



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: October 27–28, 2016

Title

Probate Conservatorship: Notice of the Conservatee's Death

Agenda Item Type

Action Required

Effective Date

January 1, 2017

Rules, Forms, Standards, or Statutes Affected

Adopt form GC-399

Date of Report

August 25, 2016

Recommended by

Probate and Mental Health Advisory Committee

Hon. John H. Sugiyama, Chair

Contact

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Executive Summary

The Probate and Mental Health Advisory Committee recommends that the Judicial Council respond to a direction from the Legislature by adopting a new Judicial Council form for a conservator of the person of a deceased conservatee to use to notify the court and persons interested in the conservatorship that the conservatee has died.

Recommendation

The Probate and Mental Health Advisory Committee recommends that the Judicial Council adopt a new mandatory form *Notice of the Conservatee's Death* (form GC-399), to be used to advise the court and persons interested in the conservatorship that the conservatee has died.

A copy of the new form is attached at pages 7–8.

Previous Council Action

There was no previous Judicial Council action that led to the legislation mandating notice of a conservatee's death, the selection of a form for that purpose, or the form's creation and this recommendation for its adoption.

Rationale for Recommendation

In legislation effective January 1, 2016, the Legislature and the Governor enacted a new section 2361 of the Probate Code, reading as follows:¹

A conservator shall provide notice of a conservatee's death by mailing a copy of the notice to all persons entitled to notice under Section 1460 and by filing a proof of service with the court, unless otherwise ordered by the court.

Although the legislation does not specifically require the adoption of a Judicial Council form, the advisory committee decided that such a form would be appropriate for the notice because the new law implies requirement of a written notice, requires it to be served on persons entitled to receive other written notices in conservatorship matters, and requires proof of service of the written notice to be filed with the court. Proofs of service are commonly a part of or attached to Judicial Council forms designed for filing with courts.

The recommended form calls for the name and signature of the conservator of the person. The committee concluded that the Legislature intended this duty to fall on conservators of the person, not conservators of the estate if a different person or organization is serving in this capacity for the same conservatee, because Probate Code section 2350(a) provides that, as used in the chapter that includes section 2361,² the term "conservator" means the conservator of the person. The "type or print" instructions opposite the signature line, and the identification block underneath that line clearly identify who is responsible for complying with section 2361.

The notice portion of the form is simple and straightforward, suitable for use by self-represented conservators. The most difficult part of the form is the proof of service, but the instructions given at the top of page 2 should reduce any difficulty a conservator might have. Every self-represented conservator who would be required to use the new form will have already successfully completed the appointment process, involving many more difficult issues and Judicial Council forms than this proposed form presents.

¹ Assembly Bill 1085 (Stats 2015, ch. 92), § 3.

² Chapter 5 of Part 4 of Division 4 of the Probate Code, entitled "Powers and Duties of Guardian or Conservator of the Person."

The proof of service does contain provisions unique to this form. The instructions say:

You must “serve”—deliver—copies of this *Notice of the Conservatee’s Death* (“Notice”) to each person who has the right under Probate Code section 1460 to be notified of the date, time, place, and purpose of a court hearing in a conservatorship (the conservator of the estate, the conservatee’s spouse or domestic partner, and any person who has requested special notice as provided in section 2700 of the Probate Code)³. You, **your employee in your practice as a professional fiduciary, your attorney in this matter, or an employee in your attorney’s office**, may deliver this Notice by mail. You may also personally deliver, or arrange for another adult person to personally deliver, the Notice instead of mailing it. You must show the court that copies of this Notice have been delivered in ways the law allows. You do this by completing a proof of delivery, also called “proof of service” and having the person who did the mailing sign the proof of service, which then is filed with the original Notice. This page contains a proof of delivery that may be used only to show delivery by mail. To show personal delivery, the person who makes the personal delivery must complete and sign a proof of personal delivery to all persons to whom he or she delivers copies of this document and attach the signed copy of that proof of delivery to this Notice when it is filed with the court. You may use *Proof of Personal Service—Civil* (form POS-20) to show personal delivery. (Emphasis ([bold text] added.)

