



**Superior Court of California
COUNTY OF ALAMEDA**

July 31, 2024

**Notice to Attorneys and to All Interested Parties:
Invitation to Comment on Proposed Amendments to Local Rules and Forms**

As required by California Rules of Court, Rule 10.613(g), the Superior Court of California, County of Alameda hereby distributes for public comment the attached proposal to amend its local rule.

The proposal also may be viewed [here](#) or [here](#). In addition, a hard copy of the proposal is available upon request by email at pcomments@alameda.courts.ca.gov or by phone at 510-891-6012.

Important dates:

- The last day to comment is **September 16, 2024 at 5:00 p.m.**
- The proposed amendment takes effect upon approval of the Chair of the Judicial Council or on **January 1, 2025**, whichever is sooner.

Text of Proposed Rules and Amendments: *see attached form*

Comments must be submitted in writing to:

Public Comments
Superior Court of California, County of Alameda
1225 Fallon Street, Room 209
Oakland, CA 94612
E-mail: pcomments@alameda.courts.ca.gov

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
SUPERIOR COURT OF CALIFORNIA, ALAMEDA COUNTY BRANCH NAME: Berkeley Courthouse MAILING ADDRESS: 2120 Martin Luther King Jr. Way CITY AND ZIP CODE: Berkeley, CA 94704	
ESTATE OF: _____	
FINAL REPORT OF PERSONAL REPRESENTATIVE & PETITION FOR FINAL DISTRIBUTION ON: <input type="checkbox"/> Account <input type="checkbox"/> Waiver of Account <input type="checkbox"/> Payment of Statutory Fees to <input type="checkbox"/> Personal Representative <input type="checkbox"/> Attorney <input type="checkbox"/> Payment of Extraordinary Fees to <input type="checkbox"/> Personal Representative <input type="checkbox"/> Attorney <input type="checkbox"/> Payment of Reimbursements <input type="checkbox"/> Reserve <input type="checkbox"/> Others (specify): _____	CASE NUMBER: _____ DEPT: _____ HEARING DATE AND TIME: _____

1. Name of petitioner(s): _____

2. Decedent died testate intestate on (date) _____ as a resident of:
 - a. County of Alameda, State of California, or
 - b. County of _____, State of _____, or
 - c. City/Province of _____, Country of _____.

3. Petitioner was appointed as
 - a. Executor
 - b. Administrator with Will Annexed
 - c. Administrator
 - d. Special Administrator with General Powers on (date the Order was signed) _____.

4. Will dated _____ and Codicil(s) dated _____ was/were filed on _____ and admitted to Probate by Order of this court.

5. Letters (JC Form #DE-150) were issued on (date) _____.

6. Petitioner was authorized to administer the estate with full limited authority and without court supervision under the Independent Administration of Estate Act, or no authority. This authority has not been revoked.

7. Bond was waived ordered by this Court in the amount of \$ _____ and filed on (date) _____.
 - a. Bond was sufficient at all times during the course of administration in compliance with CRC 7.501(b) and 7.204.

8. Petitioner's Account, or Report, covers the period of (date of death) _____ through (date) _____.

9. a. **ACCOUNT**

Summary of Account and accounting schedules are attached as *Attachment 9a*.

b. **WAIVER OF ACCOUNT**

All persons entitled to account, including beneficiaries or heirs, waive the requirement of an accounting.

Waivers of Account signed by each beneficiary or heir are submitted herewith will be filed prior to the hearing.

10. a. More than four (4) months have elapsed since the issuance of Letters (JC Form #DE-150) and reasonable efforts were made to identify creditors of the estate. The time for filing and presenting creditor's claims has expired. Notice of the petition to administer the estate and of the death of the decedent has been published for the period and in the manner prescribed by law.

b. Notice of Administration (JC Form #DE-157) was given to all known creditors of the estate within four months after the date Letters (JC Form #DE-150) were first issued or within 30 days after the personal representative first had knowledge of the creditor was not required as there were no known creditors.

11. Other than taxes or creditor claims addressed in this petition, petitioner has no reason to believe that any public entity listed in Prob. Code § 9201 has any basis for making a claim against the estate.

12. a. The decedent did not receive and was not the surviving spouse or registered domestic partner of a person who received Medi-Cal benefits. Notice was not required to be sent to the California Department of Health Care Services.

b. The decedent received or was the surviving spouse or registered domestic partner of a person who received Medi-Cal benefits. Notice required by Prob. Code § 9202(a) was sent to the California Department of Health Care Services on (date) _____, with a copy of the decedent's death certificate and/or a copy of the death certificate of the decedent's pre-deceased spouse or registered domestic partner.

