Renewing an LPS Conservatorship

In Sacramento, LPS conservatorships are initiated by the Public Guardian (through the County Counsel). When possible, family members are appointed as Conservators of the Person, as they are better suited to ascertain the conservatee's personal needs on a day-to-day basis.

Although the Public Guardian initially assists the family member in being appointed Conservator of the Person, the conservators must renew the appointment every year without the aid of the Public Guardian. Renewal requires obtaining and filing several doctors' declarations as well as a *Petition for Reappointment* and other documents. This Guide contains forms and instructions to assist in the renewal.

Templates and Forms

- <u>Doctor's Declaration in Support of Renewing LPS Template RTF (https://saclaw.org/wp-content/uploads/2023/04/sbs-renewing-LPS-dr-declaration.rtf)</u>
- <u>Doctor's Declaration re Capacity to Consent (LPS) Template RTF (https://saclaw.org/wp-content/uploads/2023/04/sbs-renewing-LPS-dr-consent.rtf)</u>
- Citation for Conservatorship (GC-320) (https://www.courts.ca.gov/documents/gc320.pdf)
- Petition to Renew LPS Conservatorship Template RTF (https://saclaw.org/wp-content/uploads/2023/04/sbs-renewing-LPS-petition.rtf)
- Order Renewing LPS Conservatorship Template RTF (https://saclaw.org/wp-content/uploads/2023/04/sbs-renewing-LPS-order.rtf)
- Letters of Conservatorship (GC-350) (https://www.courts.ca.gov/documents/gc350.pdf)
- Notice of Hearing Guardianship or Conservatorship (GC-020) (https://www.courts.ca.gov/documents/gc020.pdf)
- Proof of Personal Service of Hearing Guardianship or Conservatorship (GC-020p)
 (https://www.courts.ca.gov/documents/gc020p.pdf)

Lanterman-Petris-Short Act (LPS) conservators may be appointed for "any person who is gravely disabled as a result of mental disorder or impairment by chronic alcoholism" when that person is unwilling or unable to accept treatment voluntarily. (California Welfare & Institutions Code (WIC) §§5350,

 $\underline{\text{(http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=WIC\§ionNum=5350.)}} \ \underline{5352}$

(http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=WIC§ionNum=5352.) .) Because they restrict the conservatee's civil rights, they are time-limited; they expire after one year unless the conservator successfully petitions for reappointment.

The primary special power of an LPS conservator is the right to place the conservatee in a treatment facility. WIC §5358(a) (http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=WIC§ionNum=5358.). The order appointing the conservator may also restrict the conservatee's right to a driver's license, to enter into contracts, to vote, to refuse or consent to treatment related to the disability, to refuse or consent to treatment unrelated to the disability, and to possess firearms. WIC §5357

 $\label{linear_case} $$ $$ \frac{\text{(http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=WIC\§ionNum=5357.)}.$$ These restrictions must be listed specifically in the order to be effective.$

Step-by-Step Instructions

1

Obtain Doctors' Declarations

A minimum of 45 days prior to the expiration date of the current conservatorship, send the doctors the declarations for execution. The forms needed for the declarations are:

- Doctors' declarations supporting the Petitioner (https://www.saclaw.org/wp-content/uploads/2023/04/sbs-renewing-LPS-dr-declaration.rtf) (two needed)
- Doctor's declaration on capacity to consent to medical treatment (https://www.saclaw.org/wp-content/uploads/2023/04/sbs-renewing-LPS-dr-consent.rtf) (one needed)

You may download customizable templates from the links listed above.