This part of the form is modeled after page 2 of the *Notice of Hearing—Guardianship or Conservatorship* (form GC-020), the basic notice form used in conservatorships. That form includes the usual provision for a nonparty declarant to do the mailing directly or for an employee in an office with a regular collection system for mail to do it (per Code Civ. Proc., § 1013a(3)). Although this method of mailing is ordinarily done in civil litigation by an employee of a party’s attorney, section 1013a(3) does not limit this practice to employees of attorneys.

But section 2361 expressly requires the *conservator* to serve the notice by mail. The committee believes this provision authorizes mailing directly by the conservator instead of by a third party. Moreover, a mailing by the conservator’s attorney, by an employee of the attorney, or by an employee of a conservator who is a professional fiduciary also appears to be authorized and sufficiently reliable because the mailing is done by express agents of the conservator.

³ Because this notice is to be sent by or on behalf of the conservator of the person only after the conservatee dies, the only persons eligible to receive notice are those listed in Probate Code sections 1460(b)(1), conservator of the estate; (3) spouse or domestic partner of the conservatee; and (4) persons who have requested special notice. Notice to the additional persons referred to by reference in section 1460(b)(6) will never be required because there would never be a petition to terminate the conservatorship, or to accept the resignation of or remove the conservator.

The issue of mailing by an employee of a private conservator is somewhat different from the usual situation involving proof of mailing by an employee “in the ordinary course of business.” Many, if not most, private conservators are not professional fiduciaries with office employees handling conservatorship-related correspondence and other document mailing in the regular course of their fiduciary practices. Nonprofessional private conservators may be employees of organizations with purposes and activities wholly unrelated to the conservatorship. The employer of both the conservator and the person in the office doing the mailing may not authorize or even know of the use of the organization’s mail delivery system, the mailing employee’s time for assembling and delivering conservatorship-related documents for mailing, and that employee’s execution of a declaration under penalty of perjury about the mailing. The employee doing the mailing is not employed as an express agent of the conservator for conservatorship business, however willing he or she might be to do a particular conservatorship mailing in addition to his or her regular duties, and may not even be directly subordinate to the conservator in the company’s personnel structure. Thus the agency noted above in the case of the attorney or the attorney’s employee, or the office employee of a professional fiduciary that would support a delegation of the statutory duty of the conservator to do the mailing is not present in this situation.

The form’s service instructions address this issue by limiting the use of employees to mail the notices to the employees of the attorney for the conservator or the employees of conservators that are professional fiduciaries. Item 1 of the proof of delivery by mail thus requires the identification of the person doing the mailing as the conservator, the attorney for the conservator, or an employee of either the attorney or the professional-fiduciary conservator.⁴

Personal service in lieu of service by mail is authorized by Probate Code section 1216(a).⁵ Because of section 2361’s specific grant of authority to the conservator to mail the notice, the committee infers that he or she also has authority to personally deliver it. For these reasons, the instructions on service on page 2 of the form refer to personal service as authorized either by the conservator or by another adult.

⁴ The Judicial Council has adopted another conservatorship form that contains a proof of service limiting the use of employees to serve copies by mail to the employees of the attorney for the conservator. See the *Notice of Filing Inventory and Appraisal and How to Object to the Inventory or the Appraised Value of Property* (form GC-042), adopted effective January 1, 2008. That form was required by a 2006 amendment to Probate Code section 2610(a) that also directed the conservator to mail service copies of the form. (See Assem. Bill 1363 (Stats 2006, ch. 493), § 23.) That form does not refer to an employee of a conservator that is a professional fiduciary, but if the use of such employees for mailing service copies of court documents is sound when the law requires mailing by the fiduciary, that form could easily be revised to authorize such substituted service.

⁵ Section 1216(a) reads: “If a notice or other paper is required or permitted to be mailed to a person, it may be delivered personally to that person. Personal delivery as provided in this section satisfies a provision that requires or permits a notice or other paper to be mailed.”

