroll deductions are necessary expenses, especially with wards and conservatees who would not be taking voluntary deductions to lower their tax brackets.</p> <p>Additionally, subsection (b) of Item 8 should be modified to reflect the income guideline for a family of 1 (\$1,226.05), which is the only relevant family size when the court is to consider the financial condition of only the ward or conservatee. Thus, the income guidelines box should be deleted in its entirety.</p> <ul style="list-style-type: none"> <li>Item 8, subsection (c) The language in Item 8 subsection (c) incorrectly references the applicant’s “household” whereas Government Code Section</li> </ul>	<p>Item 8b of form FW-001-GC, like existing item 5b of form FW-001, is based on gross income (gross of income tax withholding). Nothing in the fee waiver statute or the federal Department of Health and Human Services (HHS) poverty guidelines require use of income net of withholding. There are too many variables associated with withholding exemptions, including the facts that amounts to be withheld are determined by the taxpayer and some taxpayers do not withhold at all but pay taxes on quarterly estimates. The use of gross income places all persons on the same footing in the evaluation of their incomes.</p> <p>Item 5b of form FW-001, for regular fee waiver applicants, like item 8b in proposed form FW-001-GC, calls for household income, not just the individual applicant’s income. The poverty guidelines’ 2015 annual update shows annual incomes of various-sized “family/households” (without defining either “family” or “household,” leaving that task to the agencies that use the guidelines, but suggesting “family members [or relatives] who live in the same residence.”) (See 80 Fed. Reg. 3236 (Jan. 22, 2015).) Government Code section 68632’s explicit adoption of the poverty guidelines is, in effect, approval of this approach.</p> <ul style="list-style-type: none"> <li>Item 5c of form FW-001 also refers to the applicant’s household. In light of the poverty guidelines’ references to family and household interchangeably,</li> </ul>

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<b>Form FW-001-GC, Item 8 – Public Benefits and Income Information</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>68632 (c) references an applicant who, as individually determined by the court, cannot pay court fees without using moneys that normally would pay for the common necessities of life for the applicant and the applicant's family.</p> <p>Therefore, the language of Item 8 of the Proposed Form should read as follows (suggested deletions indicated by strikethrough and suggested insertions indicated in bold):</p> <p>a. The ward or conservatee <del>and his or her family members who live with or provide the ward or conservatee with financial support</del> receives...</p> <p>b. The <del>gross net</del> monthly income of the ward's or conservatee's <del>household (before deductions for taxes)</del> is less than <del>the amount listed below</del> \$1, 226.05.</p> <p>c. The ward's or conservatee's <del>household does not have enough income to pay for its basic needs and the court fees</del> cannot pay court fees without using moneys that normally would pay for the common necessities of life for them and their family...</p>	<p>perhaps this is an equivalent to family. The committee is not inclined to recommend changes that make the new forms inconsistent with the existing regular forms, except as necessary to address intrinsic differences between “regular” fee waiver applicants and wards and conservatees.</p> <p>a. The committee has modified this item to include, in addition to the ward or conservatee, only the ward’s parents or the conservatee’s spouse or registered domestic partner. If any of these persons are receiving listed public benefits, the ward or conservatee receives a fee waiver under item 8a.</p> <p>b. See the discussion above on the use of gross vs. net income and the size of the family/household to be considered.</p> <p>c. “Basic needs” rather than “common necessities of life” is also used in item 5c of existing form FW-001. This suggests that the phrase “basic needs” as used in item 5c of form FW-001 and item 8c of form FW-001-GC is shorthand for “common necessities of life,” without a different meaning. The committee is reluctant to use different terminology than is used in the regular fee waiver forms unless compelled by differences between regular fee waiver applicants and wards and conservatees.</p>

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<b>Form FW-001-GC, Item 8 – Public Benefits and Income Information</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p><b>Additional Comment</b>                      We would suggest that the advisory committee or task force review the use of the phrase "household income" on the Fee Waiver form with regard to the Conservatee. Unless further clarified, this possibly could be interpreted to include the income of the Conservator or anyone else living in the household rendering care to the Conservatee.</p>	<p>The committee has addressed the issue raised in this comment by adding an asterisk at the end of item 8b (before the family size and income chart), leading to the following instruction below item 8c, on page 2 of form FW-001-GC:</p> <p><i>*(Do not include income of guardian or conservator living in the household in 8b. or 8c., or count him or her in family size in 8b. unless he or she is a parent of the ward or the spouse or registered domestic partner of the conservatee.)</i></p>
<p>Legal Aid Society of San Diego, Inc.                      Courtney Bolin Nash                      Staff Attorney</p>	<p>FW-001-GC, Item 8a: It seems box “a” can be checked only if the conservatee AND family members who live with or provide the conservatee with support receive the listed benefits. What if only the conservatee receives the benefits? For example, if the conservatee lives in a group home and receives SSI, can this box be checked? What if some, but not all of the family members that live with the conservatee receive the benefits? Can this box be checked?</p>	<p>Item 8a has been modified to identify the qualifying recipients of public benefits as “the ward or one or both of the ward’s parents, or the conservatee or the conservatee’s spouse or registered domestic partner.” This is appropriate because the parents or spouse or partner are the only third persons whose support of the ward or conservatee may be considered for fee waiver purposes. See proposed rule 7.5(e)(1)(A). The equivalent item in regular form FW-001 asks about only the applicant’s receipt of benefits because the ordinary civil litigant is presumed to be responsible for his or her own finances, unlike a minor ward or a conservatee.</p>
<p>Public Counsel                      Ylianna Perez-Guerrero,                      Supervising Staff Attorney,                      Guardianship Clinic</p>	<p>Question 8                      a. The question asks if the ward or conservatee and his family members who live or provide the ward or conservatee with financial support receive public benefits. It is very confusing to</p>	<p>Item 8                      a. This item asks whether the ward or conservatee receives public benefits. Concerning benefits received by others, item 8a has been modified to identify the</p>

