

SANTA CLARA COUNTY SUPERIOR COURT'S

SELF HELP CENTER & FAMILY LAW FACILITATOR'S OFFICE



Presented By:
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Staff Attorney

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OVERVIEW OF SERVICES

- Assist self-represented litigants (SRL)
 - No income qualification
- Family law, some civil and probate
 - Issue qualification
- Office:
 - Located at Family Justice Center Courthouse, 201 North First Street, San Jose
 - Main office, Restraining Order Help Center, Day of court services, Email/Mail/Phone/Live Chat



STAFFING AND STATS

- 1 Supervising Attorney
- 8 Staff Attorneys
- 3 Court Specialists
- over 45,000 litigants assisted yearly
 - 95% family law
 - Hispanic, Caucasian, other
 - English, Spanish, Vietnamese, other
 - Male/female-roughly the same ratio
 - DVRO 80% female



HOW CAN I GET HELP?

- Remote Assistance:
 - Phones, Live Chat, Email, Snail Mail
Mondays, Wednesdays and Thursdays
(8:30 am to 1:30 pm)
 - Appointments (Virtual and In-person)
 - Agreements Complex ADA
 - Workshops (Online)
 - Dissolution Financial Disclosures
 - Parentage Judgment
 - Limited Conservatorship

HOW CAN I GET HELP?

(Continued)

- In Person Assistance:
- Restraining Order Help Center
 - Domestic Violence
 - Civil Harassment
 - Elder Abuse
- Emergency Custody
- Emergency Guardianship
- Emergency Eviction

HOW CAN I GET HELP?

(Continued)

- Family Court Clinic
 - Day of court services
 - Judicial support
 - Case review
 - Agreements
 - Hearing preparation
 - Support calculations
 - Orders

COLLABORATIVE PROJECTS

- Pro Bono Project
 - Free legal advice clinics for victims of DV
 - Day of court mediation and settlement services
- Santa Clara University School of Law
 - Katharine and George Alexander Community Law Center
 - Attorney and supervised law students
 - Collections and other consumer related issues
 - Free legal advice and representation



COLLABORATIVE PROJECTS

(Continued)

- Courthouse DV victim advocates



HELPFUL RESOURCES

- Superior Court's website
 - www.scscourt.org
- Judicial Council of California
 - www.courts.ca.gov

What is a Limited Conservatorship?

- Limited conservatorships are set up to assist adults with developmental disabilities who are unable to provide for all their personal needs. A limited conservator's duty is to help the limited conservatee develop maximum self-reliance and independence.

What is a Limited Conservatorship - Cont'd

- Limited Conservatorships help the conservator to:
 - Make medical decisions and access records of the conservatee
 - Determine where the conservatee will live
 - Access confidential records of conservatee
 - Control the conservatee's ability to enter/sign contracts with others
 - Possibly make other decisions for the conservatee about educational, social, and vocational matters

What Can be considered a Developmental Disability

- Under Probate Code Section 1420:
 - “Developmental disability” means a disability which originates before an individual attains age 18, continues, or can be expected to continue, indefinitely, and constitutes a substantial handicap for such individual. As defined by the Director of Developmental Services, in consultation with the Superintendent of Public Instruction, this term includes **intellectual disability, cerebral palsy, epilepsy, and autism**. This term also **includes handicapping conditions found to be closely related to intellectual disabilities** that require treatment similar to that required for intellectual disabled individuals, but **does not include other handicapping conditions that are solely physical in nature**.

Limited Conservatorship Terminology

Conservator: You. The person who helps the conservatee retain their maximum independence. This person has duties and responsibilities concerning the conservatee.

- Spouse or domestic partner
- Adult child
- Parent
- Sibling
- Any other person the law says is okay
- Public Guardian

Conservatee: the person who needs help with medical, legal, educational, etc... decisions.

Petitioner: The person who starts the conservatorship case. Can also be a conservator (and typically is).

- The spouse or domestic partner of the proposed conservatee;
- A relative of the proposed conservatee;
- Any interested state or local entity or agency;
- Any other interested person or friend of the proposed conservatee; and
- The proposed conservatee, himself or herself.

