

EVERYTHING YOU NEED TO KNOW ABOUT FEE DECLARATIONS

Presented by
Judge Roger L. Lund, Ventura County Superior Court
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I. WHY THE COURT REQUIRES FEE DECLARATIONS

- A. It is the law. (CRC 7.751 & 7.702, etc.)
- B. The Court has a duty to determine reasonableness of fees.
- C. Due to its ever-increasing caseload, the Court cannot spend time analyzing reasonableness of fees with incomplete or disorganized information. Fee declarations that comply with **CRC 7.751 & 7.702** shift the burden to counsel to provide information in a standardized format.

II. FEE DECLARATIONS

A. California Rules of Court, Rule 7.751(b) – *Petitions for orders allowing compensation for guardians or conservators and their attorneys:*

- 1. Petition for allowance of compensation for services performed **before** appointment of guardian or conservator
- 2. **Required showing in petition for allowance of compensation.** All petitions for orders fixing and allowing compensation must comply with the requirements of rule 7.702, and regarding guardianships and conservatorships, it is the best interest of the Conservatee that needs to be considered.

Common Problem:	Fee Declarations do not set forth the elements of CRC 7.702.
Tip:	Make sure your declaration specifically sets out the elements of CRC 7.702(1-4) and attach invoice to satisfy elements (5) & (6).

B. California Rules of Court, Rule 7.702 – *Petition for Extraordinary Compensation.*

The fee declaration/statement of facts must include the following six (6) elements:

- 1. **Nature & Difficulty** of the tasks performed:
 - a) Explain if the tasks were easy, typical or difficult.
 - b) **Examples:** Challenging family dynamic; Challenging since SSI was denied and had to appeal; Required to evict tenants; Competing petitions; Problem with client control.

2. Results achieved:

- a) Good, bad, or neutral. Successfully approved or denied.
- b) **Examples:** Required an SSI appeal that was ultimately denied; Contentious conservatorship appointment that required four hearings; Petitioner successfully appointed on first try.

3. Benefit to the Estate:

- a) Explain how services provided benefited the estate, not the conservator.
- b) **Examples:** Your objections to the accounting reduced opposing counsel's attorney fees; Commenced conservatorship that benefited the conservatee/estate although your client was not appointed; Aided conservator to timely comply with statutes, codes, rules, etc.
 - *Spending 8 hours to prepare a fee declaration is not a benefit to the estate, that is a benefit to the petitioner and their attorney*

4. Specify the amount requested for each category of service performed:

a) **Attorney Category Examples**

Appointment of Temporary Conservatorship	Income Taxes
Appointment of General Conservatorship	Bookkeeping
Competing Appointment Petitions	Financial Administration (Bills/Banking)
Accounting & Fee Petition (and defense of)	Eviction
Pleadings	Medical Supervision
Communications/Correspondences	Care Management
Court hearings	Business Management
Meeting with Counsel	Sale of Business
General Admin Petitions (CP/I&A/SR)	Lease/Real Property Management
Terminating Conservatorship	Sale of Real/Personal Property
Substituted Judgment	Marshalling Assets
Litigation (General/850 Petition)	
Petition for Instructions	

b) **Conservator/Guardian Category Examples**

Appointment of Temporary Conservator	Income Taxes
Appointment of General Conservator	Bookkeeping
Competing Appointment Petitions	Financial Administration (Bills/Banking)
Accounting	Eviction
Pleadings	Medical Supervision
Communications/Correspondences	Care Management
Court hearings	Business Management
Meeting with Counsel	Sale of Business
General Admin Petitions (Marshall Assets/CP/I&A/SR)	Lease/Real Property Management
Terminating Conservatorship	Sale of Real/Personal Property

5. Hourly Rate:

- a) **Rate** of each person performing services
- b) **Hours spent** by each person performing services.

- d) **Example:** Many invoices have a breakdown of name, rate, and time spent. If fees cover more than one invoice, a quick summary is advised.
- Attorney 16.2 hours at rate of \$325 hour totaling \$5,265
 - Paralegal 21 hours at rate of \$150 hour totaling \$3,150

Category	Attorney \$325/hr	Paralegal \$150/hr
Initial Petition	3.0	5.0
Communications	1.2	3.5
General Admin	2.0	3.0
Sale of Residence	3.0	1.5
Substituted Judgment Petition	4.0	2.0
Accounting & Fee Petition	3.0	6.0
Total Hours	16.2	21.0
Total Fees	\$5,265.00	\$3,150.00

6. Describe the services in detail:

- Attach invoice(s).
- Invoices do not have to be broken down by categories. An invoice can just show the dates of service.

Common Problem:	Elements (1)–(4) of California Rules of Court, Rule 7.702 are missing.
Tip:	Make sure your declaration specifically sets out the individual elements (1) nature & difficulty; (2) results achieved; (3) benefit to the estate; and (4) total amount for each category.

C. California Rules of Court, Rule 7.754 – Use of paralegals in the performance of legal services for the guardian or conservator

1. State that a paralegal performed work, rate, hours for each category and qualifications to justify the billing rate.
2. Give facts to show compliance with Probate Code 2642(a).

Common Problem:	Declarations do not state the paralegal’s qualification.
Tip:	Make sure declaration briefly describes the experience of the paralegal, hourly rate, and total hours for each category.

D. California Rules of Court, Rule 7.756(a) – Compensation of Conservators and Guardians

The Court uses the “**just and reasonable**” standard for determining compensation and analyzes the following factors:

1. **Size and Nature** of estate
2. **Benefit** to Conservatee/Ward
3. **Necessity** for the services performed
4. Anticipated **future needs and income** of Conservatee/Ward
5. **Time spent** by Conservator/Guardian in performance of services
6. Were services **routine** or did they require **more than ordinary skill and judgment**
7. Were any **unusual skills, expertise or experience** required
8. Estimate of the **value of the services performed**
9. The **compensation customarily allowed** by the court in the community where the court is located for the management of conservatorship or guardians of similar size and complexity.

