

Invitation to Comment

Title	Probate: Notice of Filing Inventory and Appraisal, Instructions on Objecting to an Inventory and Appraisal, and Objections to an Inventory and Appraisal (adopt form GC-042, approve forms GC-042(MA) and GC-045).
Summary	The proposed new forms would provide a notice of filing an Inventory and Appraisal in a conservatorship or guardianship, instructions to the persons served with the notice on how to object to the Inventory and Appraisal, and simplified plain-language objections to the Inventory and Appraisal.
Source	Probate and Mental Health Advisory Committee Hon. Don Edward Green, Chair
Staff	Douglas C. Miller, Attorney Committee Counsel Office of the General Counsel, Administrative Office of the Courts (415) 865-7535, douglas.miller@jud.ca.gov
Discussion	<p>Probate Code section 2610 requires a conservator or guardian of the estate to file an Inventory and Appraisal of the assets of the estate. The inventory is a list of all assets of the estate of which the conservator or guardian has possession or knowledge. The appraisal states the fair market value of each asset as of the date of the fiduciary's appointment. The Inventory and Appraisal is due 90 days after the date of the order appointing the conservator or guardian, or within such longer time as the court may for reasonable cause allow.</p> <p>The Omnibus Conservatorship and Guardianship Reform Act of 2006¹ amended section 2610 to require the conservator or guardian to mail copies of the filed Inventory and Appraisal to the conservatee and the attorneys for the conservatee or ward, the conservatee's spouse or domestic partner, and the conservatee's first-degree relatives, or if none, the conservatee's next closest relative.²</p>

¹ Stats 2006, chapters 490–493 (respectively, SB 1116, SB 1550, SB 1716, and AB 1363), referred to as the Omnibus Act. Section 2610 was amended by section 23 of chapter 493 (AB 1363).

² A conservatee's first-degree relatives are his or her parents and children.

Amended section 2610 also requires the conservator or guardian to serve with the copies of the filed Inventory and Appraisal a notice of how to object to it. Section 2610(e) requires the Judicial Council to develop a form to implement this notice.

The Probate and Mental Health Advisory Committee proposes the adoption or approval of the following three forms to accomplish the task assigned to the Judicial Council by the Legislature

Notice of Filing of Inventory and Appraisal and How to Object to Appraisal (form GC-042);

Objections to Inventory and Appraisal of Conservator or Guardian (form GC-045); and

Attachment to Notice of Filing of Inventory and Appraisal and How to Object to Appraisal (form GC-042(MA)).

Form GC-042

This mandatory form would advise persons to whom it is mailed that the conservator or guardian has filed an Inventory and Appraisal of a specified type on a specified date (item 1 on page 1). Instructions on how to object to the Inventory and Appraisal follow in items 2–4. Instructions to the conservator or guardian on the use of the form are provided in the text box at the top of page 2.

The instructions on page 1 describe the written objections to “any and all appraisals” authorized by Probate Code section 2614. That section requires the objections to be filed within 30 days of the date the inventory was filed, and requires notice of hearing and a copy of the objections to be served in the manner and for the period required by Probate Code sections 1460–1469.³ If objection is made to an appraisal of a non-cash asset by a probate referee, the referee must also be served.

³ Service by mail of written notice of the hearing at least 15 days before the hearing date to: (1) the guardian or conservator; (2) the conservatee or the ward who is at least 12 years of age or if not, to the persons identified in section 1460.1; (3) the ward’s or conservatee’s spouse or the conservatee’s domestic partner; and (4) any person who has requested special notice under section 2700 (Prob. Code, § 1460).

Item 3 on page 1 of form GC-042 provides instructions on filing objections, including mention of the proposed new form of objections, form GC-045, and on serving notice of the hearing on the objections. Item 4 on page 1 of form GC-042 is a summary of the provisions of Probate Code section 2614(c).

