



**HANDBOOK FOR CHALLENGING
LANTERMAN-PETRIS-SHORT
ACT (LPS)
CONSERVATORSHIPS**

HANDBOOK FOR CHALLENGING LANTERMAN PETRIS SHORT (LPS) CONSERVATORSHIPS

TABLE OF CONTENTS

I.	AN OVERVIEW OF LANTERMAN PETRIS SHORT (LPS) CONSERVATORSHIPS:.....	2
II.	FREQUENTLY ASKED QUESTIONS ON CHALLENGING AN LPS CONSERVATORSHIP AND FILING WRITS OF HABEAS CORPUS.....	4
III.	SAMPLE PETITIONS AND EXAMPLES OF HOW TO PREPARE AND FILE A PETITION FOR A WRIT OF HABEAS CORPUS.....	9
IV.	HOW TO GET A REHEARING ON YOUR CONSERVATORSHIP.....	13
V.	HOW TO APPEAL BEING PLACED ON AN LPS CONSERVATORSHIP.....	14
VI.	HOW TO CHALLENGE YOUR PLACEMENT WHEN YOU AND YOUR CONSERVATOR DISAGREE.....	15
VII.	HOW TO WRITE A DECLARATION	17
VIII.	HOW OFTEN CAN A WRIT BE FILED.....	21
IX.	HOW TO CHALLENGE THE LOSS OF SPECIFIC RIGHTS.....	22
X.	ATTACHMENT A.....	23
XI.	ATTACHMENT B	27
XII.	ATTACHMENT C.....	29
XIII.	ATTACHMENT D.....	31
XIV.	ATTACHMENT E CALIFORNIA SUPERIOR COURTS.....	33
XIV.	CALIFORNIA SUPERIOR COURTS.....	34
XV.	ATTACHMENT F.....	41

I. AN OVERVIEW OF LANTERMAN PETRIS SHORT (LPS) CONSERVATORSHIPS:

- a. REHEARINGS
- b. WRITS OF HABEAS CORPUS
- c. OTHER CHALLENGES TO MENTAL HEALTH COMMITMENT

This handbook will help a person who is on permanent (year-long) conservatorship.

The various court challenges that we review in this handbook are:

1. Rehearing on conservatorship to challenge the necessity of being on a conservatorship.

*You should try to challenge the conservatorship through the rehearing before you file the writ of habeas corpus.

2. Writs of habeas corpus to challenge either:
 - a) Being on a conservatorship
 - b) Conditions of confinement on a conservatorship, including denial of patients' rights (see Attachment A.)
3. Placement review hearing to challenge your placement if you think you could be in a less restrictive placement.
4. Challenge the loss of specific rights as a condition of an LPS conservatorship such as the right to vote or have a driver's license.

If you have questions about any of the information in this handbook, please call Disability Rights California at 1-800-776-5746. For persons who cannot make toll-free calls, you can call us collect at:

Los Angeles Office: (213) 427-8747

Oakland Office: (510)267-1200 **Sacramento Office:** (916) 488-9950

Fresno Office:

For more information about LPS conservatorships, you can request Disability Rights California's publication #5225.01. You can also download this publication and other mental-health-related information from our website at www.disabilityrightsca.org.

II. FREQUENTLY ASKED QUESTIONS ON CHALLENGING AN LPS CONSERVATORSHIP AND FILING WRITS OF HABEAS CORPUS

1. What is the legal standard to be placed on a conservatorship?

The legal standard is "grave disability." Grave disability means that you are not able to provide for your own food, clothing and shelter due to a mental disorder. Welf. & Inst. Code § 5008(h).

2. I'm in a locked facility. I was placed on a permanent conservatorship two weeks ago. How can I get off of the conservatorship?

You can *petition* (ask) the court for a rehearing to see whether you should be on a conservatorship. If you ask, you are entitled to a rehearing as to whether you should be on a conservatorship at all. At a rehearing, you have the burden of proving that you are not "gravely disabled." You do not have the right to a jury trial at the rehearing. Welf. & Inst. Code § 5364.

At your rehearing, you should be prepared to tell the judge reasons why you are not "gravely disabled." "Gravely disabled" means that you are unable to provide for your own food, clothing and shelter due to a mental disorder. To show the judge that you are not "gravely disabled," develop a detailed plan to show how you would provide for your own food, clothing and shelter. Address the "who," "what," "where," "when," and "how". See the attachment "Plan of Action to Show that I am not 'Gravely Disabled' to Challenge Conservatorship" located on page 17 of this handbook.

If there is someone who can provide for your food, clothing or shelter, have that person write the conservator, judge and attorney of their willingness. This is called "third party assistance" and can be used to challenge conservatorship. You should be prepared to tell the judge what kind of mental health and/or medical treatment you would get and where you would go to get it.

If you plan on receiving Social Security or other benefits, you should explain to the judge that you know how to sign up for and receive those benefits.

The easiest way to request a rehearing is to contact the lawyer who represented you when you were placed on the conservatorship. Tell the lawyer that you would like to petition the court for a rehearing.

