

**Chapter 10**

**Guardianships**

**Rule 610.01 Consolidation of Adoption and Guardianship Proceedings**

If an adoption proceeding is pending involving a minor who is also the subject of a petition for guardianship, the proceedings will be consolidated and heard in the department designated by the presiding judge to hear consolidated adoption/guardianship proceedings.

(Adopted effective July 1, 1992)

**Rule 610.02 Appointment of Temporary Guardian**

For procedures for applying for appointment of a temporary guardian, go to [www.occourts.org](http://www.occourts.org) , click on Probate, and then click on ex parte procedures. If a petitioner wishes to apply to waive or shorten notice for appointment of a temporary guardian, the petitioner must follow CRC rule 7.1012.

(Adopted effective July 1, 1992; revised effective July 1, 2008)

**Rule 610.03 Vacated**

(Adopted effective July 1, 1992; repealed effective July 1, 2008)

**Rule 610.04 Appointment of General Guardian**

Petitions for appointment of general guardians are set on calendar for hearing, and the appearance of the proposed guardian and counsel are required. The court does not favor waiver of statutory notice on the appointment of a general guardian of a minor. However, the court can dispense with notice if sufficient grounds are given to justify an allegation that notice prescribed by Probate Code section 1511 cannot be given with reasonable diligence, or that the giving of such notice is contrary to the interests of justice. In all cases the court will require nomination or consent of a minor if such minor is fourteen years of age or older and if such minor has the capacity to nominate.

When a petition seeks the appointment of a non-petitioning guardian, a consent to serve as guardian must be filed for each non-petitioning proposed guardian.

(Adopted effective July 1, 1992; revised effective July 1, 2008)

## **LOCAL RULES – SUPERIOR COURT of CALIFORNIA, COUNTY of ORANGE**

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### **Rule 610.05 Waiver of Investigation and Report**

When a petition requests appointment of a guardian of the estate only, the investigation otherwise required by Probate Code section 1513 is waived, and no guardianship investigation fee is required.

(Adopted effective July 1, 1992)

### **Rule 610.06 Vacated**

(Revised effective September 1, 1998; repealed effective July 1, 2008)

### **Rule 610.07 Guardianship of the Person – Investigation Fees**

When a petition requests appointment of a guardian of the person, a nonrefundable guardianship investigation fee based upon the actual cost of the investigation as set forth in the statute and current fee schedule must be paid to the clerk in addition to the regular filing fee. (Probate Code section 1513.1)

(Revised effective October 1, 1993)

### **Rule 610.08 Vacated**

(Adopted effective July 1, 1992; repealed effective July 1, 2008)

### **Rule 610.09 Vacated**

(Adopted effective July 1, 1992; repealed effective July 1, 2008)

### **Rule 610.10 Petitions for Appointment of Non-Profit Corporations as Guardians of Minors**

In addition to the usual allegations in a petition for appointment of a guardian of the person and/or estate, a petition seeking the appointment of a non-profit corporation qualified to act as such pursuant to Probate Code section 2104 must contain specific allegations to enable the Court to determine that the corporation meets the requirements of Probate Code section 2104.

(Adopted effective July 1, 1992)

## **LOCAL RULES – SUPERIOR COURT of CALIFORNIA, COUNTY of ORANGE**

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### **Rule 610.11 Duties of Guardian – Liability of Parents to Support Child**

As parents are required by statute to support their children, the court will not permit guardianship funds to be used for the minor's maintenance and support where one or both parents are living, except upon a showing of the parent's financial inability (supported by the Judicial Council Form Income and Expense Declaration) or other circumstances which would justify the court in departing from this rule in the best interests of the minor.