2

Complete the Required Forms

Instructions for completing the necessary forms are included at the end of this packet. The forms needed to renew an LPS conservatorship are:

- Citation for Conservatorship (http://www.courts.ca.gov/documents/gc320.pdf) (GC-320)
- Petition for Reappointment of LPS Conservator (https://www.saclaw.org/wp-content/uploads/2023/04/sbs-renewing-LPS-petition.rtf)
- (Proposed) Order Granting Petition to Reappoint LPS Conservator (https://www.saclaw.org/wp-content/uploads/2023/04/sbs-renewing-LPS-order.rtf)
- Letters of Conservatorship (http://www.courts.ca.gov/documents/gc350.pdf) (GC-350)
- Notice of Hearing—Guardianship or Conservatorship (http://www.courts.ca.gov/documents/gc020.pdf) (GC-020)
- Proof of Personal Service of Notice of Hearing—Guardianship or Conservatorship
 (http://www.courts.ca.gov/documents/gc020p.pdf)
 (GC-020(P))

You will also need copies of the current "Order Granting Petition to Appoint LPS Conservator" and "Letters of Conservatorship." Attach these to the *Petition* as Exhibit A and Exhibit B.

At the end of this Guide are completed samples of these forms. You may download forms and customizable templates from the links listed above.

3



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Make Copies, File Petition, Get Hearing Date, and Have Citation Issued

Make two copies of each:

- Petition for Reappointment of LPS Conservator
- Declarations of doctors regarding conservatee
- Citation for Conservatorship (GC-320)
- Letters of Conservatorship (GC-350)
- (Proposed) Order Granting Petition to Reappoint LPS Conservator

Leave the original copies unstapled, and staple each copy.

File the original and one copy of your documents at the Family Relations Courthouse, 3341 Power Inn Road, in Sacramento. There is no fee required. Also ask the clerk to endorse (stamp) the second copy for you. Keep that copy for later.

The clerk will assign a hearing date.

Ask the clerk to "issue" (file-stamp) the Citation. You will receive the original Citation back, now stamped.

4

Fill Out Notice of Hearing

Now that you have a hearing date, fill out the *Notice of Hearing*. You will be having it personally served on the conservatee and served by mail on the relatives and others who must be notified.

In item 1, list the documents you filed in Step 3. Photocopy all of the endorsed (file-stamped) documents from Step 3 to serve along with the Notice of Hearing. Make sufficient copies to serve one set each on everyone who is entitled to notice.

Who is entitled to notice?

- The conservatee
- the conservatee's attorney (the Public Defender),
- if the conservatee lives in a facility, the professional person in charge of the facility
- the county behavioral health director
- the county officer providing conservatorship investigations
- the conservatee's spouse, if any
- relatives to the second degree (parents, grandparents, siblings, children, and grandchildren) and
- anyone else the court instructs you to serve.

Under California Probate Code §1822 (http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB§ionNum=1822.), the *Notice of Hearing* must be personally served on the conservatee and on the conservatee's attorney (the Public Defender) and mailed to the remaining parties, at least 15 days before the hearing date. You cannot do

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this yourself or ask anyone who gets notice to do it. It must be done by a non-party who is over 18.

5

Have Citation, Petition, and Notice of Hearing Personally Served on Conservatee

A *Citation* and a copy of the *Petition* must be served on the proposed conservatee by personal delivery (by a non-party who is over 18) at least 15 days before the hearing.

Fill out, but do not sign, (1) the *Certificate of Service* on the last page of the *Citation* and (2) the *Proof of Personal Service of Notice of Hearing—Guardianship or Conservatorship* (GC-020(P)). **Make a copy of the filled-out-but-unsigned Certificate of Service and Proof of Personal Service before proceeding.**

The server then personally delivers to the conservatee and the conservatee's attorney (the Public Defender) the issued *Citation*, a copy of the *Petition* and all other documents filed in Step 3, and the Notice of Hearing, along with copies of the unsigned Certificate of Service and Proof of Personal Service forms.

The server then signs the *Certificate of Service* on the last page of the original *Citation* and the *Proof of Personal Service of Notice of Hearing—Guardianship or Conservatorship* (GC-020(P)) and gives the signed documents back to you.

For more information, see our Guide on Personal Service (https://www.saclaw.org/resource_library/personal-service/).

