

Chapter 4

Probate Referees, Inventories and Appraisals

Rule 604.01 Probate Referees

In all proceedings in which a probate referee is to be designated by the court, one of the referees shall be designated as follows:

- A. A request by the personal representative for the designation of a specific probate referee on a showing of good cause pursuant to Probate Code section 8921 may be submitted ex parte. The request must be presented on Orange County Form 906.
- B. Except where the court has designated a specific probate referee on the request of the personal representative pursuant to Probate Code section 8921, the clerk shall draw by lot the name of one of the probate referees, who shall thereafter be designated by the court. One referee is to be designated for matters pertaining to each proceeding. Any variation in the manner of designation of referees shall be made only by the probate judge.
- C. In the case of petitions to establish fact of death and spousal/domestic partner property petitions, if designation of a referee is required, a separate order designating the referee should be presented. In the case of petitions for probate which are not joined with spousal/domestic partner property petitions, the order designating the referee is a part of the order for probate.
- D. In cases where it is necessary to initiate a subsequent proceeding concerning the same decedent, a new order for designation of a probate referee must be made in the new proceeding. If the attorney desires the designation of the same referee who was designated in the prior proceeding, the attorney should make a written request therefore to the court pursuant to Probate Code section 8921.
- E. In cases where the designated probate referee retires or dies and no successor probate referee is designated by the court, the representative shall submit Orange County Form 42 to the clerk in the Probate Division to obtain the designation of a successor.

In all proceedings in which the probate referee is not to be selected by the court (Probate Code sections 13100 et seq., 13150 et seq., and 13200 et seq.), the petitioner or declarant, as the case may be, can select a referee who has been appointed to appraise property in Orange County from a list maintained by the Probate Division of the Clerk's Office. If real property is to be appraised, the referee must be selected from those appointed to appraise property in the county where the real property is located.

In all proceedings in which the personal representative exercises the right, pursuant to Probate Code section 8924(a)(2), to remove the first probate referee designated by the court, the representative shall submit Orange County Form 905.

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

LOCAL RULES – SUPERIOR COURT of CALIFORNIA, COUNTY of ORANGE

Rule 604.02 Character of Property

Attorneys are cautioned to comply with Probate Code section 8850(c), which requires that an inventory and appraisal show, to the extent ascertainable by the personal representative, the portions of the property that are community, quasi-community, and separate property of the decedent. Only the decedent's interest in any community or quasi-community property should be included on the Appraisal and not the entire value unless the surviving spouse is electing to probate the surviving spouse's share.

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

Rule 604.03 Report of Status of Appraisal

In each instance where the probate referee is required to make a report of the status of an appraisal pursuant to Probate Code section 8940(b)(2), such report shall be submitted on Orange County Form 907.

(Adopted effective July 1, 1992)

Rule 604.04 Appraisal by Independent Expert

Where the personal representative has elected to have an item appraised by an independent expert per Probate Code section 8904, the representative shall prepare a separate and distinct Attachment 2 (in addition to the Attachment 1 listing the property appraised by the representative) which lists all items appraised by the independent expert. At the end of this attachment there shall be a declaration by the independent expert in the following form:

Declaration of Independent Expert

I have truly, honestly, and impartially appraised, to the best of my ability, each item set forth on this Attachment 2.

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)

(Signature of Independent Expert)

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