Comments, Alternatives Considered, and Policy Implications

Comments

The proposed form was circulated for public comment between April 15 and June 14, 2016 as part of the regular spring comment cycle. A total of seven comments were received. One commentator agreed with the proposal, four agreed with the proposal if modified, and two did not state a position on the proposal, but provided suggestions. A chart with the full text of the comments received and the committee's responses is attached at pages 9–19.

This proposal drew two suggestions from the Executive Committee of the State Bar of California's Trusts and Estates Section (TEXCOM), Comment No. 3 in the attached comment chart. The first suggestion called for the form to include an option for an employee of an attorney for the conservator to mail the notice and sign the proof of service. TEXCOM pointed out that the service instructions contained in form GC-042 have such a provision. The committee agreed with this suggestion and has modified the form accordingly.

The second suggestion was that item 3(b) of the proof of service and its reference to mailing "following our ordinary business practices" is inconsistent with completion by self-represented nonprofessional conservators and may result in errors in filing out the proof of delivery by mail section. The committee agreed with this comment, at least in part. In response, it modified the proof of service provisions to describe mailing by the conservator of the person, an employee of the conservator if he or she is a professional fiduciary, the conservator's attorney, or an employee of the attorney. A professional-fiduciary conservator should be every bit as able as his or her attorney to rely on office employees to do the mailing. This modification will ensure that the mailing is an act of the conservator or his express agents in the management of the conservatorship, not the act of a third person or entity not linked to the conservator's performance as conservator.

The Superior Court of San Diego County commented that, while it understood that the purpose of this form is to help the conservator of the person comply with relatively new Probate Code section 2361, the courts should take the creation of this form as an opportunity to "remind" the conservator(s) of the requirement of a final accounting, if there is a conservatorship of the estate. The committee's view is that this comment raises excellent issues, but it does not believe this statutorily-required very specific notice by a conservator of the person should be modified to give instructions to a co-conservator in cases in which the two positions are held by different people or organizations. The committee will study whether another form of notice of the continuing duties of an estate conservator after the conservatee's death, perhaps from the court rather than from a co-fiduciary, is necessary or appropriate. Of course, in the absence of a mandatory Judicial Council form of such a notice, courts are certainly free to give their own notices to estate conservators.

The Superior Court of Los Angeles County and the Orange County Bar Association suggested that the form be modified to apply to both conservators of the person and conservators of the estate. The committee declined to make this change because Probate Code section 2350(a)

provides that, as used in the chapter that includes section 2361, the term “conservator” means the conservator of the person. Unless the new code section is modified to refer to both types of conservators or, more likely, a duplicate provision is placed in the following chapter, which prescribes the powers and duties of conservators of the estate, the committee does not believe that the Judicial Council has the authority to adopt a form that requires or permits the conservator of the estate to file and serve this notice.

The Superior Court of Orange County noted that the form contemplates service by mail or by personal delivery. The court asked about electronic service. The committee is in the process of working with legislation by this committee, and the Information Technology Advisory Committee on a legislative proposal that would authorize electronic service of notices under the Probate Code for submission to the Judicial Council later this year for sponsorship in the 2017 Legislature.⁶ If that proposal results in successful legislation, this and many other probate proof of service forms would be revised.

Alternatives Considered

Because of the implied legislative directive contained in section 2361, the committee did not consider the alternative of not creating a form notice.

Implementation Requirements, Costs, and Operational Impacts

This proposal will incur the relatively modest expenses of creation and distribution of any new form. Responding courts generally advised that they will incur training costs, particularly because this form is expressly to be served by the conservator of the person. However, the impact of this has been reduced by the changes made in response to comments, which expressly permit attorneys and their office employees, and office employees of professional fiduciaries, to serve copies of the form.

A majority of the responding courts advise that the form will—in the whole—lower costs, particularly the cost of scheduling hearings to compel compliance with section 2361. The Superior Court of Riverside County said: “We support this proposal. It will improve court efficiency and statutory compliance by providing an easy, clear, and consistent procedure for notifying the court of the death of a conservatee.”

Attachments and Links

1. Form GC-399, at pages 7–8
2. Chart of comments, at pages 9–19

⁶ Legislative proposal LEG16-09.