13. a. Petitioner knows of no heir that is or has been confined in a prison or facility under the jurisdiction of the Department of Corrections or the Department of Youth Authority, or is or has been confined in any county jail, road camp, industrial farm, or other local correctional facility to which notice is required under Prob. Code § 9202(b); therefore, no notice is required to be given to the Director of the California Victim Compensation and Government Claims Board.

b. Notice pursuant to Prob. Code § 9202(b) was given to the Director of The California Victims Compensation and Government Claims Board on (date) _____.

14. Notice pursuant to Prob. Code § 9202(c) was given to the Franchise Tax Board on (date) _____.

15. The names and address of all parties entitled to notice, including parties who have submitted a Request for Special Notice (JC Form #DE-154/GC-035), are as follows:

Name	Relationship to Decedent	Address

continued on attachment 15.

16. Petitioner alleges:

- a. The Probate Referee's fee was paid on (date) _____.
- b. All costs of administration incurred to date have been paid, except closing expenses and statutory fees, and the estate is now in a condition to close.
- c. All debts of the decedent and the decedent's estate have been paid.
- d. Cash in interest-bearing accounts:
 - i. At all times during the period of administration, petitioner has kept all surplus cash in interest-bearing accounts.
OR
 - ii. There was no cash to keep in interest-bearing accounts.
- e. No compensation has been paid to the petitioner or attorney without court order.
- f. The estate is solvent insolvent.
- g. Other Allegation(s): _____
 _____ continued on attachment 16.

17. The following Inventory and Appraisal(s) (JC Form #DE-160) have been filed with the court:

Date Filed	Type	Amount
	<input type="checkbox"/> Partial No.: _____ <input type="checkbox"/> Final <input type="checkbox"/> Supplemental <input type="checkbox"/> Corrected/Amended	
	<input type="checkbox"/> Partial No.: _____ <input type="checkbox"/> Final <input type="checkbox"/> Supplemental <input type="checkbox"/> Corrected/Amended	
	<input type="checkbox"/> Partial No.: _____ <input type="checkbox"/> Final <input type="checkbox"/> Supplemental <input type="checkbox"/> Corrected/Amended	
	<input type="checkbox"/> Partial No.: _____ <input type="checkbox"/> Final <input type="checkbox"/> Supplemental <input type="checkbox"/> Corrected/Amended	
<input type="checkbox"/> continued on attachment 17. Total Inventory and Appraisal Value (as corrected if applicable):		

18. Surviving spouse:

- a. There is a surviving spouse (or the personal representative (PR), guardian of the estate (GS), or conservator of the estate (GS) of the surviving spouse):
 - i. The estate consists of entirely a combination of decedent's separate community quasi-community property. You MUST select one box below:
 - 1) A Spousal Election was filed on (date) _____ (within four months after the issuance of Letters pursuant to PC 13502(b)).
 - 2) A Spousal Election will be filed.
 - 3) Not applicable.
- b. There is NO surviving spouse (or PR, GS, or CS of the surviving spouse), OR there is a pour-over Will (testate) or Trust (intestate) and the surviving spouse (or PR, GS, or CS of the surviving spouse) is NOT receiving any direct distribution from the Estate.

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19. a. Petitioner alleges that no family or affiliate relationships exist between petitioner and any agent hired by petitioner during the period of administration.

b. The following family or affiliates were hired:

Name	Capacity Retained	Relationship

continued on attachment 19.

20. a. No Creditor's Claim(s) (JC Form #DE-172) has/have been filed with the court.

b. The following Creditor's Claim(s) (JC Form #DE-172) was/were filed with the court:

Date Claim Filed	Claimant	Amount of Claim	Amount Allowed	Amount Denied	Date Allowed / Denied	Lawsuit filed?

continued on attachment 20.

21. All written demands for payment that were received within four months after Letters (JC Form #DE-150) were first issued or 60 days after the date notice of administration was mailed, were treated as filed claims and paid before the expiration of 30 days after the four-month period, the debts were justly due; the debts were paid in good faith; the amounts paid were the true amounts of the indebtedness over and above all payments and offsets; and the estate is solvent.

22. a. Petitioner did not take any action without prior court approval under the Independent Administration of Estates Act for which a Notice of Proposed Action (JC Form #DE-165) was required.

b. Petitioner took the following action(s) without prior court approval under the Independent Administration of Estate Act for which a Notice of Proposed Action (JC Form #DE-165) was required.

Nature of Action	Date Action was Taken	When & to Whom Notice was Given (Name & Date)	Notice Waived (Name & Date)	Objections Received (Name & Date)

continued on attachment 22.