3. *I don't remember who represented me at the conservatorship hearing. How can I get a lawyer to represent me at the rehearing?*

If you did not pay for a lawyer to represent you at the conservatorship hearing, you were probably represented by a court-appointed lawyer. Most court-appointed lawyers are from the Public Defender's Office. You can look up the phone number in the local phone book under "county government." You can ask your patients' rights advocate to help you contact your public defender or look at the list of public defenders that is located at the back of the material.

4. *I've been given the phone number to my public defender whom I'm having a difficult time contacting.*

When you call the public defender's office, you should ask the person who answers the phone when would be the best time to reach your attorney. Many public defenders are in court for much of the day instead of being in their office. You can also ask to leave a message on your attorney's voicemail. When you leave a message, be sure to leave your name, date of birth, phone number, the best time to reach you, and why you called. Make sure you write down when you left the message for your attorney for your own records. Write your attorney if you are having problems with communication, and keep a copy of the letter(s) as a follow-up to a phone call or message.

5. *I lost my conservatorship rehearing. When can I have another hearing on this issue?*

After filing the first petition for rehearing, you must wait for six months before filing another petition for rehearing. Welf. & Inst. Code § 5364.

6. *I lost at the rehearing and still believe I should not be conserved because I do not believe that I am "gravely disabled." What can I do?*

You can file a petition for writ of habeas corpus. A petition for writ of habeas corpus is a way to ask the court to decide whether your confinement is lawful. The writ of habeas corpus should be filed in the Superior Court of the county in which you are placed, or the county where the conservatorship case is located. You may want to file where the case file is located because the judge who ordered conservatorship might remember your case better. At the back of this material is a list of Superior Courts. (See Attachment E.)

*You should try to challenge the conservatorship through the rehearing process before you file the writ of habeas corpus.

7. *I sent away my petition for writ of habeas corpus about two weeks ago but still haven't heard anything. Is there a deadline by which the court should respond?*

Within 30 days after the petition is filed or received on a transfer from another county, the court can do three things with the writ:

- a. "Issue the writ" which means you win what you complained about;
- b. Issue an "order to show cause," which means the court wants to hear from the other side why the relief asked for shouldn't be given. The other side (usually County Counsel) then has to file a "return" to an "order to show cause." You then have the right to file a "denial to the return." Within 30 days after the filing of any denial (or after the expiration of the time for filing a denial), the court shall either grant or deny the relief sought or order an evidentiary hearing;
- c. Deny the writ.

If the court makes an order denying your writ, it should explain in writing why it denied your writ.

8. *I've been on a conservatorship for almost a year. I don't think I need to be on one anymore. What should I do?*

If you haven't done so already, you can ask for a rehearing or file a writ of habeas corpus. **Remember you should try to file for a rehearing before filing a writ of habeas corpus.** If it's been almost a year since you've been on the conservatorship, you can wait and see if your conservator will try and renew your conservatorship. The conservator must let you know if he or she plans on renewing your conservatorship. Conservatorships are for one-year periods. Every year, the conservator must seek a renewal of your conservatorship. This is called a "reestablishment hearing." If your conservator will be seeking a reestablishment, you can choose to oppose or fight the reestablishment. It is a good idea to insist that you want to go to court. And again, prepare to tell the judge how you would be able to provide for your food, clothing, and shelter.

9. *I don't want to fight the conservatorship itself but I don't need to be in a locked facility. I think I'm ready to live in either a Board and Care or some other type of unlocked place. What can I do?*

Tell your conservator that you would like a change in placement and state why. Tell the conservator how well you have been doing at the facility. If there are positive reports by staff, tell the conservator. Your conservator can work with your social worker and treatment team to create a plan to move you back into the community. Your conservator can place you in a less restrictive placement without the court's permission. However, if you are on a Murphy conservatorship because you were previously committed under the Penal Code, your conservator must first give written notice to the court about a plan to transfer you to a less restrictive setting. Welf. & Inst. Code § 5358(d)(2).

10. *My conservator is a public guardian whom I don't know the name of or how to contact.*

Begin by looking in the phone book under "public guardian." Often, it's listed in the government pages. You can ask your social worker for the name and number of your public guardian. You can also see if your lawyer can help you locate your public guardian. Call the county patients' rights advocates for the name and number.

11. *I'm ready to move somewhere other than a locked facility, but my public guardian never returns my phone calls and whom I can't contact. Is there anything else I can do?*

You can petition (ask) the court for a "placement review hearing." Welf. & Inst. Code § 5358.3. Again, the best way to have the placement review hearing is to ask your lawyer to have the court schedule it for your case.

12. *I wasn't able to get the judge to order me to a less restrictive facility. Can I petition the court again?*

If you lose the hearing asking for a less restrictive placement, you must wait another six months before submitting another petition (asking for another hearing.) Welf. & Inst. Code § 5358.3.

You can also file a writ of habeas corpus in the county where you are confined (i.e., the county where the facility is located). Welf. & Inst. Code § 5358.7.