E. CURRENT Ventura County Local Court Rule, Rule 10.02(L) – Conservatorship Fees

Conservator’s and Attorney’s fees are governed by **Prob. C. §§2640-2646**, plus the following requirements should be included in the Fee Declaration:

1. **Narrative of services** performed – Brief paragraph summary of the services performed during the period.
2. **Value to the estate** – Explain how service provided benefited estate.
3. **Dates, time spent, specific description of services** performed and hourly rate of person performing the service.
 - a) Attach invoice – should include dates, time spent, specific description of services performed and total cost of services;
 - b) Invoice or declaration should summarize name of person performing work; total hours; rate and total fees for that person.

KMB	\$325	10 hrs	\$3,250.00
ABC	\$180	15 hrs	\$2,700.00
			\$5,950.00

Common Problem: Court-Appointed Conservatee’s Private Counsel do not provide fee declarations or fail to provide enough information for the Court to make an informed decision as to the reasonableness of the fees.

Tip: The Court refers to Local Rule 10.02(L) to guide Court-Appointed Conservatee’s Private Counsel with their fee declarations.

4. The Court will review fee requests on a **case-by-case basis**, considering:
 - a) **Experience**
 - b) **Knowledge**
 - c) **Expertise and professional status** of the attorney or conservator/fiduciary
 - Attorney’s usual hourly rate
 - PPF’s usual hourly rate
 - \$35/hour max for non-registered, non-private professional conservators
 - Flat fees are unacceptable unless approved by the Court

- d) **Difficulty**
- e) **Complexity of the case**
- f) **Responsibility assumed**
- g) **Urgency demanded**

5. The **reasonableness** of the requested fees includes:
 - a) Billing for services that could have been performed at a **lower rate**:
 - Attorney charging a paralegal rate for entering transactions from the bank statements into accounting schedules
 - b) **Sub-contracting** for services at a lower rate that do not require their level of skills:
 - Bookkeeping, transportation, landscaping, or housekeeping
 - Do sub-contractors have SSN, licenses & insurance (do not put the conservatee/estate at risk for a lower price!)

6. Are services provided **excessive** based on the needs of Conservatee?
 - If Conservatee is in a residential care facility, then less conservator hours are expected.
 - Children billing conservatorship estate for “visiting” with parent at nursing home.

7. Are services provided performed **efficiently and economically** in view of the “**size of the estate**”?
 - Accountings on a Blocked Account
 - Paying a lower hourly rate for an inexperienced person (family member) vs. hiring a professional at a higher rate to get job done quickly.

8. Are costs associated with **travel time** allowable and reasonable?
 - Costs charged by private professional for travel from a location outside of Ventura County to Conservatee’s residence within the county are not allowed.

NOTE: *Proposed 2021 Changes to the Local Rule will codify the Conservators, Guardians, and their Attorneys fees to comply with CRC 7.751 and 7.702.*

F. CURRENT Local Court Rule, Rule 10.02(L)(2)(a)(ii) - “Overhead” Costs Disallowed

1. Is the fiduciary/attorney charging the estate for “**overhead**” operating expenses?
2. Overhead Costs **disallowed** absent extraordinary circumstances:
 - a) **Mileage** – not allowed per mile
 - b) **Phone Calls** or **Fax** costs
 - c) **Photocopying** costs

III. AUTHORITY FOR REQUEST FOR FEES

- A. **Prob. C. §2640 – Petition by Conservator of Estate.** Conservator of the Estate may bring a motion requesting compensation for services rendered to that time.
1. After 90 days from issuance of letters, and
 2. I&A's been filed and/or heard, and
 3. 15 days' Notice (GC-020) given to all parties including Conservatee/Ward.

Common Problem: Petition is filed before 90 days from the date of Letters because the wording is confusing and unclear.

Tip: Follow the three (3) points of Prob. C. §2640 set forth above.

- B. **Prob. C. §2640.1 – Person who has petitioned for appointment of Conservator but was NOT appointed.**
1. After 90 days from issuance of letters
 2. Person who petitioned for appointment of a particular conservator
 3. Petitioner who was NOT appointed
 4. May petition the court for attorney fees and reimbursement of costs
 5. IF the court determines the petition was filed in the best interest of the Conservatee.
 - a) If the petitioner's actions facilitated the appointment of a conservator
 - b) Said compensation shall be charged to the estate of Conservatee
 - c) Petition should not be brought to save funds for the future beneficiaries/heirs
- C. **Prob. C. §2641 – Petition by Conservator of Person:** After time permitted in **Prob. C. §2640** and upon Notice, the conservator of the person may petition for an Order allowing compensation for services rendered to that time.
- D. **Prob. C. §2642 – Petition by Attorney:** After time permitted in **Prob. C. §2640** and upon Notice, the Attorney who rendered legal services to conservator may petition for an Order allowing compensation for services rendered to that time.
- E. **Prob. C. §2647 – Attorney Fee:** No attorney fees may be paid from the estate of conservatorship without Court Order.

Common Problem: Attorney takes a retainer from the conservatorship estate.

Tip: Attorney must verify checks/funds are not from conservatorship assets.

Tip: Attorney also needs to determine if Conservator is going to (eventually) seek reimbursement from the conservatorship estate for the (advancement of funds) retainer. If yes, then attorney invoices and fee declaration is required in the reimbursement request.

F. **Prob. C. §1470 – Court Appointed Attorney** – An Attorney appointed by the court to represent the Ward or Conservatee may be entitled to **reasonable** compensation.

- Counsel should refer to Local Rule 10.02(L) as a guide to explain the reasonableness of the compensation requested.

NOTE: *Proposed 2021 Changes to the Local Rule will codify the Conservatee's Court Appointed Private Counsel may request fees either by 1) Noticed motion or 2) by submitting a Fee Declaration with attached invoices and proposed Order for review at an already-scheduled hearing date. It will also require the Conservatee's Court Appointed Private Counsel to comply with CRC 7.751 and 7.702.*

G. **Prob. C. §10810 – Personal Representative's Attorneys** - Compensation of the Attorney for the personal representatives is based on the size of the estate.

H. **Prob. C. §10811 – Extraordinary Services to Personal Representative's Attorneys** – In addition to Prob. C. §10810 compensation, the Court may allow **additional** compensation for **extraordinary services** by the Attorney for the personal representative in an amount the court determines is just and reasonable, including paralegal services.