23. No federal or state estate taxes are due or payable from the estate or by Decedent. All taxes, if any, have been paid.
24. No personal property taxes are due or payable from the estate. All taxes, if any, have been paid.
25. a. No California or federal income taxes are due or payable from the estate. All taxes, if any, have been paid.
- b. A final income tax return will be filed and any taxes due will be paid from the reserve requested at item 27.

26. a. Statutory fees are calculated as follows:

<p>(1) Total Inventory & Appraisal Value _____</p> <p>(2) Receipts* _____</p> <p>(3) Gains on Sales* _____</p> <p>(4) Losses on Sales** _____</p> <p>Total Calculation of Estate (1+2+3-4) _____</p>	<p>4% of the first \$100,000</p> <p>3% of the next \$100,000</p> <p>2% of the next \$800,000</p> <p>1% of the next \$9,000,000</p> <p>½ of 1% of the next \$15,000,000</p>	<p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p style="text-align: right;">Total Statutory Compensation _____</p>
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** If including receipts or gains in fee calculation, schedules must be attached. (Cal. Rules of Court, rule 7.550(b)(6))*

**** Losses, if any, must be included in fee calculation and schedules attached, even if account herein is waived.**

- b. Statutory fee due to petitioner as personal representative is (amount) \$ _____ **WAIVED.**
- c. Statutory fee due to petitioner's attorney is (amount) \$ _____ **WAIVED.**

27. a. Petitioner requests payment of extraordinary fees in the amount of \$ _____.

A Fee Declaration is submitted herewith will be submitted prior to the hearing.
(Super. Ct. Alameda County, Local Rules, rule 7.410.; Cal. Rules of Court, rule 7.702)

b. Attorney requests payment of extraordinary fees in the amount of \$ _____.

A Fee Declaration is submitted herewith will be submitted prior to the hearing.
(Super. Ct. Alameda County, Local Rules, rule 7.410.; Cal. Rules of Court, rule 7.702)

c. Extraordinary Fees pursuant to the Superior Court of Alameda County, Local Rules, rules 7.420 and 7.430 are applicable. Allegations and requests are included in attachment 27.

28. a. Petitioner requests reimbursements for _____

in the amount of \$ _____. All reimbursements are itemized in Attachment 28a.

b. Attorney requests reimbursements for _____

in the amount of \$ _____. All reimbursements are itemized in Attachment 28b.

29. a. Petitioner requests (amount) \$_____ to be reserved for taxes and tax preparation fees, closing expenses, County Recorder fees, other: _____.

Note: If the account herein is not waived and the amount withheld is more than \$5,000, a supplemental accounting for the amount withheld will be required prior to the discharge of the personal representative.

30. The following **preliminary** distribution(s) has/have been made:

Date of Order Authorizing Distribution	To Whom Made	Amount/Asset Distributed	Receipts Filed (Date)

continued on attachment 30.

31. All assets on hand at the end of the report period are listed in Attachment 31, including street address, legal description & APN for real property; specific dollar amounts for cash; and complete description of each individual security/stock, if applicable, in compliance with California Rules of Court, rule 7.651.

32. The first part of the Distribution Plan is as follows:

Total Value of Non-Cash Assets on Hand as listed on Attachment 32: _____

Total Value of Cash Assets on Hand as listed on Attachment 32: _____

Less:

Statutory Personal Representative Fees: _____

Statutory Attorney Fees: _____

Extraordinary Personal Representative Fees: _____

Extraordinary Attorney Fees: _____

Personal Representative Reimbursements: _____

Attorney Reimbursements: _____

Reserve: _____

Miscellaneous Items: _____

a. _____

b. _____

Remaining Assets for Distribution:

A more comprehensive Distribution Plan, in the same format, is included in attachment 32.

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33. a. Petitioner alleges distribution of the estate should be made by **intestate** succession. The names, relationships to decedent, and specific distributions to all heirs are as follows:

continued on attachment 33a.

b. Petitioner alleges distribution of the estate should be made **pursuant to decedent's Will/Codicil(s)**. The dispositive provisions are as follows (*must be verbatim*), including the specific distributions to all beneficiaries:

continued on attachment 33b.

34. Other allegations:

continued on attachment 34.

WHEREFORE, Petitioner prays for an order that:

1. The report and account waiver of account of the personal representative be approved;
2. All acts of the petitioner as personal representative, as reported to the court, be confirmed and approved;
3. Petitioner be authorized and directed to
 - a. Pay to petitioner \$ _____, representing statutory fees;
 - b. Pay to petitioner's attorney (name) _____ the amount of \$ _____, representing statutory fees;
 - c. Pay to petitioner \$ _____, representing extraordinary fees;
 - d. Pay to petitioner's attorney (name) _____ the amount of \$ _____, representing extraordinary fees;
 - e. Pay to petitioner \$ _____, representing reimbursements;
 - f. Pay to petitioner's attorney (name) _____ the amount of \$ _____, representing reimbursements; and
 - g. Withhold a reserve in the amount of \$ _____.

