

<i>Attorney or Party without Attorney (Name, state bar number and address): Telephone and Fax No.:</i>  <i>Attorney for (Name):</i>	<i>FOR COURT USE ONLY</i>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA 191 North First Street San Jose, California 95113	
Conservatorship of the <input type="checkbox"/> Person <input type="checkbox"/> Estate of  <div style="text-align: right;"><input type="checkbox"/> Conservatee <input type="checkbox"/> Proposed Conservatee</div>	
<b>LAYPERSON'S DECLARATION RE LEGAL CAPACITY</b>	CASE NUMBER:

**TO LAYPERSON DECLARANT**

The purpose of this form is to enable the court to determine whether the (proposed) conservatee has the capacity to enter into financial transactions.

**GENERAL INFORMATION**

1. *(Name):*
  
2. *(Address and telephone number):*
  
3. I am a layperson. I know the (proposed) conservatee in the following capacity *(describe)*: \_\_\_\_\_  
 \_\_\_\_\_
  
4.  (Proposed) Conservatee:  
 I last saw the (proposed) conservatee on *(date)*:

(Continued on next page)

Conservatorship of the <input type="checkbox"/> Person <input type="checkbox"/> Estate of (Name):  <div style="text-align: right;"><input type="checkbox"/> Conservatee <input type="checkbox"/> Proposed Conservatee</div>	Case Number:
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**EVALUATION OF (PROPOSED) CONSERVATEE'S MENTAL FUNCTION.**

5. **Note to the Declarant:** This form is *not* a rating scale. It is intended to assist you in recording your *impressions* of the (proposed) conservatee's mental abilities. Where appropriate, please feel free to refer to scores on standardized rating instruments.

**Instructions (Items A-C):** Check the appropriate designation below: *a* = no apparent impairment; *b* = moderate impairment; *c* = major impairment; *d* = so impaired as to be incapable of being assessed; *e* = I have no opinion.

**A. Alertness and Attention**

- (1) **Levels of arousal.** (Lethargic, responds only to vigorous and persistent stimulation, stupor.)  
 a  b  c  d  e
- (2) **Orientation.** Encircle each *type of orientation* which is impaired:  
 a  b  c  d  e  Person  
 a  b  c  d  e  Time [day, date, month, season, year]  
 a  b  c  d  e  Place [address, town, state]  
 a  b  c  d  e  Situation [why am I here?]
- (3) **Ability to attend and concentrate.** (Give detailed answers from memory, mental ability required to thread a needle.)  
 a  b  c  d  e

**B. Information Processing.** Ability to:

- (1) **Remember.** (Ability to remember question before answering, to recall names, relatives, past presidents, events of past 24 hours.)
  - i. **Short-term memory:**  
a  b  c  d  e
  - ii. **Long-term memory:**  
a  b  c  d  e
  - iii. **Immediate recall:**  
a  b  c  d  e
- (2) **Understand and communicate either verbally or otherwise.** (Deficits reflected by: inability to comprehend questions, follow instructions, use words correctly or name objects; nonsense words.)  
 a  b  c  d  e
- (3) **Recognize familiar objects and persons.** (Deficits reflected by: inability to recognize familiar faces, objects, etc.)  
 a  b  c  d  e
- (4) **Understand and appreciate quantities.** (Perform simple calculations.)  
 a  b  c  d  e
- (5) **Reason using abstract concepts.** (Grasp abstract aspects of his/her situation; interpret idiomatic expressions or proverbs.)  
 a  b  c  d  e
- (6) **Plan, organize and carry out actions (assuming physical ability) in one's own rational self interest.** (Break complex tasks down into simple steps and carry them out.)  
 a  b  c  d  e
- (7) **Reason logically.**  
 a  b  c  d  e

**C. Thought disorders.**

- (1) **Severely disorganized thinking.** (Rambling thoughts, nonsensical, incoherent or non-linear thinking.)  
 a  b  c  d  e
- (2) **Hallucinations.** (Auditory, visual, olfactory.)  
 a  b  c  d  e
- (3) **Delusions.** (Demonstrably false belief maintained without or against reason or evidence.)  
 a  b  c  d  e
- (4) **Uncontrollable or intrusive thoughts.** (Unwanted compulsive thoughts, compulsive behavior.)  
 a  b  c  d  e

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Conservatorship of the <input type="checkbox"/> Person <input type="checkbox"/> Estate of ( <i>Name</i> )  <div style="text-align: right;"><input type="checkbox"/> Conservatee <input type="checkbox"/> Proposed Conservatee</div>	Case Number
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D. **Ability to modulate mood and affect.** The (proposed) conservatee  has  does NOT have a pervasive and persistent or recurrent emotional state that appears inappropriate in degree to his or her circumstances.  
*(If so, complete remainder of 5D.)*

I have no opinion.

**Instructions:** Rate the *degree* of impairment of each *inappropriate* mood state (*if any*) as follows:

**a** = mildly inappropriate;      **b** = moderately inappropriate;      **c** = severely inappropriate

Anger      a <input type="checkbox"/> b <input type="checkbox"/> c <input type="checkbox"/>	Euphoria      a <input type="checkbox"/> b <input type="checkbox"/> c <input type="checkbox"/>	Helplessness      a <input type="checkbox"/> b <input type="checkbox"/> c <input type="checkbox"/>
Anxiety      a <input type="checkbox"/> b <input type="checkbox"/> c <input type="checkbox"/>	Depression      a <input type="checkbox"/> b <input type="checkbox"/> c <input type="checkbox"/>	Apathy      a <input type="checkbox"/> b <input type="checkbox"/> c <input type="checkbox"/>
Fear      a <input type="checkbox"/> b <input type="checkbox"/> c <input type="checkbox"/>	Hopelessness      a <input type="checkbox"/> b <input type="checkbox"/> c <input type="checkbox"/>	Indifference      a <input type="checkbox"/> b <input type="checkbox"/> c <input type="checkbox"/>
Panic      a <input type="checkbox"/> b <input type="checkbox"/> c <input type="checkbox"/>	Despair      a <input type="checkbox"/> b <input type="checkbox"/> c <input type="checkbox"/>	

E. The (proposed) conservatee's periods of impairment from the deficits indicated in Items 5A-5D

- (1)  do NOT vary substantially in frequency, severity, or duration.
- (2)  do vary substantially in frequency, severity, or duration (*explain*):

F.  (*Optional*) Other information regarding my evaluation of the (proposed) conservatee's mental function (e.g., particular observations, problems noticed):

Stated in Attachment 5F.