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<b>Form FW-001-GC, Item 8 – Public Benefits and Income Information</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Los Angeles	<p>group ward with family members. Ward probably doesn’t live with family members. If ward does live with family members maybe only ward or a member of family receives public benefits, not both.</p> <p>b. It is not clear why we are asking for ward’s household income.</p>	<p>qualifying recipients of public benefits other than the ward or conservatee as one or both of the ward’s parents or the conservatee’s spouse or registered domestic partner. This is appropriate because the parents or spouse or partner are the only third persons whose support of the ward or conservatee may be considered for fee waiver purposes. See proposed rule 7.5(e)(1). The equivalent item in regular form FW-001 asks about only the applicant’s receipt of benefits because the ordinary civil litigant is presumed to be responsible for his or her own finances, unlike a ward or a conservatee.</p> <p>b. Household income is the subject of inquiry in item 5b of the regular form FW-001 for all fee waiver applicants on this ground of waiver (household income less than 125% of federal poverty guidelines). Household income is therefore appropriate here as well.</p>
San Diego Volunteer Lawyer Program Leslie Mackay, Staff Attorney	6) FW-001-GC page 2, number 8b should indicate that the person completing the form only needs to fill out items 14, 15, and 16	This comment is correct. The requested change has been made.
Superior Court, County of Riverside, Riverside Marita C. Ford Senior Management Analyst	Government Code § 68632(a) appears to indicate that receipt of enumerated public benefits entitle an applicant to a fee waiver regardless of any claim for support, interest in community property, or right to receive support, income or other distributions from a trust or under a contract. These factors are only relevant to a fee waiver based on 68632(b) or (c). This distinction does not appear to be clear in the present draft of the	The layout of items 8a, 8b, and 8c is the same as the layout of the similar items 5a, 5b, and 5c of existing form FW-001. There is a checkbox before each item, indicating that all three need not be completed.

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<b>Form FW-001-GC, Item 8 – Public Benefits and Income Information</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>rule and forms. Rather, form FW-001-GC appears to require both the ward or conservatee and all other persons living in the ward or conservatee’s home who depend on him or her for support or on whom he or she depends for support to receive an enumerated public benefit, or for the collective income of all these individuals to be less than 125% of the poverty level. In guardianships, the ward often resides in the home of the proposed guardian(s). In conservatorships, developmentally-disabled conservatees often reside in the home of the proposed conservator(s). The proposed guardian(s) or proposed conservator(s) may be providing support to the proposed conservatee or ward by providing food and lodging for less than fair market value even though there may be no legal duty to do so. It appears the intent of Government Code § 68631, 68631.5, and 68632(d) are to exclude the financial condition of the proposed conservator or guardian. The form should only inquire about the public benefits of the ward or conservatee. Only when item 8(b) or (c) is checked should income, assets, and expenses of others be considered.</p> <p>In those situations, the income, assets, and expenses should be those of the ward or conservatee and those legally obligated to support him or her. The language about “depending” on a party for support is confusing because many wards and conservatees are financially dependent on their conservator(s) or guardian(s) even though there may be no duty to support.</p>	<p>The form has been modified to provide that the recipients of public benefits that may qualify a ward or conservatee for a fee waiver are, in addition to the ward or conservatee, one or both of the ward’s parents and the spouse or registered domestic partner of the conservatee.</p> <p>Revised FW-001-GC now includes, below item 8c on page 2, an instruction not to (1) include income of a guardian or conservator living in the household in items 8b and 8c, or (2) count him or her in family size in item 8b unless he or she is a parent of the ward or the spouse or partner of the conservatee.</p> <p>Public benefits are likely payable to a parent, not to the (proposed) ward.</p> <p>This has been accomplished in the changes in the form noted above.</p>

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<b>Form FW-001-GC, Items 9 and 11 – Information regarding Ward or Conservatee’s Estate</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Bet Tzedek Legal Services	<p>Items 9 and 11: Information regarding the ward’s or conservatee’s estate is not relevant to a determination of an initial fee waiver; therefore, we suggest two ways the Judicial Council can modify Items 9 and 11:</p> <ul style="list-style-type: none"> <li>○ Items 9 and 11, as they read now, are confusing; one option is to combine them and insert in their place, the following:  Is this a petition for a guardianship/conservatorship of the estate or person and estate? (This information will not be used to determine your eligibility for an initial waiver of fees) <input type="checkbox"/> No, Petition seeks only guardianship/conservatorship over the person <input type="checkbox"/> Yes, Petition seeks guardianship/conservatorship over the estate Estimated value of the estate:      Collection date:</li> <li>○ Alternatively, Items 9 and 11 can be excluded</li> </ul>	<p>The committee does not support this assertion. In its view, the estate’s existence, source, anticipated collection date, and size, (the latter estimated in the appointment petition) is certainly relevant to a determination of an application for determination of an initial fee waiver. An estate may not be immediately available for payment of fees when the appointment petition is presented for filing, as it can be collected by the fiduciary only after his or her appointment, but its estimated size, nature, and collection date may alert the court to the need to schedule a hearing on reconsideration of a waiver initially granted under Government Code section 68636.</p> <p>The committee believes items 9–10 and 11–13 of form FW-001-GC, dealing respectively with guardianships and conservatorships, are better left as separate sets of questions, so (proposed) guardians and conservators need only respond to the set addressed to them.</p> <p>The committee cannot recommend adoption of unspecified collection procedures not authorized by the fee waiver</p>