13. *I'm in a locked facility where my rights are being violated: I'm not allowed to make phone calls or have visitors, **and** the staff have restrained me for talking back. What can I do?*

You should notify your attorney and ask the attorney to bring the situation to the attention of the judge. You should also contact the patients' rights office for your county and tell them you want to make a complaint. For some harmful acts, a complaint can be filed with licensing. The patients' rights advocate has the contact information for licensing. Also, for phone numbers to contact licensing, the California Office of Patients' Rights can be called at 916-575-1610. You can also file a writ of habeas corpus in either the county where you are confined or the county that placed you on the conservatorship.

III. SAMPLE PETITIONS AND EXAMPLES OF HOW TO PREPARE AND FILE A PETITION FOR A WRIT OF HABEAS CORPUS.

PREPARING THE FORM PETITION

General Instructions

- 1) Read the entire form as well as these instructions before answering any questions.
- 2) Fill out the form as clearly as possible in ink or by typing your answers. Take your time when filling out the form. It might be a good idea to practice on a blank sheet of paper first.
- 3) If you don't have enough space to answer the questions, finish your answer(s) on (an) additional page(s) and attach them to the back of the page. Write on the petition that your answer is "continued on additional page(s)."
- 4) Attach copies of any documents which support your claim or which are necessary to understand your claim. For example, if you were put in restraints, you might wish to include the copies of any complaints you've filed or copies from your medical chart.
- 5) Make sure that all of the statements you make are true to the best of your knowledge.

Instructions for Filling Out the Petition Form

To help you, a sample petition can be found online at the following link:

<http://www.courtinfo.ca.gov/forms/fillable/mc265.pdf>

A copy of the sample petition is also attached (see Attachment F).

A) Boxes at the Top of the Petition Form

- 1) In the box that says "ATTORNEY OR PETITIONER WITHOUT AN ATTORNEY" fill in your **name** with the words "**In Pro Per**" after it, the **facility name and address**, and the **phone number with area code** at

which you can receive calls. For example, if you are a patient at Metropolitan State Hospital, you would fill out this first box as follows:

(Your name), In Pro Per
c/o Metropolitan State Hospital
11401 S. Bloomfield Ave.
Norwalk, CA 90650

Remember to include your **phone number with area code** and **date of birth** where indicated.

- 2) In the box that says "SUPERIOR COURT OF CALIFORNIA, COUNTY OF:" write the **name of the county where you are presently confined**. For example, Napa State Hospital is in Napa County.
- 3) Below the phrase "IN THE MATTER OF (NAME):" write your **full name** and write **In Pro Per**.
- 4) Leave the box that asks for your **case number** blank. The court will assign you a case number after your petition is filed.

B) Numbered questions/statements

- #1. Write the **name of the hospital** in which you are being held and, if you know, the **name of your treating psychiatrist**.
- #2. Write the date of your admission next to the phrase "(date)" on the first line of this section. Then, check the box that states your legal status.
- #3. If you are challenging your confinement:

Check box "a" and list the reasons you believe your confinement to be illegal. Use extra sheets if you need to.

For example, if you are being held on the basis of "grave disability" and you believe that you now have the ability to provide for your food, clothing and shelter needs, write that you are now able to provide for these things. Also provide any information you have to show how you would meet your needs, including the assistance of other individuals or agencies. See page 17.

#4. If you are challenging the CONDITIONS of your confinement:

Check box "b" and clearly describe the **rights** that are being denied you while you are confined, and the **date(s)** on which the violation(s) occurred. You can challenge the denial of any right which you are entitled to under state or federal law (including the constitution, court cases, statutes and administrative regulations) or under the policies of the facility in which you are being held. These might include such rights as the right to keep and use your possessions, the right to have visitors, the right to make phone calls and send and receive mail, the right not to be secluded or restrained inappropriately or excessively, the right not to be involuntarily medicated on a non-emergency basis, etc. Welf. & Inst. Code § 5324. As noted above, it will be helpful (but is not necessary) for you to refer in your petition to the statute number, policy number, case citation, etc., guaranteeing the right(s).

Usually, you can only protest when rights are currently being denied or when you have evidence you will be denied your rights in the foreseeable future (such as if you are told that you are going to be transferred to a more restrictive unit/facility).

If you have been denied a right in the past and feel that you are at risk of being denied that right again for similar reasons, you may claim this as a right which has been violated. For example, if you were put in restraints for refusing medication, and the staff still claims that it has the right to do so, you could claim this as a violation of your rights, because you might be put in restraints again for the same reasons in the future.

#5. Check boxes, **a**, **b**, **c**, and **d**. If you cannot afford an attorney to represent you in the habeas proceeding, next to or below box "d," you should write **"including appointment of counsel to represent me in this action, as I cannot afford an attorney."**

C) Verification and Signature

Write the **current date** where indicated. **Print or type** your name on the line in the bottom, left corner. **Sign** your name on the line in the bottom, right corner.