Difference between *Limited* vs. *General* Conservator

- **Limited Conservator:** The judge gives a limited conservator authority to take care of specific aspects of the conservatee's life and no others; the limited conservator's Letters of Conservatorship list the exact areas in which he or she is authorized to act.
- **General Conservator:** The general conservator has authority to take care of a broad range of the conservatee's needs; the general conservator's Letters of Conservatorship won't list all of the many areas in which the or she is authorized to act but will specify only special powers or limits on that authority

Conservator's Powers

Because adults with developmental disabilities can usually do many things on their own, the judge will only give the limited conservator power to do things the conservatee cannot do without help. The conservator may ask the court for the powers to:

- 1.To fix the residence or specific dwelling of the limited conservatee.
- 2.To have access to the confidential records and papers of the limited conservatee, including, but not limited to, Regional Center documents and school records.
- 3.To control the right of the limited conservatee to contract.
- 4.To give or withhold consent to medical treatment for the limited conservatee.
- 5.To make decisions concerning the limited conservatee's education.

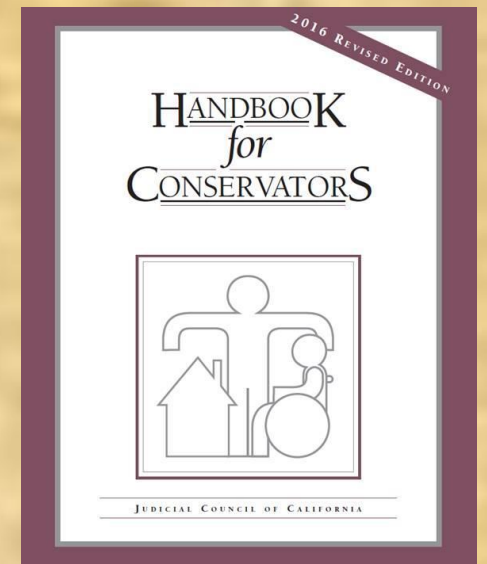
Conservator's Duties

Duty to help develop the limited conservatee's self-reliance

Overall, a limited conservator's responsibility is to help the limited conservatee develop maximum self-reliance and independence. A limited conservator must get treatment, services, and opportunities to help the limited conservatee become as independent as possible. This can be:

- Training or education,
- Medical and psychological services,
- Social opportunities,
- Vocational opportunities, and
- Other appropriate help.

**Handbook for Conservators <http://www.courts.ca.gov/documents/handbook.pdf>.



Frequently Asked Questions

Why is there only 1 petitioner when I want 2 or more conservators?

- Answer: Only one person needs to start the case and more people can be added as conservators.

How many conservators should be listed?

- Answer: It depends on your situation. About 2 to 3 is average, but not necessary.

What happens if I do not agree with the other proposed conservators?

- Answer: To settle disagreements amongst conservators a court hearing would be needed. All conservators have equal rights and equal standing.

Frequently Asked Questions Cont'd

Why is the same information repeated on my forms?

Answer: Some papers in your packet will be removed and will go different places. It will not stay together and the information must be on the required pages.

1st, you're asking for what you want the Court to order.

2nd, you are filling out a proposed Order for the Judge to sign at the hearing (you're filling it out the way YOU want the orders).

Why do some pages only ask for one signature, and others ask for everyone to sign?

Answer: Some pages only ask for the Petitioner's signature, and others will ask for all appointees (or conservators). We have pre-filled names of who needs to sign on what page for you.

Frequently Asked Questions Cont'd

What is the difference between “Conservatorship of the Person” and “Conservatorship of the Estate”?

- Answer: Conservatorship of the person is **only** regarding decisions about the **person**. Ex: medical and educational needs/decisions.
- Conservatorship of the Estate is about financial decisions and property rights of the person being conserved.
 - You do not need a conservatorship of the estate if:
 - The adult with developmental disabilities you care for gets public assistance, like Supplemental Security Income (SSI) or Social Security (SSA) but has no other assets, or
 - The adult with developmental disabilities earns a wage.
 - But you may need a conservatorship of the estate if the adult with developmental disabilities has other assets, such as an inheritance or a settlement from a lawsuit that is not in a special needs trust.

*****NOTE: THE WORKSHOP THROUGH THE SELF HELP CENTER DOES NOT HELP WITH CONSERVATORSHIP OF THE ESTATE, ONLY OF THE PERSON.**

Before Your Hearing Date

- You will need to watch a video called, “With Heart: Understanding Conservatorship”.
- View the video online at <https://www.youtube.com/watch?v=A-SX6YkFsP4>,
- After you watch the video, you **must complete form PB-4076: Verification of Viewing Conservatorship Video**, and **file this form with the Court**. This local form is available on the court’s website at www.scscourt.org.