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<b>Form FW-001-GC, Items 9 and 11 – Information regarding Ward or Conservatee’s Estate</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	altogether and the court can adopt its own procedures for collecting all or part of the waived fees from the estate of the ward or conservatee after the guardianship or conservatorship has been established.	statutory provisions. Information in the initial fee waiver application about the anticipated estate to be collected by the fiduciary, in addition to the estimates of estate size and income in the appointment petition, will alert the court to the prospect of implementation of the “improvement of financial circumstances” procedure of Government Code section 68636 upon collection of the estate.
Superior Court, County of Monterey Monica J. Mitchell, Research Attorney	FW-001-GC: Page 2, item #9. •The first line is confusing because there is a check box for Person only, no estate. Then right next to it is “Inventory or petition estimated value.” Maybe if you start with the Inventory value and then follow it with “Not Applicable, Guardianship of the Person Only” it might be clearer. (Same thing for #11)  •In the “Source (e.g. ...”, a very typical reason for a guardianship of the estate is an insurance policy. It might be helpful to include insurance policy as an example.	The committee has added a checkbox before “Inventory” in item 9 of form FW-001-GC.  “Insurance” and “Judgment” have been added to the source examples.

<b>Form FW-001-GC, Items 10 and 12 - Parental/Spousal Information</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Bet Tzedek Legal Services	Item 10 Item 10 requests considerable information regarding the ward’s parents, none of which is relevant to assessing eligibility under Government Code Section 68632 (a) and (b). Moreover, where the parent’s information may be relevant	Item 10 Based on this and other comments, the committee has revised item 10 to delete the request for information about the parents’ employment. The remainder of the information requested is the basics of names, residence

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<b>Form FW-001-GC, Items 10 and 12 - Parental/Spousal Information</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>under Government Code Section 68632(c), that information may be entered as income under Items 15 or Item 16. Therefore, Item 10 of the Proposed Form should be deleted in its entirety.</p>	<p>addresses, and telephone numbers of the parents, their current marital status and the details of any existing support order for the ward.</p> <p>The support order information may be immediately relevant to waiver applications under items 8b and 8c of form FW-001-GC (Gov. Code, §§ 68632(b) and (c)), and may lead to a later determination that the support payments, when actually marshaled by the guardian for the benefit of the ward, may be an improvement in financial circumstances that would support modification of the initial waiver. Moreover, a payment on a support order from a ward’s parent to the other parent will not appear as part of the <i>ward’s</i> income in item 15, and will not appear in item 16 if the obligee-parent is not part of the ward’s household when the appointment petition and the waiver application are filed. Payments of a support order will not be made to a proposed ward. At commencement of the guardianship proceeding they will have been made, if made at all, to the other parent. Only if the obligee-parent is in the ward’s household when the form FW-001-GC is prepared and filed would the payments be reflected in the ward’s household income under items 8b and 8c and item 16. They would not be reflected in item 15. Moreover, even if support payments were reflected in items 8b, 8c, or 16, that is not grounds for excluding specific inquiry about them elsewhere in form FW-001-GC.</p>
	<ul style="list-style-type: none"> <li>• Item 12</li> </ul>	<ul style="list-style-type: none"> <li>• Item 12</li> </ul>

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<b>Form FW-001-GC, Items 10 and 12 - Parental/Spousal Information</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	Item 12 requests considerable information regarding the conservatee's spouse, none of which is relevant to assessing eligibility under Government Code Section 68632 (a) and (b). Moreover, where the spouse's information may be relevant under Government Code Section 68632 (c), that information may be entered as income under Items 15 or Item 16. Therefore, Item 12 of the Proposed Form should be deleted in its entirety.	See discussion above under Item 10, although support payments from a divorced spouse or partner to the (proposed) conservatee would be reflected in item 15. Additionally, the information requested in item 12 applies to spouses and partners of conservatees who are not divorced and thus are immediately responsible for support of the conservatee beyond the amount of any order for support.
Public Counsel Ylianna Perez-Guerrero, Supervising Staff Attorney, Guardianship Clinic Los Angeles	Question 10 Why ask for the parents' information? In a vast majority of the cases we prepare the parents don't have a home, are in jail or their whereabouts are unknown.  Also the question presupposes that parents have custody or that they are a part of the child's household.	Please see the response to the comments of Bet Tzedek Legal Services above. The basic information requested about the parents of a ward in Question 10 should still be required. Petitioners for the appointment of a guardian must serve the parents with notice of the hearing and a copy of the guardianship petition in any event, so at least this basic information should be known. If a parent is in jail, the petitioner should so state.  There is no presupposition. The parents have a duty of support whether or not they currently have custody or live in the child's household. If a guardian of the person is appointed, the parents will lose custody but will still have a support obligation. Even if there is an estate and a guardian of the estate, the ward's living parents still have a support obligation and the guardian of the estate would have to get court permission to support the ward from the estate (See Fam. Code, §§ 3900-3901 [parental duty of support], Prob. Code, § 2422; California Guardianship Practice (Cont. Ed. Bar Annual, 2015), §§ 12.18, 12.33.)