FILING THE PETITION

- 1) Mail the **originals** and **two (2) copies** of the petition and any supporting documents (including any request for appointment of counsel) to the Superior Court for the county in which you are being held. For example, if you are being held in Napa State Hospital, the address is:

Napa County Superior Court
825 Brown St., P.O. Box 880
Napa, CA 94559-0880

ADDITIONAL INFORMATION IN THIS PACKET

A list of the California Superior Courts is included to help you locate the proper court in which to file the writ. See Attachment E.

IV. HOW TO GET A REHEARING ON YOUR CONSERVATORSHIP

If you want to get off of your conservatorship, you have the right to have a rehearing. You can ask for a rehearing right away, but once you have one, you must wait another six months before having another one. Welf. & Inst. Code § 5364.

The best way to get a rehearing is to contact your attorney. If you were placed on an LPS conservatorship, you were represented by an attorney. If you did not have money to pay for an attorney, you were probably represented by a court appointed attorney. Most court appointed attorneys are public defenders.

Your social worker should have the name and phone number of your court-appointed attorney. You can also call the patients' right advocate to find out how to contact your attorney. When you call your attorney, give your full name and date of birth. If your attorney is not in the office, ask if you can leave a message. Be sure to leave your name, date of birth, facility where you're at, phone number where you can be reached, best time to reach you, and the message that you are "requesting a rehearing on your conservatorship." You can also write a letter to your attorney with this information.

If your attorney refuses to contact you, you can file your own petition to the court requesting a rehearing on conservatorship. You should give your attorney at least two weeks to try to contact you before filing your own petition.

INSTRUCTIONS FOR FILING PETITION FOR REHEARING ON CONSERVATORSHIP

1. Fill out all the information on the form. See Attachment B.
2. If possible, send the court two copies, with a self-addressed stamped envelope and a note to return one of the conformed copies to you. A conformed copy is a court-stamped document that shows the document was received and will include the date.
3. Send the petition to the Superior Court of the county that placed you on the conservatorship. See Attachment E for the list of Superior Court addresses.

V. HOW TO APPEAL BEING PLACED ON AN 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 therefore you needed to be on an LPS conservatorship, you have a right to file an appeal.

You must file a notice of appeal within **sixty (60) days** of the establishment of the conservatorship. You can contact the attorney and ask that a notice of appeal be filed for you. You can also file the attached notice of appeal with the Superior Court of the county that established the conservatorship. See Attachment C.

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 waiver of all costs on appeal.

VI. HOW TO CHALLENGE YOUR PLACEMENT WHEN YOU AND YOUR CONSERVATOR DISAGREE

Placement Review Hearing

When you are on an LPS conservatorship, your conservator has the power to decide where you will live. That does not mean that you are completely at the "mercy" of your conservator. If you and your conservator disagree about your placement, you can go back to court to challenge the appropriateness of your placement. This is called having a placement review hearing. However, once you go back to court for placement review hearing, you must wait another six months before having another one. Welf. & Inst. Code § 5358.3.

You can request a placement review hearing in the county where the conservatorship was established or the county where you are living. Welf. & Inst. Code § 5358.7.

Even though you have a placement review hearing, you can also still ask the judge for a conservatorship rehearing. At a placement review hearing, you are only asking the judge to review the appropriateness of your placement, not whether you should be on a conservatorship. At a conservatorship rehearing, you are asking the judge to consider whether you need to be on a conservatorship at all.

The best way to get a placement review hearing is to contact your attorney. If you were placed on an LPS conservatorship, you were represented by an attorney. If you did not have money to pay for an attorney, you were probably represented by a court-appointed attorney. Most court-appointed attorneys are public defenders.

Your social worker should have the name and phone number of your court-appointed attorney. You can also call the patients' right advocate to find out how to contact your attorney. When you call your attorney, give your full name and date of birth. If your attorney is not in the office, ask if you can leave a message. Be sure to leave your name, date of birth, facility where you're at, phone number where you can be reached, best time to reach you, and the message that you are "requesting a placement review hearing." You can also write a letter to your attorney with this information.

If your attorney refuses to contact you, you can file your own petition to the court requesting a placement review hearing. You should give your attorney at least two weeks to try to contact you.

Instructions for Filing Petition for Placement Review

1. Fill out all the information on the form. See Attachment D.
2. If possible, send the court two copies, with a self-addressed stamped envelope and a note to return one of the conformed copies to you.
3. Send the petition to the Superior Court of the county that placed you on the conservatorship. Attached is a list of Superior Court addresses. See Attachment E.

VII. HOW TO WRITE A DECLARATION

A declaration is your statement, under oath, about things for which you have personal knowledge—things that you know about, on your own. For example, you cannot declare something that others have told you. You can only declare things that you know of, heard, or saw personally.

When you write a declaration, you are trying to give the judge as much specific information as you can, as clearly and simply as you can. Your declaration should answer the questions: Who? What? Where? When? Why? How?

If you are filing a writ of habeas corpus because you are in a locked facility and don't believe you need to be in one, your declaration should give the judge information about

- Where you are
- Why you don't need to be there
- What specific plans you have if you were to be released.