Section 2614 describes objections to an Inventory and Appraisal as objections to one, more than one, or all appraisals contained in it. These objections do not reach another important issue that might be disclosed by a filed inventory: The absence of an asset that the objecting party believes should have been included as an asset of the conservatee's or ward's estate. Form GC-042 addresses that issue in item 1 on page 1 of the form. If the Inventory and Appraisal is designated as a final inventory or is filed on or after the date the final inventory is due, a party may object to the entire inventory and all partial inventories filed before it on the ground that they do not list an asset which should have been included in the estate. See the following discussion concerning proposed form GC-045.

Form GC-045

The Legislature did not specifically require the Judicial Council to develop a form of objections to an Inventory and Appraisal. However, the advisory committee concluded that the best way to instruct interested persons, especially those not represented by counsel, on how to file these objections was to develop a simplified form of objections and provide instructions on its use.

Proposed form GC-045 is an optional form, designed primarily for use by persons other than the fiduciary to object to a filed Inventory and Appraisal, although the conservator or guardian could also use the form for this purpose (see the first line of item 4 on page 1 of the form). The possible objecting parties identified in item 4 are those authorized to file objections under Probate Code section 2614.

The objections would be stated on page 2 of the form, in item 5. There are three types of objections described. The first is an objection to an entire final inventory, or to any inventory filed after the due date of the inventory of the entire estate whether or not designated as a final inventory and all prior inventories on the ground that an asset which should have been included in the estate was not included. The second is an objection to the appraisal of every asset contained in the identified Inventory and Appraisal. The third is an objection to one or more appraisals, but less than all, contained in the identified Inventory

and Appraisal.

The form advises that an objection to a final inventory on the ground that an asset of the estate has not been listed is not a petition for an order of the court conveying or transferring the property under Probate Code sections 850–859. Such petitions are substitutes for civil actions to quiet title to or recover property held by an estate but claimed by a third party or held by a third party but claimed by an estate. They are beyond the scope of this simplified form.

This advice has been placed in the form to put the objecting party on notice that the objections may not directly lead to recovery of property claimed to be part of the conservatee’s or ward’s estate. The advisory committee believes, however, that such objections may be a useful tool to put the fiduciary on notice that he or she should consider taking action to collect property previously unknown to him or her.

Objections on this ground might also lead to a petition under section 850 or other action by the court short of such litigation to resolve the objecting party’s concern about the absent property.

Form GC-042(MA)

This optional form is proposed as an attachment to form GC-042 to list the names and addresses of persons served with that notice who could not be included in the proof of mailing on page 2 of that form.

Copies of forms GC-042, GC-042(MA) and GC-045 are attached beginning at page 5.

Attachments

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY DRAFT 4 05/11/07 Not Approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	CASE NUMBER: _____
<input type="checkbox"/> CONSERVATORSHIP <input type="checkbox"/> GUARDIANSHIP OF THE <input type="checkbox"/> PERSON AND ESTATE OF (Name): _____ <input type="checkbox"/> CONSERVATEE <input type="checkbox"/> MINOR	
NOTICE OF FILING INVENTORY AND APPRAISAL AND HOW TO OBJECT TO APPRAISAL	

1. **NOTICE is given** that (name):

Conservator Guardian of the estate of the above-named conservatee or ward, filed with the court a
 Partial No.: _____ Final Supplemental Corrected Reappraisal for Sale
 Inventory and Appraisal on (date filed): .