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<b>Form FW-001-GC, Items 10 and 12 - Parental/Spousal Information</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
8. San Diego Volunteer Lawyer Program Leslie Mackay, Staff Attorney San Diego	2) Remove number 10 from JC Form FW-001-GC or indicate number 10 does not apply in guardianship of the person matters.	Please see the response to the comments of Bet Tzedek Legal Services above.  The committee respectfully declines to recommend removal of item 10 or to make it inapplicable to a guardianship of the person. Even though reliance on parents for fee waiver purposes has been reduced to court-ordered support of the ward, the basic information about the parents in item 10 remains relevant. As noted above, the question in the draft circulated for comment about the parents' employment has been deleted from the proposed form.

<b>Form FW-001-GC, Item 13 - Trusts</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Bet Tzedek Legal Services	Item 13 Item 13 should be deleted because trusts do not become a part of a conservatee's estate and as such the details of the trust are outside the purview of the court for the purposes of considering an application to waive court fees.	The fact that a trust of which the conservatee is a beneficiary is not part of the conservatee's estate under conservatorship law is irrelevant to the question of whether the conservatee's right to payments from the trust to or for his or her benefit may be considered as part of the conservatee's financial condition for fee waiver purposes.
Public Counsel Ylianna Perez-Guerrero, Supervising Staff Attorney,	Statement after Question 13 It states if you check question 8b you must fill out 14–18 on next page. Only numbers 14–16 need to be filled out if 8b is	Statement after Question 13 This comment is correct. The item has been corrected as requested.

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 (Adopt Cal. Rules of Court, rule 7.5; amend rules 3.50–3.53 and 8.26; adopt forms FW-001-GC, FW-002-GC, FW-003-GC, FW-005-GC, FW-006-GC, FW-007-GC, FW-008-GC, FW-010-GC, FW-011-GC, FW-012-GC, and APP-016-GC/FW-016-GC; revise forms FW-001-INFO and APP-015/FW-015-INFO)

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<b>Form FW-001-GC, Item 13 - Trusts</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Guardianship Clinic Los Angeles	checked.	
Superior Court, County of Los Angeles	At item 13(b), the form asks whether or not the proposed conservatee is now or was formerly the trustee of a trust. It is unclear why this fact is relevant to the determination of the value of the proposed conservatee’s estate. The funds in the possession of or managed by an individual in a fiduciary capacity are not considered available to the fiduciary for his or her personal use. Additionally, there might be confidentiality issues that would prevent the applicant from disclosing this information if the trust of which the proposed conservatee is now or was the trustee is a third-party trust (one not established by or for the sole benefit of the proposed conservatee). Perhaps this question is not necessary to the determination of eligibility for a waiver of court fees and costs and should be deleted.	The committee agrees with this comment and has deleted this inquiry.
Superior Court, County of Monterey Monica J. Mitchell, Research Attorney	Page 3, item #13 – does this include special needs trusts? A trustee of a special needs trust has recently argued that payment of Court Investigation fees, along with the payment of Public Guardian and County Counsel fees may be a violation of the special needs trust since these are “public benefits”.  The proposal should clearly indicate whether the right to receive support, income, or distributions from a trust includes	The committee has not eliminated special needs trusts. Especially now that investigation assessments have been reclassified by the 2014 legislation as court costs, the committee does not believe that a special needs trust would be barred from contributing to litigation costs in a matter in which it or its beneficiary is involved. Therefore, the trust’s contribution to the court costs of a beneficiary who is a conservatee would also not be barred.  The committee has decided not to exempt special needs and spendthrift trusts from the trust provisions of rule 7.5

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**Form FW-001-GC, Item 13 - Trusts**

<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	trust that gives the trustee discretion to make distributions not limited by an ascertainable standard, such as a special needs trust or other spendthrift trust.	and the applicable forms. Expenditure of trust proceeds for court fees incurred by conservatee-beneficiaries should not run afoul of special needs trust restrictions or the spendthrift provisions of most trusts.
Superior Court, County of Riverside, Riverside Marita C. Ford Senior Management Analyst	The reference to “trustor or settlor” in item 13 of FW-001-GC may be too technical. The questions concerning the conservatee’s trusteeship of a trust appear to be irrelevant. Status as a settlor or beneficiary is relevant to the financial condition of a conservatee. Trusteeship is not relevant. Serving as trustee would only be relevant if the conservatee was either a settlor or a beneficiary.	The committee has eliminated the conservatee’s status as a trustee from the list in item 13.