(See worksheet on pgs. 18-19)

In other words, you should explain to the judge what exactly you would do if you got out of the locked facility.

1. At the beginning of your declaration, you should use this opening sentence: "I, (your name), declare as follows:"
2. Next, list all the facts and information in brief paragraphs. Number each paragraph. A paragraph should not be longer than two or three sentences.
3. Finally, the last two sentences should be: "I declare under penalty of perjury that the foregoing is true and correct."
4. And then: "Executed on (give the date that you are signing your declaration) at (write the city and state where you signed your declaration)."
Be sure to write and sign your name at the bottom of the page.

Declaration of Ezra Pound

I, Ezra Pound, declare as follows:

1. I have been living at Cherry Heights IMD since February 1, 2000. I am on an LPS conservatorship.
2. I lost the rehearing on my conservatorship on March 30, 2000.
3. I do not need to be at Cherry Heights IMD because it is more restrictive than necessary, and I have a good plan to provide for my own food, clothing and shelter.
4. Because of my disability, I am eligible for Social Security benefits. I received Social Security benefits in the past and I know how and where to apply for them again. I would submit my application for Social Security benefits at the office on 3030 Broadway Avenue in Los Angeles.
5. I have found a room I could I rent. On July 12, 2000, I spoke to Bill Jones, the manager at 2375 Maplewood Lane in Los Angeles. Bill said he could rent me a room. He said he would keep the room open for a month.
6. I have friends who can help me. Their names are Alejandro and Kathy Galeano. The Galeanos have said I could stay with them if I needed to. They are willing to come to court to testify on my behalf.
7. I know how to buy food and make meals for myself.
8. I have my own clothing: two pairs of pants, underclothing and three shirts. I know where to buy second-hand clothes.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 20, 2000 at Los Angeles, California.

Ezra Pound

**PLAN OF ACTION TO SHOW THAT I AM NOT "GRAVELY
DISABLED" TO CHALLENGE CONSERVATORSHIP**

**[FILL OUT FORM AND GIVE TO YOUR ATTORNEY
AND THE CONSERVATOR]**

1. Name. Address. Case number, if known.

2. My monthly income is _____. I get the money from _____
_____. This could include, Social Security Income
(SSI), Veteran's Benefits, or work income.

3. I plan to live at this address. I own the property, or I will spend this amount of
money for rent.

4. I will provide for my food this way. I will spend this amount of money on food.

5. I will provide for my clothing this way. I will spend this amount of money on
clothing.

6. There could be friends or family that can help me by providing for my food,
clothing and shelter. Their names and how to contact them is listed. (*Be sure to
attach a written note from the person willing to help that says that they are willing
to help and have them state how to reach them.)

7. If I need treatment, I am willing to get treatment from this person or agency.

8. I can get to my appointments or meetings this way.

VIII. HOW OFTEN CAN A WRIT BE FILED

You can file for a writ often; however, each filing should have sufficient statements different from a writ that has been denied.

IX. HOW TO CHALLENGE THE LOSS OF SPECIFIC RIGHTS

Challenging the Loss of Specific Rights as a Condition of an LPS Conservatorship

Just because you are on a conservatorship does not mean the judge will automatically take away all of your rights. The judge must specifically limit your right to vote, have a driver's license, enter into contracts, refuse to consent to routine medical treatment, and refuse to consent to treatment related to being gravely disabled. Welf. & Inst. Code § 5357. If you want the judge to reconsider the fact that he or she took away some of your rights, you can petition (ask) the judge to again look at whether you should still have those rights taken away.

The best way to get a hearing to contest the loss of specific rights is to contact your attorney. If you were placed on an LPS conservatorship, you were represented by an attorney. If you did not have money to pay for an attorney, you were probably represented by a court appointed attorney. Most court appointed attorneys are public defenders.

Your social worker should have the name and phone number of your court-appointed attorney. You can also call the patients' right advocate to find out how to contact your attorney. When you call your attorney, give your full name and date of birth. If your attorney is not in the office, ask if you can leave a message. Be sure to leave your name, date of birth, facility where you're at, phone number where you can be reached, best time to reach you, and the message that you are "requesting a hearing to contest rights taken away." You can also write a letter to your attorney with this information.

If your attorney refuses to contact you, you can file your own petition to the court requesting a hearing to contest rights taken away. You should give your attorney at least two weeks to try to contact you.

Instructions for Filing Petition to Contest Rights Denied Conservatee

1. Fill out all the information on the form. See Attachment F.
2. If possible, send the court two copies, with a self-addressed stamped envelope and a note to return one of the conformed copies to you.
3. Send the petition to the Superior Court of the county that placed you on the conservatorship. Attached is a list of Superior Court addresses. See Attachment E.

X. ATTACHMENT A

WRIT OF HABEAS CORPUS

Uses For Persons on Permanent LPS Conservatorship

A Writ of Habeas Corpus is a petition that you can file if you are on an LPS conservatorship and:

1. You believe that you are being confined unlawfully; or
2. You believe that your rights have been violated in the facility.

When can a writ of habeas corpus be filed?