6

Have Notice of Hearing and Petition Served by Mail on Relatives

Fill out, but do not sign, the *Proof of Service by Mail* on page 2 of the *Notice of Hearing*. You must separately list all people to be served. If you do not have room, you can attach <u>Attachment to Notice of Hearing Proof of Service by Mail (Probate—Decedents' Estates and Guardianships and Conservatorships (http://courts.ca.gov/documents/gc020ma.pdf), GC-20(MA) to list the remainder.</u>

Be sure to check Box 5, "I served with the *Notice of Hearing – Guardianship or Conservatorship* a copy of the petition or other document referred to in the notice." **Make a copy of the unsigned** *Proof of Service by Mail* **on page 2 of the** *Notice of Hearing* before proceeding.

The server then mails a copy of the *Notice of Hearing* to each person listed.

The server then signs the *Proof of Service by Mail* form on page 2 of the *Notice of Hearing* and gives you the signed copy.

For more information on service by mail, see our guide on <u>Service by Mail (https://saclaw.org/resource_library/serving-documents-by-mail/)</u>.

7

File Original Proofs of Service and Lodge Proposed Order and Letters

Make two copies of each:

- Citation for Conservatorship (GC-320) (with original signature on proof of service)
- Notice of Hearing Guardianship or Conservatorship (GC-020), with original signature on proof of service (GC-020(P))
- · Doctors' declarations supporting the Petitioner
- Doctor's declaration on capacity to consent to medical treatment
- Letters of Conservatorship (GC-350)
- (Proposed) Order Granting Petition to Reappoint LPS Conservator

Leave the original set unstapled. Staple and two-hole punch the other copies for insertion into a folder.

File and lodge the original and one copy of:

- Citation for Conservatorship (GC-320) (with original signature on proof of service)
- Notice of Hearing Guardianship or Conservatorship (GC-020) (with original signature on proof of service, GC-020(P))
- Doctors' declarations supporting the Petitioner
- Doctor's declaration on capacity to consent to medical treatment
- Letters of Conservatorship (GC-350)
- (Proposed) Order Granting Petition to Reappoint LPS Conservator

File and lodge these documents in the Probate Department at the Family Relations Courthouse, 3341 Power Inn Road, Sacramento CA, 95826.

Get the clerk to endorse (file-stamp) the second copy of the documents and keep that set in your own file.

8

Contact Public Defender to Confirm Conservatee Has Been Interviewed

Check with the Public Defender to make sure they have interviewed their client, the conservatee.

9



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Probate Notes (also called Calendar Notes)

About ten to twelve calendar days prior to the hearing, "Probate Notes" are issued by the court. Since these are confidential, you must visit the courthouse to check them.

Probate Notes list any deficiencies that should be filled in or fixed prior to the hearing. For instance, if notice was mistakenly given by mail when it needed to be personally served, the Probate Notes will alert you so that you can re-serve in time. You must respond and clear Probate Notes in advance of the hearing. You should check back every couple of days to see if additional Probate Notes have been added.

For more information on responding to Probate Notes, see our guide on <u>Clearing Probate Calendar Notes for Guardianship or Conservatorship (https://saclaw.org/resource_library/clearing-probate-calendar-notes-for-guardianship-or-conservatorship/)</u>.

10

Attend Hearing and Pick Up Endorsed Copy of Order

On the hearing date, attend the hearing. It is recommended to bring file-stamped copies of all paperwork to the hearing. If all goes well, the court will issue the *Order Granting Petition to Reappoint LPS Conservator*. Obtain an endorsed copy of this *Order* from the clerk or bailiff before you leave the courtroom.

11

Have Clerk Issue Letters

Once you have the endorsed copy of the court order, go over to the probate court clerks' counter and have them issue the *Letters of Conservatorship*.

12

Have Order and Letters Served

Have the *Order* and *Letters of Conservatorship* served by mail on the same list of people as served in Step 6, plus the conservatee, using the same process as in Step 6.