**Form FW-001-GC - Comments on Other Items**

<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Public Counsel Ylianna Perez-Guerrero, Supervising Staff Attorney, Guardianship Clinic Los Angeles	Form FW-001-GC Question 1 These questions are referring to guardian, conservator or conservatee or ward. It may be ward acting as petitioner and same questions are asked of ward in #3 and #4.  Question 3 Proposed ward or Proposed Conservatee’s Information (this may be the same person and information as requested in #1.) Perhaps write something like, "skip if you the ward are the petitioner."	Questions 1 and 3 If the proposed ward or conservatee is also the petitioner, there is no reason why item 3 of form FW-001-GC or the similar items in the other forms could not be completed merely by stating: “Ward/Conservatee is also the petitioner, See item 1 above.” The same technique would work for the identity of the attorney in items 2 and 4 of many of these forms.
San Diego Volunteer Lawyer	4) Add “Household’s” after “Ward’s or Conservatee’s” on	4) The committee agrees with this comment and has made

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**Form FW-001-GC - Comments on Other Items**

<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
<p>Program Leslie Mackay, Staff Attorney</p>	<p>numbers 17 and 18 of Form FW-001-GC</p> <p>5) Add numbers (5) through (10) if there is going to be blank space below number 16 on FW-001-GC</p> <p>Add “Household’s” after “Ward’s or Conservatee’s” on numbers 17 and 18 of Form FW-001-GC</p> <p>Form FW-001-GC, numbers 17 and 18 are required to be completed only when the applicant indicates the household does not have enough income to pay for its basic needs and the court fees. It is our understanding that the purpose of numbers 17 and 18 is to reflect the household’s expenses so that the court has all information necessary to weigh expenses versus income. If the only information included on number 17 and 18 is the proposed ward’s expenses, then the court will always have to request the expenses of the other household members. In our experience, the proposed ward has no expenses, no money and no property. By requesting household expenses and assets in number 17 and 18, the court will be able to quickly weigh income versus expenses.</p> <p>Add numbers (5) through (10) if there is going to be blank space below number 16 on FW-001-GC.</p> <p>Many households include more than four people. If there is open space on this page, we request that additional lines be added to number 16. This will reduce the need to add unnecessary attachment pages.</p>	<p>this change.</p> <p>5) This has been done.</p> <p>As noted above, based on this and other comments, the committee has revised proposed rule 7.5(e)(1)(A) to provide that a ward’s parent’s financial condition will be considered only to the extent that a court order for support exists or, for financial-condition-improvement purposes, is later obtained.</p>

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<b>Form FW-001-GC - Comments on Other Items</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Superior Court, County of Monterey Monica J. Mitchell, Research Attorney	Page 3, attestation: Should it include some statement regarding checking “reasonably available” information to determine?  [2nd Sentence is a typo, as it repeats substance of 1st sentence.]	The Committee does not believe the change to the attestation, which now reasons “to the best of my information and belief,” is necessary.  The second sentence refers to information about the signing person and therefore is not to that person’s “best information and belief,” unlike the first sentence, which refers to information about the ward or conservatee. This was intentional.
Superior Court of San Diego Michael Roddy, Executive Officer	FW-001-GC to GC FW-11–GC: Our court would like clarification or identifying information as to who is printing and signing their name at the verifications for these forms.	A guardian or conservator of the person or the estate may complete the form. To the extent that the forms inquire about financial matters, perhaps the guardian or conservator of the estate is preferable.

<b>Comments on Other Proposed Forms</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Bet Tzedek Legal Services	Proposed Revisions to Existing FW-001-INFO Bet Tzedek proposes adopting a separate GC Information Sheet to accompany the proposed fee waiver forms, rather than revising the existing Information Sheet. The proposed revisions to the existing Information Sheet make the form quite complicated. Litigants, generally, and, in guardianship and conservatorship cases, in particular, would be better served with a separate Information Sheet that assist them more directly and more clearly according to the unique rules that	The committee will consider development of a separate Information Sheet for guardians and conservators, but will not be able to develop such a form as part of this proposal.

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<b>Comments on Other Proposed Forms</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>apply to them. If the Judicial Council chooses to adopt a separate Information Sheet, the first paragraph of the existing Information Sheet should be revised to reflect this adoption and to direct litigants in guardianship or conservatorship cases to the applicable Information Sheet.</p> <p>Proposed Form FW-010-GC            Bet Tzedek proposes modifying Item 6 of Proposed Form FW-010-GC. Item 6 currently reads, in part: “The ward’s or conservatee’s financial situation has changed since the date of the last court fee waiver order in a way that improves my ability as guardian or conservator to pay court fees and costs.” The form should make clear that this language would apply only in guardianships or conservatorships of the estate or of the person and estate. This is so because the only way that an improvement in the ward’s or conservatee’s financial situation would improve the ability of the guardian or conservator to pay court fees is if the guardian or conservator has access to the ward’s or conservatee’s estate. A guardian or conservatee would not be able to use money from the ward’s or conservatee’s estate to pay court fees if the guardianship or conservatorship is of the person only.</p>	<p>The committee does not support this modification. As noted above, the finances of a conservatee for fee waiver purposes are not limited to assets of his or her conservatorship estate. Moreover, even if the conservator’s collection of particular assets in some situations, such as distributions from a trust or payments by a spouse managing community property to the conservator rather than direct payments by the trustee or the spouse for the benefit of the conservatee, might require the appointment of a conservator of the estate, advice about that fact need not be included in form FW-010-GC. The phrase “my ability to pay court fees and costs” in this context may include arrangements between the conservator and the conservatee’s spouse or the trustee (who in fact very well might be the same person) for the spouse or trustee to make the payments.</p>
<p>Superior Court, County of Monterey            Monica J. Mitchell, Research Attorney</p>	<p>FW-001-INFO: include Court Investigator Fees under Item 1. [And in the orders]</p> <p>•FW-003-GC, page 3, NOTE TO GUARDIAN OR CONSERVATOR: What happens if the fee waiver is denied and the fees are not paid? Who owes it? Ward/Conservatee or</p>	<p>FW-001-INFO: As noted above, this has been accomplished effective July 1, 2015 so is not part of this proposal.</p> <p>The purpose of the Notice is to suggest that the fiduciary consider advancing the fees. The court has a number of remedies if a fee waiver is denied and previously waived</p>