1. Whenever you believe your rights have been violated without good cause;
2. Whenever you believe you have been held unlawfully and other rehearings, ie. conservatorship rehearings and placement hearings have been exhausted.

How long will it take to hear from the court?

1. Within 30 days after filing

How do you show that you are being confined unlawfully?

1. You must show that you are not gravely disabled due to a mental disorder;
2. Gravely Disabled means that you are unable to provide your own food, clothing, and shelter;
3. You must show specifically how you will live outside the facility

How do you show that your rights have been violated?

1. You must list specifically when a right has been violated;
2. List each violation separately.

Will you get legal assistance?

1. When the court issues the writ, a public defender can be assigned to help you before the hearing.

RIGHTS

Undeniable Rights:

1. A right to treatment services which promote the potential of the persons to function independently. Treatment should be provided in ways that are least restrictive of personal liberty.
2. A right to dignity, privacy, and human care.
3. A right to be free from harm, including excessive physical restraint, isolation, medication, abuse, or neglect. Medication shall not be used as punishment for the convenience of staff, as a substitute for program, or in quantities that interfere with the treatment program.
4. A right to prompt medical care and treatment.
5. A right to religious freedom and practice.
6. A right to participate in appropriate programs of publicly supported education.
7. A right to social interaction and participation in community activities.
8. A right to physical exercise and recreational opportunities.
9. A right to be free from hazardous procedures.
10. The right to see a patients' rights advocate.
11. The right to confidentiality in respect to information and records involved in one's treatment.

Deniable Rights Due to Good Cause:

1. To wear one's own clothes.
2. To keep and use one's own personal possessions including one's own toilet articles.

3. To keep and be allowed to spend a reasonable sum of one's own money for canteen expenses and small purchases.
4. To have access to individual storage space for private use.
5. To see visitors each day.
6. To have reasonable access to telephones, both to make and receive confidential calls or to have such calls made.
7. To have ready access to letter writing materials, including stamps, and to mail and receive unopened correspondence.

What is "Good Cause"

Good cause for denying one of the rights exists if the professional person in charge of facility have good reason to believe:

1. That the exercise of the specific right would be injurious to the resident; or
2. That there is evidence that the specific right, if exercised, would seriously infringe on the right of others; or
3. That the institution or facility would suffer serious damage if the specific right is not denied; and
4. That there is no less restrictive way of protecting the interest specified in 1, 2, or 3.

XI. ATTACHMENT B

1 Name: _____

2 Address: _____

3 _____

4 _____

5 In Pro Per

6

7

SUPERIOR COURT OF CALIFORNIA

8

COUNTY OF _____, STATE OF CALIFORNIA

9

10

Conservatorship of the Person of,) Case No.:

11

Conservatee.

)
)
)
)
)
)

) REQUEST FOR REHEARING

12

13

14

PLEASE TAKE NOTE that Conservatee, (name:) _____, is

15

requesting a rehearing as to the status of conservatorship, from the judgment entered in the above

16

entitled action on or about (date:) _____, pursuant to California Welfare &

17

Institutions Code §5364. The Conservatee has not filed a request for rehearing in the last six

18

months.

19

The Conservatee is without means to retain counsel and hereby requests appointment of

20

counsel.

21

DATED: _____

Respectfully submitted,

22

23

24

By: _____

25

(Name)

26

Conservatee, In Pro Per

27

28

XII. ATTACHMENT C

1 Name: _____
2 Address: _____
3 _____
4 _____
5

6 In Pro Per
7
8
9

10 SUPERIOR COURT OF CALIFORNIA
11 COUNTY OF _____, STATE OF CALIFORNIA
12

13 Conservatorship of the Person of,) Case No.:
14)
15 _____)
16 Conservatee.) NOTICE OF APPEAL
17)
18)
19)
20)
21)
22)
23)
24

25 PLEASE TAKE NOTE that Conservatee, (name:) _____,
26 appeals the judgment entered in the above entitled action on or about (date:) _____.

27 The Conservatee is is without means to retain counsel on appeal and hereby requests
28 appointment of counsel.
29

30 DATED: _____ Respectfully submitted,
31

32
33 By: _____
34 (Name)
35 Conservatee, In Pro Per
36
37
38
39
40
41

XIII. ATTACHMENT D

1 Name: _____

2 Address: _____

3 _____

4 _____

5 In Pro Per

6

7

8

SUPERIOR COURT OF CALIFORNIA

9

COUNTY OF _____, STATE OF CALIFORNIA

10

Conservatorship of the Person of,) Case No.:

11

)

12

)

Conservatee.

)

)

13

)

14

)

15

PLEASE TAKE NOTE that Conservatee, (name:) _____, is

16

requesting a placement review hearing, pursuant to California Welfare & Institutions Code

17

§5358.3, to oppose the conservator's placement of conservatee in the current facility pursuant to

18

California Welfare & Institutions Code §5358. The Conservatee has not filed a request for

19

placement review in the last six months.

20

The Conservatee is without means to retain counsel and hereby requests appointment of

21

counsel.