2. If you object to any or all of the appraisals shown in the Inventory and Appraisal identified above and want the court to hear your objections, they must be in writing, signed by you under penalty of perjury, and filed with the court. **You must file your objections with the Clerk of the Court at the address stated above for the court no later than 30 days after the date specified in item 1 above.** If you object to a Final Inventory and Appraisal or to an Inventory and Appraisal filed on or after the later of (1) 90 days from the date of the order appointing the conservator or guardian, or (2) the last day of any extension granted by the court for filing the Inventory and Appraisal, you may also object to that Inventory and Appraisal and all others previously filed on the ground that they do not contain an asset that should have been included as an asset of the conservatee's or ward's estate.
3. You may prepare your written objections on **Form GC-045, Objections to Inventory and Appraisal of Conservator or Guardian.** When you file the objections, the court will set a date, time, and place for a hearing on your objections. Unless the court orders otherwise, you then must arrange for someone other than yourself to mail, at least 15 days before the hearing on your objections, copies of your objections and copies of another form, **Form GC-020, Notice of Hearing—Guardianship or Conservatorship,** showing the date, time, and place of the court hearing on your objections, to (1) the conservator or guardian of the estate; (2) the conservatee or the minor (if the minor is at least 12 years of age, if not, to the minor's parents, guardian, or other adult residing with the minor who has legal custody); (3) the spouse or domestic partner of the conservatee or the spouse of the minor; (4) any person who has filed **Form DE-154/GC-035, Request for Special Notice,** in this case; and (5) Any Probate Referee who made an appraisal of an asset to which you object. (You do not have to ask someone to mail copies to you if you are one of the persons listed above.) You must then arrange for the person who did the mailing described above to complete and sign the proof of service on page 2 of the original *Notice of Hearing* and file the *Notice with the court* before the date of the hearing.
4. At the hearing the court will consider and determine the merits of your objections, and may fix the true value of any asset to which you have objected. The court may order an independent reappraisal by one or more additional appraisers at the expense of the conservatorship or guardianship estate, **but if your objection to the appraisal of any asset that the court orders to be reappraised is not upheld by the court, the cost of the reappraisal may be charged to you.**

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



<input type="checkbox"/> CONSERVATORSHIP <input type="checkbox"/> GUARDIANSHIP OF THE <input type="checkbox"/> PERSON AND ESTATE OF (Name): <div style="text-align: right; margin-top: 10px;"> <input type="checkbox"/> CONSERVATEE <input type="checkbox"/> MINOR </div>	CASE NUMBER:
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ATTACHMENT TO NOTICE OF FILING OF INVENTORY AND APPRAISAL AND HOW TO OBJECT TO APPRAISAL

(This Attachment is for use with Form GC-042.)

NAME AND ADDRESS OF EACH PERSON TO WHOM NOTICE WAS MAILED

Name and relationship of person served to conservatee or ward

Address (number, street, city, state, and zip code)

_____ <input style="width:100%; height: 20px;" type="text"/> Relationship: <input style="width:80%; height: 20px;" type="text"/>	<input style="width:100%; height: 50px;" type="text"/>
_____ <input style="width:100%; height: 20px;" type="text"/> Relationship: <input style="width:80%; height: 20px;" type="text"/>	<input style="width:100%; height: 50px;" type="text"/>
_____ <input style="width:100%; height: 20px;" type="text"/> Relationship: <input style="width:80%; height: 20px;" type="text"/>	<input style="width:100%; height: 50px;" type="text"/>
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_____ <input style="width:100%; height: 20px;" type="text"/> Relationship: <input style="width:80%; height: 20px;" type="text"/>	<input style="width:100%; height: 50px;" type="text"/>
_____ <input style="width:100%; height: 20px;" type="text"/> Relationship: <input style="width:80%; height: 20px;" type="text"/>	<input style="width:100%; height: 50px;" type="text"/>
_____ <input style="width:100%; height: 20px;" type="text"/> Relationship: <input style="width:80%; height: 20px;" type="text"/>	<input style="width:100%; height: 50px;" type="text"/>
_____ <input style="width:100%; height: 20px;" type="text"/> Relationship: <input style="width:80%; height: 20px;" type="text"/>	<input style="width:100%; height: 50px;" type="text"/>

Objections to Inventory and Appraisal of Conservator or Guardian

Clerk stamps date here when form is filed.

Conservatorship Guardianship of the Estate of
(Name): _____
 Conservatee Minor

**Draft 5
05/11/07**

**Not Approved by the
Judicial Council**

(You may use this form to object to an Inventory and Appraisal filed by the Conservator or Guardian of the Estate of the person named above.)

1 Your name (include the names of all persons or organizations that are objecting to the Inventory and Appraisal of the Conservator or Guardian described in **5** . All must sign this form.):

- a. _____
- b. _____
- c. _____

2 Your address and telephone number (If more than one name is listed in **1** , choose one address and phone number that will be acceptable for mail and phone calls by all persons or organizations listed):

Street: _____ Apt. or Suite: _____
Mailing address (if different): _____
City: _____
State: _____ Zip: _____ Phone: _____

Fill in court name and street address:

Superior Court of California,
County of _____

Fill in Case Number. When you file this form, the clerk will fill in the hearing date and time, and court department.