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<b>Comments on Other Proposed Forms</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>Person filing Application? Example: denied based upon minor’s parent circumstances. So if parent won’t pay it, then if someone wants to be guardian, they will have to pay the fee. Assume there is a denial and no payment. The case will be dismissed by the court. In many counties, collection is attempted of the unpaid fees. Against minor/Conservatee or person filing application?</p> <ul style="list-style-type: none"> <li>•FW-008-GC, page 2, item 7b(2): “You may pay the initial filing fee over time.” Who is “YOU”? Same issue.</li> <li>•FW-011-GC, Page 1, item 5b: “You may be increasing the costs...” If their behavior impacts the fee waiver, does that mean that the fee waiver is owed by that person?</li> </ul>	<p>fees or fees subsequently incurred are not paid, but dismissal of the guardianship or conservatorship, while clearly possible, is not recommended, in order that the ward or conservatee not be harmed. Equitable remedies such as imposition of a lien on the estate for payment when the ward turns 18 or after the conservatee’s death remain available. There is clearly no satisfactory resolution in cases like this. Many courts would likely renew the waiver in those circumstances.</p> <ul style="list-style-type: none"> <li>• “You” refers to the fiduciary, in the sense of the physical act of payment. But the estate continues to have responsibility for the payment, although payment is made with an estate check written by the fiduciary.</li> <li>• This finding in the form is a ground for reducing a previously-granted fee waiver. The decedent estate, guardianship, or conservatorship remains responsible for the fees. Of course, if the misconduct of a fiduciary reduces the fee waiver, the estate, guardianship, or conservatorship would have a claim against the erring fiduciary for the fees it paid that would have been waived but for the conduct of the fiduciary.</li> </ul>
<p>Superior Court of San Diego Michael Roddy, Executive Officer</p>	<p>FW-002-GC to GC FW-11–GC: Our court would like clarification or identifying information as to who is printing and signing their name at the verifications for these forms. These forms are to be completed by the guardian or conservator. Would only one conservator/guardian complete</p>	<p>A guardian or conservator of the person or the estate may complete the form. To the extent that the forms inquire about financial matters, perhaps the guardian or conservator of the estate is preferable.</p>

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**Comments on Other Proposed Forms**

<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>this form? On many occasions there are multiple conservators/guardians.</p> <p>FW-003GC Order on Court Fee Waiver: An option 6b(3) is needed that allows the court to either give payment plan options or allows the applicant to pay a portion/percentage of the fees. The FW-001 has a check-box for the applicant to make such a request but the FW-003 does not have provisions to grant the request. Instead these options are currently only available on the FW-008 GC Order after hearing. By only giving this option for the order after hearing, additional hearings that require judicial time and resources are being required.</p>	<p>FW-003-GC cannot have such provisions. Item 6c of existing form FW-003 and proposed new form FW-003-GC calls for the applicant to provide more information at a subsequent hearing. This looks like a hearing merely to provide additional information, but a subsequent hearing is required for an order authorizing partial payments or payments over time under Gov. Code sections 68632(c) and 68634(e)(5) second paragraph. Therefore, only the Order After Hearing (form FW-008-GC) may be used and a hearing is in fact required.</p>

**Other Comments /Suggestions**

<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
<p>Helen Cavanaugh Director Public Law Center Superior Court of Nevada County</p>	<p>In my small county, we assist approximately nine guardianships a month (more than nine children), more as school starts. Most of the “families” we work with here should be CPS [Welf. &amp; Inst. Code] sec. 300 guardianships—processed at no cost to the guardians—and, there are usually multiple children involved, the filing fee can be prohibitive for the potential guardians.</p> <p>Our county does not combine multiple children in one case.</p> <p>A typical family comes into our center, usually stressed because CPS has sent them to us for assistance so the child</p>	<p>See response to comments below</p>

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<b>Other Comments /Suggestions</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>will not be taken into foster care or they are worried that the birth parent will “reappear” and take the child away from the stable home. As a judicial system we request the proposed guardians to complete 17 forms per child plus two fee waiver forms. Our center offers to copy &amp; collate for \$10.00 because our civil clerks dread a pro per walking in with the guardianship forms. We do not have a local attorney that we can refer to for assistance. We assist with all areas of law except divorce and [child] custody. Guardianship is the most bureaucratic and burdensome legal process that we encounter.</p> <p>We assisted two cases last week—one set of grandparents with modest income, who would not be granted a fee waiver, who have an emergency placement of three children aged 11, 15 and 17 years. They can afford one filing fee but three would be very burdensome. The other was a sister (mid-20’s) taking guardianship of her two younger brothers. One brother is over 12, again, she can pay for 1 filing fee but two would be really difficult.</p>	<p>This case should have been decided based on the new law, which became effective on January 1, 2015. The fee waiver should have been based on the wards’ financial condition.</p> <p>But there is no reason why the two petitioners in the described cases would be charged with more than one filing fee if a single petition requested the appointment of a guardian for all of the proposed wards in each case.</p>
Christine N. Donovan, JD, CFLS Senior Staff Research Attorney Family Law and Probate Divisions Superior Court of California, County of Solano	<p>California Rules of Court, rule 3.56 allows the court to waive “necessary court fees and costs” for “witness fees of court-appointed experts” and “other fees or expenses as itemized in the [FW-002] application.”</p> <p>Although a probate referee is a court-appointed expert, it is unclear whether fees charged by probate referees are within the types of fees waivable by the court upon the</p>	<p>Witness fees of court-appointed experts under Evidence Code section 730 are to be paid by counties if their boards of supervisors so provide, or otherwise by the parties in such portions as the court determines, to be taxed and allowed as other costs. It is these party-payable fees that are waivable under rule 3.56. But Probate Referees are paid from the estates as expenses of administration, payable before other debts of the estate. See Prob. Code §§ 2610(c), 8960, and 11420(a)(1).</p>