What to Expect on Your Hearing Date

Where do I go for my hearing?

- The Courthouse is located at 191 N. First Street, San Jose, CA 95113
- As a result of the COVID-19 pandemic, you are strongly encouraged to appear remotely at your hearing. You can find instructions on how to appear remotely for your court hearing on the court's main webpage by clicking on the button that says "Remote Hearing Instructions"
- https://www.scsccourt.org/general_info/ra_teams/video_hearings_teams.shtml
- If you decide to physically appear at your hearing, everyone entering the courthouse is **required** to wear a mask. Inside the courtroom, you may sit with your family members, but social distancing is encouraged from other court users.
- Allow plenty of time for parking and for going through security/metal detectors. If you are parking at a meter keep in mind that you will not be able to leave during the hearing to put more money in the meter.

What to Expect on Your Hearing Date

Cont'd

What will happen at the hearing?

- The hearing itself will only take a few minutes, however you have to wait your turn to be heard. This means you will be likely be in the courtroom longer than a few minutes.
- When your line number and name are called, please walk up to counsel table.
- The judge will defer to the Public Defender and may ask you some questions to confirm that you are requesting a limited conservatorship.
- She may or may not address the proposed conservatee.

What to Expect on Your Hearing Date Cont'd

What happens if the orders are granted?

- If your orders are granted, the Judge will forward the paperwork to the Clerk's Office for processing and you will receive them in the mail. If you need your orders sooner, we recommend you return to the Probate Clerk's Office in the next couple of days, between 8:30am and 1:30 pm (noon on Fridays) to personally pick them up.
- At that time, you might need to show the clerk that you have the Handbook for Conservators. You can purchase it for \$20.00 or download it online for free at <http://www.courts.ca.gov/documents/handbook.pdf>. Then turn the GC-438 in to the clerk as well.

Instructions

Do you want to get a Limited Conservatorship?

(Developmental Disabilities)

Step 1 Complete the following forms in blue or black ink:

- | | |
|---|---|
| <input checked="" type="checkbox"/> (GC-310) Petition for Appointment of Probate Conservator | <input checked="" type="checkbox"/> (GC-312) Confidential Supplemental Information |
| <input checked="" type="checkbox"/> (GC-350) Letters of Conservatorship | <input checked="" type="checkbox"/> (GC-320) Citation for Conservatorship |
| <input checked="" type="checkbox"/> (GC-340) Order Appointing Probate Conservator | <input checked="" type="checkbox"/> (GC-020) Notice of Hearing for Conservatorship |
| <input checked="" type="checkbox"/> (GC-314) Confidential Conservator Screening Form
(One for each Proposed Conservator) | <input checked="" type="checkbox"/> (Attachment PB-4002) Referral for Court Investigator |
| <input checked="" type="checkbox"/> (GC-341) Notice of Conservatee's Rights | <input type="checkbox"/> (FW-001) Application for Waiver of Court Fees and Costs |
| <input type="checkbox"/> (GC-341)(MA) Attachment to Notice of Conservatee's Rights | <input type="checkbox"/> (FW-002) Application for Waiver of Additional Court Fees & Costs |
| <input checked="" type="checkbox"/> (GC-348) Duties of Conservator | <input type="checkbox"/> (FW-003) Order an Application for Waiver of Court Fees |
| <input checked="" type="checkbox"/> (GC-335) Capacity Declaration – Conservatorship (To be filled out by doctor) | |

Step 2

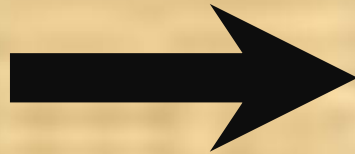
Copies: Make 2 copies in addition to the original. (Note: Paper clip all original documents; Staple all copies)

File Your Forms at Court

The Court hearing is at the same location



Your Legal Forms



**Probate Clerk's Office
(Room 107)
191 N. First St., San Jose**

Instructions Cont'd

Step 3

Filing fee is \$435.00 + \$900.00 unless the fee is waived.

File: Turn in the original and copy to the Probate Clerk's Office (Room 107) located at:
 191 North First Street, San Jose, CA 95113, *The Clerk's Office opens at 8:30 a.m. Monday-Friday, closing times are subject to change, visit www.sccscourt.org or call 408-534-5600 for current office hours.*

- If you are not asking for a fee waiver**, you will pay the filing fee and get filed-stamped copies back when you file.
- If you are asking for a fee waiver**, your file-stamped copies may be returned immediately, OR you may be asked to return in up to 24 hours, R your file-stamped forms may be mailed to you. Please ask the clerk who takes your forms.

