

From the Law Office of AMBER RODRIGUEZ

State of the Probate Court

2013 Presentation by Judge Glen M. Reiser

On March 28, the Estate Planning and Probate Section of our Bar welcomed Judge Glen M. Reiser, the currently presiding probate judge, who presented his annual State of the Probate Court address. As usual, Judge Reiser's presentation was informative, humorous and presented to a standing-room-only crowd. Here are some highlights from his presentation:

1. **Attorney Fees** – Judge Reiser started out by updating us on an item that is always at the top of every attorney's list: attorney fees. Given that most attorney fees in probate matters (including guardianships and conservatorships) are subject to court approval, this is very valuable information. Judge Reiser shared with us that he has increased his "maximum" allowable hourly fee from \$325 to \$340. The fee for any particular attorney is determined by considering their personal experience and expertise.
2. **Local Rules** – Judge Reiser also provided the audience with the next round of proposed changes for our Local Rules. Of particular emphasis were changes that encourage counsel and pro pers to make video appearances, authorization to use either the local or state forms for filing a Care Plan and various bond issues. The bond issues include the absolute requirement that our of state representatives post bond and changes to the local rules which emphasize that the Probate Code guidelines will be strictly enforced.
3. **Changes to filing fees** – Judge Reiser reminded the audience of the following fee changes: (1) increase to \$435 filing fee for most probate petitions (plus one-time fee of \$30 for court reporter services); (2) \$50 fee for lodging a Will; and \$500 filing fee for any Motion for Summary Judgment.
4. **Technology Report** – The audience also learned that Ventura County is falling behind a bit in the technology department. By the end of next year, most counties will have e-filing available. Some of the very few exceptions will be Ventura County, Los Angeles County and Imperial County. Judge Reiser is extremely active in this area and hopes Ventura will catch back up (and begin offering e-filing) soon.
5. **Counsel for Proposed Conservatee** – Judge Reiser shared with us his belief that the court should appoint counsel for a conservatee early in the conservatorship process (a belief he has shared with us on many prior occasions). He believes this is appropriate even when private counsel claims to represent the conservatee. His reasoning behind this position involves the rights that can be affected before a conservatorship is even in place. He believes it is a better protection of due process to appoint counsel (or, in some cases, co-counsel) early in the case and relieve them if it is determined that the proposed conservatee has the capacity to retain their own counsel.
6. **Special Needs Trusts** – The audience engaged Judge Reiser in a discussion involving Special Needs Trusts (SNTs) that are created in civil matters without the Probate Court's involvement. Unfortunately, these SNTs can later become an administrative nightmare. Judge Reiser indicated he would consider a local rule which required the proposed SNTs be presented to the Probate Court for approval before a civil matter could be settled.

7. **Giraldin** – Judge Reiser also briefly discussed the recent California Supreme Court decision in *Giraldin*. He urged practitioners to review the case carefully and be mindful of how it may apply to their clients. Judge Reiser will be joining two other presenters for a panel discussion of the *Giraldin* case at our June presentation.

Judge Reiser's State of the Probate Court presentation is always packed full of helpful hints and timely advice. We appreciate the time he takes to make this annual presentation and we are looking forward to having him update us again next year. We hope you will join us.

Amber Rodriguez is the Chair of the Executive Committee for the Estate Planning and Probate section of the VCBA. Her practice focuses on Probate and Trust Litigation and Administration, Estate Planning and Conservatorships. She can be reached at arodriguez@estateattorneycalifornia.com.