

# From the Law Office of AMBER RODRIGUEZ

## State of the Probate Court

By Amber Rodriguez

In February, the Estate Planning and Probate Section of our Bar was fortunate to have Judge Glen M. Reiser, the currently presiding probate judge, present a State of the Probate Court address. The presentation was not only amusing, but very informative and was given to a standing-room-only crowd. Following the presentation, I was contacted by numerous members of our Bar who, having heard about Judge Reiser's information-packed presentation, asked if we could prepare a summary for those who were unable to join us. Judge Reiser has been kind enough to work with me to put together this summary for you:

1. **CRC 7.575: Reporting requirements for Standard versus Simplified accountings -**  
Although these requirements have not been consistently enforced in the past, the court feels it is necessary and appropriate to have all accountings, from here forward, conform with the requirements of this Rule. If you have an accounting pending hearing, please review your accounting carefully to make sure a supplement is not required to meet CRC 7.575.
2. **CRC 2.104** – The court reminded us that all papers must be printed or typewritten or be prepared by a photocopying or other duplication process that will produce clear and permanent copies equally as legible as printing in type not smaller than 12 points. This includes accountings!
3. **Conservatorship File Reviews** – Judge Reiser actually reads the files and does not rely primarily on the research attorney or investigator's report to make his decision in these matters. Please be certain to file all necessary documents and review those documents carefully to help minimize the need for continuances.
4. **Temporary Conservatorships** – Judge Reiser discussed the process required by statute when a temporary conservatorship is filed. Because of the strain on the already stressed investigator's office, Judge Reiser reminded us that he will only consider temporary conservatorships when there is irreparable harm that may occur. Being able to pay bills in a timely manner is not usually "irreparable harm." The court recognizes there are some case where a temporary is appropriate, but urges us to consider, carefully, whether such a request is truly warranted in our cases.

5. **Professional Fiduciaries** – Recently, the court has been appointing professional fiduciaries on a much more frequently than seen previously. Judge Reiser discussed his views on this issue. He told us that when he sees a private individual who cannot – or will not – account properly, self-dealing, or late accounts; etc. he is inclined to appoint a professional to save the court time and the estate money.
6. **Court-Appointed Attorney for Conservatee** – Judge Reiser prefers to appoint an attorney to serve as the attorney for the conservatee, rather than having an attorney appear and claim to represent the conservatee. His preference is based upon the inherent issues of capacity in a conservatorship. He does not want time and money wasted on the issue of whether a conservatee has the capacity to contract and retain an attorney. In addition, he is concerned about the validity of proceedings where it is later discovered that the conservatee did not have the ability to retain an attorney and was thus left unrepresented during key portions of a proceeding.
7. **Conservator Fees: CRC 7.756** – Conservator’s fees were discussed in relation to the requirements of CRC 7.756. The court asked us to review these requirements and keep them in mind when we make a fee request.
8. **Attorney Fees in Conservatorships** – Judge Reiser wants to make sure we are paid through the date of the hearing when we make a fee request. Please include an estimate of the additional fees that will be incurred, up to and including the hearing on your petition. If additional time is required, you may file a supplement before the hearing, asking for additional fees.
9. **Change of Conservatee’s Residence** – The court reminded us that we are required to give notice *before and after* a conservatee is moved, per Probate Code 2352(e)(1) and CRC 7.1063(e).
10. **60-Day Care Plan** – There is a new MANDATORY judicial counsel form that needs to be used for reporting your 60-Day Care Plan: GC 355. Please remember to use it.
11. **Venue** – Our court is busy enough; please do not use Ventura as a venue for a conservatorship when it belongs somewhere else, even if it more convenient for the attorneys involved.
12. **Guardianships** – Judge Reiser spoke about his strong belief that guardianship estates should not be used to replace a parent’s legal obligation to support their child.

13. **Request for Continuance by Fax** – There was some clarification given in regard to a Request for Continuance made by fax. Judge Reiser believes there is a due process issue when a matter is simply continued without being called at the scheduled hearing. Accordingly, the court will (1) Approve or deny your request and return the Request to you via fax; and (2) Call the matter at the scheduled hearing and continue the matter to the new date from the bench. He reminded us that notice of the new hearing date needs to be given in writing to all person entitled to notice.
14. **Extraordinary Fees** – Judge Reiser wants to see your ordinary time when considering a fee request for extraordinary time. Please submit both items if extraordinary fees are being requested.
15. **Institutional Trustee Fees: CRC 7.776** – Please review the requirements set forth in this Rule. Judge Reiser follows these requirements and considers the items listed when making a decision on a fee request.
16. **Notice on Pour-Over Wills** – Please be certain to follow Probate Code section 1208 requirements when giving notice on a matter with a pour-over Will.
17. **Bond for Out of State Personal Representative** – The court WILL require bond for an out of state representative, so please prepare and petition accordingly.
18. **Proposed Orders** – Please lodge a proposed order with the clerk at the time of filing your Petition, whenever possible. The court’s “J6” email address, which is monitored by the Judge himself, should ONLY be used when the judge specifically directs you to do so.

Unfortunately, we are not able to cover everything discussed at Judge Reiser’s presentation, but this represents a good portion of it. In particular, I am leaving out the details of the Judge’s new method of dealing with “difficult” parties (hint – it involves a voodoo doll). His speech was filled with good information and we certainly hope you will join us next year for his annual State of the Probate Court address.

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