Note:

- If the proposed conservatee is **currently a minor**, please wait until s/he is **17 years and 9 months before you file your petition.**
- After you file, serve the **San Andreas Regional Center immediately to ensure that your application will be processed in a timely manner (see Step 5b below)**

Step 4

Deliver Capacity Declaration to Doctor: Ask the Proposed Conservatee's doctor or licensed psychiatrist to fill out the Capacity Declaration (Form GC-335). Then **file the original and a copy at least 5 days before the court hearing at the Clerk's Office located at:**

191 North First Street, San Jose, CA 95113

You must also **email a copy** of GC-335 to the **Probate Attorney** at the Public Defender's Office:
probate@pdo.sccgov.org

Instructions Cont'd

Step 5a

Serve the Person You Are Trying to Conserve: *“Service” means that someone, NOT YOU, who is at least 18 years old must hand-deliver a copy of your forms to the proposed conservatee. You can ask a friend or relative to serve the papers for you or you can look in the yellow pages and hire a “process server” to deliver the papers for you for a fee.*

1 Filed Copy of (GC-310) Petition for Appointment of Probate Conservator (and all attachments)

1 Filed Copy of (GC-320) Citation for Conservatorship (and all attachments)

1. You must have a filed copy of the above forms **hand-delivered** to the person you are trying to conserve at least **15 days before** your first court date.
2. Whoever serves the forms must complete & sign the second page of the *Citation of Conservatorship*. This must be filed at least 5 days before the court date.

Serving Legal Forms in Person

Conservatee



Your Server (NOT YOU)

Instructions Cont'd

Step 5a

Serve the Person You Are Trying to Conserve: *“Service” means that someone, NOT You, who is at least 18 years old must hand-deliver a copy of your forms to the conservatee. You can ask a friend or relative to serve the papers for you or you can look in the yellow pages and hire a “process server” to deliver the papers for you for a fee.*

1 Filed Copy of (GC-310) Petition for Appointment of Probate Conservator (and all attachments)

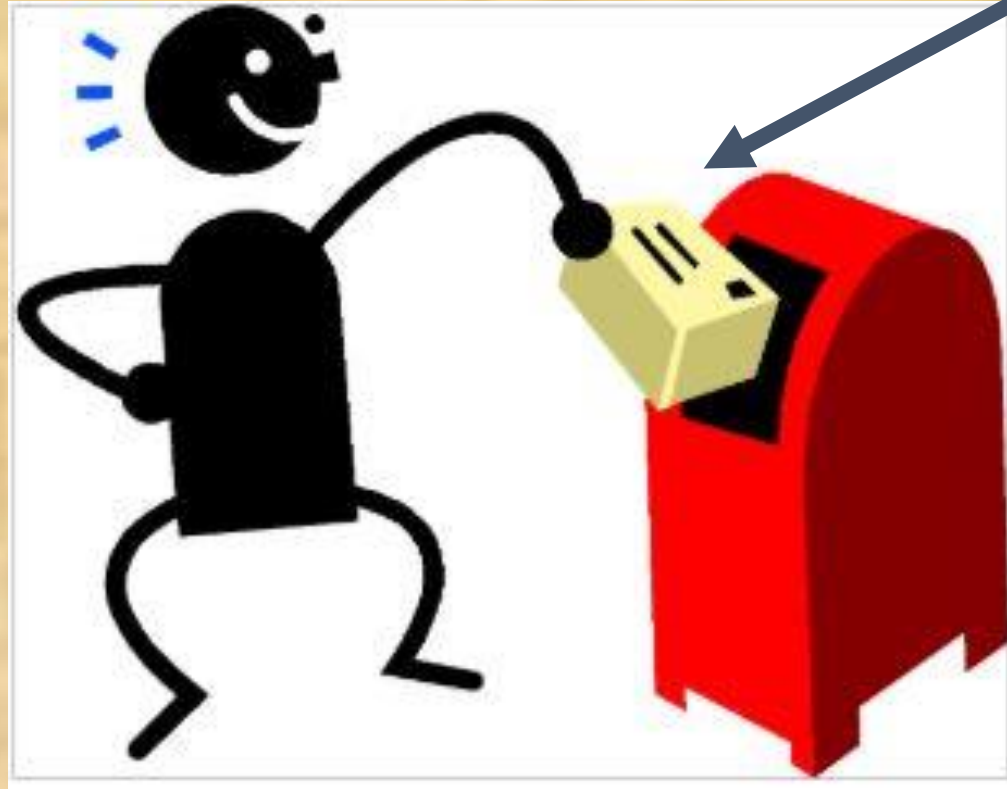
1 Filed Copy of (GC-020) Notice of Hearing for Conservatorship (and all attachments)