For Help

 $\underline{ Public \ Administrator/Guardian/Conservator}_{(https://dcfas.saccounty.gov/SAS/Pages/PA-PG-PC/SP-Public-Publi$

AdministratorGuardianConservator.aspx)

Telephone: (916) 875-4467



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For More Information

On the Web:

Santa Clara Superior Court: Self-Help – LPS (Mental Health) Conservatorship

(http://www.scscourt.org/self_help/probate/conservatorship/conservatorship_lps.shtml). The Santa Clara court's website has useful information about LPS conservatorships.

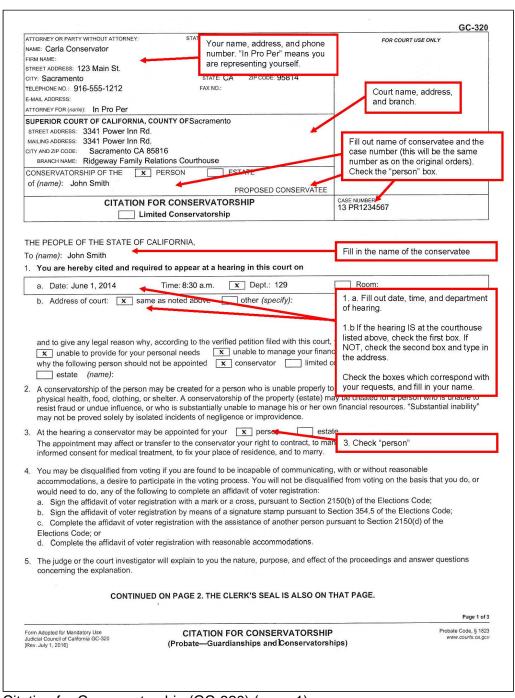
At the Law Library:

California Conservatorship Practice KFC 112 .C34 Chap. 23

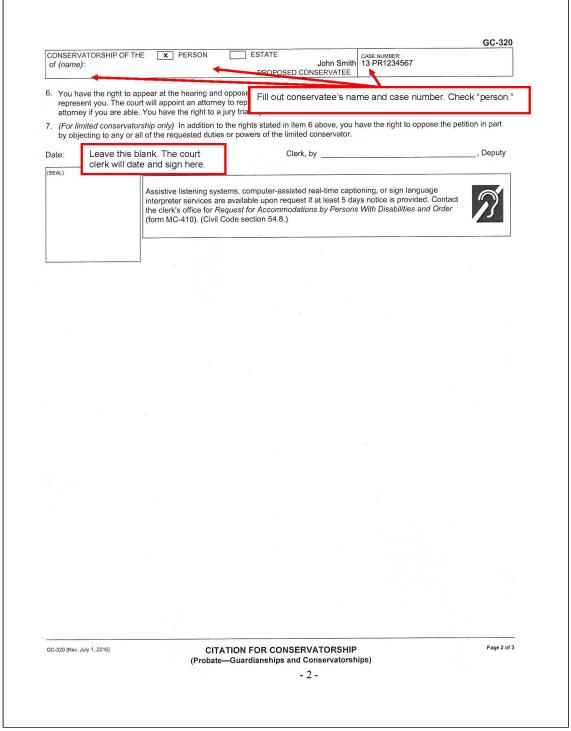
This practice guide, aimed at attorneys, contains detailed information about LPS conservatorships and about factors which determine whether a proposed conservatee is "gravely disabled" under the LPS Act. Electronic Access: On the Law Library's computers, using *OnLaw*.

