



California's Protection & Advocacy System
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LPS Conservatorship Courtroom Handbook

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INTRODUCTION

The purpose of this LPS Conservatorship Court Handbook is to help familiarize you with the courtroom process when you have your LPS hearing about whether or not you are gravely disabled and have a mental disorder. If you have never been in a courtroom, going to court can feel scary or intimidating. Hopefully the information in this booklet will ease some of your concerns.

The section “Different People in Court and What They Do” explains the various roles that people at your LPS hearing have. “How to Dress for Court” gives tips about how to make a good first impression on the judge and jury. You will also find answers to commonly asked questions like, “I am in the hospital, how will I get to court?” and “How to appeal if I lose my LPS court hearing.”

With the information in this handbook, it is hoped that the court process is better understood and explained and the handbook gives you tools to advocate for what you want.

Disclaimer: In California, each county may handle LPS conservatorship hearings differently. Be sure to check with your attorney for more information. With that in mind, this handbook has examples of some common questions and answers.

THE LPS CONSERVATORSHIP HEARING AND THE DIFFERENT PEOPLE IN COURT AND WHAT THEY DO

Court Hearing - A court hearing, or trial, is a legal proceeding in which lawyers question witnesses and reviews evidence to determine the facts of a case. In the case of LPS conservatorship hearings, the court then decides whether or not there is enough evidence to prove you need to be conserved.

Judge- If you have a bench trial, the judge will decide if you will be placed on conservatorship. If you have a jury trial, the jury will decide if you will be placed on conservatorship. You have a right to a jury trial if you want one.

Jury- A jury is a group of 12 citizens who cooperate to decide, after reviewing all the facts and evidence, if you will be placed on conservatorship. Their decision, or verdict, must be unanimous.

County Counsel – This is an attorney employed by the county. The attorney's role in court is to convince the judge or jury beyond a reasonable doubt that you meet the legal standard to be conserved.

Public Defender – This is the attorney who will represent you in court. The public defender's job is to tell the judge and jury what your wishes are. If you do not want to be on conservatorship, the public defender's job is to advocate for you not to be placed on conservatorship by presenting evidence that you do not meet the standard for conservatorship.

Public Guardian – When someone is placed on a temporary conservatorship, it is the duty of the Public Guardian's office to investigate whether someone needs to be on a full LPS conservatorship. At an LPS conservatorship hearing, a representative of the public guardian's office will be in court and will tell the judge or jury why they think you need to be on conservatorship.

Defendant – You are considered the defendant in an LPS conservatorship hearing.

Witness - A person who gives relevant information about what they have seen or what they know about the issues in the case.

Oath - It is a legal promise to tell the truth and obey all the rules of the court.

Testimony- Statements given under oath by you or a witness in court.

Court Reporter - Someone who writes down, word for word, what is said in court. They generally use shorthand, a recording device or a stenographic machine. You can ask for a copy of this record.

Bailiff - A court officer who maintains order in the courtroom. Bailiffs are law enforcement officers and will wear a uniform in court.

DO I HAVE TO ATTEND MY LPS CONSERVATORSHIP HEARING?

No. If you do not wish to attend your LPS conservatorship hearing, you do not have to. If you choose not to attend, your attorney will ask you to sign a form stating you are waiving your right to be at your hearing. Before you decide whether or not to attend, please know it is important to be at your hearing because you have a right to challenge what happens to you and to tell the judge and jury what you want.

WILL I HAVE AN ATTORNEY OR ADVOCATE AT MY COURT HEARING?

You have a right to an attorney to represent you at your court hearing. If you cannot afford an attorney, you will be assigned a public defender. If you do not want a public defender, you may hire, at your own expense, a private attorney. If you hire your own attorney, make sure they have knowledge and experience with LPS conservatorship laws.

IF I AM IN THE HOSPITAL OR FACILITY, HOW WILL I GET TO COURT?

It is the hospital's or facility's responsibility to take you to your court hearing. You can ask your attorney to be sure there is an order for this to happen. You can also ask the nursing staff or social worker about how you will get to court. If the hospital or facility does not take you to court, your hearing will be rescheduled for another day.

HOW TO DRESS FOR COURT

There is an old saying, "You have only one chance to make a first impression." This is very true about going to court. The first impression you want to make to the judge and jury (if you have a jury trial) is that you are a competent and capable person who can provide for your food, clothing and shelter needs. The following are some suggestions about how to dress to give that message.