- **Fee declaration must comply with CRC 7.702 – Petition for Extraordinary Compensation**
- **Must also comply with Local Rule 10.15**

I. **Prob. C. §16247 – Allows Trustees to hire Attorneys.**

J. **Prob. C. §16243 – Authorizes Trustee to pay just and reasonable compensation to the attorneys.**

IV. **ADDITIONAL CONSIDERATIONS**

A. **Conservatorship vs. Trust**

1. Maintain separate time records for Conservatorship vs. Trust.
2. In some instances, time is expended to one or the other.
3. Source of payments are different unless otherwise requested.

B. **Legal Services Fees vs. Costs**

1. Separate out costs and fees as these are reported differently.
2. Costs are not part of the income to the firm.

C. **Attorney Fees**

1. Counsel's failure to comply with the codes, state and local rules, and court direction is taken into consideration when reviewing attorney fees.
2. Supplements are used to explain what the Court required in the first place. Asking for additional fees for preparation of the supplement is frowned upon.
3. Poor work product will result in reduced in fees.
4. No cap on attorney rates. Discounted fees are appreciated.
5. Attorney rate must be reasonable in this community compared to other attorney rates and based on the attorney's knowledge and expertise.

V. CALIFORNIA RULES OF COURT & LOCAL RULES

California Rules of Court, Rule 7.751. Petitions for orders allowing compensation for guardians or conservators and their attorneys

(a) Petition for allowance of compensation for services performed before appointment of guardian or conservator

A petition for allowance of compensation to a guardian or conservator or to the attorney for a guardian or conservator may include a request for compensation for services rendered before an order appointing a guardian or conservator. The petition must show facts demonstrating the necessity for preappointment services.

(b) Required showing in petition for allowance of compensation

All petitions for orders fixing and allowing compensation must comply with the requirements of rule 7.702 concerning petitions for extraordinary compensation in decedents' estates, to the extent applicable to guardianships and conservatorships, except that the best interest of the ward or conservatee is to be considered instead of the interest of beneficiaries of the estate.

California Rules of Court, Rule 7.702. Petition for extraordinary compensation

A petition for extraordinary compensation must include, or be accompanied by, a statement of the facts upon which the petition is based. The statement of facts must:

- (1) Show the nature and difficulty of the tasks performed;
- (2) Show the results achieved;
- (3) Show the benefit of the services to the estate;
- (4) Specify the **amount** requested for each category of service performed;
- (5) State the hourly rate of each person who performed services and the hours spent by each of them;
- (6) Describe the services rendered in sufficient detail to demonstrate the productivity of the time spent; and
- (7) State the estimated amount of statutory compensation to be paid by the estate, if the petition is not part of a final account or report.

Superior Court of California, County of Ventura, Local Rule 10.02(L) FEES

Probate Code §§2640-2646 govern the fees of the conservator and attorney. In addition to these statutory rules, the following apply:

1. In addition to a narrative of the services performed and value to the estate, the petition for fees shall set forth the dates, time spent, specific description of services performed and the hourly rate of the person(s) performing the services.
2. The court will review requests for fees on a case-by-case basis, considering the experience, knowledge, expertise and professional status of the conservator or attorney, as well as the difficulty or complexity of the case, responsibility assumed, and the urgency demanded.
 - a. Principles by which the reasonableness of the requested fees will be reviewed include:
 - (i) Whether conservators have subcontracted for services that do not require their level of skills and which can be billed at a lower hourly rate. These may include bookkeeping, transportation and housekeeping. The appointed conservator shall be responsible to ensure that the sub-contractors have social security numbers and are licensed and insured if operating an automobile during the course of their duties.
 - (ii) Costs for "overhead", including mileage, phone calls and photocopy charges, will not be found to be reasonable absent extraordinary circumstances.

Ventura County Local RULE 10.15 -- EXTRAORDINARY COMPENSATION OF PERSONAL REPRESENTATIVES AND ATTORNEYS

A. The award of extraordinary fees to the personal representative or to the attorney for the personal representative is within the discretion of the court. The court may consider the amount of statutory compensation when awarding compensation for extraordinary services. (*California Rules of Court*, rule 7.703)

B. Application for compensation for extraordinary services must be accompanied by a declaration under penalty of perjury of the facts upon which such application is based. The statement of facts must specify the nature and difficulty of the tasks performed; the results achieved; the benefit of the services to the estate; specify the amount requested for each category of service performed; state the hourly rate of each person who performed services and the hours spent by each of them; describe the services rendered in sufficient detail to demonstrate the productivity of the time spent; and, state the estimated amount of statutory compensation to be paid by the estate, if the petition is not part of a final account or report. (*California Rules of Court*, rule 7.702)

C. The court will allow the following amounts as extraordinary fees for attorneys without further justification or declaration, as would otherwise be required, as indicated above, by *California Rules of Court*, rule 7.702-7.703:

1. Court confirmed sales of real property: \$1,500.00.
2. Attorney prepared Federal Estate Tax Return: \$2,000.00.
3. Attorney prepared Estate Income Tax Return: \$1000.00.

FEE DECLARATION TEMPLATE

Fee Declaration Template

[caption]

I, [NAME], declare:

1. I am [identifying information]. I make this declaration in support of [reference to petition or other purpose]. Statements herein are true of my personal knowledge, except for those stated upon information and belief, which I also believe to be true for the reasons stated.
2. I am the attorney for the [reference party represented] in the above entitled matter. I have been an attorney for [number of years, law school graduated from, etc.] and experience in the area of probate, trusts, conservatorship, estates for [number of years]. [Set forth your experience, knowledge, **expertise and professional status of the attorney or conservator/fiduciary.** Add any additional educations, certifications, or positions that you want to inform the court to justify your fee rate].
3. This declaration describes services I have provided from [beginning date] through [ending date]. I am requesting compensation at the rate of \$[rate] per hour for my services and [specify other rates for each person billing time included in this fee request]. Total compensation requested is \$[total amount], based on [X] hours @ \$[first rate] (\$[subtotal]) plus [X] hours @ [second rate] subtotal \$[total amount].
4. In compliance with California Rules of Court, Rule 7.751 and 7.702, I declare as follows:
 - A. Nature and Difficulty of the tasks performed: [State if the tasks were easy, typical, or difficult, etc and explain why. Explain the complexity of the case and responsibility assumed].
 - B. Results achieved: [State if results were good, bad or neutral and explain why].
 - C. Benefit to the Estate: [Explain how service provided benefited estate].
5. Services for which I am now seeking compensation are summarized in the *categories* as follows [categories are examples only]:

*[The following categories are more typical of **attorney** services than fiduciary services]*

- A. Initial Petition: [Describe services rendered by each person involved.]
- B. Temporary Powers Petition: [Describe services rendered by each person involved.]
- C. General Administration: [Describe services rendered by each person involved.] [Typical activities for this category would be marshalling assets, preparation of inventory and appraisal, investment decisions, bill-paying and account reconciliation. This is by no means an exhaustive list.]
- D. Sale of Residence: [Describe services rendered by each person involved.]
- E. Contested Claim: [Describe services rendered by each person involved.]