Samples

Citation for Conservatorship (GC-320)



Citation for Conservatorship (GC-320) (page 1)



Citation for Conservatorship (GC-320) (page 2)



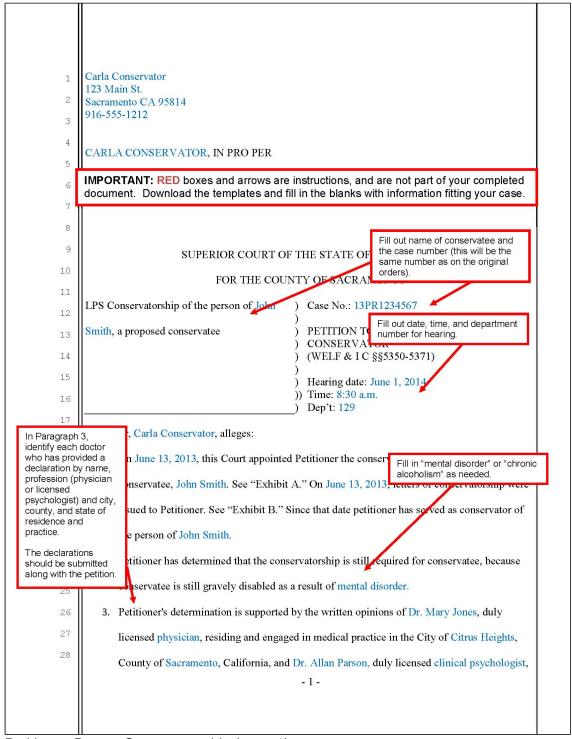


555	NSERVATORSHIP OF THE X PERSON ESTATE cas (name): John Smith 3F	e number: PR1234567
2	p Fill out conservatee's name and	case number. Check "nerson "
1.	At the time of service I was at least 18 years of age and not a party to any proceeding, a ser	rea copies or the organization
	Conservatorship and the Petition for Appointment of Probate Conservator (form GC-310) as	s follows:
2.	a. Person cited (name): John Smith	
	b. Person served: (1) x person in item 2a (2) other (specify name and title or relationship to the person-title).	2.a. Name of conservatee 2.b. Check box (1) if you served the conservatee, box (2) if you served a different person, and
	c. Address (specify): Maple Street Care Facility, 456 Maple St., Sacramento CA 95814	include their information 2.c. Address where the service took place.
3.	I served the person named in item 2	THE RESERVE OF THE PROPERTY OF
	 a. x by personally delivering the copies (1) on (date): May 10, 2014 b. by mailing the copies to the person served, addressed as shown in item 2c, by f (1) on (date): (2) from (city): 	(2) at (time): 4:22 p.m. irst-class mail, postage prepaid,
	(3) with two copies of the Notice and Acknowledgment of Receipt—Civil and a	3. This section should be filled
	addressed to me. (Attach completed Notice and Acknowledgment of Receip (4) to an address outside California with return receipt requested. (Attach comp	out with information about where and when the documents
	c. other (specify other manner of service, and the authorizing code section and order)	were handed to the conservatee.
4.	Person serving (name, address, and telephone number): Sally Server 457 Oak St. Sacramento CA 94826	information regarding server. If a friend does it for free , check box c. and leave the others blank.
	916-555-3424	
	b. Fee for service; \$ c. X Not a registered California process server.	5.Check box 5 so that server is declaring under penalty of
	d. Exempt from registration under Business and Professions Code section 22350(b)	perjury.
	e. Registered California process server. (1) Employee or independent contractor.	
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	(3) County (specify): (4) Expiration (date):	
5.	I declare under penalty of perjury under the laws of the State of California that the for	egoing is true and correct.
6.	I am a California sh Server should date and sign egoing is true and corrected after delivering the documents	
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GC	20 [Rev. January 1, 2016] CITATION FOR CONSERVATORSHIP	Page 3
	(Probate—Guardianships and Conservatorships)	