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	<p style="text-align: center;"><i>FOR COURT USE ONLY</i></p> <p style="text-align: center;">DRAFT</p> <p style="text-align: center;">Not Approved by the Judicial Council</p>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (name): <p style="text-align: right;">CONSERVATEE</p>	
NOTICE OF THE CONSERVATEE'S DEATH	CASE NUMBER:

TO ALL PERSONS INTERESTED IN THIS CONSERVATORSHIP:

PLEASE TAKE NOTICE that the above-named conservatee died on (date):

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

Date:

(TYPE OR PRINT NAME OF CONSERVATOR OF THE PERSON)



(SIGNATURE OF CONSERVATOR OF THE PERSON)

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Probate Conservatorships: Notice of the Conservatee’s Death (adopt form GC-399)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
1.	Robert K. Maize, Jr. Attorney Santa Rosa	AM	<p>Is this form intended to be used with a limited conservatorship where the conservatorship terminates with the death of the conservatee? If yes, should additional language to be added for a limited conservatorship?</p> <p>When the conservator is represented by an attorney, the conservator's attorney should be able to sign the notice and proof of mailing on the conservator's behalf, as in other circumstances.</p>	<p>The form must be used in all conservatorships of the person, including limited conservatorships. Both general and limited conservatorships terminate on the conservatee’s death (subject to the responsibility of a conservator of the estate under Prob. Code, §§ 2467 and 2631, and California Rules of Court, rule 7.1052(c). See sections 1860(a) and 1860.5(a)(2).</p> <p>The committee believes that the statute does not authorize execution of the form by counsel for the conservator in lieu of a signature by the conservator of the person. But see the committee’s response to the comments of TEXCOM and the Orange County Bar Association. The form has been modified to permit mailing (and execution of the proof of service) by attorneys or their employees.</p>
2.	Orange County Bar Association, by Todd G. Friedland, President, Newport Beach	AM	<p>The form should be changed to allow the signature of the conservator or the attorney for the conservator, and should not specify that it is for the conservator of the person. The statute does not limit the requirement of notice to the conservator of the person. In many situations there may be a professional fiduciary or individual appointed as conservator of the estate with no conservator of the person. The conservator of the estate in such situations should be required to give notice.</p>	<p>In response to this and other comments, the committee has changed the service instructions of the form to permit service by the attorney, an employee of the attorney, or an employee of a professional fiduciary, in addition to service by the conservator. However, the notice is the act of the conservator of the person, not the conservator of the estate. Probate Code section 2350(a) provides that, as used in the chapter that includes section 2361—Chapter 5 of Part 4 of Division 4 of the Probate Code, entitled “Powers and Duties of Guardian or Conservator of the Person”—the term “conservator” means the conservator of the person. This indicates the Legislature’s intent to place this duty only on the conservator of the</p>

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				<p>person. See also the responses to the comments of TEXCOM and the Superior Court of the County of Los Angeles.</p>
3.	<p>State Bar of California Trusts and Estates Section Executive Committee (TEXCOM), by Herb Stroh, San Francisco</p>	NI	<p>1. Below the caption the form states: “TO ALL PERSON INTERESTED IN THIS CONSERVATORSHIP.” TEXCOM suggests that the phrase be changed as follows: “TO ALL PERSONS ENTITLED TO NOTICE IN THIS CONSERVATORSHIP.”</p> <p>Section 2361 requires notice to “all persons entitled to notice under section 1460.” Using the word “interested” creates some ambiguity, suggesting a reference to “interested person” as defined in Probate Code Section 48. It is more consistent with the code section to phrase the notice as to all persons entitled to notice, and is also consistent with other forms.</p> <p>2. Section 2361 is presumed to apply only to conservators of the person—it is understood that a conservator of the estate, alone, is not required to provide notice of death. Although instructions on page 2 are directed to “Conservator of the Person,” it may still be confusing to a conservator of the estate. TEXCOM suggests that underneath the signature line on page 1, the following language be inserted: “No notice is required in Conservatorships of the Estate only.” TEXCOM believes this may quickly clarify who is required to provide the notice.</p>	<p>1. The committee does not believe that the form of address contained in the form is a term of art or conveys any meaning other than “Persons Entitled to Notice.” In effect, Probate Code section 1460 identifies the persons ordinarily expected to be interested in a conservatorship, including those who are not identified by relationship to the conservatee or status (conservator and conservatee), but who file requests for special notice. Note that the basic notice form used in conservatorships and guardianships, the <i>Notice of Hearing</i> (form GC-020), is not addressed to any particular person or class of persons. This would indicate that the form of address in this form is not critical.</p> <p>2. Probate Code section 2350(a) provides that, as used in the chapter that includes section 2361—Chapter 5 of Part 4 of Division 4 of the Probate Code, entitled “Powers and Duties of Guardian or Conservator of the Person”—the term “conservator” means the conservator of the person. The “type or print” instructions opposite the signature line, and the identification block underneath that line clearly identify who is responsible for complying with section 2361.</p>