**SP15-02**

**Court fee waivers in decedents’ estates, guardianships, and conservatorships, and for wards and conservatees participating in civil actions**  
 (Adopt Cal. Rules of Court, rule 7.5; amend rules 3.50–3.53 and 8.26; adopt forms FW-001-GC, FW-002-GC, FW-003-GC, FW-005-GC, FW-006-GC, FW-007-GC, FW-008-GC, FW-010-GC, FW-011-GC, FW-012-GC, and APP-016-GC/FW-016-GC; revise forms FW-001-INFO and APP-015/FW-015-INFO)

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<b>Other Comments /Suggestions</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	receipt of either a current FW-002 or the proposed FW-002-GC. Should the FW-002-GC and/or the CRCs explicitly address a probate referee’s fees as part of the fee waiver regime?	
Superior Court, County of Monterey Monica J. Mitchell, Research Attorney	<p><b>1. Other Issues Related to New Law:</b></p> <p>In Monterey County, we have discussed two issues related to the change in law which are not addressed in the proposed rules:</p> <p>(1) application of the law to the court-appointed attorney for ward or Conservatee; and</p> <p>(2) procedures for waiving Court Investigator fees. We request that these issues be considered when approving the changes to the Rules.</p>	<p>(1)The new law does not apply to court-appointed counsel. However, similar provisions governing eligibility for county (not court) payment of the cost of appointed counsel may be found in Appendix E to the California Rules of Court.</p> <p>(2) The assessments for court investigations are court fees within the meaning of the Government Code provisions on court fee waivers (Gov. Code, § 68631). However, the provisions in Probate Code sections 1513.1 and 1851.5 for waiving these assessments if they would harm the ward or conservatee, or his or her estate, remain in place.</p>
Superior Court, County of Riverside, Riverside Marita C. Ford	The proposal treats proposed fiduciaries differently based on whether they are proposed guardians or conservators or proposed personal representatives. We question whether proposed personal representatives should be treated the same	The committee believes the fee waiver law would have to be changed to permit treatment of decedents’ estates the same as the law now treats guardianships and conservatorships.

**SP15-02**

**Court fee waivers in decedents’ estates, guardianships, and conservatorships, and for wards and conservatees participating in civil actions** (Adopt Cal. Rules of Court, rule 7.5; amend rules 3.50–3.53 and 8.26; adopt forms FW-001-GC, FW-002-GC, FW-003-GC, FW-005-GC, FW-006-GC, FW-007-GC, FW-008-GC, FW-010-GC, FW-011-GC, FW-012-GC, and APP-016-GC/FW-016-GC; revise forms FW-001-INFO and APP-015/FW-015-INFO)

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<b>Other Comments /Suggestions</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Senior Management Analyst	as proposed guardians or conservators. The financial situation considered in decedent’s estates should be that of the estate and not the personal financial condition of the personal representative. Otherwise, a personal representative of an illiquid and insolvent estate may be required to advance funds for court costs that the estate may have no ability to reimburse. If the rules were the same in all three fiduciary situations, it would simplify the implementation of the new rule.	Estate illiquidity is a discretionary ground for granting a waiver under rule 7.5(f)(1)(A). In an insolvent estate, administration expenses, including court costs, have a higher priority for payment than most creditors. This priority should be sufficient to ensure payment of these costs in most cases of insolvency.

<b>Responses to Requests for Specific Comments</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Ana Hinojosa Court Supervisor- Probate Division Superior Court, County of Kern	Request for Specific Comments  In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:  <b>Does the proposal appropriately address the stated purpose?</b>  Yes.  <b>Would it be preferable to modify the existing forms instead of providing new forms to address applications for fee waivers by guardians, conservators, and petitioners for their appointment?</b>	The committee thanks the commentator for responding so thoroughly to these specific requests for comment.