(Adopted effective July 1, 1992; revised effective July 1, 2008)

### **Rule 610.12 Guardians' Accounts**

**All accounts filed in guardianship cases must comply with CRC rule 7.575.**

Private professional guardians are to file original financial account statements as required in Probate Code section 2620(c)(3). After examination and becoming part of the court's electronic record, pursuant to Government Code 68150, the original documents will be returned to the submitting party. The court will retain the documents in electronic form only. The private professional must file the bank and financial records separate from the guardian accounting. The caption shall state "Private Professional Bank and Financial Records per Probate Code section 2620(c)(3)" and the date, time and department of the hearing. The private professional guardian must submit with the records a self-addressed envelope with sufficient postage for mailing the documents or an attorney service pick up slip. The private professional guardian must retain the originals until the order approving the final account is final.

(Adopted effective July 1, 1992; revised effective July 1, 2008)

### **Rule 610.13 Vacated**

(Adopted effective July 1, 1992; repealed effective July 1, 2008)

### **Rule 610.14 Additional Independent Powers**

The court may, on the petition of the guardian, either at the time of appointment or later, grant additional independent powers to the guardian as authorized by sections 2590 and 2591 of the Probate Code. Additional independent powers are not lightly granted. The petition must state for each section 2591 power requested the facts and reasons which justify the independent exercise of the power. The court will grant only those independent powers necessary or proper under the specific circumstances of each case. Any powers so granted must be set forth at length in the order and in the letters of guardianship.

(Adopted effective July 1, 1992)

## **LOCAL RULES – SUPERIOR COURT of CALIFORNIA, COUNTY of ORANGE**

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### **Rule 610.15 Bonds of Guardians**

All petitions for a reduction of bond must be filed, set for hearing, and noticed pursuant to Probate Code section 2329 except as provided in Probate Code section 2328 (relating to funds and property deposited in a bank or trust company, etc., not to be withdrawn except on order of the court. See Rule 613.06)

(Adopted effective July 1, 1992; revised effective July 1, 2008)

### **Rule 610.16 Investments by Guardian**

The standard set forth in section 16040(a) of the Probate Code, providing for investments by trustees, is the standard applied by the Probate Court in authorizing proposed investments by guardians. The guardian should also consider the circumstances of the estate, indicated cash needs, and the date of prospective termination of the guardianship. The Probate Court does not act as an investment counselor but suggests that the investments by guardians should be prudent and in keeping with the size and character of the ward's estate. Investments in existence at the time of the creation of the guardianship usually may be maintained, subject to the provisions of section 16048 of the Probate Code. Investments other than as provided in Probate Code section 2574 require court authorization unless the guardian is empowered to so act pursuant to Probate Code sections 2590 et seq.

The court will not ordinarily approve the investment of the ward's funds in unsecured loans, secured loans to near relatives, or debenture bonds except those which are part of a large issue, well-seasoned, and listed on an established security exchange.

The court will not approve the investment of the ward's funds in bonds or obligations of foreign governments or corporations, whether payable in dollars or not.

Investment in real estate, either by purchase or encumbrance, usually will not be granted unless supported by an M.A.I. appraisal.

(Adopted effective July 1, 1992; revised effective July 1, 2008)

### **Rule 610.17 Vacated**

(Adopted effective July 1, 1992; repealed effective July 1, 2008)

### **Rule 610.18 Deceased Wards – Liquidation of Estate**

Petitions and orders under Probate Code section 2631 for authority to liquidate the estates of deceased wards must be submitted on Orange County Form 904.

(Adopted effective July 1, 1992)

## **LOCAL RULES – SUPERIOR COURT of CALIFORNIA, COUNTY of ORANGE**

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### **Rule 610.19 Attorneys Appointed for Wards or Proposed Wards**

The court is aware that, for attorneys appointed to represent wards or proposed wards, the prospect of future employment by the guardian might create situations which could lead to violation of Rules 3-110 and 3-310 of the Rules of Professional Conduct. Actual employment by a guardian after representation of the ward or proposed ward presents a high risk of violation of Rule 3-310 (d) of the Rules of Professional Conduct. Accordingly, all attorneys who are appointed by the court to represent wards or proposed wards, pursuant to section 1470 of the Probate Code, are deemed to stipulate to the court, by accepting such appointment, that they will not subsequently represent the guardian in the same guardianship.

(Adopted effective July 1, 1992)