- F. Substituted Judgment Petition: [Describe services rendered by each person involved.]
- G. Accounting and Fee Petition: [Describe services rendered by each person involved. In addition, specify amount of time spent preparing this fee declaration and (if declarant is the attorney) amount of time spent preparing client-fiduciary's fee declaration. Time spent should be no more than 1.5 hours]

*[The following categories are more typical of **fiduciary** services than attorney services]*

- A. Initial Case Evaluation and Document Review: [Describe services rendered by each person involved. This would include conferring with fiduciary's attorney, proposed beneficiary of services and/or his/her attorney, and preparation of pleadings prior to appointment.]
- B. General Care Management: [Describe services rendered by each person involved.] [Typical activities for this category would be evaluating care needs, hiring and supervising care providers, client status monitoring and visitation, accompaniment on medical professional office visits, and communications with family members and other interested persons regarding general health and care status, including fiduciary's attorney. This is by no means an exhaustive list.]
- C. General Financial Administration: [Describe services rendered by each person involved.] [Typical activities for this category would be marshalling assets, preparation of inventory and appraisal, investment decisions, bill-paying and account reconciliation, and communications with fiduciary's attorney regarding these matters. This is by no means an exhaustive list.]
- D. Sale or Encumbrance of Property: [Describe services rendered by each person involved.]
- E. Eviction or Other Special Proceeding: [Describe services rendered by each person involved.]
- F. Accounting and Fee Petition: [Describe services rendered by each person involved.]

6. Time spent on each type of service category is summarized as follows:

[Match first column categories to descriptions used in paragraph 4. For example, if using the attorney-type categories (which are only examples, not mandatory), row descriptions would be as follows:]

	Declarant (\$X/hr)	Person #2 (\$Y/hr)	Total
Initial Petition			
Temporary Powers Petition			
General Administration			
Sale of Residence			
Contested Claim			
Substituted Judgment Pet.			
Accounting and Fee Pet.			
Total hours			
Charges			

7. [If paralegal used, give facts to show compliance Probate Code § 2642(a) and California Rule of Court 7.754.]

8. [If attorney/fiduciary has an order for periodic payments pursuant to Probate Code § 2643, state date of order approving periodic payments and the amount allowed. Describe the total amount of periodic payments received and the total amount of outstanding payments being requested at this time].
9. In addition, I am requesting reimbursement for the following costs: \$[total amount] for [specify all services].
[* Note: DO NOT INCLUDE photocopying costs; long distance telephone or fax charges; or mileage. Ventura County Local Rule 10.02(L)(2)(a)(ii).]
10. Attached as an exhibit to this declaration are true and correct copies of the invoices billed to [name of client or matter].

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

Dated: [Date]

[Declarant Name and Office]

ATTORNEY FEE DECLARATION EXAMPLES

1
2
3
4
5
6
7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF Ventura - JUVENILE JUSTICE COMPLEX
10

11 GUARDIANSHIP OF THE ESTATE OF

12 [REDACTED]
13 [REDACTED]

14 Minors.
15

) DECLARATION BY [REDACTED]
) [REDACTED] IN SUPPORT OF
) PETITION FOR PAYMENT OF
) ATTORNEY FEES
)
) Hearing Date: May 11, 2021
) Hearing Time: 9:00 a.m.
) Dept: J6
16

17 I, [REDACTED], declare that if called as a witness in this matter, I could
18 and would testify competently to the matters set forth below:

19 1. I am an attorney at law and duly licensed to practice law before all courts
20 in the State of California, and I am an attorney with the Law Office of [REDACTED]
21 [REDACTED], attorneys of record for the guardian, [REDACTED].

22 2. I am over age eighteen. I have personal knowledge of the facts set forth
23 herein and, if called as a witness, I could and would competently testify to the facts
24 stated herein.

25 3. I am filing this Declaration in support of the request for allowance of fees
26 for services performed on behalf of the by the Law Office of [REDACTED]
27 [REDACTED] contained within the pending petition.

28 4. Nature and difficulty of Tasks. The retained Law Office of [REDACTED]

1 [REDACTED] to represent her in all matters concerning the guardianship
2 proceeding for which advice and assistance of counsel was appropriate. This has
3 included advice regarding the appointment of, marshalling and inventorying the
4 estate assets, the preparation of the account and all other court required filings in this
5 matter, notices, calendaring of all issues, appearance at court hearings, and
6 coordination of all matters involving assets and procedures necessary to the
7 Guardianship.

8 Paralegals managed the Guardianship, gathered and reviewed
9 information relevant to Guardian's estate such as financial statements, drafted and
10 served legal documents, calendared hearing dates regarding accounting requirements,
11 and communicated with the Guardian concerning all aspects and requirements of the
12 Conservatorship.

13 5. Results Achieved. This office prepared a conservatorship accounting court
14 petition for review and approval by the court and prepared declarations and financial
15 documents for court filing. The attached narrative time sheets describe our services in
16 the relevant categories and the amount billed for each service provided.

17 6. Benefit of Services to the Estate. The guardianship matters undertaken
18 resulted in preservation of the assets of the guardianship, allowed for timely court
19 review and approval of all matters during the accounting period.

20 7. Amount requested for each category of service. The attached narrative
21 time sheets describe the services in each relevant category and the amount billed for
22 each service provided.

23 8. Hourly Rate of each person who performed services. Services have been
24 provided by the following persons and their respective hourly billing rate is shown
25 next to their names:

26 [REDACTED], attorney	\$275.-\$300.
27 [REDACTED], attorney	\$275.
28 [REDACTED], paralegal	\$150.