**SP15-02**

**Court fee waivers in decedents’ estates, guardianships, and conservatorships, and for wards and conservatees participating in civil actions** (Adopt Cal. Rules of Court, rule 7.5; amend rules 3.50–3.53 and 8.26; adopt forms FW-001-GC, FW-002-GC, FW-003-GC, FW-005-GC, FW-006-GC, FW-007-GC, FW-008-GC, FW-010-GC, FW-011-GC, FW-012-GC, and APP-016-GC/FW-016-GC; revise forms FW-001-INFO and APP-015/FW-015-INFO)

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<b>Responses to Requests for Specific Comments</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>No, modifying the current forms would affect a larger group of people with the potential of unnecessary confusion.</p> <p><b>Would the proposal provide cost savings? If so, please quantify.</b></p> <p>No cost savings to the court appear evident at this time; instead additional time and money would be required to comply with the changes.</p> <p><b>What would the implementation requirements be for courts, including self-help centers sponsored by courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?</b></p> <p>As a supervisor of the Probate Division of the Kern County Superior Court, I see an immediate need to revise and/or create new processes to deal with the changes implemented for the case types affected, which would require at least eight hours. Then training would have to be provided to the clerks in my department, which could take approximately two hours. Another 8–16 hours would be required to create new docket, hearing, and reporting codes into the court’s case management system.</p> <p>Training would also be required for the 6 civil departments within our county, and the Self Help and Law Library staff which would multiply the training hours needed.</p>	

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<b>Responses to Requests for Specific Comments</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>The members of the public will also need to understand the forms, and the differences; that will create additional work.</p> <p><b>Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</b></p> <p>It may, if no significant changes are made from the proposal.</p> <p><b>Would an effective date other than January 1 present additional difficulties?</b></p> <p>Any date right before or right after the publishing of the New Year poverty levels will create additional training and changes to pre-printed form packets.</p> <p><b>Would those problems be greater or lesser than the problems presented to courts dealing with fee waiver applications by conservators, guardians, or petitioners for their appointments without a rule of court and forms specifically designed for these proceedings, in light of the new law affecting fee waivers in these matters?</b></p> <p>Greater, if we’re not complying with the changes.</p> <p><b>How well would this proposal work in courts of different sizes?</b></p> <p>Whether large or small, the impact will be proportional to the caseload; however communication and adequate training is</p>	

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<b>Responses to Requests for Specific Comments</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	necessary for any court to have a successful transition.	
Superior Court, County of Los Angeles	<p><b>Response of Los Angeles Superior Court to the “Requests for Specific Comments” included in the Invitation to Comment:</b></p> <p>1) Yes, the proposal appropriately addresses the stated purpose.</p> <p>2) No, it would not be preferable to modify the existing fee waivers forms for the reasons stated in the introduction to the Request for Comments. It is preferable to create separate forms for use by Guardians and Conservators due to the distinction between the person requesting the waiver and the persons whose assets and income are being considered in granting or denying the waiver.</p> <p>3) There does not appear to be any cost savings to the Court to be derived from the proposal.</p> <p>4) Additional training would be required for Court staff if the proposed forms are implemented. The employees who staff the filing windows will need to be familiarized with the new forms, and appropriately trained to consider only the financial information relative to the protected person and not the applicant him/herself. It would be anticipated that at least two training sessions would be required for a minimum of 10 employees, with follow up attention by supervisors/managers to ensure that the applications are being processed correctly. It is anticipated that the Court’s Case Management Software would need to be modified to enable the system to recognize the</p>	The committee thanks the court for responding to these specific requests for comment.

**SP15-02**

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<b>Responses to Requests for Specific Comments</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>applicability of the order waiving fees to an individual (or individuals) other than the applicant. It is not currently possible to enter such information into the Los Angeles Superior Court’s current CMS. It is unknown at this time whether the system could be modified or how long that might take.</p> <p>5) A three month time window of time from the approval of the new forms and Rule to their implementation would not pose a problem for the training of employees, but it may not afford the Court’s IT staff sufficient time to address the potential modifications to the case management software.</p> <p>6) Any effective date, including a date other than January 1, would be acceptable.</p> <p>7) The Proposed CRC and JC forms should lessen any difficulties created by the new fee waiver legislation by providing forms that have been customized to better address the special factors that come into play in protective probate proceedings.</p> <p>8) It does not appear that the size of the court would have any effect upon the implementation of the proposal.</p>	
<p>Superior Court, County of Riverside, Riverside Marita C. Ford Senior Management Analyst</p>	<p>Response to Request for Specific Comments to SP15-02</p> <p><b>Q. Does the proposal appropriately address the stated purpose?</b></p> <p>A. Yes.</p>	<p>The committee thanks the court for responding to these specific comments.</p>

**SP15-02**

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<b>Responses to Requests for Specific Comments</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p><b>Q. Would it be preferable to modify the existing forms instead of providing new forms to address applications for fee waivers by guardians, conservators, and petitioners for their appointment?</b></p> <p>A. No.</p> <p><b>Q. Would the proposal provide cost savings? If so, please quantify.</b></p> <p>A. No. The legislation that mandates this proposal will result in a substantial decrease in investigation assessments collected by the court. However, these are caused by the legislation and not this proposal.</p> <p><b>Q. What would the implementation requirements be for courts, including self-help centers sponsored by courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?</b></p> <p>A. We will be required to draft a separate procedure for the new forms which would include creating new codes in the case management system. Once completed, we would be required to train all probate court staff (Court Services Assistants, Senior Court Services Assistants, and Court Services Supervisors) on the new procedure which we would estimate at 4 hours for each training session.</p>	

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<b>Responses to Requests for Specific Comments</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p><b>Q. Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</b></p> <p>A. Yes, three months would be sufficient time.</p> <p><b>Q. Would an effective date other than January 1 present additional difficulties?</b></p> <p>A. Yes.</p> <p><b>Q. Would those problems be greater or lesser than the problems presented to courts dealing with fee waiver applications by conservators, guardians, or petitioners for their appointments without a rule of court and forms specifically designed for these proceedings, in light of the new law affecting fee waivers in these matters?</b></p> <p>A. Lesser.</p>	