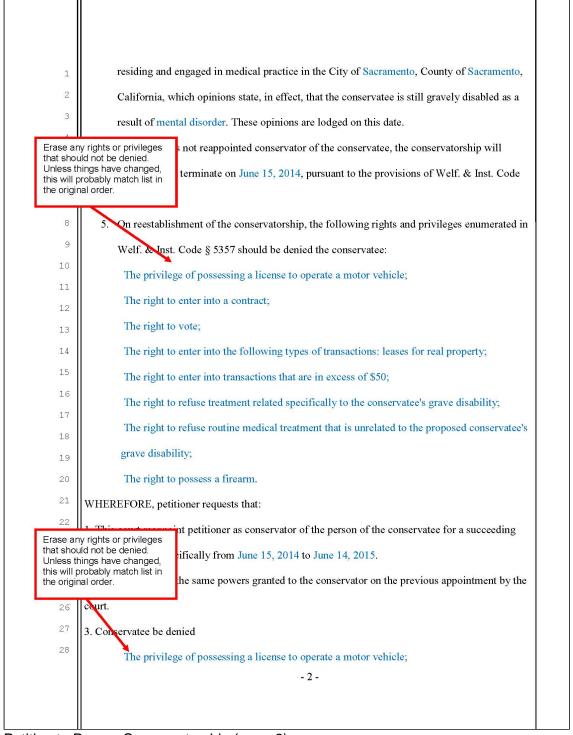
Citation for Conservatorship (GC-320) (page 3)



Petition to Renew Conservatorship



Petition to Renew Conservatorship (page 1)



Petition to Renew Conservatorship (page 2)

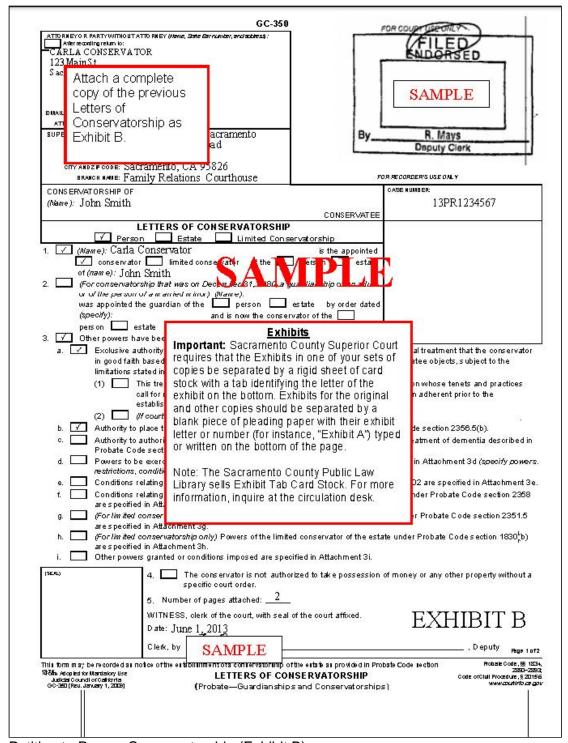
1	The right to enter into a contract;	
2	The right to vote;	
3	The right to enter into the following types of transactions: leases for real property;	
4	The right to enter into transactions that are in excess of \$50;	
5	The right to refuse treatment related specifically to the conservatee's grave disability;	
7	The right to refuse routine medical treatment that is unrelated to the proposed conservatee's	
8	grave disability;	
9	The right to possess a firearm.	
10	4. The court grant any other and further relief that the court considers proper.	
11		
12	DATED: May 12, 2014 Carla Conservator	
13	CARLA CONSERVATOR, In Pro Per	
14	Petitioner	
16	VERIFICATION	
17	I, Carla Conservator, the petitioner in this matter, declare that I have read the petition and	
18	know its contents, which are true to my own knowledge except for those matters stated on my	
19		
20	information and belief, and as to those matters I believe the petition to be true.	
21	I declare under penalty of perjury under the laws of the State of California that the foregoing	
22	is true and correct.	
23	Date: May 12, 2014 Carla Conservator	
24	Carla Conservator, Petitioner	
25		
26		
27		
28		
	- 3 -	
latition to [Ponow Conservatorship (page 3)	

Petition to Renew Conservatorship (page 3)





