

CHECKLIST OF COMMON PROBLEMS AND REASONS FOR DELAY

1. Proposed orders not submitted on time.
2. Proofs of mailing notice not on file or defective, or required notice not given, as for example:
 - (a) mailing notice before the pleading requiring notice is filed;
 - (b) on probate distributions, beneficiaries not noticed;
 - (c) on trust accounts, remaindermen not noticed;
 - (d) on petitions under Probate Code § 17200, failure to mail copies of petition when required, or to refer to that mailing on the proof;
 - (e) when pleadings are amended - new notice required;
 - (f) on petitions to admit a will and codicils, failure to give notice to a beneficiary whose bequest has been revoked by a codicil;
 - (g) failure to give notice to alternate executors; and
 - (h) failure to give notice to a contingent beneficiary, e.g., where a will prescribes a survival period and the survival period has not elapsed.
3. Account in poor form:
 - (a) no summary reconciling charges and credits;
 - (b) starting figure incorrect or missing (e.g., amount of inventory, amount received on distribution, or amount on hand at last account);
 - (c) inadequate itemization of income, not showing source and dates;
 - (d) showing principal items as income or "receipts;"
 - (e) inadequate itemization of disbursements, not showing dates of payments, to whom paid, and for what purpose;
 - (f) failure to show property on hand; and
 - (g) computation of statutory fees unclear or defective:
 - (i) claiming "statutory fees" on property passing or belonging to a spouse, where there has been no § 13502(b) election; and
 - (ii) erroneously increasing estate accounted for by refunds received for amounts paid during estate administration, returned deposits on sales, and advances by beneficiaries.
4. Failure to caption petition so as to give complete notice and full information as to contents.
5. Death taxes not allocated or prorated in petition for final distribution, where there is no tax clause.
6. Creditors' claims filed with Clerk of the Court, but not acted upon by the personal representative.
7. Failure to describe assets on hand in petitions for distribution, or to describe assets in orders making distribution and failure to include full legal description of real property in order of distribution and in orders confirming sale of real property.
8. Failure to sufficiently allege and describe services rendered on extraordinary fee requests.
9. Incomplete facts re identity and genealogy of issue of predeceased child(ren) or siblings and heirs of predeceased spouses and other non-obvious heirs.
10. In petitions to settle trust accounts, failure to justify by appropriate allegation (e.g., consent of beneficiaries) any deviation from the usual method of charging fees one-half to income and one-half to principal.
11. In petitions and orders for distribution, failure to provide for the statutory interest on general pecuniary bequests.

12. Failure to allege and explain a plan of distribution in cases where there is insufficient cash, where cash adjustments are required, or where there are complexities in allocating or prorating death taxes or computing distributable percentages of residue.
13. In appropriate cases (e.g., specific bequests and distributions to trusts), failure to allocate probate income on final distribution.
14. Failure to use current Judicial Council forms.
15. Failure to allege the status of bonds and the possible need for increase or decrease in petitions to settle accounts of guardians, conservators, and trustees of trusts related to guardianships or conservatorships, or in petitions to release blocked funds.
16. Omission of verification by petitioner.
17. Attachment of inappropriate "exhibits" to proposed orders.
18. In petitions for final distribution, failure to justify the proposed distribution by references to the will or by outlining the intestate entitlement.
19. In proposed orders for final distribution, proposing findings or orders not covered in the petition, or incorporating trust provisions of the will by reference, rather than setting them forth in full.
20. E-Filing Issues:
 - (a) failure to file timely to allow for time to upload the pleading; and
 - (b) failure to file the declaration regarding retention of originals.
21. Ex Parte Matters:
 - (a) lack of appearance by attorney, proposed fiduciary, and/or minor or proposed conservatee on applications for special letters of administration or temporary letters of guardianship or conservatorship;
 - (b) failure to submit copies of receipts and copy of order of distribution exceeding three pages with petitions for discharge;
 - (c) failure to allege status as to requests for special notice;
 - (d) failure to provide required notice to proposed conservatee and relatives within the second degree on applications for temporary letters of conservatorship;
 - (e) failure to allege specific jurisdictional facts on petitions to approve sales of depreciating property or property causing expense, particularly with respect to jewelry, coins or furniture;
 - (f) failure to explain why temporary conservator must be appointed prior to hearing date for general conservator;
 - (g) on application for exclusive listing agreements, failure to attach a copy of the proposed agreement on an appropriate form adapted for probate sales, and to allege reasons why the exclusive listing is advantageous; and
 - (h) on petitions or stipulations for correcting clerical errors included in orders, failure to make allegations or recitals showing entitlement to relief under CCP § 473(d).
22. Inventory and Appraisal:
 - (a) no indication as to whether property is separate or community;
 - (b) property inadequately described;
 - (c) non-cash assets not appraised by a Probate Referee;
 - (d) properly inventoried assets omitted; and
 - (e) improper assets included.