**ABILITY TO ENTER INTO FINANCIAL TRANSACTIONS.**

6. Based on the information above, it is my opinion that the (proposed) conservatee
- a.  has the capacity to enter into financial transactions and should not have his or her right to enter into contracts terminated by the Court.
  - b.  lacks the capacity to enter into financial transactions because the mental deficits indicated above significantly impair the (proposed) conservatee's ability to understand and appreciate the consequences of his or her actions such that the (proposed) conservatee lacks the capacity to understand and/or enter into any contracts or agreements regarding property. (*If this paragraph applies, declarant shall initial here:* \_\_\_\_\_.)

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 DECLARANT)



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**Instructions to Counsel and Declarants for Completing GC-335,  
GC-335A, and Conservatorship of Estate for Attachments PB-4015 and PB-4016**

Attachments PB-4015 or PB-4016 shall be used where the petitioner is seeking conservator of the estate powers. Petitioners shall use Attachment PB-4015 when they request a medical or psychological professional to complete Judicial Council Form GC-335. Petitioners shall use Attachment PB-4016 for conservatorships of the estate when no orders regarding inability to attend the hearing, medical consent powers, or dementia powers are being sought and where petitioners wish to have a lay person complete a capacity declaration.

- (1) For non-attendance of proposed conservatee at appointment hearing: Use page one only of Form GC-335. Complete items 1-5. A lay person cannot complete form GC-335.
- (2) To support a petition for appointment of conservator of estate:

When a medical or psychological professional is used as a declarant, the declarant must complete pages one to three of GC-335 and attach the Conservatorship of the Estate Attachment (Attachment PB-4015). The declarant should sign the declaration on page three and should sign the Conservatorship of the Estate Attachment. Declarant must initial on the line in item 1 of the Conservatorship of the Estate Attachment. Complete items 1-4 and item 6 of form GC-335. If proposed conservatee is not to be excused from attendance, leave item 5 blank.

When a lay person is used as a declarant, the declarant must complete pages one to three of Attachment PB-4016. A lay person cannot complete form GC-335.

- (3) To support a petition for appointment of conservator of person with medical powers; or for a subsequent grant of medical powers to a conservator of the person: Use pages one to three of Form GC-335. Declarant should sign the declaration on page three only. Complete items 1-4 and 6 and 7. Declarant must initial on the line in item 7b. If proposed conservatee is not to be excused from attendance, leave item 5 blank. A lay person cannot complete form GC-335.
- (4) To support a petition for grant of dementia powers pursuant to Probate Code Section 2356.5, either at time of initial appointment or for a subsequent grant of dementia powers: Complete pages 1 through 3 of declaration GC-335 and complete GC335A. Declarant should sign the declaration Form GC 335A only. Use items 1-4, 6, 7, and 9. If the proposed conservatee is not to be excused from attendance, leave item 5 blank. A lay person cannot complete form GC-335.

Please note the following restrictions in the law governing who is authorized to prepare the different portions of this declaration:

- (1) Non-attendance at Hearing: May be executed only by a licensed medical practitioner, including a psychologist acting in the scope of his/her licensure, and including an accredited religious healing practitioner.
- (2) Establishment of Conservatorship of Estate: May be executed by anyone with knowledge of the circumstances of the proposed conservatee. A layperson cannot complete form GC-335 but can complete Local Form "Lay person's Declaration Re Legal Capacity," Attachment PB-4016.
- (3) For grant of medical powers: May be executed by a licensed physician or a licensed psychologist acting within the scope or his/her licensure.
- (4) For grant of dementia powers under Probate Code Section 2356.5: May be executed by a licensed physician or a licensed psychologist acting within the scope of his/her licensure and who has at least two years experience in diagnosing dementia.

To the person preparing the Capacity Declaration form prior to sending it to declarant:

- (1) Complete the box on page one that indicates for what purpose(s) you are having this form completed and indicate in the space provided on page one, which pages of this multipurpose declaration you are filing. If you are completing page one only, you should not file pages two and three. If you are completing pages one to three only, you should not file Form GC-335A.
- (2) Judicial Council form GC-335 contains two declaration clauses, and GC-335A contains a declaration clause. The Conservatorship of the Estate Attachment and the Lay Person's Declaration re Legal Capacity also contain declaration clauses. Prior to sending it to declarant, strike out the declaration clauses to be left blank. For example, if you are seeking medical powers as well as a finding that the conservatee should be excused because of medical inability from attending the hearing, strike out the declaration clause on page one. If you are seeking dementia powers, strike out the declaration clauses on pages one and three.
- (3) Special instructions for Item 9, Form GC-335A: Declarant should refer to special mental function deficits as noted in item 6, relevant to the need for secure placement or need for administration of dementia medications, when completing item 9a1 and 9b1. Declarant should describe specific medical or behavior problems in items 9a and 9b that secure placement or administration of dementia medications will address.