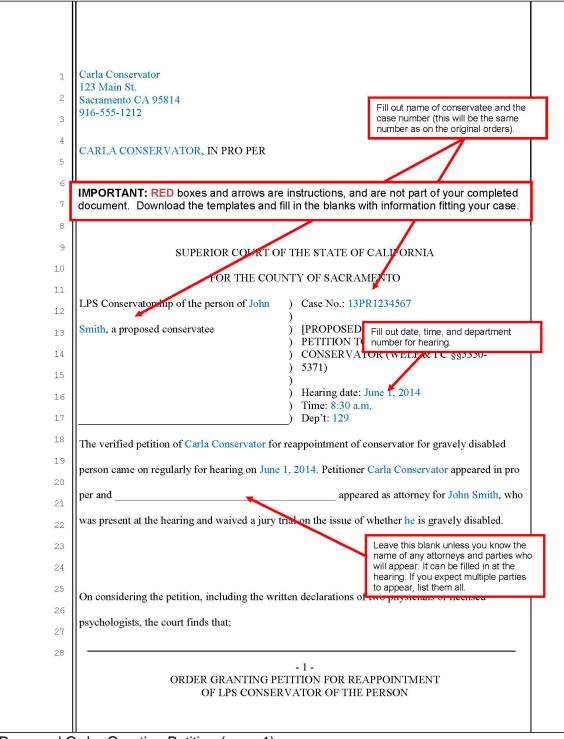
Petition to Renew Conservatorship (Exhibit A)



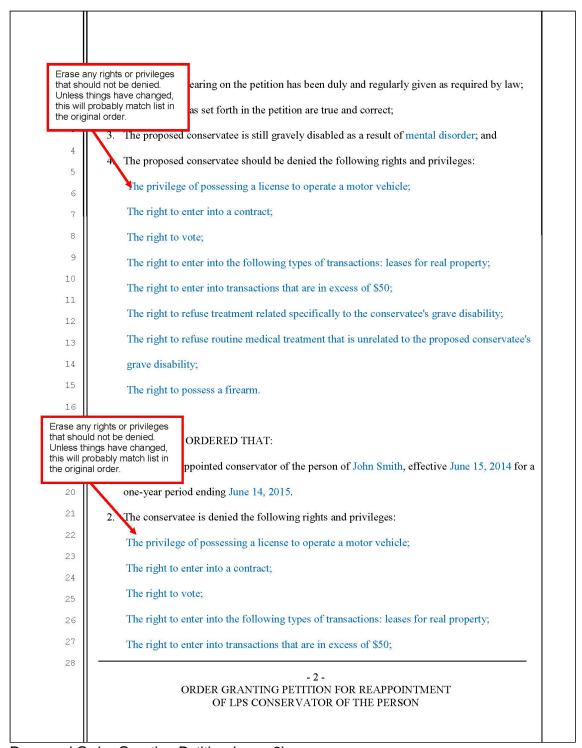
Petition to Renew Conservatorship (Exhibit B)



Proposed Order Granting Petition

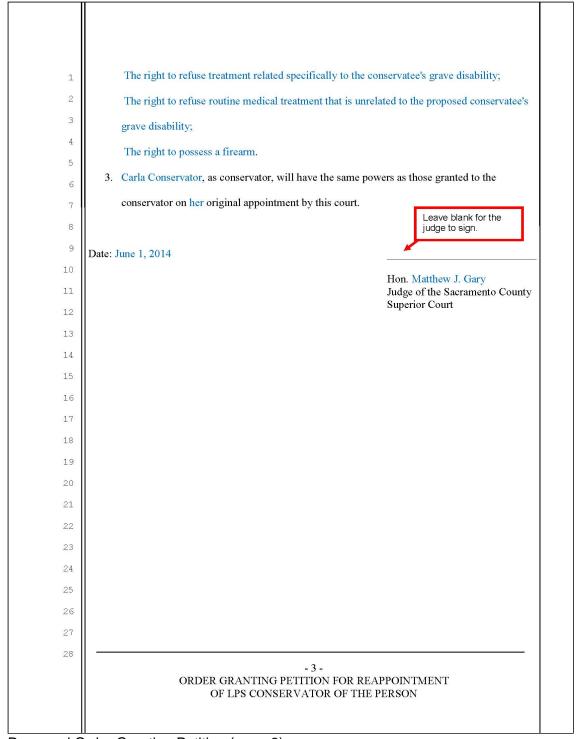


Proposed Order Granting Petition (page 1)