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			<p>3. It is noted that the “Proof of Delivery by Mail” section of the form on page 2 is drafted to be completed by the conservator, e.g. paragraph 1 identifies the signing party as the conservator of the person. The proposal suggests that the form was framed for the conservator to personally provide the notice because “section 2361 requires the conservator to mail the notice of death....”</p> <p>While it is true the language of 2361 states “A conservator shall provide notice of a conservatee’s death...” other forms related to code sections in which the conservator is required to give notice anticipate that it may be served by counsel. For example, Probate Code Section 2610(a) requires that “the guardian or conservator shall file with the clerk of the court and mail to the conservatee and to the attorneys of record ... an inventory and appraisal....” Although this section states specifically the conservator is to provide the notice, form GC-042 includes a proof of mailing which allows the conservator or conservator’s counsel to serve the form.</p> <p>Certainly there are more self-represented parties in conservatorships of the person only than in conservatorship of the estate. However, conservators of the person may still have counsel, and in conservators of the person and estate are likely to have retained an attorney.</p>	<p>3. In response to this and other comments, the committee has modified the form to permit an employee in the office of a conservator of the person who is a professional fiduciary, the attorney for the conservator of the person, or an employee in the attorney’s office, as an alternative to the conservator personally to mail the notice and to sign the proof of service, similar to the instructions contained in form GC-042, the <i>Notice of Filing Inventory and Appraisal</i>. That form of proof of service by mail is expressly authorized by Code of Civil Procedure section 1013a(3), and is not by its terms limited to employees of attorneys.</p>

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			<p>Represented conservators and their attorneys are accustomed to counsel handling notice, thus this form creates an anomaly by mandating mailing of notice by the conservator only. It is suggested that the proof of mailing language mirror GC-042 and other forms which allow for the conservator or counsel to complete the proof.</p> <p>4. Additional comments regarding the proof of mailing: the “NOTE TO CONSERVATOR OF THE PERSON” references delivery of the notice and discusses personal delivery. Reference in the notice to personal delivery creates some ambiguity. Since the code section refers to mail delivery, and the purpose of the mandatory form is to comply with the code, discussion of personal delivery and directing the conservator to a different form for personal service may cause confusion.</p> <p>TEXCOM also suggests that 3(b) and its reference to mailing “following our ordinary business practices” is inconsistent with completion by self-represented conservators and may result in errors in filing out the proof of delivery by mail section.</p>	<p>4. Probate Code section 1216 permits personal delivery of notices or other papers that are required or permitted by statute to be mailed. In this situation, the express authority given to the conservator of the person to do the mailing also means that he or she may personally serve the notice.</p> <p>The committee agrees with this comment, at least in part. It has modified the proof of service provisions to describe mailings by the conservator of the person, an employee of the conservator if he or she is a professional fiduciary, the conservator’s attorney, or an employee of the attorney. A professional-fiduciary conservator should be every bit as able as his or her attorney to rely on office employees to do the mailing. We note again that service by mail by employees in the ordinary course of business under Code of Civil Procedure section 1013a(3) is not limited to employees of attorneys.</p>

