



SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN MATEO
Hall of Justice and Records
400 County Center
Redwood City, California 94063-0965

JOHN C. FITTON
COURT EXECUTIVE OFFICER
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April 3, 2008

The Court is proposing to make changes to its Local Fees and the Local Court Rules. These new changes will become effective on July 1, 2008 when adopted. The court invites you to review and provide your comment on these proposals as required by the State of California Rules of Court, Rules 10.613 and 10.815.

You may send your comments to:

smcomment@sanmateocourt.org

with a subject line stating "Comments on Proposed Fee or Rule changes. Please state the proposal number, the line number of the section on which you are commenting and your comment.

Comments must be received in our office no later than 4 PM, May 15, 2008.

The Proposals are:

- SP08 -01 Proposed Local Court Fee Change for Investigations conducted by Court Investigators in Guardianship or Conservatorship cases

- SP08-02 Amendment to Local Rule 5.6 E. – Family Law Ex Parte Orders, Notice Requirements

Sincerely,
John C. Fitton, Court Executive Officer

A handwritten signature in black ink that reads "Timothy J. Gee".

By: Timothy Gee
Court Rules Committee Staff

PROPOSAL SP08-01:
PROPOSED LOCAL COURT FEE CHANGE FOR INVESTIGATIONS
CONDUCTED BY THE PROBATE COURT INVESTIGATOR

PROPOSAL TO INCREASE THE FEE FOR COURT INVESTIGATIONS BY THE PROBATE COURT INVESTIGATOR FROM \$ 636.00 TO \$ 850.00 PER INVESTIGATION IN CONSERVATORSHIP AND GUARDIANSHIP CASES.

The Superior Court of California, County of San Mateo is proposing to increase the cost for a Court Probate Investigator to conduct its investigation of conservatorship and guardianship cases as required by the changes to the Probate Code over the past 2 years. The Court has not adjusted its cost for performing these investigations since 2002, when it was raised to \$636.00.

In 2006, the Conservatorship and Guardianship Reform Act increased the duties and responsibilities for conservatorship investigations and reviews including investigations of temporary conservatorships, increased noticing, increased mailing of reports, contacting more persons during the investigation, adding new issues that have to be addressed in reports as well as adding new rules and forms that govern the processing of these investigations. All of these changes and newly mandated requirements result in utilizing more time and effort on the part of the court's staff to complete an investigation. Furthermore, current San Mateo County court fees are below fee rates charged by adjoining counties, i.e. San Francisco (\$725), Alameda (\$800, \$500 for temporary) and Santa Clara (\$900).

After an analysis of the caseload, the work that is required in conducting investigations, the new staffing requirements that resulted from the new mandated court functions and overall impact on the court's operations, the Court has determined and thus recommends that the fee charged in San Mateo County to conduct these investigations should be increased to the following amounts:

Description of Service	Current Fee	Proposed Fee
1. Exparte/5-day temporary conservatorship petition investigations. The Court Investigator visits the proposed conservatee and contacts relatives to the second degree and other collaterals within 2 days.	\$0	\$0
2. General conservatorship and relative guardianship petitions. Visits to the proposed conservatee or minor, contacts collaterals within 30 days.	\$636	\$ 850
3. 6-Month Reviews investigations. The CI visits the conservatee and contacts collaterals within 30 days. The report is a shortened format.	\$318	\$ 425
4. Annual Review with or without an accounting: The CI visits the conservatee, contacts collaterals within 30 days, reviews the accounting and a fee assessment of \$636.00 is assessed.	\$636	\$ 850
5. Status Review (This new review becomes effective July 1, 2008): All conservatorships are reviewed every two years with an intervening status review calendared. The report is a shortened format.	\$318	\$ 425
6. Reviews with or without an accounting: The CI visits the conservatee, contacts collaterals within 30 days, reviews.	\$636	\$ 850

1 **PROPOSED LOCAL RULE CHANGE –SP 08-02**

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3 **Rule 5.6 Ex Parte Orders**

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5 ***Sections A. to D. Unchanged.***

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7 **E. Notice Requirements-Generally.** Ordinarily, an ex parte application will not be considered nor
8 an order issued without the following :

- 9
10 1. Give reasonable notice of the filing of the ex parte application to the opposing party so that the
11 party might oppose the application. Reasonable notice is defined according to the California Rules
12 of Court, Rules 3.1203- 3.1204 as notifying all parties no later than 10:00 a.m. the court day before
13 the ex parte is considered by the court. The court may waive this notice requirement in
14 extraordinary circumstances if good cause is shown that imminent harm is likely if notice is
15 provided to the other party.
16
17 2. Absent good cause, the Ex Parte application and all documents in support of the application
18 must be delivered to all of the other parties at the same time when Notice is given, as specified
19 in paragraph E.1 above. Delivery of the documents can be achieved by either personal delivery
20 or facsimile transmission. Delivery of the documents cannot be made by facsimile alone unless
21 there is prior agreement between the parties, which is set forth in the moving party's
22 declaration. If served by facsimile transmission, the moving party shall include in their
23 declaration evidence that the opposing party or their counsel actually received said transmission
24 during normal business hours.
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26 3. The moving party shall notify the opposing party of the specific date, time and location the ex
27 parte application will be submitted to the court.
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29 4. Responding/opposing attorneys or self-represented parties shall submit and serve their written
30 response to the party seeking the ex-parte relief and to the court within 24 hours of receiving
31 notice of the Ex Parte Application. The Court will notify the parties if it requests an expedited
32 response, which may occur in some instances.
33
34 5. Notwithstanding the failure of an applicant to comply with the requirements as set forth in this
35 Rule, the clerk must not reject an ex parte application for filing and must promptly present the
36 application to the appropriate judicial officer for consideration.
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38 ***Sections F. to M. unchanged.***

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40 (Adopted, effective January 1, 2000) (Renumbered *formerly 5.5*) and Amended, effective January 1, 2004) (Amended,
41 effective January 1, 2008) (Amended, effective July 1, 2008)

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43 ***Discussion:*** *These changes are made following a request from the San Mateo County Bar Association's*
44 *Family Law Division. The changes clarify the procedures for serving documents on the opposing party*
45 *so that they will have sufficient time to review and respond to the petition prior to the court hearing.*