1 [REDACTED], paralegal \$100.

2 In the course of providing legal services, certain services were performed
3 by [REDACTED], an estate planning and probate paralegal. Ms. [REDACTED] is a qualified
4 paralegal under Business and Professions Code §6450(c)(4) based on the following: She
5 has a high school diploma and a minimum of three years-experience under the
6 supervision of an attorney who has been an active member of the State Bar of
7 California for at least the preceding three years. Ms. [REDACTED] is qualified to perform
8 paralegal tasks including managing case files, filing documents with the court,
9 assisting in the collection of data, handling court filings, preparing notices and
10 preparing accountings. Ms. [REDACTED] has met the mandatory continuing education
11 requirements required by Business and Professions Code §6450(d).

12 The total amount requested for the legal services of the attorney and the
13 paralegal does not exceed the amount appropriate if the attorney had performed the
14 services without the paralegal's assistance.

15 9. Description of Services. A detailed description of the services provided by
16 my firm, totaling \$7,377.50 and covering the period, March 22, 2019 through March 10,
17 2021, are attached to this Declaration and are incorporated herein by reference, and
18 invoices are categorized for such services.

19 10. Amount of Compensation Requested. No compensation has been paid to
20 Law Office of [REDACTED] by Petitioner out of the estate for legal
21 services described in this Declaration.

22 In consideration of the time expended, the responsibility assumed, the
23 complexity of the matter, my expertise, the results achieved for the best interests of the
24 Ward and the guardianship estate, and the size of the estate, I believe that \$7,377.50 is
25 reasonable compensation for the services performed and request this Court to approve
26 this petition and direct the guardian of the estate to pay this sum from the
27 guardianship estate.

28 11. I am advised that the guardianship estate is worth approximately

DECLARATION OF [REDACTED] IN SUPPORT OF REQUEST FOR
COMPENSATION TO ATTORNEY

I, [REDACTED], declare as follows:

1. I am an active member of the State Bar of California, and the attorney engaged in the representation of [REDACTED]s, as Guardian of the Estate of [REDACTED], Case No. 56-2016 [REDACTED]-PR-GE-OXN on the docket of the Superior Court of the State of California for the County of Ventura. As such, I am authorized to, and do make this declaration concerning the matters set forth herein below.

2. I have been a practicing attorney for [REDACTED] years. I hold a Masters degree in Taxation. I [REDACTED] of the Board of the Probate and Estate Planning Executive Committee of the Ventura County Bar Association.

3. The invoice for services provided to the Guardianship is attached as Exhibit 1 and incorporated by reference herein. On the invoice each time entry is sorted by date, and reflects whether the services were performed by the attorney or the paralegal, the description of the services rendered, the time spent, and the value of these services based on the applicable hourly rates. My current hourly rate is \$375 per hour. I employ a paralegal to assist me in my work. My paralegal's hourly rate is \$180 per hour. A total of 18.90 hours were devoted to the Guardianship for a total of \$5,800.50 in fees.

4. Paralegal [REDACTED] performed services in this case. Ms. [REDACTED] holds a law degree in [REDACTED] a degree in Paralegal Studies. She has performed specialized legal services in probate, trusts and estate planning for over 4 years. Ms. [REDACTED] is in full compliance with the continuing education requirements pursuant to California Business and Professions Code 6450, *et. seq.*

5. The paralegal services rendered in these matters involved legally substantive work conducted under the supervision of an attorney who maintained a direct relationship with the client, supervised all delegated work, and had complete professional responsibility for work product. The use of a paralegal in this matter provided the client with the cost-effective delivery of legal services.

6. As required by California Rules of Court, each category of service set forth below sets forth (1) the nature and difficulty of the task performed, (2) the results achieved, (3) the benefit to the estate, (4) the amount requested for each category, (5) the hourly rates of each

1 person who performed the services and the hours spent by each of them, and (6) describes the
 2 services rendered to demonstrate the productivity of the time spent.

3 a. The nature and difficulty of the task performed: My firm's representation
 4 of [REDACTED] during this time period consisted of ordinary services of the preparation of the
 5 second, third and final accountings. The tasks are required and considered part of the ordinary
 6 guardianship administration. The Guardian is required to file accountings with the court as part
 7 of her fiduciary duties.

8 b. The results achieved: The Guardian's second accounting was approved by
 9 the court.

10 c. The benefit to the estate: The services provided enabled the Guardian to
 11 fulfill her fiduciary duties and court requirements.

12 d. The amount requested for each category, the hourly rates of each person
 13 who performed the services and the hours spent by each of them, and the services rendered to
 14 demonstrate the productivity of the time spent are as follows:

Category	Time	Hourly Rate	Amount
Attorney:			
Second accounting including court appearance	5.50	\$375	\$2,062.50
Third and final accountings including court appearance and finalization of distributions	6.80	\$375	\$2,550.00
Paralegal:			
Second accounting	3.70	\$180	\$666.00
Third and final accountings	2.90	\$180	\$522.00
Total:	18.90		\$5,800.50

21 7. The reasonable value of all legal services I rendered to the Trust
 22 Conservatorship is \$5,800.50. In addition, I request reimbursement of costs advanced in the
 23 amount of \$6.70.

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

26 DATED: July 31, 2020

Law Offices of [REDACTED]
 By: [REDACTED]
 Attorney for [REDACTED]

1 qualified paralegals offers value and economy to our clients, while maintaining an excellent
2 work product.

3 (5) The amount that would have been charged to our client would have increased by
4 [REDACTED] per hour for the 12.2 hours billed for those hours by the paralegal. Time spent
5 administering the conservatorship estate was billed at the average rate of \$279.59 per hour
6 only. Declarant submits these fees are reasonable based on the experience, reputation, ability
7 and/or other factors used in determining the reasonableness of a fee.

8 **8. Description of services:** The detail of services is contained in the time records
9 attached to this Declaration. Each time entry reflects actual time spent.

10 **9. Amount of compensation requested:** All services provided in this matter total the
11 amount of [REDACTED].