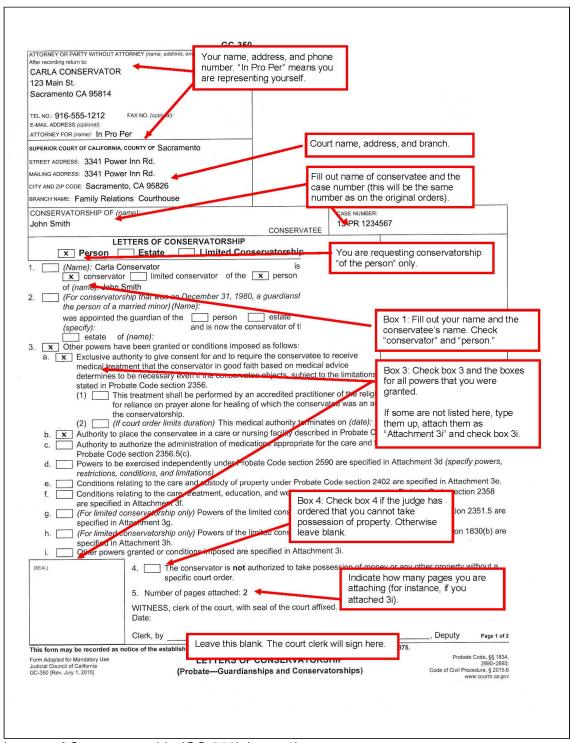
Proposed Order Granting Petition (page 2)





Proposed Order Granting Petition (page 3)

Letters of Conservatorship



Letters of Conservatorship (GC-350) (page 1)

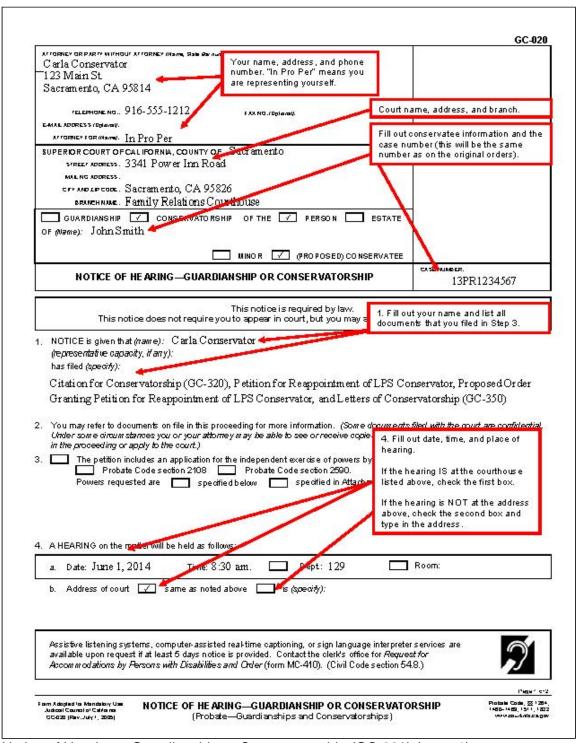


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			CONSERVATEE		
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he court.			number.		
		u may either arrange for perso	nal delivery of th	e form or mail it to the	court for filing at the
address given for the co The conservator shou	10	e Letters. py of the appropriate form to y	ouwith these Le	ters, but it is vour instit	ution's or financial
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Letters of Conservatorship (GC-350) (page 2)

Notice of Hearing - Conservatorship



Notice of Hearing – Guardianship or Conservatorship (GC-020) (page 1)





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Notice of Hearing – Guardianship or Conservatorship (GC-020) (page 2)





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Proof of Personal Service of Notice of Hearing (GC-120(P))