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4. Distribution of the assets of the estate is approved as follows: (Include name and relationship of each heir/beneficiary and description of each asset being distributed. If there is real property, include the address, legal description, and Assessor's Parcel Number.)

continued on attachment A.

5. Omnibus Clause: Distribution of any property of the estate acquired or discovered after the court order for final distribution is made, including any unused portion of the reserve, if any, is approved as follows:

continued on attachment B.

ESTATE OF:	CASE NUMBER:
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6. Other orders:

continued on attachment C.

7. Upon the filing of receipts on distribution and Ex Parte Petition for Final Discharge and Order (JC Form #DE-295), the Petitioner's surety bond will be discharged.

Date: _____

Type or print name of Attorney

Signature of Attorney

VERIFICATION

Verification of Pleading (Code Civ. Proc., § 446)
Declaration under Penalty of Perjury Form (Code Civ. Proc., §§ 446, 2015.5)

I, (Name) _____, declare:

I am the _____ (capacity) in the above-entitled matter.

I have read the foregoing Petition and know the contents thereof.

The same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and, as to those matters, I believe it to be true.

Executed on _____, 20____, at _____ (County, State).

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

Date: _____

Type or print name of Petitioner

Signature of Petitioner

Type or print name of Petitioner

Signature of Petitioner

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address)	FOR COURT USE ONLY
TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	
SUPERIOR COURT OF CALIFORNIA, ALAMEDA COUNTY BRANCH NAME: Berkeley Courthouse MAILING ADDRESS: 2120 Martin Luther King Jr. Way CITY AND ZIP CODE: Berkeley, CA 94704	
ESTATE OF: _____	
ORDER ON FINAL REPORT OF PERSONAL REPRESENTATIVE & PETITION FOR FINAL DISTRIBUTION ON: <input type="checkbox"/> Account <input type="checkbox"/> Waiver of Account <input type="checkbox"/> Payment of Statutory Fees to <input type="checkbox"/> Personal Representative <input type="checkbox"/> Attorney <input type="checkbox"/> Payment of Extraordinary Fees to <input type="checkbox"/> Personal Representative <input type="checkbox"/> Attorney <input type="checkbox"/> Payment of Reimbursements <input type="checkbox"/> Reserve <input type="checkbox"/> Others (specify): _____	DEPT: _____ CASE NUMBER: _____

1. a. Date of Hearing: _____ Time: _____ Dept.: _____ Judge: _____
- b. The following persons were present at the hearing:
- (1) Petitioner(s) (name): _____
- (2) Attorney(s) for petitioner (name): _____
- (3) Other participants (name): _____

THE COURT FINDS:

1. Notice of Hearing has been given as required by law.
2. The allegations in the Petition and filings supporting the Petition are true.

WHEREFORE, THE COURT ORDERS:

1. The report and account waiver of account of the personal representative is approved;
2. All acts of the petitioner as personal representative, as reported to the court, are confirmed and approved;
3. Petitioner is authorized and directed to
 - a. Pay to petitioner \$ _____, representing statutory fees;
 - b. Pay to petitioner's attorney (name) _____ the amount of \$ _____ representing statutory fees;
 - c. Pay to petitioner \$ _____, representing extraordinary fees;
 - d. Pay to petitioner's attorney (name) _____ the amount of \$ _____ representing extraordinary fees;
 - e. Pay to petitioner \$ _____, representing reimbursements;
 - f. Pay to petitioner's attorney (name) _____ the amount of \$ _____ representing reimbursements; and
 - g. Withhold a reserve in the amount of \$ _____.

4. Distribution of the assets of the estate is approved as follows: (Include name and relationship of each heir/beneficiary and description of each asset being distributed. If there is real property, include the address, legal description, and Assessor's Parcel Number.)

continued on attachment 7

5. Distribution of any property of the estate acquired or discovered after the court order for final distribution is made, including any unused portion of the reserve, if any, is approved as follows:

continued on attachment 8

6. Other orders:

continued on attachment 9

7. Upon the filing of receipts on distribution and Ex Parte Petition for Final Discharge and Order (JC Form #DE-295), the Petitioner's surety bond will be discharged.

8. Number of pages attached: _____

Date: _____

Judge of the Superior Court
 Signature follows last attachment