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

14 Executed this 9th day of December, 2019.

15 [REDACTED]
16 [REDACTED]
17 [REDACTED]

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 FOR THE COUNTY OF VENTURA

9 In Re
10 The Conservatorship of

11 [REDACTED]

12 Conservatee.

) CASE NO. 56-2011-00401854 PR CE OXN

) Supplemental Declaration of Attorney
) Pursuant to California Rules of Court,
) Rule 7.754 and Rule 7.703, Regarding
) Use of Paralegal

13 Date December 10, 2019
14 Time 9:00 a.m.
15 Dept. J-6

16 I, [REDACTED], state and declare:

17 1. I am an attorney at law duly admitted to practice before all of the Courts of the
18 State of California and a partner with the law firm of [REDACTED]
19 [REDACTED], A Professional Corporation, attorneys of record for [REDACTED]
20 [REDACTED], the Conservator of the Estate of [REDACTED], Conservatee.

21 2. I have personal knowledge of the facts set forth in this Declaration and, if called
22 as a witness, could and would testify competently thereto.

23 3. **Nature and difficulty of tasks:** The actions taken on behalf of this firm include
24 the following: Advise the Conservator regarding legal issues and court requirements;
25 Preparation of a court petitions to approve the accountings of conservator, status reports,
26 notices, declarations and Orders; Calendar all required matters; Appearance at court hearing on
27 the accounting matter; Prepare and file all required forms with the court to accompany the
28 court petitions/documents; Coordination of matters involving the estate of the Conservatee

FRI

1 with the Conservatorship of the person of the Conservatee regarding payment of care for the
2 Conservatee and for his living expenses; Coordination of all matters involving assets and
3 procedures necessary to the Conservatorship.

4 **4. Results achieved:** This office prepared conservatorship accounting court petition for
5 review and approval by the court; coordinated the status reports for the Conservator of the
6 person; and prepared various declarations and financial documents for court filing. Good
7 communication was accomplished due to attorney intervention and coordination of the division
8 of duties between the Conservators of the person and estate. The attached narrative time sheets
9 describe our services in the relevant categories and the amount billed for each service provided.

10 **5. Benefit of Services to the estate:** The Conservatorship matters undertaken resulted
11 in preservation of the assets of the Conservatorship, allowed for timely court review and
12 approval of all matters during the accounting period.

13 **6. Amount requested for each category of service.** The attached narrative time sheets
14 describe the services in each relevant categories and the amount billed for each service
15 provided.

<u>Category</u>	<u>Services Provided</u>	<u>Time</u>	<u>Amount</u>
1	Preparation of Petitions, Status Reports, Declarations, Notices, Orders and Court Calendaring, Overseeing files	16.4 hours	\$4112.00
2	E-mails, Telephone calls and Correspondence to Client, Conservator	3.1 hours	\$1,078.00
3	E-mails, Telephone calls and Correspondence to other parties, public defenders office and interested parties	2.7 hours	\$ 806.00
4	Court Appearances	2.1 hours	\$ 798.00
		Total 24.3 hours	\$6,794.00

25 **7. Hourly Rate of each person who performed services:** Services have been
26 provided by the following persons and their respective hourly billing rate is shown next to their
27 names: Attorney, [REDACTED], ([REDACTED]); and Certified Paralegal, [REDACTED]
28 (BPR \$180).

7 Santa Barbara. [REDACTED] completed a course of study in Legal Assistantship at the University
8 of California at Santa Barbara and received her certificate in Legal Assistantship in 1992. She
9 has been employed by [REDACTED] since
10 November, 1988. Mrs. [REDACTED] is certified by the National Association of Legal Assistants, Inc.
11 as a certified paralegal.

12 (A) [REDACTED] has acted under the supervision of an attorney in all work
13 that was performed in this matter.

14 (B) [REDACTED] has completed all qualifications specified in Business and
15 Professions Code Section 6450(c). She has completed 1) a paralegal program approved by
16 the American Bar Association, received a certificate of completion from a paralegal program
17 and maintains her status as a paralegal certified by the National Association of Legal
18 Assistants; (2) has received a baccalaureate degree; and (3) has received a high school diploma.

19 (C) [REDACTED] has completed all mandatory continuing education required
20 by Business and Professions Code section 6450(d) for the last two-year certification period
21 ending before the year during which any part of the work in this matter was performed.

22 (2) [REDACTED] has spent 12.2 hours in this matter and her hourly rate is \$180.00
23 per hour.

24 (3) Services performed by the paralegal include preparation of court petitions, order,
25 calendaring matters, coordination of filings and communication with client.

26 (4) Work performed by certified paralegals can be billed at a rate substantially lower
27 than that of an attorney and the clients receive services at a high level of competency. Our firm
28 offers an exceptional quality of work to our clients by using certified paralegals. Use of

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF VENTURA
JUVENILE JUSTICE COMPLEX

In Re the:

[REDACTED]
IRREVOCABLE TRUST OF 2013.

Case No.: 56-[REDACTED] PR-TR-OXN

DECLARATION OF [REDACTED]
[REDACTED] IN SUPPORT OF REQUEST FOR
PAYMENT OF ATTORNEY FEES.

[Cal. Rules of Court 7.903(c)(8), 7.702,
7.703(e), 7.751, 7.754]

Date: August 25, 2020
Time: 9:00 a.m.
Dept: J6

The undersigned, [REDACTED], does hereby declare as follows:

1. I am an attorney, duly licensed to practice before all courts in the State of California

[REDACTED],
attorneys of record for Petitioner [REDACTED]. If called upon to do so, I could and would
testify, competently and of my own personal knowledge, to the following.

2. This declaration is intended to fulfill the requirements of California Rule of Court
7.754, requiring court approval for payment of professional fees associated with trusts funded by
court order. This declaration is modeled upon California Rule of Court 7.751, allowing compensation
for guardians or conservators and their attorneys. As required, reference is made to California Rule
of Court 7.702 (petition for extraordinary compensation in an administration for probate of an estate),

1 except that the statement of facts made herein addresses the best interest of the beneficiary of the
2 trust, instead of the interest of beneficiaries of the estate [Cal. Rule of Court 7.751(b)].