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				<p>If a nonprofessional conservator in fact had employment unrelated to the conservatorship with an organization that had a regular mail pickup and delivery system, and the employee doing the mailing was permitted by the employer to sign the declaration and do the mailing together with the organization’s mailing, proof of that mailing might also qualify to show good mail service under section 1013a(3). However, that seems like an unlikely scenario, at least when the conservator is neither an owner of the unrelated business nor highly ranked in his employment. The modified form clarifies that mailing by an office employee is limited to the employees of an attorney for the conservator or of the conservator who is a professional fiduciary, an appropriate limitation here because the statute specifically directs the conservator to mail the notice. This restriction at least ensures that the mailing is an act of the conservator or his express agents in the management of the conservatorship, not the act of a third person or entity not linked to the conservator’s performance as conservator.</p>
4.	Superior Court, County of Los Angeles, Los Angeles	AM	<p>Does the proposal appropriately address the stated purpose?</p> <p>Not fully. This proposal applies to conservatorships of the person only. It does not apply where there is a conservatorship of the estate. It is with the conservatorships of the estate where the need for this form exists so that the Court, once</p>	<p>Probate Code section 2350(a) provides that, as used in the chapter that includes section 2361, the term “conservator” means the conservator of the person. Unless the new code section is modified to refer to both types of conservators or, more</p>

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			<p>notified of a conservatee’s death, can make sure that a final accounting is filed and approved. Practically speaking, many conservators believe they do not have to do a final accounting once the conservatee dies, therefore no action is taken. However, the court has an obligation to close the estate and make sure that any assets of the conservator are properly accounted for and transferred to the appropriate heirs. It is the recommendation of LASC to amend this proposal to include all conservatorships, not conservatorships of the person only.</p> <p>Would the proposal provide cost savings? If so please quantify.</p> <p>This form will provide a cost savings by eliminating the method of submitting notices to the Court in various formats, including attorney drafted notices, or death certificates submitted by self-represented litigant conservators. This form simplifies the process for self-represented litigant conservators and allows staff to more efficiently identify notices, but it needs to apply to both conservator of the estate and of the person.</p> <p>Please add a box to the form to allow for “Department/Room No.” near the “CASE NUMBER” box. This will trigger a cost savings to courts by reducing the amount of time employees spend identifying the assigned all-</p>	<p>likely, a duplicate provision is placed in the following chapter, which prescribes the powers and duties of conservators of the estate, the committee does not believe that the Judicial Council has the authority to adopt a form that requires or permits the conservator of the estate to file and serve this notice.</p> <p>The committee does not support this request. It has created forms with this information below the case number, usually also with the name of the judicial officer; but has not done so in a situation where no hearing is scheduled because of the</p>

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			<p>purpose courtroom, particularly for large courts. A cost analysis cannot be provided at this time.</p> <p>What would the implementation requirements be for the courts?</p> <p>Some training will be required for Court staff if the proposed judicial council form is implemented. Filing window clerks will need to be familiarized with the new forms. Employees will need to be educated as to the manner in which service is to be made. The conservator will be serving the notice, not a third party.</p> <p>Adding a code to the Court’s case management system may be required.</p> <p>Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for staff training and implementation?</p> <p>Two months from approval of the proposal until its effective date is sufficient time.</p> <p>How well would this proposal work in courts of different sizes?</p>	<p>filing. Many conservators or even their attorneys might not know what the “all-purpose courtroom” for probate matters is in their court, if there is one; but instead would be inclined merely to identify the department where a hearing was last held in the matter. With no hearing anticipated in response to this filing, it is unclear what good this identification would do.</p> <p>See the exceptions to service of the form notice by the conservator in the committee’s response to Comment No. 3 of TEXCOM, above.</p>