Case Number: _____	
Hearing Date and Time: _____	Dept.: _____

3 Your lawyer (if you have one):

Name: _____ Bar No.: _____
Firm Name, if any: _____
Street: _____ Suite: _____
Mailing address (if different): _____
City: _____ State: _____ Zip: _____
Phone: _____ Fax (optional): _____ e-mail (optional): _____

4 Your relationship to Conservatee or Minor (check all that apply to the persons listed in **1**):

- Conservatee or Minor Spouse or domestic partner Conservator or Guardian
- Relative (specify): _____
- Creditor (explain on an attached page titled "Attachment 4," with the name of this case and the case number at the top of the page. You may use **Form MC-025**, Attachment, for this purpose. Your explanation should include the nature and amount of your claim, the date it became or will become due, whether it is contingent, and whether it is now a judgment or the subject of a pending action.)
- Interested person (explain your interest below or on an attached page prepared as described above):



Conservatorship Guardianship of the Estate of

Case Number:

(Name): _____

Conservatee Minor

5 I/We object to the Partial No.: ___ Final Supplemental Corrected

Reappraisal for Sale Inventory and Appraisal filed on (date): _____

by the Conservator or Guardian.

a. I/We object to the entire Inventory and Appraisal because (check all that apply):

(1) The Final Inventory and Appraisal or other Inventory and Appraisal mentioned above and all prior inventories filed do not list or appraise all assets of the conservatee's or ward's estate. The reasons for this objection are stated in c or in the attachment mentioned there. (This objection may be made only to the Final Inventory and Appraisal, or to any Inventory and Appraisal filed on or after the later of (1) 90 days after the date of the order appointing a conservator or guardian, or (2) the last day of any extension to file granted by the court. This objection and these Objections to Inventory and Appraisal of Conservator or Guardian are **not** a petition for an order of conveyance or transfer of property under Probate Code sections 850–859.)

(2) The reasons for my objection to all appraisals contained in the Inventory and Appraisal mentioned above are stated in c or in the attachment mentioned there.

b. I/We object to one or more of the appraisals contained in the Inventory and Appraisal mentioned above for the reasons stated in c or in the attachment mentioned there.

c. The specific grounds, or reasons, for my/our objections to the entire Inventory and Appraisal or the appraisal of particular assets or properties listed in the Inventory and Appraisal are stated on an attached page, titled "Attachment 5." as follows:

All persons named in ① (objectors) and their attorney (if they have one) must read and sign below.

Date: _____
Objector's attorney types or prints name here *Objector's attorney signs here*

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

Date: _____
Objector types or prints name here *Objector signs here*

Date: _____
Objector types or prints name here *Objector signs here*

Date: _____
Objector types or prints name here *Objector signs here*

Item SP07-15 Response Form

Title: Probate: Notice of Filing Inventory and Appraisal, Instructions on Objecting to an Inventory and Appraisal, and Objections to an Inventory and Appraisal (adopt form GC-042, approve forms GC-042(MA) and GC-045).

- Agree** with proposed changes
- Agree** with proposed changes **if modified**
- Do not agree** with proposed changes

Comments: _____

Name: _____ Title: _____

Organization: _____

- Commenting on behalf of an organization**

Address: _____

City, State, Zip: _____

Please **write** or **fax** or [respond using the Internet](#) to:

Address: Ms. Camilla Kieliger,
Judicial Council, 455 Golden Gate Avenue,
San Francisco, CA 94102

Fax: (415) 865-7664 **Attention:** Camilla Kieliger

Internet: <http://www.courtinfo.ca.gov/invitationstocomment/commentform.htm>

DEADLINE FOR COMMENT: 5:00 p.m., Friday, July 13, 2007

Your comments may be written on this *Response Form* or directly on the proposal or as a letter. If you are not commenting directly on this sheet please remember to attach it to your comments for identification purposes.

Circulation for comment does not imply endorsement by the Judicial Council or the Rules and Projects Committee. All comments will become part of the public record of the council's action.