1 Filed Copy of (GC-320) Citation for Conservatorship (and all attachments)

1. You must have a filed copy of the above forms **hand-delivered** to the person you are trying to conserve at least **15 days before** your first court date.
2. Whoever serves the forms must complete & sign the second page of the *Citation of Conservatorship*. This must be filed at least 5 days before the court date.

Serving Legal Forms by Mail

Your legal forms



Your Server

Serve:

-SARC

-*Public Defender

-Relatives

-*serve by email

Instructions cont'd

Step 5b

Serve other People/Agencies by Mail: *“Service” means that someone, NOT YOU, who is at least 18 years old, must mail a copy of your forms to these people/agencies. Whoever serves the papers must complete & sign the second page of the Notice of Hearing form. This must be filed with the court at least 5 days before the court date.*

- 1 Filed Copy of (GC-310) Petition for Appointment of Probate Conservator (and all attachments)
- 1 Filed Copy of (GC-020) Notice of Hearing for Conservatorship (and all attachments)

The law says that you must serve a copy to the following people by mail:

- all grandparents
- any brothers/sisters 12 or older
- Parents
- Spouse/Domestic Partner
- San Andreas Regional Center
- Public Defender **Serve by email*

OR

IF there are no grandparents, parents, children or grandchildren, **THEN** you must serve a copy to the following people:

- any aunts and uncles
- any nieces and nephews 12 or older
- Spouse/Domestic Partner of a predeceased parent of the conservatee
- Children of a predeceased Spouse/Domestic Partner 12 or older

Instructions cont'd

Step 6	<ul style="list-style-type: none">- Watch "With Heart: Understanding Conservatorships" at https://www.youtube.com/watch?v=A-SX6YkFsP4.- File PB-4076 with the Probate Clerk.- Day of your hearing, appear in person OR dial into your hearing via telephone or video conference at least 15 minutes before the hearing. For instructions on virtually appearing for your hearing, visit www.courts.ca.gov and click on "Remote Hearing Instructions"]
Step 7	<p>Serve the Notice of Conservatee's Rights by mail within 30 days of the court issuing the Order Appointing Probate Conservator. The Conservator serves the papers and then must complete and sign the PROOF OF MAILING on page 3 of the form. The PROOF OF MAILING must be filed with the court.</p> <ul style="list-style-type: none"><input checked="" type="checkbox"/> 1 Filed Copy of (GC-341) Notice of <u>Conservatee's</u> Rights (and all attachments)<input checked="" type="checkbox"/> 1 Filed Copy of (GC-340) Order Appointing Probate Conservator with Judge's signature <p>The law says that you must serve a copy to the following people:</p> <ul style="list-style-type: none">• all grandparents• any brothers/sisters 12 or older• Parents• Spouse/Domestic Partner• San Andreas Regional Center• Public Defender (*service by Email*) <p>OR</p> <p>IF there are no grandparents, parents, children or <u>grandchildren</u>, THEN you must serve a copy to the following people:</p> <ul style="list-style-type: none">• any aunts, uncles, nieces and nephews 12 or older• Spouse/Domestic Partner of a predeceased parent of the <u>conservatee</u>• Children of a predeceased Spouse/Domestic Partner 12 or older

Complete the forms at home!

- Odyssey Guide & File and Law Help Interactive are online form programs that you can use to complete court forms from any computer
 - Odyssey Guide & File:
<https://california.tylerhost.net/SRL/SRL/ExecuteInterviews>
 - Law Help Interactive:
<https://lawhelpinteractive.org/Interview/GenerateInterview/2012/engine>
- (*If you have more than 2 proposed conservators)

Questions or Form Review:

Go to www.scscourt.org, click on **Self-Help**, then **Probate**, the **Conservatorship**, then **Limited Conservatorship**

Watch the video workshops.

If you have any questions or would like our office to review your forms before filing, you may scan and email them to us at: LTDConserv@scscourt.org