22

DATED: _____

Respectfully submitted,

23

24

25

By: _____

26

(Name)

Conservatee, In Pro Per

27

28

XIV. ATTACHMENT E

CALIFORNIA SUPERIOR COURTS

County	Address
Alameda:	
Berkeley Courthouse	Department 201, 2120 Martin Luther King Jr. Way, Berkeley, CA 94704
Fremont Hall of Justice	Department 602, 39439 Paseo Padre Parkway, Fremont, California 94538
Alpine	P.O. Box 518, 14777 State Route 89, Markleeville, CA 96120
Amador	500 Argonaut Lane, Jackson, CA 95642
Butte	655 Oleander Avenue, Chico, CA 95926
Calaveras	891 Mountain Ranch Road, San Andreas, CA 95249
Colusa	532 Oak Street, Colusa, CA 95932-2570
Contra Costa	725 Court Street, Martinez, CA 94553
Del Norte	450 H Street, Room 209, Crescent City, CA 95531-4090
El Dorado	3321 Cameron Park Drive, Cameron Park, CA 95682
Fresno	
Filings: Trade Center Downtown	1999 Tuolumne Street, Fifth Floor – Suite 501, Fresno, CA 93721
Hearings: Dependency Courthouse	1255 Fulton Mall, Fresno, CA 93721
Main Downtown Courthouse	1100 Van Ness Avenue, Fresno, CA 93724-0002
Glenn	526 West Sycamore Street, Willows, CA 95988-2746
Humboldt	825 5th Street, Eureka, CA 95501-1153
Imperial	939 West Main Street, El Centro, CA 92243-2847
Inyo	168 North Edwards Street, Independence, CA 93526
Kern	1415 Truxtun Avenue, Bakersfield, CA 93301
Kings:	
Hanford	1426 South Drive, Hanford, CA, 93230

Courthouse Lemoore Downtown Courthouse	449 C Street, Lemoore, CA, 93245
Lake	255 North Forbes Street, Lakeport, CA 95453
Lassen	220 South Lassen Street, Susanville, CA 96130
Los Angeles:	
Central District Stanley Mosk Courthouse	111 North Hill Street Los Angeles, CA 90012
East District Pomona Courthouse South	400 Civic Center Plaza, Pomona, CA 91766
North District Michael D. Antonovich Antelope Valley Courthouse	42011 4th St. West, Lancaster, CA 93534
Northwest District Van Nuys Courthouse East	6230 Sylmar Ave., Van Nuys, CA 91401
Southeast District Norwalk Courthouse	12720 Norwalk Blvd., Norwalk, CA 90650
South District Long Beach	415 West Ocean Blvd., Long Beach, CA 90802

Courthouse Southwest District Torrance Courthouse	825 Maple Ave., Torrance, CA 90503
West District Santa Monica Courthouse	1725 Main St., Santa Monica, CA 90401
Northeast District Pasadena Courthouse	300 East Walnut St., Pasadena, CA 91101
Madera: Civil Division	209 West Yosemite Avenue, Madera, CA 93637
Sierra Division	40601 Road 274, Bass Lake, CA 93604
Marin: Mailing Address	P.O. Box 4988 San Rafael, California 94913
Street Address	3501 Civic Center Drive, Hall of Justice, Room 113, San Rafael, California 94903
Mariposa: Court Address	5088 Bullion Street, Mariposa, CA 95338
Mailing Address	P.O. Box 28, Mariposa, CA 95338
Mendocino	100 North State Street, Ukiah, CA 95482-4416
Merced	627 W. 21st Street, Merced, CA 95340
Modoc	205 South East St., Alturas, CA 96101

Mono:	
North County Branch	State Highway 395 North, P.O. Box 537, Bridgeport, CA 93517
South County Branch	Sierra Center, 3rd Floor, 452 Old Mammoth Road, P.O. Box 1037, Mammoth Lakes, CA 93546
Monterey	1200 Aguajito Rd., Monterey, CA 93940
Napa	825 Brown Street, Napa, California 94559-3031
Nevada	201 Church Street, Nevada City, CA 95959
Orange:	
Lamoreaux Justice Center	341 The City Drive South Orange, CA 92868-3205
Placer:	
Bill Santucci Justice Center	10820 Justice Center Drive, Roseville, CA 95678
Mailing Address	Placer County Superior Court, P.O. Box 619072, Roseville, CA 95661-9072
Plumas	520 Main Street, Room 104, Quincy, CA 95971
Riverside:	
Riverside Probate Court	4050 Main Street, P.O. Box 431, Riverside, Ca. 92501
Palm Springs Court	3255 E. Tahquitz Canyon Way, Palm Springs, CA 92262
Hemet Court	880 N. State Street, Hemet, Ca. 92543
Sacramento:	
Gordon D. Schaber Sacramento	720 9th Street, Sacramento, CA 95814