Clothes

It is most important that your clothes are clean. Men, if you have a suit and tie, that's great. If you do not, that is okay, just be sure you wear long pants and wear a shirt. If you only have jeans and a T-shirt, be sure they are clean. For women, if you have a dress or a blouse and skirt, that's great. If you only have jeans and a T-shirt, just be sure they are clean. Do not wear anything that is too short, low-cut, tight or revealing. Most facilities have a washer and dryer so you can wash your clothes before you go to court.

Tips for Men

1. Shower before going to court.
2. Make sure your hair is combed.
3. Shave before going to court.
4. If you have a beard or mustache, trim them.

Tips for Women

1. Shower before going to court.
2. Make sure your hair is combed. If you have long hair, style it so it is not hanging in your face or covering your eyes. The judge and jury want to be able to see you.

3. Don't wear a lot of make-up.

By paying attention to your appearance, you are letting the judge and jury know you respect the court and yourself. Remember that you don't have to look like a movie star - the main message you want to give is, "I am a capable person who can make good decisions about my life."

COURTROOM ETIQUETTE

When people have to appear in court, sometimes they are nervous because they do not know what to expect or they do not know courtroom etiquette. Courtroom etiquette is about acceptable manners and how to address the people in court. This fact sheet provides details about courtroom etiquette.

The Proper Way to Address the Judge

When you speak to the judge, address him or her as "Your Honor." Before the judge enters the courtroom, the bailiff will give instructions on how and when to speak to the judge. If you are asked a question by the judge or an attorney, end your answer with "Sir" or "Ma'am."

As the judge enters the courtroom, the bailiff will ask everyone in the courtroom to stand up. Then people are instructed to sit down and the proceedings begin after witnesses are sworn in.

Talking to Your Attorney Outside of the Courtroom

In most counties, the first time you meet with your attorney may be in the courtroom hallway. Speak softly and maintain a calm demeanor since this is a public area and anyone might overhear your conversation.

Talking to Your Attorney in the Courtroom

The general rule is not to speak to your attorney during a hearing. Having paper and pen or pencil is useful for taking notes, writing questions or writing down your frustrations or thoughts. Ask your attorney if you are allowed to have a pen or pencil in the courtroom. In some counties, there are special rules related to safety regarding pens or pencils for individuals appearing in court under an involuntary psychiatric hold.

Conduct in the Courtroom

Sit up straight in your chair. Do not slouch or fidget. How you sit, and your facial expressions show the judge that you are serious and interested in what he or she has to say. Do not bring food or drink into the courtroom. Do not chew gum. In this way, you show respect for the judge, the court and yourself.

Court Room Etiquette during the Court Hearing

Talk only to the judge or your attorney. You may not speak to or address opposing counsel, witnesses, or other courtroom staff.

When referring to others do not call them by their first name, but instead, formally, by their last name; for example, you should address James as, "Mr. Smith," even if you are addressing a family member.

Do not speak until directed to do so. Do not interrupt. When you are asked questions, be brief and to the point.

Do not argue with the judge. Do not swear, use slang or derogatory language in or outside the courtroom.

Cell phones and other electronic devices must be turned off in the courtroom. If you are seen using a phone, texting, or playing a game on your wireless device, your device may be confiscated by the bailiff. To be certain about the rules in the local court, ask your attorney about mobile device use.

CAN I REQUEST WITNESSES TO COME TO COURT?

Only your attorney can subpoena a witness to testify at your hearing. If there are people you want to attend and testify on your behalf, tell your attorney ahead of time. Give your attorney their contact information and ask who will be contacting them. Your attorney will probably talk with the people you requested and see if they would be a good witness for you.

HOW TO APPEAL YOUR PLACEMENT ON A LPS CONSERVATORSHIP

If you had a jury trial or court trial (also known as a bench trial) and were found to be gravely disabled and placed on an LPS conservatorship, you have a right to file an appeal.

You must file an appeal within sixty (60) days of the establishment of the conservatorship. You can contact your attorney and ask that a notice of appeal be filed for you. If you can't afford to hire an attorney, you are entitled to a free, court-appointed attorney. If you don't have money, you are also entitled to a waiver of all costs related to the appeal.

Disclaimer: In California, each county may hold LPS conservatorship hearings differently. Be sure to check with your attorney for more information on local court rules.

These materials are based on the law and court decisions in effect at the time of publication. The law can change at any time. If there is any question about the continued legal authority of any information in this handbook, contact Disability Rights California, your public defender or another legal resource.

Disability Rights California is funded by a variety of sources, for a complete list of funders, go to <http://www.disabilityrightsca.org/Documents/ListofGrantsAndContracts.html>.