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			The impact of this proposal should not vary based on the size of the court.	
5.	Superior Court, County of Orange, by Orange County Court Managers, Santa Ana	NI	Probate Code 2361 specifically says 'mailing' a copy of the notice. However, page 2 of the GC-399 form notes that the notice could be personally delivered. If other forms of service are being allowed, what about eservice?	With the possible revision of the Probate Code to provide for e-service in probate matters in legislation to be considered for sponsorship by the Judicial Council in 2017, that form of service of this notice would be authorized if that legislation is enacted and becomes effective in 2018. If that happens, the form would be revised as necessary or convenient to refer to e-service.
6.	Superior Court, County of Riverside, by Marita Ford, Sr. Management Analyst, Riverside	A	<p>We support this proposal. It will improve court efficiency and statutory compliance by providing an easy, clear, and consistent procedure for notifying the court of the death of a conservatee.</p> <p>• Does the proposal appropriately address the stated purpose?</p> <p>Yes.</p> <p>• Would the proposal provide cost savings? If so please quantify.</p> <p>Yes. It should reduce unnecessary hearings and delays due to failure of a conservator to promptly notify the court of the conservatee’s death.</p>	No response necessary. The committee thanks the court for its review of this proposal and its responses to the questions proposed to court administrators.

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			<p>• What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.</p> <p>The court will need to train courtroom assistants, create new procedures, and add docket codes to accommodate this new form.</p> <p>• Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for staff training and implementation?</p> <p>Yes.</p> <p>• How well would this proposal work in courts of different sizes?</p> <p>It should be helpful for courts of all sizes.</p>	
7.	Superior Court, County of San Diego, by Michael Roddy, Court Executive Officer, San Diego	AM	<p>Could the form be renamed to Notice of Death of Conservatee?</p> <p>It is understood that the purpose of this form is to help the Conservator of the Person comply</p>	<p>The committee sees no reason to make this change.</p> <p>This comment raises excellent issues, but the committee does not believe this statutorily-</p>

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	Commentator	Position	Comment	Committee Response
			<p>with relatively new Probate Code section 2361; however, the courts should take the creation of this form as an opportunity to “remind” the conservator(s) of the requirement of a final accounting, if there is a Conservatorship of the Estate.</p> <p>Our court would like to include the following language and check-boxes, on the form, after the date of death:</p> <p>Pursuant to Probate Code section 2630, the termination of the relationship of conservator and conservatee by the death of either, does not cause the court to lose jurisdiction of the proceeding for the purpose of settling the accounts of the conservator or for any other purpose incident to the enforcement of the judgments and orders of the court upon such accounts or upon the termination of the relationship.</p> <p>California Rule of Court, rule 7.1052(c) asserts that it is the duty of the conservator of the estate whose administration is terminated by operation of law or by court order to file and obtain the court’s approval of a final account of the administration.</p> <p><input type="checkbox"/> There is no Conservatorship of the Estate.</p> <p><input type="checkbox"/> The final accounting has been filed or will be filed by __[date]__.</p> <p><input type="checkbox"/> The final accounting was waived by court-order on __[date]__.</p>	<p>required very specific notice by a conservator of the person should be modified to give instructions to a co-conservator in cases in which the two positions are held by different people or organizations. The committee will study whether another form of notice of the continuing duties of an estate conservator after the conservatee’s death, perhaps from the court rather than from a co-fiduciary, is necessary or appropriate. Of course, in the absence of a mandatory Judicial Council form of such a notice, courts are certainly free to give their own notices to estate conservators.</p>

SPR16-23

Probate Conservatorships: Notice of the Conservatee’s Death (adopt form GC-399)

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	Commentator	Position	Comment	Committee Response
			<p>Q: Does the proposal appropriately address the stated purpose?</p> <p>A: Yes.</p> <p>Q: Would the proposal provide cost savings?</p> <p>A: No. If the form also helped the court with the tracking of a final accounting, as proposed above, it could save court staff time spent researching whether the parties should be notified that their final accounting is due.</p> <p>Q: What are implementations requirements for courts?</p> <p>A: We will need to have our case management system configured to add this new filing.</p> <p>Q: Would two months from JC approval of this proposal until its effective date provide sufficient time for implementation?</p> <p>A: Yes.</p> <p>Q: How well would this proposal work in courts of different sizes?</p> <p>A: This proposal should work in courts of any size.</p>	<p>No response to the remainder of this comment is necessary. The committee thanks the court for responding to these specific inquiries.</p>