County Courthouse	
William R. Ridgeway Family Relations Courthouse	3341 Power Inn Road, Sacramento, CA 95826
San Benito	440 Fifth Street, Room 205, Hollister, California 95023-3833
San Bernardino:	
Chino Courthouse	13260 Central Avenue Chino, CA 91710
Fontana Courthouse	17780 Arrow Boulevard Fontana, CA 92335
Needles Courthouse	1111 Bailey Avenue Needles, CA 92363
San Bernardino District Civil/Probate Division	303 W. Third St. San Bernardino, CA 92415-0210
San Diego:	
Central Courthouse	220 West Broadway, San Diego, CA 92101
Madge Bradley Building	1409 Fourth Avenue, San Diego, CA 92101
North County Regional Center	325 South Melrose, Vista, CA 92081
San Francisco	Civic Center, 400 McAllister Street, San Francisco, CA 94102
San Joaquin	222 E. Weber Avenue, Stockton, California, 95202

San Luis Obispo:	
Civil Court Operations	1035 Palm Street, Room 385, San Luis Obispo, CA, 93408
Grover Beach Branch	214 South 16th Street, Grover Beach, CA, 93433 USA
Paso Robles Branch	901 Park Street, Paso Robles, CA, 93446 USA
San Mateo	400 County Center, Redwood City, CA 94063
Santa Barbara	1100 Anacapa Street, P.O. Box 21107, Santa Barbara, CA 93121-1107
Santa Clara:	
Downtown Superior Court	191 N. First Street, San Jose, CA 95113
Old Courthouse	161 N. First Street, San Jose CA 95113
South County Courthouse	301 Diana Ave., Morgan Hill, CA 95037
Santa Cruz	701 Ocean Street, Room 110, Santa Cruz, CA 95060
Shasta	1500 Court Street, Room 319, Redding, CA 96001
Sierra:	
Physical Address	100 Courthouse Square, Downieville, CA 95936
Mailing Address	P.O. Box 476, Downieville, CA 95936
Siskiyou:	
Yreka Division	P. O. Box 1026, 311 Fourth Street, Yreka, CA 96097
Dorris	P. O. Box 828, 324 N. Pine Street, Dorris, CA 96023

Branch	
Solano	Hall of Justice, 600 Union Avenue, 3 rd Floor, Fairfield, California, 94533
Sonoma	Sonoma County Hall Of Justice, 600 Administration Drive Room 107J, Santa Rosa, CA 95403
Stanislaus	800 11th Street, Modesto, CA 95354
Sutter	Courthouse East Second Floor, 463 Second St., Rm 211, Yuba City, CA 95991
Tehama	633 Washington Street, Rm. 17, Red Bluff, CA 96080
Trinity:	
Main Courthouse	11 Court Street, P.O. Box 1258, Weaverville, CA 96093
Hayfork Branch	6641 B State Hwy 3, P.O. Box 488, Hayfork, CA 96041
Tulare	County Civic Center, 221 South Mooney Boulevard, Visalia, CA 93291 425 East Kern, P.O. Box 1136 , Tulare, CA 93274 87 East Morton, Porterville, CA 93257
Tuolumne	41 West Yaney Avenue, Sonora, CA, 95370
Ventura:	
Ventura Hall of Justice	Government Center, 800 South Victoria Avenue, Ventura, CA 93009
East County Courthouse	3855F Alamo Street, Simi Valley, CA 93063
Yolo	725 Court Street, Room 103, Woodland, CA 95695
Yuba	215 Fifth Street, Suite 200, Marysville, CA 95901

XV. ATTACHMENT F

ATTORNEY OR PETITIONER WITHOUT ATTORNEY (<i>Name and Address</i>):	TELEPHONE NO.:	FOR COURT USE ONLY
PETITIONER'S BIRTH DATE:		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF		
IN THE MATTER OF (<i>NAME</i>):	Petitioner	CASE NUMBER:
PETITION FOR WRIT OF HABEAS CORPUS — LPS Act		

1. Petitioner is being unlawfully restrained of liberty at (*specify name of treatment facility*):
by (*specify name of agency and treating psychiatrist*):
2. Petitioner was admitted to the treatment facility on (*date*): _____ and is currently being held pursuant to
 W & I § 5150 (72-hour hold) W & I § 5250 (14-day certification) W & I § 5260 (2d 14-day certification)
 W & I § 5270.15 (30-day cert.) W & I § 5300 (180-day post-certification) W & I § 5352.1 (temporary conservatorship)
 W & I § 5350 (conservatorship) Other (*specify*): _____

3. Check at least one box:
a. Petitioner is illegally confined for the following reason:

- b. Petitioner has been denied the following rights without good cause (Welfare and Institutions Code sections 5325, 5325.1, and 5326):

4. Petitioner requests that this court (*check all that apply*):
- a. Issue a Writ of Habeas Corpus to the director of the facility named in item 1, commanding that the petitioner be brought before this court at a specified time and place.
- b. Order the facility to release petitioner from restraint.
- c. Order that all rights to which petitioner is entitled as a patient be observed.
- d. Grant such other relief as this court deems appropriate.

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 PETITIONER OR PERSON REQUESTING WRIT ON PETITIONER'S BEHALF)