3 **Nature and Difficulty of Tasks Performed; Productivity of Time Spent [CRC 7.702(1),**
4 **7.702(6)]**

5 3. The services rendered in this matter were those required to finalize, file and serve the
6 third biennial account and report of the Trust estate ending in mid-2018; to prepare the instant fourth
7 biennial account current and report of the trustee, including communicating with the trustee and her
8 staff; and, for the Conservatorship matter, discussions regarding major neurocognitive disorder
9 powers, beneficiary's/conservatee's current status and placement in a skilled nursing facility, and
10 completion of a Post-Move Notice and 2020 Status Report. The tasks performed were of a nature
11 typical for a special needs trust matter and conservatorship and were all necessary to maintain my
12 client's compliance with her duties as trustee and conservator. Some of the tasks were of a more
13 complex nature, but the difficulty level was of a nature that allowed much of the work to be performed
14 by my legal assistant at her lower hourly rate.

15 **Results Achieved [CRC 7.702(2)]**

16 4. My staff and I achieved positive and successful results for the Trust and the
17 Conservatorship by the performance of our services. All local and state probate code duties have
18 been fulfilled and the estate has been protected and properly invested due to my guidance.

19 **Benefit of the Services to the Estate [CRC 7.702(3)]**

20 5. The services performed benefitted the Trust estate and the Conservatorship. All assets
21 are prudently invested, and the investment portfolio has been determined based upon the beneficiary's
22 age and needs. The current Trust accounting has been prepared in full compliance with the code, and
23 clearly reflects the transactions, investments and performance of the estate, along with the
24 professional guidance provided by my office.

25 **Amount Requested for Each Category of Service Performed [CRC 7.702(4)]**

26 6. As set forth in detail in the fee histories attached hereto as "Attachment 1 (Trust)" and
27 "Attachment 2 (Conservatorship)", the following categories of tasks were performed in these matters:
28 (1) Settlement of the Third biennial Account and Report (2016-2018), including finalizing the third

1 account, report, fee declarations and exhibits, court filing and service of documents, preparation for
 2 hearing and proposed court order; (2) preparation of the instant Fourth biennial Account and Report
 3 (2018-2020), including gathering information, accounting, drafting report and declarations and
 4 review; and, (3) regarding the Conservatorship matter, general administration, discussions re powers,
 5 status and placement of beneficiary/conservatee, preparation and filing of the Post-Move Notice and
 6 2020 Status Report. The amounts requested for each category of attorney and paralegal services
 7 performed is:

		Hours	Amount
9 (1) Settlement of Third Account and Report re <u>Trust</u> (2016-2018):	Paralegal	15:06	2,793.50
	Attorney	1:15	468.75
10 (2) Preparation of Fourth Account and Report re <u>Trust</u> (2018-2020):	Paralegal	24:36	4,551.00
	Attorney	<u>0:45</u>	<u>281.25</u>
	<i>Subtotal</i>	41:42	8,094.50
13 (3) <u>Conservatorship</u> , Post-Move and Status Report:	Paralegal	0:12	37.00
	Attorney	<u>3:30</u>	<u>1,218.75</u>
	<i>Subtotal</i>	3:42	1,255.75

16 **Hourly Rate of Each Person Performing Services; Hours Spent By Each of Them [CRC**

17 **7.702(5)**

18 7. Services were performed in this matter by legal assistant [REDACTED]
 19 and me. Ms. [REDACTED] hourly rate is \$185, and my hourly rate is \$375. The hours spent
 20 by each of us is:

	<u>Hours</u>	<u>Amount</u>
22 [REDACTED]	5:30	\$1,968.75
23 [REDACTED]	39:54	\$7,381.50
	45:24	\$9,350.25

25 **Qualifications of Each Person Performing Services**

26 8. 2020 marks my [REDACTED] year practicing law. I am a Specialist in Estate Planning, Probate
 27 & Trust Law, as certified by the State Bar of California, Board of Legal Specialization and hold a
 28

1 degree for Master of Science (Taxation). [REDACTED]
2 [REDACTED]
3 excellence. I am [REDACTED] of the Ventura County Bar Association, a [REDACTED]
4 [REDACTED]
5 [REDACTED] I am also a member [REDACTED]
6 Committee for the Ventura County Bar Association. At the request of the serving probate judge in
7 Ventura County, I have served as Judge Pro Tempore for the Ventura County Superior Court for over
8 a decade. [REDACTED]

9 [REDACTED]
10 [REDACTED]. I regularly present courses for continuing legal education in the areas of estate
11 planning, probate and trust administration, and special needs trusts. [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]

15 9. [REDACTED] is a paralegal with [REDACTED]. She holds an Associate of
16 Arts degree and a Paralegal Certificate issued in June 1981. She has performed specialized legal
17 services in probates and trusts, estate planning, estate taxation, real estate and other areas of law for
18 over [REDACTED] years. Ms. [REDACTED] is in full compliance with the continuing education
19 requirements pursuant to California Business and Professions Code section 6450, et. seq.

20 10. A detailed description of the services provided by Ms. [REDACTED] and me in
21 each category, and the hours spent on each category, is attached hereto as Attachment 1 and
22 incorporated herein by reference. My services are designated by my timekeeper nickname of [REDACTED]
23 and Ms. [REDACTED] is identified as [REDACTED].” In some cases, certain tasks were not billed to the
24 client and are indicated at “no charge.”

25 Estimated Amount of Statutory Compensation – NOT APPLICABLE

26 Use of Paralegals In Performance of Legal Services for the Guardian or Conservator

27 11. The paralegal services rendered in this matter by Ms. [REDACTED] involved
28 legally substantive work conducted under the supervision of an attorney who maintained a direct

1 relationship with the client, supervised all delegated work, and had complete professional
2 responsibility for work product. The use of Ms. [REDACTED]'s services provided the client with
3 the cost-effective delivery of legal services.

4 12. While I might have spent less time than Ms. [REDACTED] on the services she
5 provided, the total amount incurred would likely be more, since my hourly rate is higher than her
6 lesser rate. Therefore, the amount for paralegal services in this matter is less than had I performed
7 those same services without Ms. [REDACTED]'s assistance.

8 Conclusion

9 13. Based on the above statement of facts and the detailed summaries and descriptions
10 incorporated herein, I request total compensation for legal services rendered be awarded in the
11 amount of \$ [REDACTED]

12 14. We will be advancing costs for the court filing fee of \$465.00 for the instant petition
13 and court charges and attorney service fees of \$40.50 to file the instant petition, notice of hearing and
14 notice of ruling, in the total anticipated amount of \$505.50.

15 15. Therefore, the total amount requested for payment of fees and costs in this matter is
16 \$ [REDACTED]

17 I declare under penalty of perjury under the laws of the State of California that the
18 foregoing is true and correct and that this declaration was executed on July 14, 2020.

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[REDACTED]
[REDACTED] Declarant

FIDUCIARY FEE DECLARATION EXAMPLES

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SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF VENTURA

IN THE MATTER OF

) Case No.: 56-██████████-PR-CP-OXN

THE CONSERVATORSHIP OF THE
PERSON AND ESTATE OF ██████████

)
)
)
) DECLARATION OF ██████████
) ██████████ IN SUPPORT OF PETITION
) FOR FEES AS CONSERVATOR

██████████

CONSERVATEE.

I, ██████████, declare:

1. I am the Conservator of the Person and Estate of ██████████, Case No. 56
2019-██████████-PR-CP-OXN on the docket of the Superior Court of the State of California for
the County of Ventura. As such, I am authorized to, and do make this declaration concerning the
matters set forth herein below.

2. Portions of the following are based on knowledge acquired from reviewing files
and records and documents of my office which are maintained in the ordinary course of business
at or about the time the event noted occurred. I have possession or control over the documents
and records on which the facts set forth herein are based. I have personal knowledge of the facts
set forth herein, and, if called as a witness in this action, I could and would competently testify to

1 all matters set forth herein of my own knowledge.

2 **3. Request for Conservator's Compensation under California Rules of Court**
3 **7.756:** I was appointed as Conservator of the Person and Estate of [REDACTED] by order of
4 the Court dated [REDACTED] 2020. The period covered by this request for fees rendered on
5 behalf of the conservatorship is for the time the period of February 21, 2020 through February
6 17, 2021. Attached hereto as Exhibit 1 is a detailed itemization for the conservatorship of the
7 services provided and the time spent on the activities broken down in the categories of Initiating
8 Conservatorship, Marshalling Assets, Expense Management, Bill Pay, Accounting, and Tax
9 Prep. The total time spent on the conservatorship was 73.05 hours and I am requesting
10 compensation at \$[REDACTED] per hours. My total fee request is [REDACTED]. I address California Rules of
11 Court 7.776 as follows:

12 a. The size and nature of the Conservatee's estate (Rule 7.756 (a)(1)): The
13 Conservatee's estate originally consisted of her primary residence and a bank account. These
14 assets were not titled in the name of the Trust.

15 b. The benefit to the Conservatee or her estate of the Conservator's services
16 (Rule 7.756 (a)(2)): It was necessary to move the Conservatee into a nursing home. In order to
17 obtain a lower interest rate on the small mortgage that encumbered the Conservatee's primary
18 residence and to avoid probate, I instructed by attorney to file a substituted judgment petition so
19 that the primary residence would be transferred into the Trust. The fair market value of rental
20 properties in Westlake Village is very high, so I decided to prepare the home to rent. The home
21 had a great deal of deferred maintenance and other problems that had been neglected for years. I
22 undertook to move the Conservatee's personal belongings into storage and initiated the work to
23 the home. I entered into a 12-month lease at [REDACTED] per month, increasing the Conservatee's
24 annual income by [REDACTED].

25 c. The necessity for the services performed (Rule 7.756 (a)(3)): All of the
26 services were necessary and for the exclusive benefit of the Conservatee.

27 d. The Conservatee's anticipated future needs and income (Rule 7.756(a)(4)):
28 It is anticipated that the Conservatee will remain at [REDACTED] as she requires 24/7 care. The
Conservatee's monthly income consists of social security. Pension and rents in the amount of
[REDACTED]. Her monthly income is almost enough to pay her monthly nursing home charges. Any
shortfall will be provided through her trust estate for which I am the Trustee.

1 e. The time spent by the Conservator in the performance of services (Rule
 2 7.756 (a)(5)): In providing services in the conservatorship, my time can be divided into the
 3 following categories: initiating the conservatorship, administration of the conservatorship,
 4 marshalling assets, asset management, bill pay, Conservatee's care, accounting and tax
 5 preparation. The time spent on each category is as follows:

6 <u>Category</u>	<u>Time</u>	<u>Fees</u>
7 Initiating the Conservatorship	4.0	\$200.00
8 Administration	15.25	\$762.50
9 Marshalling Assets	5.5	\$275.00
10 Asset Management	37	\$1,850.00
11 Bill Pay	8.3	\$415.00
12 Conservatee's Care	1.0	\$50.00
13 Accounting	1.0	\$50.00
14 <u>Tax Preparation</u>	<u>1.0</u>	<u>\$50.00</u>
Total	73.05	\$3,652.50

15 f. Whether the services performed were routine or required more than
 16 ordinary skills or judgment (Rule 7.756 (a)(6)): Some services were routine, such as opening a
 17 conservatorship account, and some services required more than ordinary skills and judgment,
 18 such as coordinating the Conservatee's estate plan with asset management and preparing the
 19 home for rent.

20 g. Any unusual skill, expertise, or experience brought to the performance of
 21 services (Rule 7.756 (a)(7)): I was an attorney licensed to practice law in the state of California
 22 from 1998 until 2002. I no longer practice law but my law degree brought expertise and
 23 experience to the performance of my services as the Conservator.

24 h. The Conservator's estimate of the value of the services performed (Rule
 25 7.756 (a)(8)): In consideration of the time expended, the responsibility assumed, the complexity
 26 of the matter, my expertise, the results achieved for the best interest of the Conservatee, I believe
 27 that \$3,652.50 is reasonable compensation for the services performed.

28 i. The compensation customarily allowed by the court in the community
where the court is located for the management of conservatorships of similar size and complexity
(Rule 7.756 (a)(9)): Given my legal background, I believe the hourly rate of [REDACTED] is reasonable

1 given the complexity of this conservatorship and the results achieved.

2 4. No payments have been made to me for services rendered to or on behalf of the
3 conservatorship during this first accounting period. Therefore, I request payment in the total sum
4 of [REDACTED] for all services rendered to and on behalf of the conservatorship during the first
5 accounting period.

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

8 DATED: April 5, 2021

9 [REDACTED]
10 CHRISTIAN C. CASPARINI
11 Conservator of the Person and Estate of
12 [REDACTED]
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